

Yukon Legislative Assembly
Whitehorse, Yukon
Thursday, November 6, 2008 — 1:00 p.m.

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

Prayers

In recognition of Remembrance Day

Speaker: Before the House proceeds to the Daily Routine, I'd ask the members to remain standing while we pause to honour those who have served, and continue to serve, in Canada's Armed Forces.

Tuesday, November 11, is Remembrance Day. Remembrance Day marks the end of Veterans' Week, and it is a time for Yukoners and other Canadians to honour the men and women who have defended Canada during times of war, and have brought peace to troubled parts of the world. The freedom we enjoy today is due in large measure to their sacrifice.

2008 marks the 90th anniversary of the end of the First World War. At the beginning of Veterans' Week the Vigil 1914-18 project debuted at Trafalgar Square in London. In the presence of Queen Elizabeth II, Prince Philip, the Canadian High Commissioner to Britain and war veterans, the names of the 68,000 Canadian soldiers killed in the First World War were projected on to Canada House. Every night during Veterans' Week this display will be projected, first on to Canada House, and then on major public buildings in Canada, including the National War Memorial in Ottawa.

This time of the year, we wear poppies. We pause for two minutes of silence in tribute and attend ceremonies to honour our veterans. Two minutes is scarcely enough to fully appreciate those who gave their lives for ours.

As this is the last sitting day before Remembrance Day, it is appropriate for members to observe a moment of silence. I would ask, therefore, that members and all others present bow their heads and reflect on the sacrifices of those who have served and continue to serve Canada in times of war, military conflict and peace.

Moment of silence observed

DAILY ROUTINE

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

Tributes.

Introduction of visitors.

Returns or documents for tabling.

TABLING RETURNS AND DOCUMENTS

Hon. Mr. Hart: I have for tabling today the Yukon Workers' Compensation Health and Safety Board 2007 Annual Report.

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

THAT this House urges the Premier, when he meets with the Prime Minister on November 10, to advocate on issues of concern to Yukoners, including:

(1) the need to reduce greenhouse gas emissions through a comprehensive, workable national plan involving a cap-and-trade system and a carbon tax;

(2) the need to increase federal investments in childcare, health and poverty alleviation;

(3) the need to ensure stability in investment on infrastructure projects; and

(4) the need to settle outstanding First Nation land claims agreements and honouring existing agreements.

I give notice of the following motion:

THAT this House urges the minister responsible for the Women's Directorate to immediately act upon the documented need for additional second-stage housing for abused women in Whitehorse by:

(1) consulting with their colleagues, the Minister of Health and Social Services and the minister responsible for Yukon Housing Corporation on the need for second-stage housing;

(2) determining the best possible response to the accommodation needed;

(3) submitting and supporting a recommendation to her Cabinet colleagues on the construction of second-stage housing;

(4) advertising for a Request for Proposals for the recommended housing; and

(5) beginning this process at the earliest possible moment.

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

THAT this House urges the Yukon government to make equitable funding available to all communities for recycling programs.

I give notice of the following motion:

THAT this House urges the Yukon government to develop workplace standards for full accessibility for all buildings owned, leased or under construction by the government.

Speaker: Are there any further notice of motion?

Hearing none, is there a statement by a minister?

This then brings us to Question Period.

QUESTION PERIOD

Question re: Asset-backed commercial paper investments

Mr. Mitchell: I again find myself having to ask a question of the Minister of Finance. The answers we received yesterday were not informative and did not answer the questions at hand. Note 8 in the public accounts 2007-08 states that the government had invested \$223 million into asset-backed commercial paper in 2007-08. The government was aware by

August 2007 that there was a major concern with asset-backed commercial paper investments not being redeemable at maturity, but in just four short months, April through July of 2007, this government flowed \$223 million through these extremely questionable investments.

We know that the \$36.5 million invested just prior to August 2007 was frozen when the music finally stopped, but we do not know if this was the largest amount ever invested. Can the minister tell us the largest amount of Yukoners' tax dollars ever invested into the pyramid scheme?

Hon. Mr. Fentie: Mr. Speaker, we on this side of the House always wait with great anticipation for the next question coming from the Leader of the Official Opposition, because it demonstrates clearly the disconnection to the Yukon public, to what is going on and to factual information. Now we're talking about a pyramid scheme.

The member opposite is quite fixated on this issue, and I can understand under the circumstances that the Leader of the Official Opposition finds himself in — I know it's a difficult time for the leader. In this business of politics, we all experience those kinds of difficulties from time to time.

If the member is serious about asking what the largest amount is, in providing the answer I can only do so by giving him the total amount. Since 1990, \$1.7 billion was invested.

Mr. Mitchell: And it would be interesting to see how much of that was under this Premier's watch when the financial markets certainly had become shakier.

This minister likes to talk about past government deficits. As he knows, accounting practices have changed during this government's reign and the way assets are now recorded under the accrual method is why one can claim they are not running a deficit. So let's stop comparing apples to oranges and deal with the question at hand, instead of trying to deflect it.

Different times are upon us as well, and the minister needs to deal with what he himself has done with taxpayers' dollars and the risks he has taken. It cannot be stated that this government has made any money off the current investments in asset-backed commercial paper, as there is not yet any resolution to this mess. All we know at this time is that \$36.5 million is tied up in a restructuring deal that even today has not been finalized. Can the Premier tell Yukoners why he went fishing in the murky credit market for fractional increases in interest rates when he should have been safeguarding the principal?

Hon. Mr. Fentie: Well, there's another wild assertion — "fishing in the murky credit market". That's interesting. You know, this member clearly does not recognize even the simplest structure of government. When employees and officials are burdened with the responsibility of making decisions, such as decisions on investing monies from the public purse, we as a government endeavour to assist those employees in every way we can. The members opposite have a different approach to that. They like to lay blame. They like to go after individuals. That is not what this government will do.

If the member opposite wants to lay blame, he should pick up the phone and phone his relative — the architect of the fiasco in the United States of America, Mr. Alan Greenspan. He's the architect of —

Some Hon. Member: (Inaudible)

Point of order

Speaker: Order. Leader of the Official Opposition on a point of order.

Mr. Mitchell: I would be happy to have a financial debate any time with this minister, but to personalize debate in this House by making references to relatives of a sitting member is clearly out of order.

