

**Whitehorse, Yukon**  
**Wednesday, April 16, 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 now proceed with the Order Paper.  
 Are there any tributes?  
 Introduction of visitors.

## INTRODUCTION OF VISITORS

**Hon. Mr. Lang:** I would like to introduce Vicki Durrant from Blue Feather Youth Centre.

*Applause*

**Speaker:** Are there any further introduction of visitors?

Are there any returns or 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

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

THAT this House urges the Government of Yukon to review the *Environment Act* and the *Economic Development Act* in relation to the mandate and membership of the Yukon Council on the Economy and the Environment, or YCEE, in view of the fact that since the establishment of the YCEE in 1988:

(1) the Government of Yukon has assumed the responsibility for the management of land and resources in the territory effective April 1, 2003, through the Devolution Transfer Agreement;

(2) 11 of the 14 Yukon First Nation has settled their land claims; and,

(3) the *Yukon Environmental and Socio-economic Assessment Act* is now in force and effect.

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

THAT this House urges both the Yukon New Democratic Party and the Yukon Party to comply with the *Elections Act* by completing and filing with Elections Yukon required financing reports from the 2006 general election.

**Mr. Elias:** I give notice of the following motion:

THAT this House urges the Government of Yukon to release publicly the completed legal review of the *Porcupine Caribou Management Agreement*.

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

THAT this House urges the Yukon government to introduce its climate change action plan, so that implementation can begin without further delay.

I give notice of the following motion:

THAT this House urges the Yukon government to expand the hazardous waste collection and disposal program so that waste fuel oil and other contaminants are better contained and less likely to end up in the land or water.

**Mr. Cardiff:** I give notice of the following motion:

THAT it is the opinion of this House that:

(1) burning household garbage creates toxic pollutants that we breathe in the air, that get into the ground and into the water system;

(2) one of the toxins released in burning garbage is the dioxin TCDD, the most lethal human-made poison;

(3) there are links between the toxins released by burning household garbage and cancer, birth defects, autism, respiratory problems, and other health issues;

(4) burning garbage releases greenhouse gases that contribute to climate change; and

THAT, in the interest of protecting our environmental health, this House urges the Yukon government to ban the burning of solid waste and to resource rural dumps adequately so that more waste is diverted into recycling.

## NOTICES OF MOTION FOR THE PRODUCTION OF PAPERS

**Mr. Mitchell:** I give notice of the following motion for the production of papers:

THAT this House do issue an order for the return of the recently completed air quality report done at Whitehorse General Hospital.

**Speaker:** Are there any further notices of motion?

Is there a statement by a minister?

This then brings us to Question Period.

## QUESTION PERIOD

### Question re: Electrical rate relief

**Mr. McRobb:** Since Yukoners have been reaching deeper into their pockets lately to pay their electricity bills, I thought it would be a timely time to check in with the minister responsible for energy.

Many consumers are hurting from paying record-high gasoline prices and power bills. The minister increased power bills by 15 percent last July, and the impact on Yukoners will worsen when he increases power bills by another 15 percent this July.

Surely the minister and his colleagues recognize the extent of financial pain they've created by imposing these cost increases on people who can least afford them, including seniors, single parents and that demographic known as the "working poor".

Will the minister consider postponing his next round of planned power bill increases?

**Hon. Mr. Lang:** We certainly did look at the rate stabilization plan last year and, of course, renewed it at a 50-percent level. Those decisions would come in the near future if in fact we were going to extend that.

**Mr. McRobb:** Another non-answer, Mr. Speaker. Obviously, asking nicely for compassion toward Yukoners doesn't work with this Yukon Party government. It has been about a year since the Yukon Party shocked electrical consumers by announcing it would terminate the popular rate stabilization program. The program provided a financial dividend of up to \$40 per month to shareholders of the publicly owned utility company, the Yukon Energy Corporation. Despite the significance of this action, for some strange reason, it escaped mention in the Yukon Party's campaign platform. It has turned out to be another one of the minister's secret surprises and to consumers about as welcome as another broken promise to not increase taxes.

Why won't the minister spare consumers by extending this program from out of the government's \$108-million surplus?

**Hon. Mr. Lang:** We certainly realize the consumer has issues with rates and other issues with our power source, and we're certainly working positively on that, Mr. Speaker. We're looking at a complete overview of the rates coming up here in the fall and we're certainly looking at reducing rates with the number of customers we're putting on-line in the near future, and hopefully that will benefit all Yukoners.

**Mr. McRobb:** When the minister announced his secret plan to raise consumers' power bills, he promised to offset any increase with a reduction to power rates effective this past February — another broken Yukon Party promise.

Anyone who pays power bills can tell you they have gone up, not down. This has caused financial hardship to people who least can afford it, such as seniors, single parents and the working poor.

The government should have felt a duty to Yukoners to avoid causing drastic fluctuations to the cost of such an essential service that affects so many. This increase was easily preventable. How much longer will the minister continue this type of consumer gouging?

**Hon. Mr. Lang:** I remind the member opposite that there was no such thing as any kind of tax on consumers. The rate stabilization fund was put forward by a previous government and was maintained up to last year.

We feel that we could work with a balance of conservation, which is very important as we get into this age of higher fuel prices. We are looking at a GRA to see what we can do for consumers about lowering all the rates, but we have to get more customers, and that is what we are doing by expanding our power grid from Carmacks to Pelly. We are putting on the grid the community of Pelly and also a large consumer, which will be Sherwood Copper. That is all on time, on budget and moving forward.

The corporation has committed, along with the independent power supplier, Yukon Electrical Company Limited, to go in front of the Yukon Utilities Board very soon. I look forward to lower rates for all consumers.

#### **Question re: H. pylori bacterium health statistics**

**Mr. Elias:** A recent study of residents of a community in the Northwest Territories has revealed a shockingly high rate of a stomach bacterium that is linked to cancer. The study re-

vealed that 55 percent of the adults tested showed positive results for the H. pylori bacterium. This bacterium is normally found in 10 to 20 percent of the general population.

This type of infection can be treated easily if properly diagnosed and, has been linked to stomach cancer if left untreated. The key public safety issue here is getting an understanding of how extensive this bacterial infection is.

Will the Health and Social Services minister perform a study to determine how extensively this bacterial infection is present in the residents of Old Crow?

**Hon. Mr. Cathers:** I thank the member for his question and his concerns about his constituents. The H. pylori situation that occurred in N.W.T. — I understand why this has brought concerns to the member's attention.

The infection can be treated. Two major studies have failed to find any reduction in stomach cancer rates following treatment. At this point in time, there is no effective screening for stomach cancer, nor are there any proven prevention strategies. However, H. pylori is an actually fairly common bacterium. At least 50 percent of the population worldwide is affected with this, but only a small number will develop stomach cancer. However, our medical health officer is currently reviewing the results from the findings in Aklavik, N.W.T., and will be looking at the effect of this and reporting and making recommendations to the department and to me, if there is a need for further follow-up in this case.

**Mr. Elias:** This is a very serious issue. Old Crow residents have concerns about the high rates of cancer in our community. This bacterial infection is very easy to treat, if it is diagnosed, but if the H. pylori bacterium is left untreated, gastric ulcers will occur and stomach cancer may well develop.

Mr. Speaker, this is a proven health risk that is easy to eradicate, as long as we know how extensive it is and have the resources and direction to test for it. Once it has been determined how widespread this infection is, then we can take the next steps to review the treatment options.

Will the minister table the health statistics with regard to H. pylori-related stomach ailments in Old Crow?

**Hon. Mr. Cathers:** In fact, the number of cases of stomach cancer in the Yukon is very small; it has been tracked. I'm referring to the territory as a whole. In fact, for statistical purposes, in terms of estimating the percentage and in terms of not identifying individuals, the number is too small to be reported. The small number of cases, coupled with a small population, means that the incidence of stomach cancer in the Yukon is too small to be reliably estimated.

Yukon does report the incidence of lung cancer, breast cancers and — let me see. I'm just trying to find the response to the member's question here. I recognize the member's concern and, as I indicated, our medical officer of health will be reviewing the findings from N.W.T., and I will certainly communicate to the Member for Vuntut Gwitchin if we feel there is a need for further review.

But at this time, as I indicated, not only stomach cancer is linked to H. pylori, but all stomach cancers are very low in Yukon as a whole, not just in Old Crow.

**Mr. Elias:** This is a preventive measure that can protect my constituents, and it is the Health and Social Services minister's responsibility to find out if my constituents' health is at risk. Here's what the minister can do: build a team of experts in this field, including a gastroenterologist; conduct testing in Old Crow; analyze the results and find out which strain of *H. pylori* my community is dealing with. And then tailor the development of a treatment plan that will eradicate *H. pylori* from my community and reduce the incidence of internal cancers. We may also identify the source of the bacterium.

This is the kind of world-class medical care my constituents deserve and expect. Our community of Old Crow is pleading for help. Will the Health and Social Services minister respond to that plea?

**Hon. Mr. Cathers:** I think what is prompting the concerns the member is hearing from his constituents is that there was a gastrointestinal illness that a number of his constituents did contract. The last report that I have is that the most likely cause is Norovirus. Testing is being done and specimens were sent to the Alberta provincial lab. I have not yet received the report on that, but they were being sent to determine whether it had a bacterial cause. Again, as I say, our officials within the communicable disease control unit advise us that it was likely Norovirus virus and that would have no linkage to stomach cancer. Of course it is a very serious stomach bug and can create not only great discomfort, but for the elderly and children or someone who is in a weakened condition, it can have impacts. Norovirus itself is a very common illness among the population.

As I indicated to the member, the medical officer of health will be reviewing what occurred in N.W.T. The report on the gastrointestinal illness outbreak that occurred in Old Crow will be coming back. We will be monitoring this situation, and I will be acting based on the advice of our experts and the officials, including the medical officer of health. We certainly recognize the member's desire to ensure that his constituents are taken care of, and I share his concern. I will communicate to him any further action needed.

**Question re: *Child Care Act***

**Mr. Hardy:** I have a question for the Minister of Health and Social Services. It is a very straightforward question that is similar to the one that I asked the Premier recently. Will the minister explain why he is not fulfilling the obligations of section 4 of the *Child Care Act*?

**Hon. Mr. Cathers:** I would be interested to hear the member's follow-up question and what he is referring to. Certainly, all members of this government and officials within departments and I take all appropriate steps to the best of each individual's ability to fulfill all legal statutory, regulatory and policy obligations. If the member has a specific concern that he would like to make me aware of, I would be happy to hear it.

**Mr. Hardy:** Using the member's own words: I wish he would read the act, so he would understand it.

Section 4(1) of the act requires Cabinet to appoint a Yukon Child Care Board of no less than seven members. The board is supposed to consist of members nominated by Yukon First Nations, childcare groups, licensed childcare services and par-

ents. Under section 4(3)(10) of the act, the board is required to meet no less than twice a year. According to the boards and committees Web site, it actually meets every six to eight weeks.

Why has the minister allowed this committee to become dormant, the same way the Minister of Environment has allowed the Council on the Economy and the Environment to become dormant?

**Hon. Mr. Cathers:** The member's assertion that the committee is dormant is incorrect. I believe, at this point in time, I think there are perhaps, to the best of my recollection, one, maybe two vacancies. There certainly have been appointments to this board within the last six months. The board has been active and is continuing its work.

I am not sure where the member is getting his information. He is referring to a Web site, but quite frankly, I do not spend my time surfing the net. I have been at meetings of the Yukon Child Care Board, so I can assure him they have been held. I have received correspondence from the Yukon Child Care Board. I can assure him they are continuing to do their work.

**Mr. Hardy:** I just had to tell him what part of the act we are talking about because he is not aware of that. I also have to point out the fact that he has staff to keep these boards filled. Let's give him a few more facts.

The fact is, according to the government's own Web site, the Yukon Child Care Board, right now, consists of only two members. The appointments for the other eight members, including the chair and the vice-chair, expired on February 22.

The act sets out a number of duties for this board. These duties include making recommendations to the minister on childcare issues; reviewing the government's childcare policies, programs, services and administrative procedures; advising on planning, development and standards of childcare services; and hearing appeals under the act.

When will the minister fulfill his duty and make sure the Child Care Board is up to strength, and able to perform its mandated role under the act?

**Hon. Mr. Cathers:** Again, I remind the member that the board has been continuing its work and that we have made appointments recently. I will check the member's concern to determine if a few other appointments have lapsed, but the member relying on a Web site for information — well, the Web sites should be updated regularly, and efforts are made to ensure they are, but they are not always current.

I can tell the member the board has been carrying on its work. We have been actively engaged in meetings within the past six or eight months — that would be, I'd say, the last time I attended one of their meetings. I know they have continued their work beyond that. We have made appointments within the last six months to the board. The board is continuing to do their good work. The member's assertion that we're not following the obligations of the act is incorrect. The member is relying on a Web site for information.

If the member has concerns, I would encourage the member to write me a letter or talk to me directly. I would be happy to follow up on it. We have kept this board active, and the board has been fulfilling their obligations. For the member to

make the assertion otherwise is unfortunate and does not respect those who put in their time on this board and its operation.

**Question re: Children in care costs**

**Mr. Hardy:** I will ask directly right now a new question.

My question is to the Minister of Health and Social Services. I realize he may not have the precise information at his fingertips; that is just the way it is with him.

Can the minister give the House an indication of what it now costs his department per day, per child, for children in care, and what percentage of that cost is for First Nation children in care?

**Hon. Mr. Cathers:** Mr. Speaker, I would encourage the member to discuss this where we usually discuss it: in budgetary debate. At that point in time, I will have the information at my fingertips.

I appreciate the member's question, but the members have spent almost half this session taking time on things such as some of the motions today and procedural motions and efforts to delay debate in previous discussion. If they would get down to business and discuss the budget that we are ready, willing and able to debate, we will happily get into that level of information; however, it is best discussed in line-by-line.

**Mr. Hardy:** The people of the Yukon know that it is the government that calls the budget to the floor, not us, so the responsibility lies with them for not bringing the budget forward.

The current budget shows that over \$7.5 million is recoverable from the federal Department of Indian and Northern Affairs for child welfare. There is also over \$500,000 from the federal child benefit. This is \$8 million total for service by this government to First Nation children.

It's amazing that this minister doesn't know this. If First Nations opt to draw down responsibility for child welfare, will all of that \$8 million be on the table or is the minister looking at a different amount?

**Hon. Mr. Fentie:** I'll give full marks to the NDP researchers for actually looking into the budget and how it relates to recoveries and expenditures in any given area. Of course, with the recoveries from Canada, come a great deal of obligations for the Yukon that we must carry out.

With respect to the member's question on the eventuality of a First Nation negotiating a PSTA, that's to be determined by the negotiation. It includes the federal government, the Yukon government and any specific First Nation that formally requests to occupy any area of authority as defined in their self-government agreements.

It's not directly linked to the numbers in the Yukon budget at any given time. It is addressed through that negotiation, through that agreed process, and before we can determine the outcomes, we must go through that process.

**Mr. Hardy:** Child welfare cannot simply be turned over to another jurisdiction without a great deal of coordination, not to mention the costs involved. Developing and implementing First Nation legislation and policies that operate in both systems at once is very complex. Then there is the ques-

tion of hiring and training professional staff. Social workers who are already overworked could be called upon to train and mentor First Nations.

Since the Premier hasn't been willing to accommodate First Nation concerns in the new act, I'm curious about how cooperative he will be during negotiations to draw down this authority.

What amount has the Finance minister identified in his budget forecast for negotiations and to help First Nations build capacity? Or does he expect the federal and First Nation governments to take on the costs themselves?

**Hon. Mr. Fentie:** I think what has to be said here — and I'm going to be very blunt about it — is the continuing comments by the opposition that we, the government, and First Nations involved in the process that we embarked upon almost five years ago to create a new child act — to say that we haven't met First Nation concerns is complete nonsense.

In fact, because of the large percentage of First Nation children in care, because of the situation we recognized, along with First Nations, that has to do with the existing act and its deficiencies, because of so many other factors, First Nations were engaged in a full formal partnership, right to where we jointly informed the drafting.

Let me make this point: yesterday we experienced amendments coming from the third party that included commas, periods and no substantive amendment to change, improve or affect the act as tabled in any way, shape or form. The issue here is they have failed to bring forward any substantive issue, and I would challenge them to do so or move on to constructive debate.

**Question re: School funding**

**Mr. Fairclough:** I have a question for the Minister of Education. There has been a great deal of public debate about the budget for the Department of Education this spring. I'd like the minister to put something on the public record. According to his own budget documents, the amount of money going to public schools is down this year from last year. It's not a large amount but it is down.

Will the minister admit that this in fact is the case, that funding for public schools is down?

**Hon. Mr. Rouble:** I appreciate that this is Education Week in the territory and that a lot of attention comes to the Department of Education at this time. I appreciate the opportunity to clear up some issues for the member opposite. If the member opposite would take a look at the budget in a little bit greater detail, he would notice that the facilities management agreement amount has been taken out of the budget.