Speaker's ruling

Speaker: I agree with you. I agree with the honourable member; that is out of order. Hon. Premier, don't do that. You have the floor for another —

Hon. Mr. Fentie: I apologize to the House, Mr. Speaker. However, if the member wants to have a financial debate, the member should recognize, given his comments about full accrual accounting, that the net financial position of Yukon government has nothing to do with accumulated surplus. That said, I await the debate on our finances.

Mr. Mitchell: Well, Mr. Speaker, we all await the debate because the minister never calls his budget for second reading. And we're not talking about officials and employees here, Mr. Speaker; we're talking about the minister responsible. It's fine for entrepreneurs or individuals investing their own money to take risks. I've done it myself. It's not acceptable when you are the steward of the public purse. It's not acceptable.

The minister should not be spending his time as a day trader looking for marginal gains. He should be protecting the safety of the principal, safeguarding the investments on behalf of Yukoners. That's what the *Financial Administration Act* was designed to do. Now this Finance minister tries to deflect attention from his failures by claiming previous governments did it too. You know, that sounds an awful lot like the old grade schooler saying "Everyone was doing it." Well, Mr. Speaker, in keeping with that adage, he is the one who got caught.

Has the minister learned his lesson? Will he now follow all the rules, even the new ones, and never again jeopardize the safety of Yukoners' money?

Speaker's statement

Speaker: Before the Premier answers the Leader of the Official Opposition's question — just a reminder during this debate that personalizing debate, making references to relatives, mentioning another member as a "day trader" — those are going to lead to discord. So, honourable members, just keep that in mind, please.

You have the floor, Premier.

Hon. Mr. Fentie: Let's go back to the facts once again. The member is continuing to assert that there is a loss. That's not factual. There is a gain — there are earnings.

Some Hon. Member: (Inaudible)

Hon. Mr. Fentie: The member, in kibitzing here, says, "Show him the money." What does he call the public accounts? What does he call the Auditor General's comments? Does he

not recognize that the public accounts show earnings? They show a year-end earning of investment of \$2.4 million. I consider that not bad. It shows a \$165-million net financial position, yet the member considers this a loss. That's why the member isn't managing the finances of the territory.

This government does not put the future of Yukon in jeopardy financially, economically, environmentally, with respect to health care, education, energy — and the list goes on. But the members opposite are putting the territory in jeopardy by not recognizing where the Yukon is going, by not being connected to their public.

Question re: Kinship care

Mr. Mitchell: Let's try a minister who actually answers questions.

Mr. Speaker, last April, I suggested to this government that there should be financial support for kinship care. I suggested it again earlier this week by tabling another notice of motion.

Grandparents do not want to take their children to court just so they can receive foster parent benefits. This week when I gave notice of motion urging the government to make changes to the *Child and Family Services Act* and regulations, I suggested that the government can provide financial assistance to grandparents and others acting in a parental role for their grandchildren or other relatives.

Grandparents are not the only people affected by this social deficiency. Other family members like aunts, uncles and siblings are also falling through the cracks.

Is government prepared to consider providing kinship care benefits without requiring formal custodial agreements?

Hon. Mr. Hart: I met with several members of the local society for grandparents. I had a long discussion with them regarding many of the issues that the member opposite has brought up, and indicated to them at that time also that we are reviewing the situation and we would be getting back to them once our review was complete in areas we could look at trying to assist those grandparents in dealing with their grandchildren, especially those they're looking after.

Mr. Mitchell: There seems to be two different perceptions of what occurred, because when the members who went to that meeting received the minister's letter, they were very disappointed. Mr. Speaker, we need to help grandparents and others who are parenting young children. We personally know quite a few of them. We need to help them out with increased costs for housing, food, clothing, school supplies and sporting goods that may be required to provide adequate care for a child who is not otherwise living at home under the care of their parents.

There are at least 130 children in the Yukon who are being taken care of by their grandparents. Many of these grandparents struggle with the cost of caring for their children's children. Grandparents have asked us if there was some way we can help them financially as an alternative to cashing in their RRSPs to pay everyday costs.

Some grandparents cannot take care of their grandchildren because they can hardly feed themselves. Will the Yukon Party government create the category of alternative care for kinship care to provide certainty?

Hon. Mr. Hart: As I indicated to the member previously, we met with members of the kinship program. We provided them with issues we would look into. We said we would look into them, and we are.

Also, the new *Child and Family Services Act* has flexibility in it to allow for assistance to be provided by family members.

Mr. Mitchell: Mr. Speaker, I think the minister isn't hearing the message. Number one, the new bill has not yet been proclaimed and the regulations are not yet set. Number two, it makes these extra possibilities at the discretion of the director. These people are looking for certainty, not waiting to see whether in each case the director will do something.

The foster care system doesn't work for many grandparents. They don't want to take their children to court just so they can qualify for foster parent benefits. We believe there are many grandparents out there who want to take care of their grandchildren, but without the financial assistance they just can't afford it. The kinship program could even cost the government less money than they are paying out now if the support goes to close family members like grandparents instead of to foster-care parents. Is the government planning to continue the policy of denying financial support unless grandparents sue their own children for custody of their grandchildren?

Hon. Mr. Hart: As I indicated before, we are reviewing the situation and we are looking at ways in which we can assist grandparents and, in particular, many of the issues which he discussed.

Once we have completed that, we will advise him of where we are at. I have already advised him in written form about what we are doing. We plan to do that in the immediate future.

Question re: Forest Resources Act

Mr. Hardy: I apologize for coming back to an issue so often, but I have to. Someday I hope what I say sinks in, and this government has a eureka moment and changes how it deals with and treats First Nations. On Monday, I tabled a letter from a lawyer acting for the Liard First Nation. This letter asks the government to delay second reading of the *Forest Resources Act* until its lawyer or lawyers can review the legislation and prepared a position paper. Other First Nations have made similar requests, because this legislation will have a major and lasting impact on their ancestral homes, lands and traditional pursuits.

Why does this Premier actually prefer confrontation in this matter instead of a commendation in dealing with the legitimate concerns of a Yukon First Nation?

Hon. Mr. Cathers: Well, Mr. Speaker, the assertion by the Leader of the Third Party about a confrontational approach is mistaken. As I have mentioned to the member and others previously in debate, this government has been working with the Kaska and the Liard First Nation and with other First Nations through the successor resource legislation working group and through direct bilateral consultation, as well, for quite some time. The initial discussions and work leading up to the development of this legislation began under the federal watch nearly a decade ago. Immediately upon taking control of devolution, we began the process of working toward the devel-

opment of this legislation, including things such as the development of the successor resource legislation working group and providing funding to assist the Liard First Nation's designated representatives in participating in this working group. We've resourced them with approximately \$120,000, and extensive consultation has taken place.

So the member's assertion is incorrect.

Mr. Hardy: I'm glad the minister stood up and just said that First Nations are incorrect and don't know what they're doing, because that's exactly what he said.

Some Hon. Member: (Inaudible)

Point of order

Speaker: On a point of order.

Hon. Mr. Cathers: The Member for Whitehorse Centre just contravened our Standing Order 19(g), imputing unavowed motives to me. I said that the member was incorrect.

Speaker: On the point of order, Leader of the Third Party.

Mr. Hardy: There is no point of order on that matter, and if that is applied, it should be applied to what he said, as well.

Speaker's statement

Speaker: The Chair is going to reserve the right to review this point of order.

Leader of the Third Party, your next question.

Mr. Hardy: It's my first supplementary.

The member opposite can't seem to get beyond the spin. On Wednesday I also learned his government has rejected both of the people the Little Salmon-Carmacks First Nation has proposed to help mediate some of the serious environmental and safety concerns it has with the Western Copper project, and the NDP has also put forward a motion to have a mediator put in place. That seems to be rejected as well.

The list of First Nations that this government has forced to go to court to seek justice is long and growing longer by the day. I'm getting the feeling that this government is targeting First Nations, and I hope I am wrong.

Let's check that out. How many mining companies and municipalities has the Premier forced into the courts to get their grievances with this government addressed?

Hon. Mr. Fentie: The government side will ignore such assertions as "targeting First Nations" or any constituency in this territory. We'll deal with the facts. The YESAA process is given rise by chapter 12 in the *Umbrella Final Agreement*, fully supported by all self-governing First Nations, duly passed in the House of Commons.

On this particular issue, the executive committee considered the input of the Little Salmon-Carmacks First Nation in making its recommendations, and it also went to the extent of engaging independent, expert advice to address the concerns that were brought forward from the Little Salmon-Carmacks First Nation, and the Yukon Conservation Society. Mr. Speaker, this is the kind of rhetoric that serves no purpose in this territory. This government does not stand in the way of anyone accessing the courts, should they choose, but what this

government will do is ensure that we meet our obligations in all matters that we are required to meet.

Mr. Hardy: I think what the Premier doesn't seem to understand is that there are different approaches in dealing with people. Their approach, and they've said it many times in this Legislative Assembly, is that if the First Nations have a grievance against them, "Take us to court. Let it get settled there." That's their immediate response to every First Nation grievance, it seems — every one we've heard in this Legislative Assembly — but I have not heard those same words spoken about other interests, and other groups in the territory. I do believe that this government — the Yukon Party government — has been targeting the First Nations in this area, and it's time we moved beyond the rhetoric and get down to the truth of the matter.

So, will this Premier stop litigating, and start listening to the First Nations? Will he do that?

Hon. Mr. Fentie: Well, Mr. Speaker, that is exactly what the government is doing — exactly what the government is doing. Mr. Speaker, for the member to suggest that anyone in this Assembly, duly elected, would be targeting a constituency is an unacceptable comment in this institution, and the Yukon public deserves a lot better. I would suggest we raise the bar in this House.

This government has followed the process of law — the *Yukon Environmental and Socio-economic Assessment Act*, and we will continue to do so. If there are voices in opposition to the act and the process out there, they have recourse. They have due process. The government can't, on a matter of convenience, start deviating, Mr. Speaker, from the law itself. We have conducted a process. There is a lot more work to go through: there are Water Board hearings; there is the *Quartz Mining Act*; there are land use permitting issues. There are all kinds of processes yet to be done. Mr. Speaker, the YESA Board, the executive committee, has done its job. It has made its recommendations, and it even went to the step of engaging independent expert advice to address the concerns of the First Nation and others like the Yukon Conservation Society. I don't know what more the member opposite thinks can be done but I can tell you this, the NDP won't get it done.

Question re: Unfinished government projects

Mr. Hardy: Now, this is a question for the Minister of Community Services. There is a new tender out for a government job — actually, it's a new twist on an old tender. It's to put temporary siding on the Watson Lake health centre structure. There was a call for tenders in the summer, but it was cancelled. Now it's almost winter, and there's a new call for bids.

Can the minister explain why temporary siding is being placed on a building project that began four to six years ago that has cost Yukoners a shade under \$5 million already, and should have been finished by now?

Hon. Mr. Hart: In addressing the member opposite, the siding is going on the building to protect the insulation, as the engineering goes forward to put the final plans together for the hospital in Watson Lake.

Mr. Hardy: Well, we have to protect the insulation now because — in other words, the project has gone sideways,

hasn't it? Now, the Watson Lake health centre project has cost over \$5 million, as I hear now, and is at least \$25 million away from being finished, though we don't really have a budget, of course.

The process to replace the Whitehorse Correctional Centre was started by the NDP, advanced by the Liberals, and killed by the Yukon Party. Now they're going to replace the Whitehorse Correctional Centre. I guess this is the new movement over there.

Since then, it has spent somewhere between \$2 million and \$3 million — maybe more — doing temporary repairs to a run-down building that ought to have been condemned long ago. This government loves to announce new projects, but has a huge problem finishing any of them. We have a multitude of them out there. It's basically suffering from project attention deficit disorder.

When will we start seeing this government finish the projects it starts?

Hon. Mr. Lang: The projects in Watson Lake — the hospital — is a work in progress. The engineering will be done on the inside conceptual plans for the new hospital. The engineering part of that \$4.4 million was an extensive engineering overview of the hospital that exists there today, which at the start of the project was an unknown. That building has to be upgraded and the inside engineering has to be completed for the new building, which is on the ground in Watson Lake. Plus there is the work on the mechanical end of it. It is work in progress. Hopefully, we will see a new hospital in the near future.