Mr. Speaker, that was \$8.5 million that was in previous years' budgets, which was used to maintain facilities. That responsibility and expenditure has now been transferred to the Department of Highways and Public Works. So, Mr. Speaker, \$8.5 million has been removed from the budget, and the responsibility has gone with that.

When we compare the existing numbers, you'll see that there are actually increases in what we're expending on education.

I thank the member opposite for bringing this forward, giving me the opportunity to clear up this misunderstanding.

**Mr. Fairclough:** Well, the minister was unable to answer the question as it was put to him. I'm talking about public schools, not the whole budget in that department. If the minister looks at it, it is down. I know the minister is sensitive about this and wants to skirt around the question.

Now, last year, the funding for public schools was \$81.2 million, and this year it's \$81.1 million. That is a reduction; it is a cut. At the same time, funding is up across the board in many other departments.

The Yukon Party government is sitting with \$108 million in the bank, yet it is cutting back funding for public schools. The minister has a lot of money to spend on every household flyer with his picture on it, but he has cut funding for public schools. Why has funding for public schools been cut?

**Hon. Mr. Rouble:** Mr. Speaker, the member opposite is incorrect. His examination of the budget document is not complete or thorough, and he needs to look at it in much greater detail. Perhaps when we get into the Department of Education budget, he will ask me a question about it.

Last week, when we looked at the supplementary budget for education, which increased the number of educational assistants by 10, the member opposite didn't even have a question on it. We asked them for their support. We recognize the importance of education in our territory and the priority that it has for all Yukoners today and into the future, and the government will continue to fund important projects, and to build new schools. I expect to see the member opposite at the school opening in his community on Friday.

We don't have a construction project like that in the budget this year, so obviously the capital budget would be less. We have just finished constructing a school. I don't know how the member can get up and say education is not a priority, when on Friday we are going to open a new school in his community.

**Mr. Fairclough:** The fact of the matter, Mr. Speaker, is that the new budget cuts funding to public schools. The minister knows it; the Yukon Party government knows it, and yet they want to skirt around it. They can't answer the question.

Mr. Speaker, I am asking about funding for public schools. It is on page 7-4 of the budget. If we can't debate the budget, maybe we will have to ask questions in Question Period.

It is down from last year, and there is no reason for the government to be cutting back on education. There is \$108 million in the bank. The minister has enough money in his budget to send a flyer to every household in the Yukon about all the great work he is doing. Interestingly enough, he isn't saying anything about the cuts for public schools.

Will the minister admit that funding for public schools is cut in this budget?

**Hon. Mr. Rouble:** The easy answer for the member opposite is no, because that's not accurate. It simply is not accurate. When one takes a look at the budget and at what has gone on in the department, at the transfer for the facilities management agreement and recognizes that is no longer an expenditure of the department, he'll see that. If he compares the

mains of this year to those of previous years, he'll understand that.

I recognize the member opposite wasn't a member of the previous Liberal government when they were in power, but I would recognize that he has joined them and, therefore, he must be endorsing some of the priorities, practices and policies of that party.

There has only been one party I know of that has cut education, and that member has joined the party.

#### **Question re: Teacher staffing cuts**

**Mr. Fairclough:** I have a question for the Minister of Education. The definition of school catchment areas is the responsibility of the Minister of Education. The area for new school development, known as Whitehorse Copper, presently falls in the Elijah Smith Elementary School boundaries. Elijah Smith school presently is at capacity. In fact, some children living in the school area are being sent to Takhini Elementary School. It would seem that with any new families moving to the Whitehorse Copper area, the burden would fall on the Elijah Smith school.

On the other hand, Golden Horn Elementary School has capacity to absorb more students from the Whitehorse Copper area. Will the minister commit to realigning the catchment area so that Whitehorse Copper students will attend Golden Horn Elementary School?

**Hon. Mr. Rouble:** Mr. Speaker, I appreciate the question from the member opposite. It is a good question regarding how we'll go about working with our constituents and working with our schools and working with the existing infrastructure and continuing to ensure that we have quality education in all Yukon schools and ensuring that we have equity in all Yukon schools.

Mr. Speaker, when we were re-elected, we immediately went to work and created the Copper Ridge school advisory group that worked with a consulting firm. It presented us with a report that included a recommendation — and a recommendation from the Copper Ridge school advisory group — that we take a look at the catchment areas.

As well, the MLA for Mount Lorne has sent me a letter and has addressed this issue. He has brought it to my attention, and he has concerns about the school population at Golden Horn. I can let the members rest assured that I have directed the department to examine catchment areas and to work with the school councils and the school administrators and to come up with recommendations that will address the issues that are being raised and work in the best interests of all our schools.

**Mr. Fairclough:** Mr. Speaker, the catchment areas need to be looked at first before determining the staffing needs. There has been considerable concern expressed by school councils that schools will be facing teacher cuts this year. The number that is being floated around, Mr. Speaker, is 15. Fifteen teachers are to be eliminated.

According to the budget stats, Yukon school populations only decreased by four students last year. How could this even result in one FTE being eliminated? How can the minister even attempt to justify that, Mr. Speaker? The public school budget has been cut. School populations are now holding constant and

yet we hear of teachers being cut. Will the minister commit to no teacher cuts this year? Yes or no?

**Hon. Mr. Rouble:** I will make it very clear for the member opposite: this government has no intention of cutting teachers. In our supplementary budget, we asked for the opposition parties to support us in increasing the number of educational assistants in our system by 10.

We also asked them to endorse the supplementary budget that included additional funds for our teachers. I trust they will support us on that.

Mr. Speaker, we will go to work with the school councils in the affected areas. I have directed the Department of Education to do so, to ensure that we build the best possible schools, to ensure there is an appropriate distribution of students, and an appropriate distribution of assets and resources so that we can build the best possible education system for the territory.

**Mr. Fairclough:** With regard to the teacher cuts, Mr. Speaker, we are hearing something else, and the minister ought to be listening more closely to the people out there who are involved in education.

The same minister predicted last year that school populations would decrease by 89 students. Well, the number was only four, not 89, and the minister was in error by a factor of some 2,200 percent. I suggest the minister leave the imaginary numbers to grade 10 algebra and restrict himself to real numbers.

Mr. Speaker, that leaves parents with little confidence that this minister knows what he is doing, and it reminds me of the Premier's inability to deal with real numbers in his department.

Will the minister agree to realign the catchment areas for Golden Horn now, and ensure parents of Golden Horn, and all Yukon schools, that there will be no further teacher cuts in the next school year? Yes or no?

**Hon. Mr. Rouble:** I wish the member opposite would listen to my comments and that his follow-up questions would reflect the information that I presented.

Is that too much to ask for sometimes, Mr. Speaker — that the members of the opposition would listen and reflect the information in their supplementary questions? I've stood on the floor and said we've increased the number of educational assistants, the number of teachers in our system has increased, while the school populations have decreased. The number of students we have in our system does change on a day-to-day basis. Families move into the territory and others move out. We have a population right now of about 5,003 students in our school system, and we will work with our school councils and with our school administrators to ensure there is equitable, appropriate allocation of resources to all our schools, so that we can help all our students reach their fullest potential.

**Speaker:** The time for Question Period has now elapsed. We will proceed to Orders of the Day.

## ORDERS OF THE DAY

### OPPOSITION PRIVATE MEMBERS' BUSINESS

#### MOTIONS OTHER THAN GOVERNMENT MOTIONS

##### Motion No. 373

**Clerk:** Motion No. 373, standing in the name of Mr. Hardy.

**Speaker:** It is moved by the Leader of the Third Party THAT this House urges the Minister of Environment to uphold the *Environment Act*, and make a commitment that the Yukon Council on the Economy and the Environment will be brought up to full strength within the next six months and be given the direction and support it needs to fulfill its mandate.

**Mr. Hardy:** I'm going to open this discussion around something that is extremely important for the future of this territory, as well as the present, by reading a two-page item called "Our Sustainable Future: A Shared Responsibility".

"Like the establishment of the Yukon Council on the Economy and the Environment in 1989, the drafting of a Yukon environment act reflects our growing recognition of the need to think carefully and act responsibly as we pursue two major goals: the protection of our environment and the development of our economy.

"These two events also underscore the importance we place on achieving these goals in a particular way. Consultation and cooperation: these are the means we have chosen to accomplish our ends. Indeed, as this report will demonstrate, the council's views about the draft Yukon environmental act not only reflect the diverse opinion present in the territory, but reaffirm the need for all Yukoners to continue working in a cooperative and consultative fashion.

"Between February 28 and March 25, 1991, the council held a series of meetings with representatives from a broad range of economic and social sectors: mining, First Nations, agriculture, tourism, business, renewable resources, forestry and municipal government. It did this to hear specifically what the sectors had to say about the content of the proposed act.

"Only in this way could the council fulfill its mandate to bring together 'people with a wide range of economic and environmental interests' and 'ensure that both the environment is protected and economic development is beneficial.'"

As part of the draft act states, a symbiotic relationship exists between our environment and our economy. A healthy economy requires a healthy environment. Thinking in exclusive economic or environmental terms is not ethically or financially affordable. Sustainability requires that we think in social, cultural, environmental and economic terms. We must continue to work toward complete compatibility between our economic and environmental goals and agendas. Only then will we be truly sustainable.

Consequently, the Yukon Council on the Economy and the Environment believes that, in an appropriately revised Yukon *Environment Act* that reflects a positive tone, shared responsibility and fairness, it should be enacted in the near future, but it also anticipates that, like economic legislation, it will someday

be superseded by a new kind of legislation. As our thinking about the environment and the economy continue to move closer together, so should our legislation. We believe, therefore, that the Yukon *Environment Act* should be seen as a confident first step toward a Yukon sustainable development act.

What I have just read, Mr. Speaker, really and truly lays out what we need to do for the future in this territory. There is a lot of concern by the people of this territory about the environment, the wilderness and about what's happening.

The Yukon Council on the Economy and the Environment is a reflection of people's concerns, interests and being engaged in that kind of debate. It's incumbent upon a government, once they create a board or committee, to ensure that the board or committee has the means to address any items or issues brought before it, to fulfill their mandate.

What is their mandate? The Yukon government created the Yukon Council on the Economy and the Environment to help ensure that the economy and environment are managed in a harmonious way to raise public awareness of sustainable development issues.

The principles of sustainable development are explicitly recognized both in the Yukon conservation strategy and the Yukon economic strategy, as well as Yukon's *Environment Act* and *Economic Development Act*. Together, these documents form a foundation for policy and actions to strengthen and protect the Yukon's environment and economy.

Through research and public education and by advising government on a range of issues, the council encourages sustainable development policies and practices in the Yukon.

More specifically, what does the council do? It reviews major government policies, strategies, legislation, and programs that affect the Yukon's economy and environment. It also works with industry, community and public sectors to promote development that meets the needs of the present generation without compromising the ability of future generations to meet their own needs.

As well, it advises on the implementation of the Yukon economic strategy and Yukon conservation. It monitors the progress of the Yukon conservation strategy and evaluates its success in guiding sustainable development. It holds public meetings, workshops and conferences on major economic and environmental issues. It promotes public awareness and understanding of the connections between the environment and the economy. It reviews and comments on reports related to economic and environmental issues and recommends research on sustainable development issues.

Mr. Speaker, that is a huge mandate when you think about it. It is a mandate that a government can only benefit from by ensuring that they have the resources, they have the people on the committee, and they have the time and the task given to them to fulfill that mandate.

They also have a set of terms of reference that we need to refer to when we are thinking about this. The terms of reference on YCEE are as follows: act as a forum for economic/environmental issues in the Yukon, which is, of course, reviewing major policies of the government; take a leadership role in working with various sectors toward stable and, in the

case of the renewable resource sector, sustainable development, particularly through identifying significant opportunities for advance in economic development activities that are environmentally sound; function as a central advisory group on the Yukon economic strategy and monitor progress on the implementation of the actions in that paper, and evaluate their success in guiding environmentally sound economic development and diversification in the Yukon; function as a central advisory group for the Yukon conservation strategy and monitor progress on implementation of actions outlined, and evaluate their success in guiding sustainable development of the renewable resource sector and environmentally sound and stable economic development of the non-renewable resource sector in the Yukon; encourage the development by industry, government, labour and aboriginal and non-governmental organizations of projects that demonstrate environmentally sound economic development.

I call on the responsible ministers — and there are two of them here — the Environment minister and the Economic Development minister — to arrange public symposiums on major economic environmental issues.

Mr. Speaker, I can't even remember when the last one was done, yet this is part of their terms of reference: promoting cooperation with the Government of Yukon, public awareness and understanding of the linkages between environment and the economy, and the importance of environmental economic integration and sustainable development; recommend research that may, as appropriate, be funded by government to further understand our economy and our environment and how it links together; and review and comment on any reports that address the state of Yukon's economy, environment and resources.

I haven't seen any reports for many years, Mr. Speaker. I haven't seen a current state of the environment report — any current one. I think the last one that has come before us is dated 2005. So we are behind on that. This is what the YCEE is supposed to be looking at.

It is a big agenda and it is an important agenda. Most wonderfully, in many ways, it deals very much with bringing together the economy and the environment and not having them separate. I would even go so far as to say that, in looking at the YCEE, what also should be considered is the social agenda. They are all interconnected, and it has a role to play there. There is nothing that we can point to that stands completely alone. Each of those three items — each of the important challenges that we face in this territory are all interconnected: the environment, the economy and the social issues that we face.

There are a lot of areas that we can talk about on this. Under the *Environment Act*, it states very clearly that the council has a role to play. I've already stated some of the actions that they are supposed to be doing, Mr. Speaker. However, also under the *Economic Development Act*, it has a role to play.

I have recently heard from some people that unfortunately the two departments, in the past, have played the council off on each other. The council has asked the government to bring forward or give them an assignment so that they can fulfill their mandate in advising the government, and one department has said, "Oh no, you're under the *Environment Act*", and then the

other department, Environment, has responded by say, “Oh no, no, no, you’re under the *Economic Development Act*. Therefore, you go to them.” They’ve been bounced back and forth. I’ve heard that from the board members.

I should say ex-board members, because what we are talking about here is the failure of this government to ensure that the council has been able to fulfill its mandate. And it’s in our acts. It has a role to play. It is law, and it’s not happening. We have a board that no longer has quorum, does not have members on it. I think it’s down to four now, when it could be anywhere from eight to 12, so it’s not functioning on that level.

We have the Council on the Economy and the Environment, which has a mandate to fulfill, and they can’t fulfill it. They haven’t been given the task by the government to come back with reports or take a look at what I have just discussed. The government has not allowed them to do that work. It says very clearly that “The Commissioner in Executive Council shall ensure that the Council is provided with adequate staff support and resources as may be approved in the estimates.”

It’s not there, Mr. Speaker. Where did it go? And we are talking years, now. I am not criticizing the government for something that has lapsed in the last six months. I can understand, sometimes you get behind. But you know what? In talking to some former board members, they cannot remember — they are former now, because their terms have run out — the last time they met, and they are going back years. They cannot remember the last time the government assigned any kind of duties to them. It goes back years. My understanding is the chair quit out of frustration in regard to the fact that they were named to a board, they have duties to fulfill, but they are not being allowed to fulfill those duties.

Another thing is that the members and past members feel very strongly about what it says in the *Environment Act*. It states very clearly: “All reports of the Council shall be public, and the Council shall table a report to the Legislative Assembly at least once per year detailing its activities and expenditures.”

I stand to be corrected on this, and I hope I am corrected, because I hope I’m wrong on this one point: the last report that was tabled that I can find was between April 2003 and March 2004. They held one regularly scheduled meeting, as detailed in the report, and they’ve been waiting for various government documents in order to complete their legislative review responsibilities. That is directly from the executive summary of 2003-04, the first sentence. It says they’re waiting for various government documents in order to complete their duties. They haven’t come forward.

For instance, the council’s role in providing feedback for the government’s new Yukon economic strategy — the chair of YCEE has been representing council at various stakeholder meetings and has been working toward development of this. The council continues to monitor Yukon government progress, a sustainable progress indicators project, but where has that gone? That was a significant step — sustainable progress indicators — and they encouraged that inclusion in the Yukon economic strategy. The council remains hopeful the government will adopt the widespread use of these indicators, which measure progress in all aspects: environmental, social and economic.

Has that happened? It’s not there.

The council has been eagerly awaiting the release of a Yukon forestry policy and, to my knowledge, 2003-04 is quite a few years ago — four years — and where is it? Have they been able to review it?

In 2003-04, they were budgeted \$50,000 to do their duties, the tasks that were assigned to them. They spent \$16,836 of those dollars because they did not get direction from the government. They did not get any tasks assigned to them.

That is a failure of the government, unfortunately. The report by the chair goes on to say, “2003-04 has been a transition year for council. The challenges faced this year surrounded the refocusing of government priorities as well as a change in leadership to council.”

He further goes on to say, “Although only having met once this past fiscal year...” — which does not meet their mandate — “...YCEE has attempted to work on its legislated obligations and members have continued to stay up to date on issues affecting the Yukon’s economy and the environment.” They have “attempted to” — they are committed to this and they want to do the work.

My question comes down to this: is there a commitment by this government to get this committee up and running again and allow it to do what it is mandated to do? I am hoping today to hear some direction in this area because this is a period of time, four years now, in which the council has not been engaged with the government.

I will admit, I was one of the first members named to the Yukon Council on the Economy and the Environment many, many years ago, and served — I can’t remember how many years I did on it. I have to say it was probably one of the most interesting, invigorating councils I have ever been on. It was fascinating to have 12 people in a room from various walks of life and different backgrounds working to identify sustainable development, looking at the environment and economic growth in a sustainable way, with all our different backgrounds. The backgrounds ranged from me at that time as a labour representative, to mining representatives, to business representatives, First Nation representatives, municipal government representatives, and a multitude of other representatives. I could go on. It was really a very interesting cross-section of people who came together, often with very different points of view. We had a good chair.

Once we got into the room together, once we sat down and looked at the tasks ahead of us, which the government had assigned to us — it could be anything from uranium mining to whatever the government felt was important — the road into the Peel River watershed. It could have been a multitude of issues that we looked at.

It was amazing to note how quickly we came together. We were able to understand each other’s positions and we were able to come together and recognize that we weren’t very far apart on any of these issues. We did share many of the same values and principles and feelings about which direction the territory should be going and the government should be leading the territory.



This was a tremendous benefit for governments. Because of my past experience on that board and what I've watched over the last while, I feel at times that the government doesn't have that access to a council like this and hasn't always made the most correct decisions that are more representative of the voice of the people of the Yukon.

This board, in many ways, did represent a multitude of voices of the people of the Yukon and was able to advise the government. Now, the board itself doesn't direct the government; it advises the government. Any kind of advice you can get, even if you may not totally agree with it, will only strengthen your final product, and it is extremely important for legislation.

So, what has the board looked at in the past? I'll just touch on some of them. In 1990, a presentation by the Angus Reid group, posters on public opinion around the environment — the board looked at that. In 1991, there was a public review of implementation of the Yukon economic strategy and the Yukon conservation strategy. Participants looked at agriculture, subsistence, fish and wildlife, mining, environmental protection, forestry, construction, manufacturing and energy. There's quite a wide range of interests and discussion happening around that.

From 1993 to 1995, the Yukon Council on the Economy and the Environment consulted Yukoners and reported on expanding gambling and video lottery terminals. It was pretty fascinating and pretty interesting to take on that task. You know what? In some ways, it's a relief for the government when they have contentious issues like this before them, to be able to have a board like the Yukon Council on the Economy and the Environment to say, "Go out, take a look at this and come back and advise us in this area."

In 1994, they organized a sectoral conference on mining. Again, I have to remind people that this is a group of people from different walks of life, and they're looking at very challenging issues. Invariably there was consensus and that's a great achievement. It's a wonderful group of people to pull from.

In 1995, they organized a public conference called "Energy for Tomorrow", which looked at alternative energy sources, coal generation and demand-side management. In 1995, that was very forward-thinking and something the council could take on.

Again in 1995, they organized a conference called "The Future of Yukon's Forests" in Watson Lake. They looked at establishing small, locally owned forestry industries and developing ecosystem management plans for the forest.

In 1990 to 1995, there was also a review of the Yukon conservation strategy during that period. It produced a report called *Yukon Mining: The Next Century*. There was a review of the contributions of the arts community to the Yukon economy. So you can start to get the idea how unbelievably broad this council was, just as were the members who made up this council.

In 1997-98 they worked with the Department of Economic Development to develop an economic diversification plan. They conducted public education around sustainable development. In 1999, there were community conferences called "Fo-

cus on the Future: Building Sustainable Communities". The Yukon Council on the Economy and the Environment looked at non-traditional economic initiatives and drew up profiles of 16 local businesses — now, that's not bad.

In 1999 they reviewed the draft legislation of *Yukon Development Assessment Act* and, of course, brought forward recommendations. From a 1999 report on DAP, the council also has a responsibility to provide advice to the Cabinet on how the Yukon can achieve both a diversified and stable economy and healthy environment.

In the 2002-03 annual report, the first one to this government, the membership looks forward to receiving direction from a new government and is eager to work forward — what I just read, except that was in 2003-04.

What did it do during this period? It reviewed the 1987 economic strategy. It got feedback on the Yukon conservation strategy and revision. It provided comments and recommendations to the 2002 state of the environment report and encouraged and supported the Yukon territorial government around implementing the sustainable progress indicators — SPI, as a lot of people call it — project.

In 2003-04, as I've already said, they only met once. It says, and I'll reiterate, the "Council has been waiting for various government documents in order to complete its legislated review responsibilities."

It stopped there. It seemed to have lost its initiative, its direction and the support of the government, and yet it is supposed to be a committee that is functioning.

The council has sent two letters to the Minister of Economic Development requesting finalized, sustainable progress indicators. No reply has ever come back.

A motion was carried to redraft a letter to the Minister of Economic Development outlining the Yukon Council on the Environment and the Economy's involvement in a sustainable progress indicators project requesting the finalized sustainable project progress indicators and encouraged the government to implement the indicators as a workable tool for the government. There was a draft letter regarding the state of the environment report for 2002 — asking for the completion of it.

So it seems they have tried to do their work. They want to do their work. They are mandated to do this work. It is in our acts — both in the *Yukon Economic Development Act* and the *Environment Act* — and it is hitting a wall. Since 2003-04 they have had one meeting, so really from 2003 onward this is a committee that really has not been used to the potential that it can be used, and has been in the past.

What I have listed already indicates how broad and how important the work that they do can be, and how beneficial it can be for a government, and of course to the people of the territory.

Unfortunately, looking at it, and looking at other boards and committees, we have a problem. I will give you some examples.

First Nation Advisory Council on Child Welfare — now, they are supposedly an advisory council, but I haven't been able to locate who the members are, where and when and if

they ever met and what their mandate is. So, I'm not sure if they are operating or if it is just in name only.

Another example of what has happened in this area is the Yukon Child Care Board — we asked the question today about boards and committees and about this one specifically. The member dismissed it by criticizing our source. Well, our source is a government source — it's the government Web page. Our source is also phoning around trying to find out what is happening. I would assume that the government has faith in their own Web site, or is that just a bunch of propaganda?

Is that what the minister is — okay, I'll withdraw the propaganda remark — or is that not accurate? I would hope that the information that is put out to the public on their Web site, just like any other publication or press release, is current and accurate and it's there for the public to be informed on what the present conditions are. The Minister of Health and Social Services seems to have dismissed that and I feel that's a shame.

Renewable resource councils are running short of people. What could be the explanation for this state of affairs? In the case of the Minister of Environment, it could be because the minister doesn't want or need the input from the Yukon Council on the Economy and the Environment.

The Economic Development minister could feel the same way. As a matter of fact, the whole government could feel that they don't need this type of advice, that they don't need a panel, or a committee, of eight to 12 people representing various groups and concerns coming together and finding common ground around sustainable development. They could just be deliberately ignoring — or not supporting — these groups.

I would like the government to clarify why they have allowed the Yukon Council on the Economy and the Environment and other citizen advisory groups to basically wither on the vine.

Good government is not getting into power and then doing whatever you want. Good government is inclusive, cooperative, and making sure that you are representing the voice of the people out there.

I give you some areas where I think the Yukon Council on the Economy and the Environment could be working on — tasks for the government such as public/private partnerships. Why weren't they tasked with taking a look at that kind of direction that the Economic Development minister wants the territory to go in. I see it's on their Web page: P3s. There is a big promotion of P3s in that department.

There is also big promotion in that department around the *Trade, Investment and Labour Mobility Agreement* as well. They could be looking at the impact TILMA would have on the territory, if any at all. We are signing that agreement, so it should be assigned to this group. These are big issues with Economic Development. I think the minister would appreciate, once he has seen the work that can be done by this council, the report that he would receive in that area. Wind River would be perfect for the Yukon Council on the Economy and the Environment. We've got to look after the environment. We are talking about sustainable development now; it's no longer just development.

Coal-bed methane — another debate we could have. How about trade to China? How about the possible benefits there? That's something the council could look at — and the public opinion around that one. That would be very interesting.

The pipeline, of course, flares its head once in awhile and then disappears. It's hardly ever talked about in here any more. Yet I can remember that the Liberal government ran on the coming pipeline. Of course, many of us who have lived in the Yukon most of our lives know that a project of that size and scope takes many, many, many years and we are so far away from that starting up that you just have to give your head a shake, listening to the Liberal Member of Parliament and the Liberal government running around and thinking it was coming down the pike tomorrow and it was going to be raining money in the territory — or pouring money through the territory.

Of course, it was pie in the sky. Now, that's not to say that it isn't going to be built. But guess what? How many years later — six years later, and there has been hardly any movement whatsoever on it.

The Yukon Party also picked up on that initially, and then realized that it's not really — it has a long way to go. It just hasn't been talked about much any more. And I'm glad there hasn't been much money poured into that area because so much work still needs to be done before a pipeline would come through the Yukon. There still isn't even a decision on which way it would go.

Here's one of my favourite wastes of money this government has brought about in the last while — the railway study. Private studies were done. YCEE could have done it for one-tenth of the cost. Common sense could have done it for nothing. There wasn't going to be a railway built through the Yukon. I don't see it. I don't hear anybody talking about it any more. But we did spend millions of dollars on a study — another study that, of course, like many, many studies, ends up on a shelf.

So in a few years, if there's talk of the railway again, we'll have another study, because that one is old; the territory has changed. We'll spend another few million dollars, and then that study will sit on a shelf. Until there's a really strong private interest in the railway, it's not going to happen. Until there's an economic justification to build the railway, it's not going to happen. That was common sense; that's free; and it seems to have borne itself out.

It can look at the development of roads in areas. Some of the real challenges and debates we've seen over the years — and this is not any particular government, of course. It's like building a road into Kluane National Park and the pros and cons of that. YCEE can look at that.

The council could look at parks, and be very serious about looking at the economic benefits of new parks — because there are economic benefits. It's not just mining, but there is money to be made available through creating new parks. There have been studies done by economists about that. Possibly the Yukon Council on the Economy and the Environment could look at it.

It can work very closely with communities that are not benefiting so much from the economic activity that's happen-

ing in the territory today. Some communities are struggling, and the council could possibly look at what's working in the other communities that are benefiting as opposed to those that aren't, to see how that activity can enhance those communities that are still struggling.

It could look at child labour. We could have a debate in here about it, but we could also have the council do some of the work around that in regard to young workers. It could have looked at the *Liquor Act* and the impacts of some of the amendments that are being brought forward.

The NDP is on record now saying that we do have some concerns about those amendments. I haven't heard any from either — I don't want to say a co-sponsor — the Liberals brought the recommendations forward in 2001, I believe, and the government has been bringing chunks of it forward over the last few years.

But there are a couple that do raise some serious concerns and I think a good debate around those would be very interesting. I'm not sure if we are going to get the answers on the floor, so I would like to have the council look at what kinds of impacts that would have, possibly some of the challenges that it would face in making those changes.

It can look at climate change, adaptation, economic implications of climate change — that's a perfect role for the council. As I said, economy and the environment — and climate change is going to have an impact on both.

Women's involvement in the economy, First Nations' involvement in the economy, economic diversification, and economic benefits of protected areas — it could even look at carbon taxing. All those this council can do. In every case, in the history of the council, they have done a very good job and they are there to advise the government — they're not there to tell the government what to do. Ultimately, the government will make that choice, but it's just another tool to make a good choice. I would recommend this government get this thing up and running again; get some people back on that committee; and allow it to fulfill its mandate by making sure the resources are there — then give it the tasks that will make the government and us on the opposition able to make informed decisions about what direction we are going in.

Thank you.

**Hon. Mr. Fentie:** Mr. Speaker, on behalf of the government side, I want to extend commendations to the Leader of the Third Party for his approach. I know his long history with respect to the council, its inception and how it has evolved since those heady days of governance here in the Yukon in the 1980s.

I have to make a couple of points before I delve into the content of my response to the member. First off, I want to encourage the member to recognize that when it comes to board appointments and committee appointments, there are so many variables in what the government must ensure takes place before an actual appointment is then sanctioned.

I will give an example, such as RRCs. In many cases, the final agreements obligate the government to seek consensus with First Nations on appointments to any individual renewable

resource council. In that process, timelines are also committed to for response from the First Nation — and I could go on, but I think we have to debate these matters in the full context that they exist. It is not as simple as the government simply making an appointment on any given day. We must conduct ourselves as we are required to as government through these processes.

I can tell the Leader of the Third Party that at virtually every Cabinet meeting there are appointments on the agenda that are going forward. This is a very complex process and there are many requirements and variables that the government must address.

I share the member's view of priorities for Yukoners: the environment and the economy. As probably envisioned back in the 1980s, some 20 years ago, Yukoners probably had at that time similar priorities in their view. It is what is important to Yukoners and that is why we as government must always address these areas with a great deal of emphasis. That is exactly what this government has done since coming into office in 2002.

We recognize those as priorities for Yukoners and we made clear commitments and we certainly articulated a clear plan and vision on what we would do in addressing both Yukon's economy and its environment.

Mr. Speaker, much of that has already been unfolding and there has been success — no question about it, but I don't need to delve into the detail on that regard. We know that in Yukon things have changed and there is improvement. Much of that is because of the emphasis placed on protecting our environment, conserving our environment and stimulating, diversifying and growing Yukon's economy. I'm very pleased and encouraged to say today that we are making progress in that regard.

With respect to the member's motion — a brief bit of historical data. It is important because it has to do with timelines and what is relevant at any given time in history and, indeed, how that impacts the present.

The Yukon Council on the Economy and the Environment was established in 1989 and was entrenched in the *Environment Act* in 1991 and in the *Economic Development Act* in 1992. I believe — as I understand it and the government understands it — that the primary focus of the council at the time of its creation was the implementation of the Yukon conservation strategy. The council, by the way — and I want to make this point — has not always been fully active under previous governments. I think that is relative to what is going on at any given time. That is important to this debate because those are determinants or contributing factors to what work any council, committee or board may undertake and carry out on behalf of the public and/or government.

Mr. Speaker, this council is approximately 20 years old. The vision and the inception and the creation of this council goes back that far. It is a legacy of the Penikett government and we have to understand that its creation and its operations and mandate come from legislation developed almost two decades ago.

That's an important and salient issue to the debate. And, as the Member for Klondike has pointed out today with the motion read into the record, much has changed and much has tran-

spired in Yukon since that time. It brings into question how we address this particular issue.

Now, I'll give some examples of what was not in place in the Yukon when the council was created and the required legislative framework was established: its mandate, its overall membership and how that was to be dealt with. What was not in place back in those times is very critical to this debate and has a huge bearing on where the Yukon is today.

For example, in the 1980s, Yukon had not progressed in responsible government to the level we are today. It was in April 2003 that the Government of Yukon assumed the responsibility for the control and management of the territory's lands and resources. And that is under the DTA, or devolution transfer agreement.

Now, we also have to recognize that some very important governance issues and orders of government have been established since then and have a direct impact on how we as public government must conduct matters in governance across this territory.

Since 1988, the Yukon now has 11 of 14 land claims and self-government agreements in place, and the management and control of settlement lands and resources are under the auspices of those orders of government.

Those agreements also established a number of mechanisms, such as renewable resource councils, which, at the time of the creation of the Yukon Council on the Economy and the Environment, were not in place. They advise government on virtually the same matters with respect to wildlife and our environment.

Now, Mr. Speaker, further to this matter, as a consequence of the *Umbrella Final Agreement*, we now have in the Yukon another legislative mechanism, a federal act called the *Yukon Environmental and Social Assessment Act* that applies to all land throughout the Yukon — to federal, territorial and Yukon First Nation government lands across Yukon. This instrument was not in place at the time of the council's inception. There are land use planning, habitat protection areas, special management areas, and other matters that are ongoing in today's Yukon that were not happening in the 1980s when the council was created and what was envisioned for this council was established. Much has changed and that's important.

We have to reflect on this in its full context: its mandate, its membership, its role in today's Yukon, with all that has changed and with all that's happening in today's Yukon

Our government — I can assure the members opposite — is fully committed to undertaking the necessary review of the Yukon Council on the Economy and the Environment, as stated in the motion tabled today by the Member for Klondike. In view of this commitment and necessary work that must be done before further decisions and actions can take place, I will make a motion to adjourn debate.

#### **Motion to adjourn debate**

**Hon. Mr. Fentie:** I move that debate do now adjourn.

**Speaker:** It has been moved by the Hon. Premier that debate do now adjourn. It's a non-debatable motion. Are you agreed?

*Motion to adjourn debate on Motion No. 373 agreed to*

## **BILLS OTHER THAN GOVERNMENT BILLS**

### **Bill No. 103: Second Reading**

**Clerk:** Second reading, Bill No. 103, standing in the name of Mr. Inverarity.

**Mr. Inverarity:** Mr. Speaker, I move that Bill No. 103, entitled *Apology Act*, be now read a second time.

**Speaker:** It has been moved by the Member for Porter Creek South that Bill No. 103, entitled *Apology Act*, be now read a second time.