Mr. Hardy: Well, Mr. Speaker, that's amazing. They started a project, but they didn't know where they were going. They had a bunch of unknown questions that had to be answered, but they go ahead and start the project anyway. Of course, now we are in this mess.

This government has poured a ton of cash into the Thomson Centre. It's over \$3 million and counting. Do we have a finished building? Has that building been upgraded? No — another project not finished. A 12-bed wing of Copper Ridge Place remains closed — this despite the government having poured somewhere between \$2 million to \$4 million in this project.

Yesterday this government made another announcement — a six-room secure medical unit at Whitehorse General Hospital. Well, "Let's add another project to the list of uncompleted projects" is the way this government is acting. The jail, Copper Ridge, Thomson Centre, Watson Lake project — they are all incomplete, Mr. Speaker.

How long do we have to wait to see if this new project that they're also embarking on will be completed? Do we have some idea?

Hon. Mr. Fentie: This is obviously a situation where the members opposite simply are not receptive to facts. Works in progress have nothing to do with completion whatsoever. But the member wants to talk about completion. Let's talk about the Shakwak and the many kilometres there. Let's talk about the new bridges — Slims River, Duke River — the senior centre in Haines Junction, the school in Carmacks, the community centre in Mayo, cleaning up the mess on the Mayo-

Dawson transmission line, the Robert Campbell Highway and the many kilometres there that have been constructed.

The Canada Winter Games: the most successful Canada Winter Games probably on record, but I would stand corrected should it not be the case. The facilities at the college precincts that those members opposite totally opposed, which contributed to that success and are now full of students, their families, and seniors, who are in affordable housing units; in some cases, taking care of our seniors; in other cases, making sure that Yukoners can get post-secondary education.

Mr. Speaker, there is no issue here about non-completion. This government is completing everything it has set out to do, and that includes a better quality of life for all Yukoners.

Question re: *Education Act*

Mr. Fairclough: I apologize once again for having to ask the Minister of Education a question I've asked before, but I have to do it, in regard to amending the *Education Act*, or could I rephrase that and say "non-amending of the *Education Act*." Six years have gone by now, Mr. Speaker; we have spent enough taxpayers' money on reports, studies and surveys to have built a new school. The time for consulting the consulted is long over. It's time to actually do something. When will the Minister of Education table an amended *Education Act*?

Hon. Mr. Rouble: Mr. Speaker, I see that the opposition party — the Liberal Party — does realize that we did start the construction of a school and it was completed. The students in the member's own riding are certainly enjoying the new facility that is in Carmacks now. Mr. Speaker, we made a commitment to work with Yukoners, to address the educational concerns that they had.

Mr. Speaker, the Government of Yukon inherited a file, created by the previous Liberal government, where there were incredible divisions created in education. There were people who walked away from tables. Mr. Speaker, we embarked on an education reform project and have worked very hard and very diligently with all of our partners in education. We are all working together now, Mr. Speaker. As I mentioned last week, a report was tabled with the Council of Yukon First Nations, an implementation of the New Horizons project — that is how we will go about implementing and addressing many of the areas and concerns that those we have consulted have raised with us. We are going to work with them on solutions, and we are going to address the areas in our education that we need to improve.

Mr. Fairclough: Well, that message must have been approved by the Premier, Mr. Speaker. I'm sure the minister knows the meaning of the word "when," so why wouldn't he answer the question? Surely we are not planning a fresh round of consultation with as many partners just to determine the date of when he is going to table the amendments.

I know that he has had meetings after meetings; however, at some point, he must stop meeting and actually do something. Six years have gone by. Yukoners want a change to our *Education Act*. They want a new vision of governance, which is something this government is on record for not wanting to do. Whatever his reasons are, they're not good enough.

When will the Minister of Education table an amended *Education Act*?

Hon. Mr. Rouble: What Yukoners wanted to see was a change in the approach to education. It was a change in the outcomes of education, a change in some of the programming in education, a change in the content of education and a change in the way education was delivered. Mr. Speaker, we are seeing evidence of those changes every day. There are things like the Individual Learning Centre and things like expanding the Individual Learning Centre. There are things like experiential education and the First Nation curriculum, which is now in all Yukon schools.

They wanted to see a change in how we go about communicating with people. The member opposite knows how we do that. The member opposite has heard about the First Nation Education Advisory Committee. The member opposite has heard me talk about the school planning growth exercises. He has heard me talk about how we're involving Yukoners in their children's education. He has heard about the changes. He has seen the budget documents and the increases in funding for education. He has seen the supplementary budget, which includes additional funding for education.

This government is getting on with the act of improving the quality of education for all Yukoners.

Question re: Forest Resources Act debate

Mr. McRobb: There is a common thread building here today. Once again it's necessary to use up another question to try to get an answer to a question asked previously.

As you will recall, yesterday the government was asked to disclose its intentions on when it would be scheduling the *Forest Resources Act* for debate, but the minister refused to answer.

That's rather interesting, because this government likes people to believe it is fully open, transparent and accountable. Well, prove it. Tell us the answer. This is a straightforward question and is of great interest and importance to many people in our territory.

When might we expect Bill No. 59, the *Forest Resources Act*, to be debated in this House?

Hon. Mr. Cathers: The Member for Kluane — the Official Opposition House Leader — has surely been in this House long enough to know the manner in which business is set, the manner in which it is discussed each and every morning that the House sits at the House leaders' meeting — 9:45 a.m. — as has been the practice for many years, dating back much earlier than this government. At that point in time, members discuss the business and the government lays out what the agenda will be.

As members know, due to our inability to know at what speed the opposition will handle the debate in Committee of the Whole, we cannot firmly set an agenda and, based on what they do, we have to revise it as the session goes on. As the member knows, we will follow past practice in identifying the business to be called during the session. At 9:45 every morning, we will inform them of what the business will be for each day that is government business, as has been the practice for decades.

Mr. McRobb: Well, isn't that interesting. Despite meeting the Premier's challenge yesterday to ask questions of fact and his promise that members will get answers, this gov-

ernment again fails to live up to its word. Another question unanswered yesterday asked the minister responsible about what he will do to avoid an expensive legal process in the courts. Instead of answering the question, the Premier stood up in all his bluster and ridiculed the question, and we're seeing the same approach —

Some Hon. Member: (Inaudible)

Unparliamentary language

Speaker: On a point of order.

Hon. Mr. Cathers: The characterization by the Official Opposition House Leader of the Premier, using terms like "bluster", has been ruled out of order in the past in this House for good reason.

Speaker: Order please. On the point of order.

Mr. McRobb: On the point of order, Mr. Speaker, the word "bluster" has been accepted in the past, and I cannot think of a better one to describe what the Premier did.

Speaker: Now — first, there is no point of order because we are talking about context here as the honourable member knows full well. Second, to get an additional shot in on your point of order is not within our Standing Orders and the honourable member, as a House leader and as a member of this House for 15 years, knows that. I ask the honourable member not to do that in the future. You have the floor.

There is really no point in me saying anything to the honourable member. He understands that those types of gestures are not acceptable in this House. You have the floor.

Mr. McRobb: My question yesterday referenced the likelihood of a court challenge from the Kaska. Well, today the Kaska will circulate a copy of its position paper and, guess what? The Kaska feel this Yukon Party government is painting it into a corner and will be forced into a court challenge.

Again, the same question as yesterday. What will this minister do to avoid legal challenges caused by this legislation?

Hon. Mr. Cathers: Mr. Speaker, again, the versions of events that we hear from the members opposite do not accurately reflect what the facts are. Again, I have pointed out to the member that this government, in fact, went well beyond our legal and negotiated obligations with First Nations to involve the Kaska and the Liard First Nation, in particular. There has been extensive work, as I noted, dating back — beginning under the federal watch nearly 10 years ago, discussions leading up to development of this legislation occurred. Once we took over devolution, April 1, 2003, work began toward the development of this, including documents — the discussion papers on *Towards a Yukon Forest Policy Framework*, including resourcing the participation of First Nations and their designated representatives in this process, as I've indicated.

The Government of Yukon has provided in excess of \$120,000 to assist the participation and involvement of the Liard First Nation and their designated representatives in this process. We will continue to honour our obligations to First Nations. We will continue to involve them in the process, and we have done so in this case. The process was followed. Again, we have more than honoured our legal obligations and have

worked together with all who would be affected in the interest of ensuring that we have good legislation and good policy.

Mr. McRobb: This government had six years to get it right. The Kaska's position paper, I'm informed, contains abundant information and provides a thorough review of the proposed legislation. It is constructive, cooperative and helpful. Unfortunately, this government has taken its usual approach of insisting it's right and to heck with any suggestion to improve upon what it has done. The position paper will point out how this act breaks the law and ignores Kaska's rights. This outcome would cast a dark cloud over the entire industry, cause uncertainty, and lead to years of conflict. We don't need such unproductiveness, simply because this government insists it knows best.

Will the minister or the Premier agree to consider pulling this bill from the Order Paper, so these problems can be worked out without bringing on the dark cloud?

Hon. Mr. Cathers: Well, Mr. Speaker, we see some very strong rhetoric coming from the Official Opposition, but we see very few facts, and those are not accurately represented. This government has done its job, contrary to what the Official Opposition has said and contrary to their inaccurate reflection of facts. We have worked with the Liard First Nation and their designated representatives in the development of this legislation, dating back to 2003, when we took over the authority of devolution. We have engaged them; we have worked through the successor resource legislation working group, and in bilateral consultations; we have extended briefings and had meetings and discussions to ensure that they understood what was being proposed.

We have done this to involve both them and other stakeholders — and other governments, of course — in this process. Good work has been done by the staff.

Again, the Government of Yukon has provided in excess of \$120,000 to assist the Liard First Nation's designated representatives in participating in the successor resource legislation working group. Contrary to the assertions of the member of the Official Opposition, we have done our work, officials have done their work and we have done everything to assist the participation of the Liard First Nation.

Speaker: The time for Question Period has now elapsed.

Notice of government private members' business

Hon. Mr. Cathers: Pursuant to Standing Order 14.2(7), I am pleased to identify the items standing in the name of the government private member to be called for debate on Wednesday, November 12. They are Motion No. 542, standing in the name of the Member for Klondike, and Motion No. 366, standing in the name of the Member for Klondike.

Speaker: We will now proceed with Orders of the Day.

ORDERS OF THE DAY

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

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

Motion agreed to

Speaker leaves the Chair

COMMITTEE OF THE WHOLE

Chair: Order please. Committee of the Whole will now come to order. The matter before the Committee is Bill No. 58, *Act to Amend the Quartz Mining Act*. Do members wish to take a brief recess?

All Hon. Members: Agreed.

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

Recess

Chair: Order please. Committee of the Whole will now come to order. Before Committee of the Whole resumes debate on Bill No. 58, the Chair would like to make a statement.

Chair's statement

Chair: In light of the manner in which some members attempted to raise points of order in Committee of the Whole on November 4, I'd like to review the way in which a point of order should be brought to the Chair's attention.

When rising on a point of order, a member should identify for the Chair, at the outset, the rule or practice they feel has been broken and how it has been broken. A member will find they lose the floor if they attempt to deliver what amounts to be a preamble to a point of order. The purpose of a point of order is not to permit a member to deliver a speech about what may or may not subsequently be ruled a point of order or to complain about a matter when no rule or practice has been broken.

As well, when the Chair calls for order, members are to take their seats and not continue talking. I'd like to refer members to Standing Order No. 42(4). I will not take the time to read it, but I encourage members to.

I'd like to thank all members for their attention to this matter.

Bill No. 58 — Act to Amend the Quartz Mining Act — continued

Hon. Mr. Cathers: It's a pleasure to resume debate on this legislation, Bill No. 58, *Act to Amend the Quartz Mining Act*. Before beginning, I'd like to provide the members with a bit of a refresher, since the debate, unfortunately, on Tuesday — the questions coming from the members opposite, both the Official Opposition and the third party — strayed quite a distance away from this amendment, strayed quite a distance off the *Quartz Mining Act*, and got into a level of rhetoric and esoteric discussions that had very little to do with this legislation.

And of course, as I pointed out at that time and will not bother recapping those points, the members were very far off track in what they were actually discussing and were not well-informed in the points they were making.