**Mr. Inverarity:** Thank you, Mr. Speaker. I would like to thank the members opposite for the opportunity to speak on behalf of this important act. I would also like to acknowledge a couple of other individuals.

Specifically I would like to acknowledge Mr. Hank Moorlag, the past Ombudsman, who is sitting in the gallery, and I would like everyone to welcome him here this afternoon to listen to the debate.

*Applause*

**Mr. Inverarity:** I would also like to thank the University of British Columbia, Faculty of Law, specifically Mr. John Kleefeld, who has done significant research on apology legislation. I am indulging in some of his writings this afternoon, and I appreciate the support he has given me over the past year since this act went through first reading.

The bill itself is probably for me the second most important piece of legislation that I will have to deal with in this sitting, the first being, of course, the *Human Rights Act*, which we will be getting into later this summer.

This particular piece of legislation represents a major legal paradigm shift from one of litigation to one of alternative dispute resolution. This is not about giving apologies, or taking apologies. This is about an alternative dispute resolution, and specifically we are dealing with law.

The simple fact that this particular act is only less than 250 words should not be dismissed because it's not that lengthy, and it should not be dismissed without a cause. It's an important piece of legislation and in fact, probably affects more Yukoners on a day-to-day basis than any other piece of legislation that will come before the House.

For example, in the past weeks, we have been debating the *Child and Family Services Act*, and it specifically targets a unique group within the Yukon. This particular bill applies to every Yukoner — it doesn't matter where they are, who they are or how old they are. This bill, the *Apology Act*, is a law-reform initiative that has the potential to revive the "civil" in civil society. It has the potential to make our justice system more responsive to the ordinary needs and instincts, and it has the potential to bring more humanity into the practice of law.

This *Apology Act*, properly understood and applied, can play a role in the realization of a more just society. Such results have been demonstrated in countries like the United States which has over 35 states that have apology legislation. Australia — every single state and territory has apology legislation. More recently, there are some Canadian jurisdictions such as

British Columbia, Saskatchewan and Manitoba where apology legislation has also been adopted.

The purpose of apology legislation is to place limitations on the legal effect of apologies. Yes indeed, this initiative is specifically designed to change the mindset that an apology is a legal equivalent to an admission of guilt. With that apology comes associated liability. We're talking about the mindsets of governments, corporations, individuals and legal actors. For example, lawyers typically advise clients against apologies. Even if you want to apologize, the legal culture would advise you not to risk an apology — it will create a legal liability.

This is the heart of this issue, Mr. Speaker. This is the reason that apology legislation is necessary. Our justice system is here to resolve disputes. We need legislation that will remove the concerns and uncertainty about the legal impacts of an apology.

It is fascinating to note that questioning the legal impact of an apology, and indeed the very development of apology legislation, has been driven forward by people who have had personal experiences with both the healing empowerment aspect of an apology as well as the debilitating resentment that persists when an apology remains forthcoming.

The paradox that we have to deal with is the vicious cycle that is set in motion when an offender wants to apologize but refrains from apologizing for fear of being sued. The lack of apology is precisely what galvanizes the offending party to take legal action.

The first apology legislation was brought forward some 20 years ago by a Massachusetts legislator whose daughter was hit and killed by a car while she was riding a motorcycle in the area. The driver who struck the girl never apologized because the driver dared not interfere with the litigation surrounding the girl's death. An apology, under the circumstances, could have constituted an admission that might void his insurance coverage or increase the assessment of the liability claim.

So, upon the retirement of this senator, and with help from his successor, they presented legislation that was designed to create a safe harbour for would-be apologizers. The legislation defined benevolent gestures as actions that convey a sense of compassion or commiseration emanating from human impulses.

The bill, which was enacted and put into effect in 1986, ensures that statements, writings and benevolent gestures expressing sympathy related to pain, suffering or death of a person involved in an accident or made to such a person, or the family of such persons, are inadmissible as evidence in civil liability.

Mr. Speaker, closer to home, in the early 1990s, two young women became victims of mistaken identity. During a police shakedown, the women were surrounded by police and ordered to lie on the ground. When identification was checked and it became clear that a mistake had been made, the police moved on — presumably to the right address — but they did not apologize to the two women. In fact, they even made some offhand comments.

This, of course, led to a complaint, an investigation, and a lot of needless suffering and expense. Interestingly enough, had

one of the police officers simply said, "I'm sorry. It's an honest mistake," at the time this was done, the women were quite prepared to forgive the officers, in light of the fact that it was in fact an honest mistake.

This anecdote is not intended to point fingers at police officers or lawyers — quite the opposite, Mr. Speaker. With the legal culture within the law enforcement environment at the time, an apology was equal to liability and therefore not considered a viable option.

This has, obviously, changed over the past two years, with changes to the *Royal Canadian Mounted Police Act* and a long list of legislation that comes into effect all over the world. It even continues now.

Just on a personal note, I'd like to reiterate something that happened to me about 15 years ago. I owned a business in town. I had a computer business, an Internet business, and I was hacked. It caused a lot of pain. I had 500 or 600 customers at the time. We had to go to each individual customer and redo their passwords and user identification because of this.

The individual involved was a young lad, very talented and gifted. I could see that and certainly individuals around me at the time said, "Let's stick it to him. Let's put this guy in jail. Let's bring the full force of the law." At the time, I have to admit that it would seem to me the only viable option — it was a criminal offence.

However, what happened was the individual — and in fact, members of his family — came to me and apologized and said, you know, he's young, he's talented and he thought that this was interesting and this was fun — and there was compassion and there was certainly a willingness to correct the problem and correct the expenses that I had to go through.

So we went into a new concept that was introduced in the Yukon. Most people now look at it as an alternative dispute resolution — diversion is another word for it in the Yukon. But it was something that started here and has been quite popular within the youth crimes and things along those lines and so it does exist. People who apologize can benefit and it doesn't have to be "all or nothing;" it doesn't have to be "go to jail."

Most of us look in life for an apology; it's what we're brought up to do and it's how we deal with life. The concept of not apologizing is foreign to most of us. Yesterday, April 15, 2008, apology legislation was introduced in the Ontario Legislature. The Sault Ste. Marie MPP David Oraziotti said: "The *Apology Act* would enhance the dispute resolution process by allowing all Ontarians to communicate genuine compassion, sorrow and regret for a mistake without worrying that it could later be used against them in civil court. Other jurisdictions that have implemented this type of legislation have seen a reduction of pressure on their civil courts..." So there is a real cost-saving there, Mr. Speaker, "...as well as reduced costs to public institutions, such as hospitals."

Certainly in the United States it is clear that most of the states that have implemented it — I think I mentioned 35 — is largely because of the health care system and to avoid disputes in that area.

I would like to point out that the MPP from Sault Ste. Marie is also the MPP who has recently introduced legislation

in Ontario to ban smoking in vehicles. This is important. Even the Official Opposition Conservative Party in Ontario thinks that the *Apology Act* is actually worth looking at. While the New Democrats support the idea, they also want to make sure it doesn't end up hurting victims.

Today, April 16, 2008, we here in the Yukon have the opportunity to do right by Yukoners. This is not a partisan bill; this is not a Liberal Party position as it is in Ontario and other jurisdictions in Canada and around the world.

An apology act is an important step toward social justice. It is not the exclusive jurisdiction of any one political party. It is a symbol that our culture is changing, Mr. Speaker, and that our society is recognizing that offering a sincere apology is simply the right thing to do in some circumstances.

It is a sign of caring, compassion, empathy, but not blame or guilt. This *Apology Act* could and should be one aspect of this government's attempt to make our justice system more affordable, effective, and accessible to more people. This legislation supports our desire to promote the early and effective resolution of disputes by removing the concerns about the legal impact of an apology.

The legislation is straightforward and has essentially two parts to it — the first part is the definition of the apology, and the limitation of the effect of an apology on liability. I sincerely hope that this government will give consideration and meaningful debate to this bill along with unanimous support for this bill.

One question that I would like to address is whether or not apology legislation is in fact necessary to achieve these goals. The short answer, Mr. Speaker, is yes, apology legislation is necessary. There are a few approaches that can be taken to protect an apology. In fact, many jurisdictions have approached apology legislation by amending existing legislation to create a safe harbour for expressions of sympathy. However, Mr. Speaker, this is a cumbersome and expensive approach and creates a patchwork of exemptions and fails to generally provide protection for apologetic statements.

Our idea is to create an exception to the general rule that a party's out-of-court statement or conduct against interests is admissible against the party at trial despite the statement's hearsay status. This is where distinct and separate legislation has a clear advantage, Mr. Speaker. Nothing in the *Apology Act* alters the way apologies are created in criminal law or, for that matter, in any other area that is the exclusive federal legislation jurisdiction. The statute does not legislate mandatory apologies, but rather enables apologies by making them inadmissible for the purpose of providing liability or assessing damages. Liability and cause of action can still be proven by all other means used.

Mr. Speaker, this is a moral issue and perhaps a socially moral issue. We don't live in a world of pristine morality where everybody rushes out and takes full responsibility for all of the harms that they have committed. In fact, Mr. Speaker, we live in a second-best world where many people actually don't do this.

Right now the justice system fails those people who would be accountable for their actions. There are circumstances where an apology is the right thing to do.

It is a moral thing to do, and is the best way to deal with certain disputes, yet we have a justice system that will punish someone for doing so. Is that right? This legislation corrects that flaw by breaking the connection between an apology and liability.

The *Apology Act* is designed to protect those people who would act out of conscience and responsibility — responsible, practical and caring people who genuinely want to account for themselves and move beyond a system of social justice that is in conflict with their basic human values.

An apology is a human act. Apologies occupy a broad grey area in our society that includes law, psychology, economics, culture, and in fact touches theology, sociology, organizational behaviour and even political theory. But, most of all, it's morality. Apologizing when one has injured another is a basic moral act; yet it is this act that is very much outside the traditional adversarial legal framework that exists today.

Apologies are hard to do. Real apologies have to be sincere and convincing. Believe it or not, there are four Rs that make up apology. They include remorse, responsibility, resolution and reparation — and without all four of these components directly focused on the offence in question, an apology is likely to fall flat or, worse, cause more damage than we have seen.

Remorse — I am really sorry I did that; responsibility — I know what I did was wrong; resolution — I promise something like this will never, ever happen again; and reparation — if there is any way I could make this up to you, please let me know.

An apology, whether written or verbal, should be addressed to specific individuals and acknowledge the wrong that was done to the individual. It needs to demonstrate commitment that this will never, ever happen again. An apology should ask for forgiveness and not expect it. You do not have to receive forgiveness in order to give an apology. You should not even expect it.

Forgiveness is, and will remain, the individual's choice. This is, after all, what we were attempting to achieve with apology — reconciliation. What we're looking to achieve is reconciliation of a dispute and forgiveness. Without a sincere apology, reconciliation and forgiveness is hardly possible.

We are legislators, and we need to be alive to the healing effects that a real apology can have in resolving disputes. We need to be aware of the influence that legal advisors have on their defendants' decisions and create a social environment and legal framework that gets the most out of our second-best world.

A legislative solution is necessary here. The *Apology Act* provides the solution in three ways. This legislation declares that an apology does not constitute an express or implied admission of a fault; an apology's relevance to a dispute must not be taken into account in the determination of faults, and an apology is inadmissible as evidence of fault in connection with the matter for which the apology was given.

This is the message that we want to give Yukoners: that apologies are protected. You are free to follow your conscience. You are free to do the right thing.

There are risks with apology legislation, as with any kind of legislation. Moral arguments against the act express fear that apologies may become a commodity. Fears of gratuitous apologies abound, as do concerns about strategic apologies.

As with other paradigm shifts, dealing with the risks of a staged apology is a matter of growth and social progress. A well-meaning but thoughtless, insincere or pseudo-apology can have a very real negative effect.

A form-letter apology is unlikely to be well-received, and we've seen those. A court-ordered apology is likely to be interpreted as hollow and empty — I don't want to go to jail, so I say I'm sorry.

Mostly because they are empty and because they are not offered out of sincerity, the use of financial compensation to apologize to people who endured clergy abuse, for example, has produced the effect of adding insult to injury on some people because the settlement itself mimicked the very abuse that was inflicted. As one survivor said, "I feel like a prostitute now that I've been paid for being sexually violated."

Social justice is evolving. Thoughtful, caring individuals want the freedom to follow their hearts on moral issues, and our current legal environment is in conflict with this. We have the chance to correct a major flaw in our social justice system here today.

An apology is a human experience and this human experience has been routinely subverted by corporations, governments, legal actors and individuals. Other jurisdictions in Canada have found the world to be moving, as we speak, to address this flaw. We can, as well.

Our world is getting wiser as it gets older. This doesn't mean that our world was therefore foolish before; it means that we as legislators must act responsibly to encourage a richer and more participatory understanding of justice. We can and should enable a departure from traditional courtroom dispute resolutions so that other alternatives can be explored.

We can and should enable the emergence of an alternative dispute resolution process that is better and reflects more human experience, one that is morally based and is to the benefit of individuals, organizations and to society at large.

Thank you, Mr. Speaker.

**Hon. Mr. Fentie:** I want to thank the Member for Porter Creek South for his comments today with respect to the *Apology Act*. The member has thoroughly covered the intent of such legislation, thoroughly covered the rationale for such legislation and gone into great detail on some of the challenges with respect to this legislation.

I have one cautionary comment to the Member for Porter Creek South. If I were the member opposite, I would not presume what is important in Yukoners' lives today. Statements that this is one of the two most important acts on the floor of the Legislature in this sitting, the other being the *Human Rights Act* is being somewhat presumptuous, considering acts like the

child act and so on, with the major amount of public business that we, the government side, have tabled in this sitting.

Furthermore, I have to ask the question of the Official Opposition, who are now constantly on record that there is so much work to be debated and so much public business to be debated here in this sitting, why they're accusing the government of stalling debate.

### Motion to adjourn debate

**Hon. Mr. Fentie:** That said, given the fact that this particular act, frankly, will not proceed in this sitting, I move that debate be now adjourned.

**Speaker:** It has been moved that debate be now adjourned. 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. Kenyon:** Agree.

**Hon. Mr. Rouble:** Agree.

**Hon. Mr. Lang:** Agree.

**Hon. Ms. Horne:** Agree.

**Hon. Mr. Hart:** Agree.

**Mr. Nordick:** Agree.

**Mr. Mitchell:** Disagree.

**Mr. McRobb:** Disagree.

**Mr. Elias:** Disagree.

**Mr. Fairclough:** Disagree.

**Mr. Inverarity:** Disagree.

**Mr. Hardy:** Disagree.

**Mr. Cardiff:** Disagree.

**Clerk:** Mr. Speaker, the results are nine yeas, seven nays.

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

*Motion to adjourn debate on second reading of Bill No. 103 agreed to*

### MOTIONS OTHER THAN GOVERNMENT MOTIONS

**Clerk:** Motion No. 376, standing in the name of Mr. Cardiff.

**Speaker:** It has been moved by the Member for Mount Lorne

THAT this House urges the Minister of Community Services to, as a first step in eliminating abuse and neglect of animals, implement the recommendations of the Kilpatrick report, made public in September 2007, and provide clear parameters around policy, procedure, funding, staffing and logistical support so that the *Animal Protection Act* can function as it was intended.

**Mr. Cardiff:** Mr. Speaker, the intent of bringing this motion forward today is because of what appears to be a lot of government inaction around this. I know this has been an issue that was brought to my attention by constituents — both in my riding and in other ridings — who had a deep concern about how animals in the Yukon Territory are treated and what type of laws there are to protect animals, to ensure that they are well cared for — and not just that, but how the government uses those laws that have been created, how they enforce them, and what the policies of the government are around the enforcement and around the protection of animals.

To give the government credit, after much pressure from this side of the House on this issue, they did actually commission a report, and they actually even promised to hire some people, but we haven't heard anything about that.

I would like to give some background about the Kilpatrick report. Dr. Kilpatrick wrote the report, and basically what he said was that the Yukon *Animal Protection Act* is currently perceived by the public of the Yukon to not be working well.

As with any legislation that is perceived to be found wanting, analysis of the effectiveness of the legislation had to include both a review of the implementation of the legislation and of the legislation itself, and I think that is important. It is the implementation. The law is there, but if you don't implement it and if you don't have policies and you don't have the enforcement of the law, there are a lot of questions the public would want to ask about that.

He says that the act itself appears to have been drafted by using other western Canadian provincial animal protection legislation as templates. That is not a bad thing, and in fact we encouraged the minister to look at other legislation in other jurisdictions as a template to bring in new animal protection legislation, but he decided against that and he decided to ask Dr. Kilpatrick to do this report.

The *Animal Protection Act* we have is similar to other statutes. However, in other jurisdictions, some improvements have been made. Some of them have been modernized. The penalty levels — which I'll get into a little bit later today, I hope — in other jurisdictions are much greater than they are in Yukon.

But I think one of the points Dr. Kilpatrick makes is that clear parameters are not currently in place for the Yukon *Animal Protection Act* as to policy, procedure, funding, staffing and logistical support for the legislation; nor is there a formal policy with regard to prosecution of cruelty to animal matters.

Provincial animal protection acts are enforced through the provincial or city humane societies — the Society for the Prevention of Cruelty to Animals, otherwise known as the SPCA. Either the provincial or city humane societies have full-time special constables or hourly contract investigators trained to carry out the provisions of the provincial acts. I don't believe we currently have that here in the Yukon.

The critical difference between the provinces and Yukon is that the humane societies in Yukon function primarily as advocacy and animal shelter organizations, and they are not now, nor likely in the foreseeable future — unless the minister comes to the table with the appropriate funds and support — to

be equipped with staff and support, paid special constables or animal protection officer positions.

The government expects this all to be done by volunteers because, for the most part, that is how humane societies in the Yukon operate. They have some core operating funds that the government provides for basically an animal shelter and advocacy for animals, but there is no — or a dire lack of — enforcement when it comes to animal protection matters.

Officials in the two jurisdictions that Dr. Kilpatrick reviewed stated that the effectiveness of their legislation was much enhanced by the availability of designated or special prosecutors familiar with animal cruelty matters.

In order to attempt to improve the effectiveness of the Yukon *Animal Protection Act*, the primary focus should be on policy, procedure, funding and staffing to be put in place to support the act. The implementation of the act can be improved without changes to the legislation itself, which kind of lets the minister off the hook for a total review of the legislation. But what Dr. Kilpatrick is saying is put the policy, the procedure, the funding and the staffing in place to support the act that we have.

The intent of the motion is to encourage the government, encourage the minister, encourage the Premier and the Minister of Finance to come to the table and do the right thing.

The review of other jurisdictions' legislation showed that there was room for improvement in the Yukon *Animal Protection Act* statutes and regulations, should the government choose to make amendments at some future date. Dr. Kilpatrick's recommendation is to first put in place the policy, procedure, funding and staffing to enforce the act, and then make some amendments and have a discussion.

I can guarantee the minister that there are plenty of Yukoners out there who would be more than willing to participate in that discussion. If he wants, he can come down to my office and we'll review my filed emails and my notes on this subject. I would be more than happy to connect them with the people who have raised these concerns.

Now, the reason why I think this is timely is that, in the last little while, there have been specific incidents that have been brought to the public's attention on animal cruelty legislation. There is currently federal legislation before Parliament. There have also been numerous incidents of animal cruelty, both here in the territory and throughout the country. I know it seems like not that long ago, just recently on the national news, that there was one incident that was pretty disturbing — I believe it was in Alberta — of horses that were malnourished, and it was quite sad to see the footage on the news about that. It was quite disturbing.

As well, we have had numerous incidents here in the Yukon. So while the public and the media pressure are focused on legislative changes with a tilt toward more severe punishment for acts of cruelty to animals, in Dr. Kilpatrick's analysis of any matter affected by the legislation, he says that legislation must contemplate both the legislation itself again and the framework of policy, procedures, resources and staffing that are in place for that enforcement.



In the instance that I was just talking about — the horses in I believe it was Alberta — it was a well-known fact, apparently, that this individual kept horses and didn't look after them.

The enforcement did come through. There were policies, there were procedures and there was enforcement of the animal protection legislation in that jurisdiction. The horses were removed and taken care of.

There are a lot of stakeholders affected by animal protection legislation, and the minister will become familiar with these people if he takes the opportunity. They include pet owners — I am sure there are a few of us here in the Legislative Assembly who have pets — dog mushers, who are in abundance here in the Yukon; there are farmers, outfitters, wilderness camp operators, humane societies, which I have already mentioned, and various other groups and individuals who interact with animals as part of either their jobs, their hobbies or other interests.

Effective animal protection legislation would meet the legislative goal of ensuring the humane treatment of animals without excessive interference in the lives of various stakeholders.

The general goal of animal protection legislation is to ensure that the interactions between people and animals remain objectively humane. In the case of limited resources, Dr. Kilpatrick says that specific goals would be prioritized as follows — and I hope the minister has either read this report or is paying attention to it. The first goal would be to relieve and prevent the distress of animals. This could range from assisting and/or educating an owner on improving the living conditions of an animal, to the immediate seizure and removal of the animal to a secure location. This again requires the adequate policy, procedures, resources and staffing in order to do that and to have that secure location.

I do believe we have pounds officers in some areas, but they don't have the authority to enforce the *Animal Protection Act*.

Other goals — the second goal that has been prioritized here is to take steps to restrict or prohibit ownership of animals by an individual. If they don't treat the animals in their care humanely, remove the animals and restrict their ownership of an animal.

The third one that Dr. Kilpatrick lists is punishment for a breach of the Yukon *Animal Protection Act*, either by fine or by imprisonment. We will be talking a little bit later about the levels of fines.

In the Yukon, there are five statutes — five laws — that in some way talk about the protection of domestic animals. The first one is the *Animal Protection Act*. It sets out the circumstances under which an animal might be considered to be in distress. It also outlines the authority under which an agent of the government — if the minister would hire one — can intervene where an animal is in distress. It outlines some of the steps that can be taken to deal with an animal's distress.

In section 2(1) of the *Animal Protection Act*, it sets out that "...a peace officer may, subject to this Act, take the action the officer considers necessary or desirable to relieve its distress, and for that purpose may

(c) take custody of the animal;

(d) arrange for any necessary transportation, food, care, shelter and medical treatment of the animal; and

(e) deliver the animal into the custody of an official animal keeper."

I believe that would be, in this case, a pounds officer, but I believe that there is only one pounds officer in Yukon, to the best of my knowledge.

The *Animal Protection Act* also sets out a framework for the prosecution of a person who has caused the distress of an animal and includes a person who was not the owner of the animal and who did not have care and control of the animal. I won't go into the details, but I actually had some personal experience with this not too long ago with animals that were abandoned and almost ended up in my care. Fortunately, it was within the city limits of Whitehorse and city bylaw officers dealt with it. If it were outside of the city, I guess I could have called the minister and asked him whom I should call.

It also sets out the authority for a judge or a justice of the peace to order that a person cannot have ownership or charge of an animal for as long a period as the judge or the justice of the peace considers advisable.

Another piece of legislation that deals with animal protection and the Kilpatrick report references is the *Dog Act*. The *Dog Act* primarily addresses the control of dogs running at large. It does speak briefly to the care and treatment of dogs.

One of the five acts that deal with animal protection matters — the third one — would be the *Pounds Act*, Mr. Speaker. It basically deals more with livestock matters but, as we talked about earlier about the horses, livestock are animals too. It includes dealing with livestock that are running at large and it deals with the care of livestock in pasture during winter and the treatment of animals to be found in poor or weak condition.

There is a reference as well to the presence of domestic animals on Yukon highways, as dealt with in the *Highways Act*, and the *Municipal Act*, in section 265(o), sets out that a council of a municipality may pass bylaws respecting the health and safety of animals.

The City of Whitehorse, in fact, does have a Whitehorse animal control bylaw, which does speak to the cruelty of animals, and the current policy is to prosecute animal cruelty matters under that bylaw, rather than the territorial legislation. I believe there was a recent case where an animal owner had the animal removed from his care and was, I believe, prohibited from having an animal in his care.

That kind of brings around the whole argument, which we may get into a little later about the treatment of animals. Animals are their own beings, quite frankly. I think you can have care and possession of animals, but I don't know that it's totally right to say that you can own an animal. I think that "care and possession" is a more accurate term, from my perspective.

As I mentioned earlier, there is also federal legislation that speaks to the cruelty of animals, and there is currently a bill before the House — I believe it's Bill C-373 — and that is being hotly debated.

There is a lot of debate across the country about that bill but, under the federal Criminal Code, Dr. Kilpatrick states that

successful prosecution under the Criminal Code requires proof of a guilty mind or intent to commit the crime. Prosecutors are often of the view that it is difficult to prove beyond a reasonable doubt that an accused had the requisite guilty mind in many animal protection cases and, therefore, prefer to prosecute under provincial or territorial legislation. Regardless of amendments to the Criminal Code currently under discussion by Canada's MPs, the hurdle of proving that guilty mind or intent to commit the crime will remain. It is anticipated that prosecutors in the Yukon will continue to prefer to use the *Yukon Animal Protection Act* where possible.

That's fine; the prosecutors can use the territorial legislation; what we need is the policy, the procedures, clear parameters; we need the funding; we need the staffing and the logistical support so that the *Animal Protection Act* can function as it was intended.

After Dr. Kilpatrick reviewed the current procedure of enforcement of the *Yukon Animal Protection Act*, he said, "The typical cruelty to animals complaint comes to one of the humane societies and/or an RCMP detachment. Upon receipt of the complaint, arrangements are made for attendance upon the animal(s) by, ideally, at least one member of the RCMP and a representative of the humane society (if available)."

Whether a veterinarian is in attendance regarding the initial complaint depends upon the availability of a veterinarian and whether the seizure of the animal and/or the laying of charges are being immediately contemplated. We haven't seen much of this because we don't have the people out there to enforce this act, and it would appear that the RCMP — and I'm not suggesting that the RCMP are not doing their job; I am just suggesting that a lot of the time they are busy with other matters. So when it appears that the animal requires more care than is currently being given to it and that it is not in such distress that its immediate removal is required, recommendations are made to the owner or the person in control — again, there is that word "owner" and whether or not you can own an animal, I would tend to agree — and plans are made to attend the animal at a later date to ascertain whether those improvements have been made. There is a strong emphasis on seeking of cooperation from and the offering of available assistance to the owner or person in charge or care of the animal. There is that word again.

Particularly, depending upon the number of animals involved, there is often a reluctance to seize the animals if there is not an available suitable facility in which to house them.

These are issues that are brought up in our motion, Mr. Speaker, when it comes to requesting the minister to provide those clear parameters, provide the policy, the procedures, the funding, the staffing and the logistical support so that the *Animal Protection Act* can function.

There is a prime example: we need to have facilities available somewhere in the Yukon. They need to make those arrangements so that, if animals are seized because they are in distress or are being mistreated by the people who are in control of them, the government can respond adequately and the facilities are in place.

They need to be able to work with the humane societies and with pounds officers to ensure that those facilities are in place, and to have enforcement officers, and the funds for those enforcement officers, in place.

The fact that legislation very similar to the *Yukon Animal Protection Act* is working well in other jurisdictions indicates that the legislation is not the weak link of animal protection in the Yukon. Dr. Kilpatrick goes on to say that the missing parts of the supporting infrastructure for the *Yukon Animal Protection Act* are enforcement programs, policy, staffing and funding. With no formal support structure in place, enforcement of the legislation depends on an ad hoc approach by the individual in receipt of the complaint, which usually comes via the humane society.

That's why this forms part of our motion. It's highlighting the fact that the missing parts supporting the current *Yukon Animal Protection Act* are the enforcement programs, the policies, the staffing and the funding.

As noted above, the individual who would be attending this may be a member of the RCMP, a staff member of the agriculture branch — that would be a possibility — or a volunteer member of the humane society.

That's why we are asking for adequate funding. It's almost akin to the situation that we are facing in Mount Lorne around dumps: we are relying on volunteers, not just at the Mile Nine dump, but — in spite of the funding given to Marsh Lake — we are also relying on volunteers there to do a job that should be paid — and should be paid out of public funds, is my belief.

Just like in the *Animal Protection Act*, here we are relying on volunteers to enforce Yukon government legislation.

Does that make sense? I admire the individuals who volunteer at humane societies. I admire their dedication to the protection of animals in distress and their willingness to go out there and fulfill this role. Again, I believe that if we had adequate resources provided to humane societies in communities, that would be a much better avenue and the legislation would function much better.

Dr. Kilpatrick goes on to talk about the mandates or the roles of the humane societies in Yukon. The *Animal Protection Act* sets out the approval process for the creation of the humane society and provides that an officer or an employee of the humane society may be appointed as a special officer under section 9 with the authority to exercise the powers of a peace officer for the purposes of the act. But we're asking them to do it on a volunteer basis, Mr. Speaker. That is why we're asking for funding in our motion.

The *Animal Protection Act* regulations set out the mechanism for the approval of a humane society and for the application of a humane society for the appointment of special constables. I believe if the government were to provide adequate funding to humane societies, then these individuals would probably come forward.

I don't know whether they are needed on a full-time basis, possibly in larger municipalities or larger areas — in the Whitehorse area, maybe it would be a full-time person and in a smaller community maybe it would be a part-time position.

Dr. Kilpatrick goes on to talk about legislation processes and support structures in other jurisdictions, and compares them to what we have in Yukon.

I'm not going to belabour or go through what actually happens in other jurisdictions, because I'm sure the minister can read that for himself. Dr. Kilpatrick lists the Northwest Territories, British Columbia, I believe some of the prairie provinces as well, Alberta, Saskatchewan, Alaska — the City of Anchorage. There is a pretty good cross-section of how other jurisdictions deal with animal protection matters.

Dr. Kilpatrick also talks about the role of humane societies and says right in his report that the humane societies in the Yukon are neither structured nor funded in such a way that would place them in a position to provide adequate enforcement of the *Animal Protection Act*. In the past, humane society volunteers have attempted, usually with the help of the RCMP, to provide enforcement services. While it was well-intentioned, this arrangement has not been consistently functional.

Effective enforcement requires a regulatory professional. This person would be required to: respond to complaints; attend to the premises that are the source of the complaints; deal with the individuals, protecting every level of anger and emotion. They would be documenting what was going on. They would competently and consistently assess whether the animals were in distress and to what degree they were in distress. That individual would know, because they would have the training, when to request the assistance of other professionals — prosecutors, the RCMP or veterinarians.

They would have to possess other skills as well. What Dr. Kilpatrick says is that humane societies in the Yukon do not have available people with those qualifications, and they aren't likely to have those individuals in the foreseeable future.

In summary, Dr. Kilpatrick does recommend that there could be a few amendments made to the legislation but to remedy that, basically what is needed — the fact that the act is not functioning as it was intended to — are changes to the infrastructure that supports the Yukon *Animal Protection Act*.

I have outlined a lot of that. I think that basically what we are asking the minister to do is react to the report. I said I would give a bit of an overview of some of the fines in other jurisdictions. I would like to note that the government has brought forward amendments to the *Liquor Act* that increase fines for violations of the *Liquor Act*, in order to make it more current, and I would encourage the government to consider, at the very least, bringing forward amendments to the *Animal Protection Act* to increase the penalties for the abuse of animals.

In the Yukon *Animal Protection Act*, currently, I believe, the maximum allowable fine is \$500. Alberta has a maximum fine of not more than \$20,000. In Manitoba a first-time offender may be fined up to \$5,000. Any subsequent offence means that the fines may go up to \$10,000 and the possibility of six months in jail.

As well, offenders are prohibited from owning or possessing an animal for up to five years if it is a first offence and up to 10 years for any subsequent offence. In Saskatchewan, the first offence is \$5,000 and/or up to three months in jail. With

second and subsequent offences, the fines go up to \$10,000. In Ontario, cruelty to animals carries a maximum fine of up to \$60,000 and up to two years in jail.

This reminds me of a quote that I've heard mentioned by others here in this Legislature, and I'm going to repeat the quote. The quote is from Tommy Douglas and it is about how society will be judged by how we treat our least fortunate.

I'd like to thank the staff who prepared this for me because they have included a quote here as well. Mahatma Ghandi said, "The greatness of a nation and its moral progress can be judged by the way its animals are treated. I hold that the more helpless a creature, the more entitled it is to protection by man from the cruelty of man." I would just like close with that and I would like to restate the objection of this motion, which is to restate what Dr. Kilpatrick said, that the missing parts of the supporting structure for the Yukon *Animal Protection Act* are enforcement programs, policies, staffing and funding. That is why we've asked the minister to provide those clear parameters around policy, procedure, funding, staffing and logistical support so that the *Animal Protection Act* can function as it was intended. I look forward to hearing the minister's comments and what others have to say this afternoon.

**Hon. Mr. Hart:** It gives me great pleasure to rise today to speak on this motion. I would like to say that I am proud of what the government is doing in the area of improving protection for animals.

The Yukon government takes the issue of animal protection very seriously. I will try to respond to the issue the member opposite raised in this motion. I'll go through it. If I miss one or two, you'll have to forgive me.

I will say that, as the MLA for Riverdale South, I'm very committed to my constituency and honoured to represent them in the House here today. I will also state that I have many e-mails from my constituents on this particular issue.

This is an attempt to speak to the issue the member opposite has brought forward with the motion and what we as a government are attempting to do to improve the protection of animals and eliminate abuse and neglect of animals.

We are committed to improving animal protection in the territory and have been making steady progress over the last couple of years.

Nous sommes fiers des progrès que nous avons fait au fil des années envers la protection des animaux.

Mr. Speaker, we believe that the vast majority of Yukoners attend to their animals with respect, dignity and attention to ensure their continued health. Most Yukoners do not need to be regulated by law in order for them to treat their animals respectfully.

Sadly, however, there are situations where people fail to provide appropriate care and attention for their animals or mistreat them, abandon them or otherwise harm them.