So, Mr. Chair, in pointing out, of course, a briefing was provided by officials to members on what this legislation does. There has been every attempt by the government to assist the members — both at that time and in debate here in this House, through myself as the minister — in understanding what has been proposed in the legislation and the reason behind it.

I will again reiterate: the need to amend this legislation was brought to our attention by the Yukon Minerals Advisory Board. They pointed out many of the issues with it, and there were also others from industry who brought forward issues with this legislation. Subsequent to that, we commenced public discussion and consultation on a number of topics.

The public, First Nations and others, including non-governmental organizations and industry, have provided their comments into this process. This is good legislation. It continues a balanced, fair approach in moving forward.

As recommended by the Yukon Minerals Advisory Board in their 2006-07 report, top priority number 2 refers to reform of the *Quartz Mining Act* with a particular emphasis on the royalty regime thereunder. I will again recap that under the Yukon's royalty regime, inherited from the federal government at devolution, we had an obligation at that time in 2003 to take this legislation and mirror the federal legislation. What we have had in place, therefore, since 2003 through the *Quartz Mining Act*, is a duplicate in terms of provisions as to the federal legislation. It was simply a change in authority as to who was making those decisions, which has improved things to some extent, but a change to the legislation is required.

The royalty regime under the *Quartz Mining Act* is antiquated. As I pointed out before, most of the provisions in it have remained largely unchanged since 1923. Most of the language dates back to that era. There were amendments also in 1958, but in general, the provisions in the legislation and the language are very much antiquated and nearly 100 years old in its drafting.

This led to problems, even in past years, including Faro as an example. When Faro was in operation, the federal government was frequently in court arguing over what the royalty provisions meant, because the language was antiquated. The provisions did not reflect modern practices or terms, and therefore a considerable amount of federal money was spent in court fighting with mining companies running Faro about what the royalties actually meant and how much was owed.

This even led to — under federal administration — the negotiation between the federal government and the mining company of what the royalty rate would be, because it was less costly for the federal government to give up some royalty through that negotiation process by settling out of court than go to court and argue with the company when there was a real lack of clarity in what the legislation meant, and therefore a possibility that the federal government would not even be successful in their argument.

So I would hope members opposite would understand that that is not good legislation when the provisions of it are not clear to companies running mines or companies looking at investing in mines, and that it must be changed. We must have clarity; we must have legislation that government can enforce and can be confident that, if challenged on it, we will succeed in proving that the government royalties charged were in fact what the legislation provided for.

Another key factor in this situation, again, is the fact that, under the existing legislation that we are bringing forward an amendment to, the Yukon had a never-ending rate of escalation of the royalty rate. For every \$5 million of increased profit — and again I point out, “profit” as defined under the royalty calculation, not “profit” as defined by the *Income Tax Act*, meaning fewer deductions are allowed under royalty than would be allowable under income tax — under that escalating royalty, the royalty rate, for large projects, could exceed 100 percent of the operating margin, because, for a large mine, they would reach the point where that royalty rate would go up to 100 percent. Now, clearly, whatever members opposite's attitudes are toward mining, they have to recognize that no investor with any level of competency and intelligence is going to invest in any business in any market where, if they are successful, they will have 100 percent of their profits taxed back through a royalty.

Also, as I have pointed out to members, until devolution occurred in 2003, the Yukon government received no royalties whatsoever; all royalties went to the federal government. Again, Mr. Chair, in 2003 we received a share of royalty revenues with the majority of the balance going to the federal government, and also resource sharing arrangements with First Nations are in place. The overwhelming majority of royalty revenue goes to the federal government. The Yukon's share of all resource royalties — when I say “all resources” I mean not just minerals but also things such as forestry and lands. The Yukon's share of all resource revenues is capped at \$3 million in any given year. It does not take a very large mine to quickly exceed that \$3 million in royalty — without even taking into consideration the projects, the other extremes of income of resource royalties that are in place.

Clearly, to leave the royalty rate with no cap, as is the status quo, and with a calculation, of course, that was designed many, many decades ago would result in projects, including two that are in the process of development — looking at it and recognizing that it would be ridiculous for them to bring a large mine into production because they would have all of their profits taxed back.

We, of course, believe that royalties must be paid, even when those royalties are, in large part, going to the federal government — that royalties are appropriate. But to have a 100 percent of profit royalty rate, surely the members recognize that that is a ridiculous structure for any government to operate under and, of course, the worst and most punitive royalty rate nationwide.

Through the proposal here, we have capped the royalty rate at 12 percent. That is, as I have indicated to members, not the lowest in the country. Ontario holds that record at 10 per-

cent of net profit, including the provision that is in there to allow them to reduce that royalty rate even further for remote projects.

So, again, as identified by the Yukon Minerals Advisory Board, the *Quartz Mining Act* royalties is one of several potential significant impediments to mining development in the Yukon because of the archaic, uncertain and punitive royalty regime set out under the *Quartz Mining Act*.

Again I point out the method of royalty calculation, basing it on net profit, is the norm in Canada. There are jurisdictions that use a split regime during the early stages of mine development — a net smelter royalty — and in the latter stages there is net profit, such as in British Columbia. However, as I have pointed out to members, British Columbia allows deductions; the Yukon does not. British Columbia allows up to 100 percent of the capital cost of bringing a mine into production to be written off in any given year. That can include the first year of production and they can carry forward any unused balance to future years. The Yukon limits the amount of the capital cost that can be depreciated in any given year. Through that, we have of course changed the structure significantly whereby the Yukon government, and ultimately the federal government, will receive royalties in early years from the mine development.

Again I have to remind members opposite and remind some within the public, notably one group that expressed concern with the structure, that they are getting a little distracted by making the mistake of thinking that profit under this legislation — under the royalty calculation — is the same as profit under the *Income Tax Act*, which it is not. More deductions can be made under the *Income Tax Act* than can be made under the royalty calculation.

There is a limit — and it's spelled out both in the act and will be spelled out further in regulations — clarifying the details of what can actually be written off in any given year — what can be deducted. That will ensure that even in the early stages the Yukon will receive royalties. I believe, Mr. Chair, you are signalling that I am out of time. With that, I will yield the floor to members opposite.