Animal protection, and the challenges involved in applying and enforcing current laws and procedures was pushed into the public eye in April 2006 when a dog owner neglected, then shot between 32 and 76 of his own dogs, after being warned by the RCMP that the RCMP would seize them.

That same year, a resident in a small Yukon community moved away and abandoned a large number of cats to starve and freeze when the local temperatures dropped below minus 40.

These tragic stories emphasize the need to reassess the *Animal Protection Act*, which has been, in one form or another, part of the legislation in the Yukon since 1977.

I will point out here that we are the first government to undertake a major review of animal protection in the Yukon. The act specifically protects animals from distress, which includes being in need of proper care, food or water, being injured, sick or in pain, or being abused or subjected to undue or unnecessary hardship or neglect.

In August 2006 I met with the representatives from the humane societies in the Yukon and I committed to review the *Animal Protection Act* and to examine enforcement concerns. The Yukon government strongly supports the work of these organizations and, since 2004, we have been providing annual core funding of some \$75,000 to Mae Bachur humane society and \$20,000 to the Dawson humane society.

In response to their concerns and to those of the public, we undertook a three-phase approach to review the current animal protection system and legislation, consider recommendations and implement as appropriate. We hired an expert consultant to conduct and review the Yukon animal protection legislation and to analyze the legislation of other selected jurisdictions. The contract included a review and analysis of the processes and policies around enforcement and the Yukon act.

In preparing the report, the consultant and the department met with key stakeholders, the Yukon humane society, Dawson humane society and the RCMP to review the findings. All the stakeholders were supportive of the process and their comments were incorporated into that report.

Phase 1 was concluded in the summer of 2007 with analysis of the effectiveness of the Yukon's legislation. Legislation and processes in other jurisdictions and the identification of problematic areas of our current Yukon *Animal Protection Act* were identified.

This overview report was made public in September 2007. The review concluded that the *Animal Protection Act* could be improved with both legislative and non-legislative changes.

The next step of the contract was to develop recommendations to offer methods to address the concerns identified in the first report. The Yukon government has studied the recommendations, and we are moving forward on the implementation of changes to animal protection in the Yukon.

The member opposite said that we haven't been doing anything. I will advise the member opposite that we are currently in the process of designing the project review and doing a job description for the animal protection officer. We are doing that right now. So that is what we are in the process of doing. We are doing a job description for that individual to ensure that he or she has the necessary skills to carry on this duty. We are also in the process of going through Management Board to obtain the necessary funding for this individual — for an office, as well as a vehicle and uniform, and to work out how we are go-

ing to work with this individual. The consultant will provide us with details on the best way we can utilize this individual.

In addition, we are working with the Department of Environment on getting the use of a veterinarian service, whereby we can utilize that service both in the environment — through the agriculture branch — as well as either with the RCMP or through this animal protection officer. That is also currently underway.

We discovered that the *Animal Protection Act*, as currently written, compares well to legislation in other provinces and territories, as was mentioned by the member opposite. But there are opportunities to enhance the effectiveness of the intent of the act.

We are in the process of reviewing the legislation and, with the help of an expert consultant, we have prepared a compilation of the potential issues to enhance how the *Animal Protection Act* provides protection for the welfare of domestic animals in the territory.

As members are no doubt aware, the process for developing and passing legislation and amendments is a lengthy one and we appreciate the input and feedback of our stakeholders.

I also appreciate the motion that the member opposite has raised here today for us to debate. It provides me with an opportunity to describe the many actions that this government has taken in the area of animal protection, as well as give an idea of where we are going in this very important issue.

A significant consideration in developing proposals for the issues was the desire of this government to improve the effectiveness of the *Animal Protection Act* while respecting the autonomy and unique lifestyles of Yukoners as much as possible.

We need to provide legislation that is effective in protecting animals and also respects the way of life in the Yukon. We intend to launch a public consultation very shortly, to ask the public for feedback on these proposed amendments to the *Animal Protection Act*. The proposed amendments are of course not final and are open to the responses, comments and input received through the consultation. We will consider the results of the consultation in the development of the final proposed amendments, to ensure any amendments reflect the needs of Yukoners.

To give members a better idea of our direction on this, I would like to expand on some of the issues that need to be addressed. It may be a help to frame this issue by remembering that the general goal of animal protection legislation is to ensure that the various interactions between people and animals are objectively humane.

The first issue that may be proposed is to update the definition of "animal" to include wildlife in the care of people. The definition of "animal" in the current act does not include wildlife in captivity as there is now Yukon wildlife in captivity, like game farms or the Yukon Wildlife Preserve. It is appropriate to expand the definition to include these animals. Wildlife in captivity, therefore, in the care of persons, should receive the benefits of this legislation. Most other Canadian jurisdictions include wildlife in their definition of "animal".

In their animal protection legislation it should be noted at this point that wildlife not in captivity are dealt with in the *Yukon Wildlife Act* and regulations.

The second issue would be to include pest control. In exemption section 3(3) of the *Animal Protection Act*, it may also be necessary to set out that any animal included in the formal definition of "animal" cannot be considered a pest. Pest control is not included in the exemption section of the current *Animal Protection Act*.

Inclusion of this activity would aim to ensure that a practitioner of pest control not be charged with inhumane treatment of animals, as all pests would be wildlife not in captivity. There is an argument that this section is not necessary.

The third issue would be to include provisions that ensure animals are transported securely, safely and humanely. There is no provision in the *Animal Protection Act* regulating the safe transportation of animals.

While the most commonly expressed concern in this regard is the loose dog in the back of a pickup, all animals should be transported in a safe manner. The animal control bylaws of both Whitehorse and Dawson City require that animals be transported safely and securely. Many provinces have safe, humane transport provisions in their animal protection legislation.

The fourth issue would be to make provisions requiring the owner or person in charge of an animal to provide, upon request, any reasonable assistance and information to an animal protection officer to carry out the provisions of the act, and to stop their vehicle at the request of the animal protection officer.

In order to be effective, an animal protection officer may require that the person in control of an animal assist the animal protection officer with his or her duties, provide relevant information to the officer, and stop his or her vehicle at the command of the animal protection officer.

An animal protection officer observing an animal being unsafely transported in or on a vehicle can use authority to stop the vehicle in order to effectively enforce the law. The *Animal Protection Act* does not currently require the owner or person in charge of an animal, when requested, to provide reasonable assistance to the animal protection officer, provide relevant information to the animal protection officer or to stop a vehicle when so ordered by the animal protection officer.

The fifth issue would be to enable an animal protection officer to obtain a warrant by telephone or other means of telecommunication. The *Animal Protection Act* does not currently have a provision for an animal protection officer to obtain a warrant through any means other than in person. This amendment would enable an animal protection officer to obtain warrants in a timelier manner in rural areas of the territory. This would therefore enhance the animal protection officer's ability to provide more immediate and efficient animal protection.

The sixth issue would be to allow an animal protection officer, accompanied by the RCMP and under the authority of a warrant, to go to a dwelling place, require production by the owner or person in charge of any animals in the dwelling place, and to require the owner or person in charge to assist the ani-

mal protection officer with the examination of any animal or animals produced.

Dwelling places have special protections under law. Where there may be an animal in distress in a dwelling place, it would be beneficial to have clear wording in the legislation to the effect that the owner or person in charge could be compelled to produce the animal in question to the animal protection officer accompanied by the RCMP member under the authority of the warrant.

The seventh issue would be to provide authority for the RCMP to access a dwelling place with reasonable and probable grounds and under circumstances without a warrant. The *Animal Protection Act* does not currently provide authority for the RCMP to access a dwelling without a warrant when immediate access is necessary to attempt to relieve the distress of an animal. In the event that circumstances are so urgent that there is no time to obtain a warrant, this option will enable the RCMP officers to enter a dwelling place with reasonable and probable grounds and under circumstances without a warrant to relieve the animal's distress.

The eighth issue would be to define "abandoned animal" and to provide authority for an animal protection officer to take such animals into custody and to deal with such animals. The *Animal Protection Act* does not currently provide a provision to allow actions to be taken in the case of an abandoned animal. Examples would be animals abandoned at veterinary clinics, boarding kennels or by tenants who have departed rental accommodations and left their pets behind.

This option would allow abandoned animals, even if not in immediate distress, to be taken into custody, cared for and ultimately dealt with under the *Animal Protection Act*.

The ninth issue would be to include a provision to require that persons who injure or kill an animal with a vehicle contact the animal protection officer, or animal welfare person, at the earliest opportunity. The *Animal Protection Act* does not currently require a person who injures or kills an animal with a bicycle or other vehicle to contact an animal welfare person. Such a requirement would help ensure that injured animals are dealt with humanely as soon as possible, and that the animals killed by a vehicle are removed from the scene as soon as possible.

The tenth issue would be to provide authority to the animal protection officer to order the provision of necessities within a specified time frame to the owner or persons in charge. Failure to comply with such an order would be a punishable offence under the penalty provisions of the act. The *Animal Protection Act* does not currently provide authority for an animal protection officer to order the owner or person in charge of an animal to take specific timely actions required, in the opinion of the animal protection officer, to relieve an animal of distress and/or be examined and treated by a veterinarian. Currently, the RCMP or an animal protection officer may request that the owner or person in charge of the animal provide necessities. If provided with authority through the *Animal Protection Act*, the animal protection officer and/or RCMP member would be able to issue enforceable orders to provide necessities.

The eleventh issue would be to make provisions for an animal protection officer to apply to the Yukon Supreme Court for an order granting custody of an animal seized under the act until the outcome of any proceedings under the act are known, or until an order is made by the court to return the animal to the owner or person in charge of the animal and appropriate conditions have been placed on the return of the animal. The act does not currently provide authority for an animal protection officer to keep an animal in custody, either directly or with the assistance of the private contractor, until court proceedings under the *Animal Protection Act* are completed, thus preventing the animal protection officer from being able to keep the animal in safe custody. This option would allow the animal protection officer to ensure the safety and well-being of an animal while court proceedings are occurring.

The twelfth issue would be to include a provision in the *Animal Protection Act* specifying that regarding funds generated by the sale of the seized animal, the claim of an official animal keeper against those funds has the priority over all other claims. Caring for an animal seized under the *Animal Protection Act* generates costs, possibly including costs billed by a private contractor for helping with or caring for the animal that ideally could be recovered from the owner. If an animal were sold, then the proceeds of the sale could be the source of funds to partly or completely pay for the animal's care.

However, as animals are personal property under the law, the proceeds generated by selling a seized animal would normally be subject to the Yukon *Personal Property Security Act*. Under the Yukon *Personal Property Security Act*, any party with an existing lien against the animal's owner would have first claim against funds generated by the sale of the animal. An amendment creating a lien under the *Animal Protection Act* and setting out that such a lien would have priority over any other lien created by the Yukon *Personal Property Security Act* would give an official animal caregiver's lien first priority, thus increasing the chance that the expenses incurred by the animal caregiver, as a result of keeping the animal, would be paid.

The thirteenth issue would be to include the animals that have a readable microchip in the category of animals to be kept in custody for a minimum of 10 days. The *Animal Protection Act* currently sets out that the default minimum time that an animal is kept in custody before disposal is 72 hours. Where the animal has identification — tattoo, brand, mark, tag or licence — the holding time is raised to 10 days. This exception category does not currently include the presence of a microchip, which is now a common form of identification for animals.

The fourteenth issue would be to include a provision making the person responsible for any destroyed animals liable for any expenses incurred and to remove any rights or claims to any damages resulting from the destruction of the animal.

It is always possible that an animal seized under the *Animal Protection Act* will have to be destroyed. It is not uncommon for persons whose animals have been destroyed to threaten to sue the Yukon government, the animal protection officer or any others who had been involved in the matter. Additionally, caring for, destruction and disposal of any animal

necessarily incurs expenses which, ideally, are recoverable from the owner.

The proposed amendment would prevent an owner or any other person from pursuing a civil damages claim for the destruction of an animal pursuant to the *Animal Protection Act* and would set out that expenses pursuant to the animal's destruction will be collectible from the owner.

The fifteenth issue would be to increase the maximum fine to \$10,000 and the maximum term of imprisonment to two years. In the public discussions concerning the *Animal Protection Act*, much emphasis has been placed on the penalty provision of the act. Currently, the maximum penalty is a \$500 fine or a six-month imprisonment. There has been strong public support for increasing the maximum penalty. Increasing the maximum fine would provide the court with broader penalty options; it has been requested by key stakeholders and would bring the Yukon into line with the current maximum fine of the province with the most recently amended animal protection legislation, that being Alberta.

Also, in changes to the penalty provisions, we propose setting out that, where an offence continues for more than one day, the person committing the offence is guilty of a separate offence for each day that offence behaviour continues. The *Animal Protection Act* currently does not include a provision explicitly recognizing a separate offence for each day that an offence occurs. If each day that an offence continues to occur constituted a separate offence, then there would be more incentive for a person breaching the act to take corrective action to avoid multiple charges and/or penalties, and there would be a broader sentencing option for the court on conviction.

Where an animal protection officer was recommending or ordering that necessities be provided for an animal or animals, this provision would enable the animal protection officer to point out to the owner or persons in charge of the animal that each day's delay in compliance could generate a full maximum set of penalties under the act.

We also propose including the provision that a person who knowingly aids or encourages another person to commit an offence under the act can be charged, convicted or sentenced as though the person who provided the aid or encouragement has committed the offence themselves.

The *Animal Protection Act* currently does not provide authority to convict a person who knowingly aids or encourages another person to commit an offence under the act. Encouraging or aiding another person to cause distress to an animal is unacceptable behaviour and a person who does this should be liable for conviction and penalties.

Also, our proposal is to improve the penalty provision, and to include a provision in the *Animal Protection Act* that failure to comply with an order of the animal protection officer is an offence under the act and therefore punishable under the fine and/or imprisonment conditions.

If there is an amendment to the *Animal Protection Act* as recommended in issue 10, then that provision can only be enforceable if failure to comply is an offence under the act.

Issue 16 would be to include protection for any person, including the Yukon government, for actions taken in good faith

under the act or the regulations. The *Animal Protection Act* does not currently provide protection for any person other than peace officers or animal keepers and their employees from prosecution for actions taken in good faith for the protection of animals from abuse and/or neglect.

This amendment would provide protection for all Yukon citizens and employees of the Yukon government who take any action authorized under the *Animal Protection Act* to protect animals in the Yukon. It should result in a higher probability of action being taken when the animal's well-being is at risk.

Finally, the issue would be to provide a list of statutes that would be subject to this act. It is likely that two acts over which the *Animal Protection Act* should prevail are the *Pounds Act* and the *Personal Property Security Act*. Section 14 of the current *Animal Protection Act* sets out that if there is a conflict between the *Animal Protection Act* and another piece of Yukon legislation, the other legislation will prevail over the *Animal Protection Act*. The proposed amendment will allow animal protection provisions to prevail over the provisions of other specified legislation when the legislation is in conflict with the *Animal Protection Act*.

An example of such a statute would be the *Personal Property Security Act*, as unless this act prevails over other acts, proposed amendments number 12, priority of a lien, will have no value as this act will have to prevail over the *Personal Property Security Act*.

Mr. Speaker, the aforementioned issues could be made to further support the intent of the *Animal Protection Act*.

As such, I propose that we amend the motion as tabled by the member opposite to reflect the important aspect of consulting with the public on the changes to the act as may be required.

*Amendment proposed*

**Hon. Mr. Hart:** I propose the following friendly amendment to the motion proposed by the member opposite. I move

THAT Motion No. 376 be amended by

(1) deleting the phrase "implement the recommendations of the Kilpatrick report, made public in September 2007, and" and substituting the phrase "begin public consultation to provide public input for amendments to the *Animal Protection Act* and to" for it; and

(2) deleting the phrase "so that the *Animal Protection Act* can function as it was intended."

and substituting the phrase "so that the new *Animal Protection Act* can function effectively" for it.

**Speaker:** The amendment is in order. It is moved by the Minister of Community Services

THAT Motion No. 376 be amended by

(1) deleting the phrase "implement the recommendations of the Kilpatrick report, made public in September 2007, and" and substituting the phrase "begin public consultation to provide public input for amendments to the *Animal Protection Act* and to" for it; and

(2) deleting the phrase "so that the *Animal Protection Act* can function as it was intended."

and substituting the phrase "so that the new *Animal Protection Act* can function effectively" for it.

**Hon. Mr. Hart:** The amended motion reads

THAT this House urges the Minister of Community Services to, as a first step in eliminating the abuse and neglect of animals, begin public consultation to provide public input for amendments to the *Animal Protection Act* and to provide clear parameters around policy, procedure, funding, staffing and logistical support, so that the new *Animal Protection Act* can function effectively.

I feel this is an important amendment to the motion, as it reflects the necessity to consult with the public and to gather comments and to provide input on the proposed amendments I described earlier. The results of the consultation with the public would be considered in the development of the final proposed amendments, reflecting the public's point of view on the issue.

As well, the public consultation would help to raise the awareness and solicit input and ideas on the proposed amendments. A public consultation would also ensure that the key interest groups are allowed to participate in the consultation process and to provide their input.

Mr. Speaker, a walk around any neighbourhood in the Yukon demonstrates how many pets are kept by Yukoners. There are many pet owners, as well as dog mushers, ranchers, farmers, and others who would be impacted by the changes to the *Animal Protection Act*. As such, we need to hear their input on any proposed amendments to the act, and a public consultation is a vehicle to obtain their input.

Also, substituting the wording "begin public consultation to provide public input for the amendments..." to the act I think is an important aspect that we need to have there.

As the member opposite knows, I did not adjust any of the funding requirements because we are in the process of developing an animal protection officer, as well as that office. So that portion will stay in there. I use the word "friendly" and I think it's something the members opposite can support.

**Mr. Cardiff:** I will be brief. I would like to thank the minister for his friendly amendment and for his words today. He might not have thought I was listening, but I was listening to what he had to say and would like to thank him for those words.

I can support the amendment. I trust that when the government is prepared to go to the public with the consultations to provide input on the amendments, the Kilpatrick report will be a part of that consultation and will form a basis for the conversations and consultation process.

I did not have the opportunity to address this in my opening comments — and I'm not sure if I heard this right from the minister's comments — but I would be interested in knowing the timelines for the consultation. I missed that. I know that, last fall, he suggested that there may be a possibility that there would be legislative changes coming forward as soon as the fall of this year.

I'm just wondering whether or not — if we're going for public consultation in the near future on the *Animal Protection Act*, when would he anticipate that we would actually see those legislative changes here in the Legislative Assembly?

I can support the amendment. I think it is important that the *Animal Protection Act* functions effectively. I am encouraged by the minister's response today and the fact that they are willing to provide an opportunity for the public to have some input to the amendments. I will be voting in favour of the amendment.

Thank you.

**Mr. Fairclough:** I would like to speak briefly to the amendment, as well, and to the way it is worded compared to how the motion itself had read.

It's my understanding that when we asked that government implement the recommendations from the *Animal Protection Act* report that was done in 2007, it would be a given that government would take that out for public consultation. That is how things are implemented when they are brought forward to the government side.

It is no different from the education reform report. We asked the government side to implement that. That means to take it through the proper processes that government has in place. The processes are to take it back out to public consultation.

It's interesting that members opposite bring it forward, because we would like to see this process followed; for example, with the education reform final report — here are the findings. As of September 2007, the government side says, "Well, we'd like to take it out to public consultation, along with the report, and come up with a new act."

Isn't that what we've also been saying with the education reform project?

We want to see that happen, but why should the wording change, as was brought forward by the government side, to consult the public again? I don't believe that the Yukon Party has a very good record in public consultation at all.

### Speaker's statement

**Speaker:** Order please. We are on the amendment. We are not on the *Education Act* review, so would the honourable member speak to the amendment, please. You have the floor.

**Mr. Fairclough:** Mr. Speaker, I am. It is about public consultation and it is right in here. They are examples —

**Speaker:** Order please. We are not having a debate about you sticking to the amendment. Please stick to the amendment, or I will ask you to sit down. You have the floor, please.

**Mr. Fairclough:** I am sticking to the amendment, Mr. Speaker. I want to talk about promises, because this is another promise brought forward by the Yukon Party side.

In 2003, the Premier wrote a letter to the humane society and said that they promise to bring forward an umbrella act for animal protection. That was the promise. This was done in 2003 and that is the point I am trying to bring back. It has been

made again on the floor of this Legislature that this is what they want to do, but they have made that promise before, and I want people to know that.

Another promise was made right in the Yukon Party platform about supporting the work of the humane societies in the territory and to ensure humane treatment of domestic animals by working with stakeholders to review and modernize legislation pertaining to domestic animal control and protection. Isn't that what the government was doing?

I thank the Member for Mount Lorne for bringing this motion forward. Even if it results in the amendment proposed, we would agree to it. We want it to happen. But why is it happening at such a slow pace? Why do we have to go through this whole process again? This is about public consultation. I am hoping that some positives will come from this and the government will fulfill the direction that the motion would give them. That's what I want to bring forward. I think this is really important, and I know the members opposite have made those commitments in the past, and it never came to be. Even in their platform, it did not come to be. And it's all about public consultation. I would think that would be a given anyway. I referred to other processes, and that's why I brought up the rest of them, and I'm not going to go back there.

As far as the amendment goes, we don't have a problem with it. We want to see things like this go to public consultation. We want the Yukon Party government to fulfill the commitments that they made in their platform, and if it takes a motion in this House to do that, then I guess that's what has to be done.

Thank you.

*Amendment to Motion No. 376 agreed to*

**Speaker:** Is there any debate on the main motion, as amended?

**Mr. Fairclough:** The main motion as amended is asking for public consultation. It is asking that government go through the process of consulting with the public, and it is following up on the Yukon Party's commitment in their platform and the letters that they have had, the correspondence that they had with the humane society. We agree with that.

I have to thank the Member for Mount Lorne again, because I think this is very important. It has been brought to our attention time and time again the kind of abuse that has been taking place, particularly with family pets.

We've seen it. I think all of us have witnessed some sort of abuse and have tried to come to the aid of the animals. Some of the common ones are with dogs, for example, and having them tied up and not fed properly or watered. That is an issue that is constantly brought to government's attention. It is not just dogs but horses and so on.

There was a cry from the humane society for government to do something. Thankfully, Mr. Speaker, we do have some direction. I thank the Member for Mount Lorne, who went through the review of the Yukon legislation that was done by Dr. Kilpatrick in listing the number of different acts that need to be changed in order for this to be brought about.



I think this is important. I'm not in disagreement at all with the motion, even as amended. I do have problems with the government side keeping to their commitments. We have seen it over and over. They said that they want to be open and accountable. Well, going out to the public and asking for their input, which is public consultation, is being accountable to the public. They want their input. They want it. Is it only good for some things and not others?

Government had a perfect opportunity to have some debate here on the floor of the Legislature this afternoon — they failed to do it. That is not how government should act, particularly on a Wednesday afternoon, which is an opportunity for private members to bring their motions forward.

What the mover of the motion — I think — wanted to see is for government to deal with this and to identify the resources to implement some of the recommendations that came out of the September 2007 report.

As governments go through and do public consultation, I think they need to connect and talk to the public about the kind of resources that could be available for implementing this type of legislation. As the member said, it affects many different acts in government that need to be amended. I've read through them, and I know the Member for Mount Lorne basically read into the record most of the review of the *Animal Protection Act*.

The big ones are listed straight out of the motion that was put forward. That is what is needed right now: clear parameters with respect to policy and procedure. Even in the report it talks about funding and staffing to make it happen — to really make the legislation effective.

I think the minister responsible — the department it would fall under — would respond to that, because it is important that it not be put aside after public consultation. The work needs to be done and the money put in. We need to move this forward and not have it stall.

That's my concern with this. The commitments made by the government side to the humane society and to the general public with respect to their platform — if it takes a motion on the floor to make it happen, we on this side of the House support that. I think it's something that we all support.

We don't want to see a long drawn-out process. I think a very well-thought-out public consultation can make this whole process move along quite a bit more quickly than we've seen on some of the other things the government has done in the past.

We don't need to see this drawn out for years and years, and finally a public consultation comes forth from the government and it doesn't get reflected in changes in the legislation.

Perhaps even the minister could get up and talk about the issue that was raised by the mover of the motion. What is the timeline? What are we going to see here? Can we do this? If the direction is given in this House, can we take it back as soon as this summer and go through public consultation and have these amendments presented to this Legislature in the fall? Can we do that? Is that achievable? I think it is, but the minister knows how quickly this could go.

I am really anxious to hear what they have to say on it because we in the Official Opposition, like the third party, would

like to see something happen sooner than later without any stalling. I would ask members to do that and put some priority on this.

Thank you.

**Mr. Mitchell:** Well, this has been an interesting debate this afternoon — both starting with the information that the mover of the motion, the Member for Mount Lorne, brought forward about the five different bills that interact in Yukon, plus municipal legislation in some municipalities — the City of Whitehorse, certainly — and about the review that was done in September of 2007 by Dr. Kilpatrick and the recommendations he made, which are somewhat confusing in that he does say that the act as written is reasonably well-written animal protection legislation, after comparing it with other jurisdictions.

He then says with a few small amendments it could be significantly better, but he also says that it is not functioning as it was intended to.

To remedy this, changes are recommended to the infrastructure. I would say that if it's not functioning as it was intended, then perhaps it's not as well-written as we might wish.

I'm not going to speak to this for very long. I understand that the third party — whose motion this was in its original form — is amenable. Obviously it was amenable since it passed the amendment and they supported that. I am somewhat disappointed that there will be a further delay, based on consultation that we are only now undertaking — or the government, to be more precise, is only now undertaking to do. I hope this is done in a well-intentioned manner, to truly know what members of the public think about this, rather than as any sort of delay or throwing a carrot to the third party and saying, "Don't worry. Be happy. We'll look into it."

I'm a little concerned because I know the former Member for Porter Creek South, the former Premier — this is something that she spoke to a number of times. I'm looking at correspondence in the files that we have on this. Just in this one file alone, it goes back to November 2003, and it was written to the honourable Health minister and the honourable Highways and Public Works minister.

This is a letter written by the then president of the Humane Society Yukon, and it was copied to all members of the Assembly, as well as to the news media. It was talking about the Humane Society Yukon and the staff of the Mae Bachur Animal Shelter being delighted with the announcement of November 4, 2003, about core funding, and pointing out things that need to be done. Then, correspondence to the founding president of the Humane Society Yukon — in April 2004 there is a follow-up letter from February of 2004, again from the Minister of Energy, Mines and Resources, saying he has additional information regarding her previously expressed concerns and inquiry regarding the *Dog Act* and other legislation.

It was saying that the minister was informed by the agriculture branch staff that they are currently involved in an internal review of the *Dog Act* and the *Animal Health Act*. As both of these acts have linkage to the *Animal Protection Act*, they will be very active in this review and monitoring it closely.

There is correspondence again, in April 2004, following up again on that from the Minister of Community Services, previous to that correspondence in March of 2004 by the Minister of Community Services referring to the *Dog Act*, and saying that they are looking at a comprehensive review of the *Dog Act*. Correspondence previous to that in February of 2004, again refers to the *Dog Act*. Correspondence in 2003 from the Hon. Minister of Energy, Mines and Resources about an animal omnibus act — now that's October 2003 and that is four and half years ago — indicating that, following public input, it is our intent to make necessary changes in the most effective manner, and so forth.

The concern that I have, Mr. Speaker, is that this trail of correspondence on making promises of acting effectively following some additional internal reviews or public input going back to 2003 and 2004 leads us now to April 16, 2008, where we have the third party moving that the government should do what they committed to doing four and half years earlier.

The only point that I wish to make is that I would like to believe that it is well-intentioned that the government now, by amending this motion, intends to begin public consultation to provide public input for amendments to the *Animal Protection Act*, but I'd like to know why they waited four and half years after writing these letters — or four years after writing some of them — to come to the conclusion that they should begin public consultation.

The implication in these letters is that they were moving along. If they were moving along, why indicate that, wait four and a half years and then begin public consultation?

I am hoping that this will be effective and efficient public consultation and we won't later see a private member from the government side move a notice of motion that an all-party committee should be formed and send MLAs parading around the territory to do this. Some things actually have to be done by government. I urge the government to move on this, because in those four years I can think of numerous stories about horses that have not been fed properly and have perished as recently as this past year. There were dogs that were left in horrible conditions to starve and then slaughtered by the owners to prevent government from acting on it. I have to question how many more animals have to suffer through mistreatment because we don't have effective legislation.

I know there is municipal legislation and the provision for it is in the *Municipal Act*, so there is some legislation in the City of Whitehorse.

I can think of another story of an area that falls outside of any municipalities. The RCMP were called, based on concerns about animals that were kept on-site, and were told or basically reported back that they had no effective means of dealing with it because there was no legislation that empowered them.

That is all I have to say at this point. We will support this motion in its amended form, since the amendment has passed, but we hope that it is not a stalling tactic and that it is well-intentioned.

**Mr. Inverarity:** I just have a few things to add to this. I believe that the concept of animal rights protection is some-

thing that we have had other debates in the House about over the last little while. It comes down again to the issue of who speaks for the animals. I think in order to get this committee moving forward, the motion that has been amended is a very effective one.

I look at the issue around the clear parameters, around policies, procedures, funding, staffing and logistics, and I see issues where in the past this has not been the case with a lot of these sorts of committees that go on.

I think that it's important that government take a firm stand, that department officials look at these issues and that they are fully staffed and fully funded. I believe that this particular one should not go to an all-party special committee, but I think that it is important that we leave this to the highly-regarded public officials we have out in the department, and I think that they can report back.

I did note earlier — in one of the motions that were tabled, we discussed earlier and then abruptly adjourned debate on it — that my colleague from the third party had mentioned that the committee that he was referring to could, maybe, even have dealt with this outside of the Legislature.

However, I think that public consultation is good and there is not enough of it that goes on in the community. I think that we should proceed with this and I look forward to the government actually doing something and taking their role and responsibility in government to heart. They have a tendency to want to pass the buck to the rest of the Legislature here, particularly with the all-party special committees that they seem to love. I have to admit that I am looking forward to the one that I have been assigned to; it's my first; I think that it's going to be an important piece of legislation, as this is too.

But I feel that the role of government is to lead and direct. They keep saying that they are the government, that they make all the decisions, and yet they seem to continue to delegate this. Maybe we are moving into a new form of government now, a more cooperative form where we all share in the decision-making process. I have to say that I don't think that I saw that today, so I am quite disappointed in the results of what happened earlier today, as I am sure we'll hear about over the next few days.

Anyway, I think I've stated my concerns about this. Thank you very much.

**Mr. Elias:** I too would like to engage in this debate on the motion in front of us today. Thank you for the opportunity for me to speak to this today. There is also a concern about further delay with regard to protecting animals and being more effective and efficient.

I'm just going through the *Animal Protection Act* recommendations from Dr. Kilpatrick. The report covers a lot of important issues — you know, the goals of animal protection legislation, the *Animal Protection Act*, the *Dog Act*, the *Pounds Act*, the *Highways Act* and how all of these acts work toward achieving this motion, which we support. It even goes to the Criminal Code of Canada. And it goes through the various jurisdictions, from Nunavut to British Columbia, and how they address these issues with regard to animal protection, and how

important it is across this country to make sure that we see cases right from the Prairies with regard to the despicable lack of caring for horses, for cats, for dogs, for various other animals. We do need an effective means of protecting animals' rights here in the Yukon as well.

Again, this has been discussed in this Legislature as far back as 2000. The question comes to mind as to why this legislation isn't in effect now. We were prepared to do the heavy lifting to make sure that this type of legislation got through the House and to do the hard work. We're committed to do that. I just hope that this amendment is not any stall tactic because, again, the Yukon Party government has been talking about this for quite some time, corresponding with the various humane societies, et cetera, and the time is now.

There is a history in my riding with regard to dogs, especially well-known dog mushers who have in my opinion shown some exemplary behaviour in terms of how to look after animals. Transportation for hunting and living throughout the years is a pretty important issue.

I will share a story about how especially important our dogs were in my riding. When I used to live out on the land with my grandmother in the Old Crow flats, we would move from our winter camp to the spring camp. She would talk to the lead dog in Gwitchin. I would have been under 10 years old. She put me in a little sleigh with a bunch of pots and pans, tents and blankets and stuff like that. She would talk to the lead dog in Gwitchin, and I would be off all alone on top of the frozen lake toward the spring camp.

That relationship and how my constituents traditionally trusted their domestic animals and dogs in terms of survival is important, and I think it is relevant to the discussion today about how important Yukoners feel about the protection of our domestic animals. Again, I support this motion, and I hope the government moves quickly with regard to drafting legislation that would accomplish the goals that Yukoners see as important for animal protection.

Thank you, Mr. Speaker.

**Mr. McRobb:** I am not sure if the motion has been read into the record as amended, so I would like to take a minute to ensure —

**Some Hon. Member:** (Inaudible)

#### Point of order

**Speaker:** The Hon. Minister of Health and Social Services, on a point of order.

**Hon. Mr. Cathers:** The Member for Kluane is standing up to read the motion into the record as amended. All members have a copy of this; this is needless repetition.

#### Speaker's ruling

**Speaker:** From the Chair's perspective, there is no point of order; the Member for Kluane has the floor. However, one must always speak to the motion as amended. You have the floor, Member for Kluane.

**Mr. McRobb:** Thank you, Mr. Speaker. The motion as amended reads:

"THAT this House urges the Minister of Community Services to, as a first step in eliminating abuse and neglect of animals, begin public consultation to provide public input for amendments to the *Animal Protection Act* and to provide clear parameters around policy, procedure, funding, staffing and logistical support so that the new *Animal Protection Act* can function effectively."

Now, I think foremost that we all agree that the abuse and neglect of animals should not be tolerated, period. The main concern I have with this motion as amended is there are no timelines integrated into it. It has been the practice in previous motions to include timelines along with any initiative in order to make clear the need for expeditious development on the subject matter of the motion. But there are no timelines in this motion.