Mr. McRobb: We recognize what the Yukon Minerals Advisory Board — or Yukon Mining Advisory Board — was trying to accomplish through these amendments, especially to the royalty regime. Although it has taken up a lot of time and debate between the third party and the minister, I think in this case, the minister's explanation of any royalties greater than \$3 million is a legitimate argument. Certainly with the pro-rated profit percentage increasing with the value of production, such a regime as currently exists would be a major deterrent to any large mine development in the territory. That causes us a concern, Mr. Chair.

I pointed out during the briefing to the officials that what was trying to be achieved here was understandable and we certainly had no problem with that. Having said that, we understand some of the other arguments that have come forward, but having the cap in place due to the devolution transfer agreement in essence is a showstopper.

As mentioned previously, the area of most concern to us is what is missing from the piece of legislation — in particular,

the absence of property rights protection for Yukoners. I'm talking about residential property, business property, farms, possibly outfitters, all kinds of landowners who might be affected when a mining company has access to minerals beneath the surface of their property. As I was told, this bill would have been the appropriate opportunity to address this matter.

This matter has been a concern to Yukoners for a long time; I understand how the mining industry may not wish to have it included in these amendments at this time, but I'm unaware that other Yukoners were asked what issues they might have with this bill and to have those concerns rolled into the amendments. So that matter is a concern.

As well as direct mineral rights to beneath-surface on people's properties, I think another consideration would be to neighbourhood disturbances. In recent years we've had situations, even in the City of Whitehorse, where there was staking adjacent or near to neighbourhoods, with the possibility of mining activities being conducted. This bill now before the House could have contained clauses to alleviate future conflicts.

I understand how these activities might be approved through a board like YESAB or the Surface Rights Board, but it bears repeating that those boards in their decisions are constrained by existing legislation and the rulings often point that out. In such cases their rulings will clearly identify the *Quartz Mining Act* as allowing such activities. Unless the act is changed, those other boards will continue to maintain the status quo that offers little or no protection to residents, businesses and others across the territory with respect to protecting their property rights and their neighbourhoods from such activity.

It would have been reasonable during the years this government had at its disposal, even before the public consultation stage was launched, to do its work in this regard and roll it into the bill. Unfortunately, the rules of this Assembly are such that we are not given the opportunity to make amendments to a bill unless there exists a particular clause that can be amended.

In this case, the clause pertaining to property rights — or the section — does not exist in this bill. So therefore we cannot bring that concern forward. That is why it is the concern that it is. I'm not sure how the minister feels about the property rights issue. He has been careful not to give any indication of it, whether he believes that companies should continue to have access to below-surface rights on land that is privately owned or owned by a business. In this day and age, Mr. Chair, I am not speaking of the Yukon placer miner — it is an age of global ownership. It is coincidental that currently the Yukon government Minister of Economic Development is on a trade mission to China to attempt to further attract additional foreign investment to the territory.

That is my point. The mining activity may be completely owned by another country or a business in another country. And they're going strictly by the rules. They know the *Quartz Mining Act* does not prevent this. The best we can hope for is another expensive legal battle in the courts. In my opinion, this could have been prevented by addressing this matter in this bill, but it wasn't, and that's unfortunate. I think this is a matter of importance to many Yukoners, both past, present and future. It

could have been addressed, but unfortunately we can't go there in trying to amend the bill.

Now if the minister agreed to amend the bill, perhaps that's a possibility. If he did so, I am quite sure we in the Official Opposition — I can't speak for the third party — would support that amendment.

Speaking of amendments, Mr. Chair, on a relatively minor matter — no pun intended — but still in the interest of getting this bill right, I'm wondering if the minister will be amending it. There is at least one spelling mistake in this bill. Are we going to let it stand, or are we going to correct that sometime in the process?

Hon. Mr. Cathers: If there is a spelling mistake in the bill, I'd be happy to hear it from the member opposite. That would, of course, be a printing error in that case and not anything else. Certainly, the legislation, as it was in the development stages, has been vetted for those things, but if there was an error in the final printing, I'd be happy and would appreciate the member identifying where that is, and we would certainly look to that area. Of course, that's a very minor issue in nature, but I hope that we're not getting into a situation such as when members tried to make amendments to put in colons and semicolons in a previous piece of legislation. But if there is genuinely a spelling error, then I would appreciate the member noting that error that occurred, obviously, in the final printing.

Going to the Member for Kluane, the Official Opposition critic's comments — the member, of course, read much of the same speech that he'd read the other day. The questions have already been answered. I realize that today the camera was back in the gallery, but the comments —

Chair: Order please.

The points have already been made.

Chair's statement

Chair: I would like members to not personalize the debate today. The Chair feels that that was a pretty personal comment.

Hon. Mr. Cathers: Mr. Chair, the questions about property rights asked by the Member for Kluane have been answered. I have explained numerous times in debate of this legislation, at second reading and during Committee of the Whole debate, that any such changes and issues dealing with property rights — any other issues that would quantify regime change — would have required this legislation to go through a much more detailed, extensive process by virtue of our obligations under the devolution transfer agreement. We would have had to go through the successor resource legislation working group process in addition to the consultation that was done directly with individual First Nations. There would have been much more time involved. As I have emphasized to the members — and the Member for Kluane even seemed to agree with this earlier — there was a need to move on these changes. The royalty provisions and the administrative provisions — but especially the royalty provisions — needed to be moved on quickly because mining projects in the advanced exploration stage or coming up to the stage would be seeking an application to come into production.

Because of the punitive royalty structure of the never-ending escalation of the rate, the Yukon would have been in a situation of having these companies look at it and realize they would have paid up to 100 percent of their profits in royalties, and of course no one is going to invest under such circumstances. Again, the royalty structure proposed is comparable to that of other jurisdictions in Canada; it places us toward the more competitive end of average, but we are not the lowest in the country. And I'd point out again, Ontario, which is a very significant mining jurisdiction, has a lower royalty rate than we do, and Ontario actually derives the benefit from the majority of resource revenues, unlike the Yukon, wherein the royalties overwhelmingly are submitted to the federal government, because we are capped at a maximum amount of resource revenues from all resources of \$3 million in any given year. And I've pointed out to the members that is by virtue of the devolution transfer agreement; it was negotiated by a former government. It was criticized by the Yukon Party at that time as not being the best deal we could have gotten for the territory; however, bygones are bygones; that is the provision within the devolution transfer agreement, and the deal as a whole, of course, gives the Yukon much more benefit than we had before and many more powers, and it has been the work, of course — there were many, many years and several governments involved in that work, and work done by many officials.