If I wanted to take this a step further, I might introduce a friendly amendment to that effect. However, I don't feel the government side would support a further amendment to introduce timelines, because it's almost impossible to pin down this Yukon Party government on anything, so I won't bother doing that.

I'll be supporting the motion at the end of the day and hopefully it will come to a vote so the record will reflect just who in this House does support the motion.

I would like to thank the third party for bringing forward this motion today. It is not the first motion that has been put on the record in this session of the Yukon Legislative Assembly. A few minutes ago, I did a *Hansard* search and I found no less than three related motions to the effect this one proposes.

The first such motion was put on the record by the Member for Porter Creek South, my colleague, and it was much more to the point. It basically said that this House urges the Government of Yukon to bring forward new omnibus animal protection legislation.

At the time, Mr. Speaker — if I could talk about the history of this a little bit — in the previous session, we in the opposition brought some pressure to the government to move ahead on animal protection legislation. All we heard in response was reasons for delays and how bringing forward an omnibus bill would take so long to actually accomplish because it apparently spanned across several departments and all of that information had to be integrated.

Mr. Speaker, we didn't buy the argument at the time that the excuse justified the need to delay bringing forward this piece of legislation for a number of years. We don't buy it today that Yukoners should have to wait what could be another two or three years before the animal protection legislation is implemented.

Who knows, it may even take longer than that because, as stated, this motion provides nothing in terms of timelines.

The minister should be aware that he might be asked about timelines at any time. Unfortunately, he didn't offer any suggestion in the area of timelines when he was on his feet this afternoon. I want to compliment him, though, for what he said, because I believe that minister in particular — the Member for Riverdale South — provides substantial input related to the issue most of the time when he speaks in this House. What he

said was indeed relevant to the debate. My only concern was the exclusion of timelines in what I heard him say.

The Member for Vuntut Gwitchin spoke about animals in his riding and dog mushers. In my riding as well, Mr. Speaker, there are several dog mushers, and I would like to put on the record something that I believe most Yukoners already realize, and that is the very close relationship between the dog mushers and their dogs.

As I have heard a former constituent and multi-year Yukon Quest competitor, Mr. Frank Turner, state several times, to him the dogs are part of his family. I believe that most, if not all, people in the dog-mushing community treat their animals like they are part of their own family.

I have met several mushers at the Silver Sled, which usually occurs in late winter in Haines Junction, but was postponed for 2008. Hopefully it will be back next year and again the Yukon public and others will have the opportunity to see firsthand how close this relationship between the animals and the mushers really is.

Another excellent example of this close relationship is between aboriginal people in the territory and their animals, specifically dogs, and this goes back centuries.

As a matter of fact, in the recent article that I referred to the other day about archaeologist and Professor Norman Easton, at the Little John site north of Beaver Creek in the Kluane riding, it was explained how they found dog skull and bones dating back several years. I'm not absolutely sure how far back they dated it, but certainly they were at least centuries old. Of course, at that site, they found artifacts dating back about 14,000 years.

So, indeed, the relationship between animals and our First Nation population is a very long one. I know, as well, that dog teams were used by First Nation people in harvesting firewood — that has been the case for a very long time — as well as transportation, long before mechanized equipment came on the scene.

That transportation would allow the First Nation people to move around over large areas, including their traplines in the wintertime.

That was an important part of the sustenance of our aboriginal people, dating back for centuries in the Yukon. Those are very important relationships that are part of long-standing Yukon history.

As well, several people own horses and other livestock. I know that the late Rod Tait, one of the Yukon's pioneer farmers, had several livestock. I believe that, at one time, he actually marketed cattle. There is a point of interest — this dates back about 30 years or more — and I recall a road sign between Whitehorse and Haines Junction — closer to Haines Junction — that indicated there were cattle crossing and to beware of cattle on the road. I haven't seen another such sign anywhere in the territory since. So, indeed, the relationship between people and their agricultural industry and their livestock is something that goes back decades.

Perhaps, the Member for Porter Creek North can add a little more this, because we know he has a veterinary background. No doubt he knows several more people involved in the agri-

cultural industry, as well as other related areas — people who have animals such as horses and cows, elk, reindeer and so on.

Now, Mr. Speaker, I would be remiss if I didn't mention the tragedy that occurred a few years ago when the Yukon government slaughtered the elk on the —

**Speaker:** Order please.

### **Speaker's statement**

**Speaker:** The Chair has given the honourable member a fair amount of latitude here. We are speaking to the motion as amended here. The member's recollection of the history of animals in Yukon is fascinating, but I ask the honourable member to please stick to the motion as amended, please. You have the floor.

**Mr. McRobb:** Well, I will continue to speak to the motion as amended, and in particular to the part about animal protection and the need to eliminate abuse and neglect of animals. Mr. Speaker, if I am prohibited from alluding to a specific case, then perhaps I can refer in a general sense and say that, a few years ago, perhaps, an incident that occurred perhaps prevented the government from moving ahead on legislation to protect animals. That is very unfortunate.

The government should realize that indeed it has the authority to move ahead with this protective legislation. I suppose that we could bring in a private member's bill, Mr. Speaker, but given how this particular legislation apparently spans across several departments, it would be quite far-fetched to expect the opposition to bring forward a bill that would comply with the needs of all departments — especially if we cannot talk to representatives from those departments to discover their needs and concerns, so what good would a private member's bill on animal protection serve? We saw earlier today how the government treats bills from the Official Opposition. Essentially, the Yukon Party government has invoked closure. This is not the first time. Those are deterrents to the opposition side of the House coming forward with legislation. Therefore, the onus for the animal protection legislation that is needed in the territory clearly lies with the Yukon government and nobody else.

I know my time is nearly up. I would like to speak about the consultation process. As members will know, I am always interested in how the Yukon Party government carries out the consultation process, if indeed there ever is consultation. We didn't see consultation on a number of major matters, but I will give it the benefit of the doubt and assume that there will be consultation with the public on advancing the *Animal Protection Act*. I would suggest that the first step is, after conferencing with the department officials, to correlate the information, along with the basic needs of Yukoners that have already been input, and put together a draft discussion paper — a straw dog — that can focus the public's concerns and comments, based on a rough idea of what the Yukon government proposes.

Then, Mr. Speaker, it's critical to allow a sufficient period of time during which that information can be disseminated, discussed and absorbed within the general public. Then, and only then, should the government interface with the public through a process of — I would presume — public meetings to

have further discussion and collect input with the intention of redrafting the document.

A very important part of this process is dealing on a government-to-government basis with our First Nations in the territory. That is mandatory. I believe it's required by the *First Nations Governance Act* and must not be reduced in any way.

And then, through more process, we can lead to a bill that is introduced on the floor of this House and hopefully debated in the fall, which is known as the legislative sitting, and not in the spring, which is known as the budget sitting.

So, I know my time is up. I look forward to seeing this very important bill advancing through the processes. I've made my concerns about the consultation process known. I hope the government was listening. Together, maybe we can all work toward much better protection for animals in the future.

Thank you.

**Speaker:** Are you prepared for the question on the motion as amended?

**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. Kenyon:** 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. Elias:** Agree.

**Mr. Fairclough:** Agree.

**Mr. Inverarity:** Agree.

**Mr. Cardiff:** Agree.

**Clerk:** Mr. Speaker, the results are fifteen yea, nil nay.

**Speaker:** The yeas have it. I declare the motion agreed to as amended.

*Motion No. 376 agreed to as amended*

## BILLS OTHER THAN GOVERNMENT BILLS

### Bill No. 106: Second Reading — *adjourned debate*

**Clerk:** Second reading, Bill No. 106, standing in the name of Mr. McRobb; adjourned debate, Mr. Lang.

**Hon. Mr. Lang:** Seeing the late hour today, we only have a few minutes on this.

This bill is No. 106, *Net Metering Act*, and it is part and parcel of how individual jurisdictions and individuals manage power and enhance power grids.

If a person is to first of all understand what net metering is — certainly, who does it is very important. How is it accomplished? Is legislation required? All those things are questions that an individual or governments have to answer.

Of course, what is net metering?

Net metering measures the quantity of electricity you use against the quantity of electricity you generate, resulting in a net total from which your bill is calculated. Net metering is for reducing your electrical bill from the utility, not for selling a net amount of electricity to the grid.

In Ontario, to become a net metering client, an individual must enter into a net metering connection agreement with Hydro One and get confirmation from them that all equipment is approved. This feature is standard for all utilities that offer net metering. Again, Mr. Speaker, it would be very important in any jurisdiction that there would be an overview of what equipment is going to be used and how this process would fall within the regulations of that jurisdiction.

Net metering was promoted for the use of renewable forms of energy with residential and small commercial or industrial consumers. Some of the types of renewable energy used are wind generation — we have a small amount of wind generation in our jurisdiction — biomass, cogeneration systems, small hydro generation and photovoltaic systems, which are all different forms of generating power.

Net metering, of course, is the process of registering the energy delivered to or used by the electricity consumer minus the energy transferred back into the electricity grid by the consumer's renewable or conventional energy source. This is usually achieved by using various types of meters.

If the meter used for the net metering application is a single phase mechanical meter, or an electronic meter with a single net register, again, all of this investment is on the backs of either the agency that is the energy producer in the jurisdiction or it would be an obligation for the individuals that were taking advantage of this option.

There are different types of processes on how this power would be registered and metered, so that an individual could monitor it. Of course, the Yukon Energy Corporation could monitor it too, so the application is a single phase and we go into the electronic meter with the single net register. These meters typically measure in a forward direction and accumulate energy on the register when the consumer uses more energy than they are producing. However, many of these meters will also measure in the reverse direction through the deduction of energy from the register.

When the consumer produces more energy than they use and the resulting energy flows back to the grid, the net consumption is the amount registered by the meter and represents, at any specific moment in time, the net quantity of electricity supplied to the consumer by the contractor. So this metering process is, per se, a balancing act in the sense that either one is burning more power, attracting more power or putting out more power.

Net metering clients are usually restricted to a set amount of capacity. For example, in British Columbia — our neighbour — there is a limit of 50 kilowatts or less.

Nova Scotia has a limit of 100 kilowatts or less, while Ontario has a limit of 500 kilowatts or less. Net metering clients have a limit placed on their electrical credits. Any surplus credits in some jurisdictions are not paid for. Electricity credits earned by the net metering clients have time limits set on them, usually one year. If they are not used in that time, in some jurisdictions they are lost.

At the end of the year, BC Hydro credits the client's account for the surplus electricity. In other words, it's a balancing act, Mr. Speaker. Obviously, the adjustments are made in the Province of British Columbia on a yearly basis, and there's a figure thrown in with British Columbia — they're credited surplus electricity or they pay out the client at the rate of 5.4 cents per kilowatt hour. Surplus credits earned from the Ontario Power Authority are lost. In other words, these are time-expired.

Now, if you were to look at the net-metering process and who does it in the Western world, in the United States, 40 states have a net-metering program.

In the United Kingdom, they are reluctant to do it because of the complications in paying and refunding the value-added tax that is payable on electricity. In other words, the state has a tax that's put on the consumer for what they consume, so there is another complicated thing thrown into the mix.

Germany, which is a large country, has adopted an extreme form of net metering to boost renewable energy use. Customers get paid for any electricity they generate from renewable energy on their premises.

The actual electricity being generated is counted on a separate meter, not just the surplus that they feed back to the grid. For the power generated, roughly three times the meter price per kilowatt for a residential customer is paid. So, in other words, they have two independent meters: one is consumption and one is registering what is going on the grid. They are very aggressive. They are paying three times the market price for individuals to generate that resource for them.

Now, in Canada, net-metering programs are expanding. They are offered by Hydro One in Ontario and Toronto Power, which is separate from Hydro One, BC Hydro, Manitoba Hydro, Hydro-Québec, and of course Nova Scotia Power.

As of mid-2005, net-metering programs are being proposed or developed by Waterloo North Hydro and that's another Ontario-based hydro company; Hydro Ottawa — obviously another Ontario company; Énergie NB Power; Newfoundland & Labrador Hydro; Maritime Electric. There has been, according to the research that I've done, little advances have been made on these projects. There is a lukewarm reception to the concept of moving forward in these other jurisdictions on net-metering issues.

Now, if you were to look at Canada, taking Canada as independent of the bigger picture — which of course are the ones like United States of America, United Kingdom and Germany, all these other jurisdictions — you would look at the metering effect in the last period of time.

The legislation in Alberta had Motion No. 510, called the net metering of electricity, brought forward on November 21, 2005 by Richard Marz, PC, MLA for Olds-Didsbury-Three

Hills. The motion was debated and carried that day, but there has been no action on the motion as of yet. That is a three-year gap. In the Province of British Columbia, they have a mixed review. People wishing to provide electricity to BC Hydro must file an application. They must then reach a contract with BC Hydro. Before connecting to the grid, they must get a letter from BC Hydro confirming that the connection requirements have been met. Again, if we are going to do something for the consumer — and of course the net gain is to the community — we have to eliminate a lot of the steps that obviously British Columbia puts forward to go through the process and get into the net metering of power. People will have to go through many steps in B.C. if they go forward with this.

Manitoba Hydro offered net metering to its customers from 1989 to 2003. However, the participation rate was low and Manitoba Hydro discontinued their net metering program. Manitoba Hydro has had a program in place since 1989. As of 2000, there were only two net metering sites in the province: a one-kilowatt wind turbine and a small wood-waste plant located at a pulpmill. There does not appear to have been any additional installations since 2000.

Again, from a climactic side of the equation, we have a lot in common with Manitoba. Obviously, despite the net metering process and the work that Manitoba did to encourage it, there was little uptake. In other words, the investment only got buy-in from two individual companies or individuals in the Province of Manitoba.

Maritime Electric, which is Prince Edward Island, is reluctant to embrace net metering with the exception of wind energy. The *Renewable Energy Act*, chapter R-12.1, section 11 contains a bonus for small-scale developers, as well as putting in place net metering for renewable energy. This will allow small-scale wind-energy producers — for example, a farm with a single turbine — to sell excess electricity at the same price they buy it.

The government has set up a price guarantee of 7.75 cents a kilowatt hour to make the investment in wind energy in P.E.I. more attractive. The same restrictions on up to 100 kilowatts and contracts and approved installations apply. So in other words, there are contracts, there is application and there is an approval process.

If you were to look at the power situation in the Province of Prince Edward Island, they have really improved their access to wind power. Over the last 10 years, they have really taken advantage of the wind that P.E.I. has available to it in generating their power. That in itself, with the net-metering processes and encouraging it for wind, has certainly enhanced part and parcel of Prince Edward Island's wind generation — which is substantial, Mr. Speaker, and growing. They have the good luck of being in an area of the world that has a constant wind and also the volume of wind.

In the territory — in the Yukon — Yukon Energy has done an awful lot of overview on the potential of wind-power locations. Old Crow has been extensively looked at and, of course, we have our turbines here on the hill in Whitehorse. Certainly, that is another way that individuals or jurisdictions can garner more renewable resources, and that would be with wind power.

Now, let's go to New Brunswick. NB Power has been supportive of renewable energy sources being allowed to generate electricity in a net-metering fashion. New Brunswick has the Falls Brook Centre demonstration site, which generated electricity from solar and wind generators. Use of the renewable energy sources with net metering capacity up to 100 kW was approved as a regulation in 2006, Regulation 2006-58 and the *Electricity Act*, O.C. 2006-274, filed in July 2006.

I wasn't available to get an update on that, Mr. Speaker, in the research we did but, obviously, New Brunswick is moving ahead with a combination of solar and wind generation — I guess much like P.E.I. is doing.

In Nova Scotia, the review board passed net metering service Regulation 3.6 effective June 1, 2005. People wishing to become a net meter client of Nova Scotia Power must file an application with their address and installation and wiring drawings of their plant. They must apply for a wiring permit and have installations inspected and proven prior to reaching a contract with Nova Scotia Power.

We can't argue against that, because, first, there has to be some regulations and inspections in place to make sure that people who enter into these contracts aren't putting themselves in danger by having a facility that is dangerous to themselves, but also understanding that on the other side of the ledger, it all costs money. If an individual in Nova Scotia were going to do this, I could see where the electrical inspectors would not only be inspecting the infrastructure that it took to participate, but also would be looking at the whole electrical system of the house. So there could be some other unknown costs to buying into this net metering.

In 1998 the Ontario Energy Board passed the Ontario Regulation 541/05, entitled "Net Metering", on October 24. It states that net metering clients must apply to the appropriate authority, reach a contract with it and can only add electricity to the distribution system with approved equipment — again, another obligation.

### **Motion to adjourn debate**

**Hon. Mr. Lang:** Mr. Speaker, seeing the time, I move that debate be now adjourned.

**Speaker:** It has been moved by the honourable minister that debate be now adjourned.

*Motion to adjourn debate on Bill No. 106 agreed to*

**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 stands adjourned until 1:00 p.m. tomorrow.

*The House adjourned at 5:28 p.m.*