At the end of the day, we have that transfer authority which has been very beneficial to the territory. Again, to discuss the potential of receiving more than \$3 million worth of resource revenue through royalties in any given year is pie in the sky and something that would require the federal government agreeing to amend the devolution transfer agreement.

The Member for Kluane dwelled upon the issues of property rights. I appreciate the significance of that issue. I have read this before, Mr. Speaker. Based on a number of legal opinions, it was clarified that going beyond these two specific areas — going beyond simple amendments to the claims administration process and simple amendments to royalty calculation, which is what this legislation does — two very simple areas, not the broader regime of the act, not the process of dispositions, et cetera, but very simple, limited areas in the act — we would have had to undertake broader changes. This would have been considered regime change and would have required us to go through a much longer consultation process, leaving us behind the eight ball and unable to take advantage of the opportunity for mining investment. Clearly, as I indicated to the member opposite, again, no one knew, of course, the extent of global financial uncertainty and challenges we'd be facing this year. But the writing was on the wall since summer of last year — actually before, but very apparent since summer of last year — when the subprime mortgage market collapsed, that there would be long-term impacts from that throughout the financial market and that less certain times were coming.

Clearly it was time to move forward to take advantage of the opportunity of the world demand for some of these minerals and metals that are in the development stages and to change the legislation simply to put in a fair royalty rate — again, not the lowest in the country — toward the lower end of average nation

tionwide, making us competitive. We needed to be competitive; we needed to attract the investment so that the Yukon stands strong during this period of financial uncertainty and has the opportunity with well-identified deposits to indeed see that investment because they are still good projects and good investments.

As Alexco demonstrated with their recent success in gaining \$65 million worth of investment, there is the potential for good projects still to receive investment in this period of time. Of course, there are no guarantees in anything, but as a government it is our obligation to ensure a fair structure, to ensure the best structure for Yukon citizens and the Yukon economy. That is what is being done in this case.

We have talked about the administrative provisions for quite some time before. We can go through them again and hopefully we will have the opportunity to go line by line, so I won't dwell on them now.

Again the issue of property rights, as I pointed out to the member, would have been a very significant regime change. What the member is failing to reflect with the points he's raising is that across the country, everywhere in Canada, surface and subsurface rights are separately titled and disposed of. The right to a piece of land with surface rights does not grant someone subsurface title. It does not exclude someone else having subsurface title. There are a number of provisions in place to deal with and prevent conflicts.

I should point out the fact that just because someone has a quartz mining claim or placer mining claim, it does not mean that they will ever be able to develop that claim if development would have an adverse impact on other interests, including but not limited to surface title. There are provisions and of course restrictions that prohibit work within a certain distance of other people's buildings, and so on. There are provisions under zoning, as I indicated, within municipalities to prevent the type of activity that would be required to bring a claim into production. There are many processes.

I will acknowledge that there are those who would argue that there should be changes and this government would, at any point in time that this legislation comes for further review, recognize that that discussion — and many other areas with regard to the act — will be public issues that need to be considered; need to be addressed through considering the interests and the impact that any major regime change such as that would have upon all involved; and that is something that no doubt will occur at some point in time.

However, what I point out is that: we're modernizing, in this case, specific provisions of legislation, the language in most of which dates back to 1923. It was necessary that we move forward in a timely manner or else we would see investment leave the territory. We would see Yukon citizens, the Yukon economy, put at a disadvantage. The member, I know, is trying to create an issue that he can point to and suggest that we have not addressed reasonably, but I would submit to the member that if he reviews my comments, he will recognize and know that that is not the case.

We have done what needs to be done. We have dealt with two specific areas; any broader issues may be dealt with at

some point in time and would have to be dealt with through very extensive public consultation. Again, I remind the member opposite that the provisions in place with regard to surface rights and subsurface rights within this legislation, within the regime as a whole — because the member is failing to recognize other legislation that would trigger other requirements for consultation because of the impacts on it, such as the territorial *Lands Act* — there are many areas that would have to be changed, if the member would encourage, or if Yukon citizens would wish to see a change from what has been the standard practice in every jurisdiction in Canada for — well, I think — always.

I think the thing that has to be kept in context again is that the member specifically spent a great deal of time trying to suggest that the Yukon government had ruled out other concerns, that the government was, as he said, dishing it all up for one group, that being the mining industry. I have pointed out numerous times to the member how we dealt with two specific issues for a very good reason, that being the ability to deal with those consultations in a timely manner — the need to deal with those consultations in a timely manner — and any future areas that the Yukon public would wish to review are things that can be taken under consideration at that point in time.

The members opposite, I know, are attempting to come up with an issue of how they can say the job has not been done right. Well, if they look at the facts, if they look at the good work done by officials, if they look at the issues identified by industry, if they remember what they heard last year, according to the members themselves at last year's mining roundup in Vancouver during the conference and in private meetings with executives with various mining companies, they will recognize the fact that there was a need to move forward quickly, that the Yukon government did so in a responsible manner, that the Yukon government had to limit the areas being reviewed to specific areas of the act because a broader all-encompassing review would have affected other legislation and would have triggered significant consultation processes.

Now, the Member for Klune may attempt to suggest again that we should have started this five years ago. Well, Mr. Chair, I am loathe to have to remind the member again that when we took over government from the Liberals there wasn't really a mining industry to work with in assessing what the impacts of devolution were, because almost all of mining exploration had fled to neighbouring jurisdictions. The Yukon had a big black mark on it in the assessment of any independent group and of almost every mining company and development company in the country and, in fact, worldwide.

Therefore, once we have an industry returning under the Yukon government, once we assessed under the Yukon government's watch how the legislation was working and once we received the recommendations of why change needed to be made, we acted in a timely manner and we acted expeditiously. We needed to act in a timely and expeditious manner.

Again, I have to remind members that when they talk about issues pertaining to surface right and subsurface right conflicts, a quartz mining licence issued under the *Quartz Mining Act* provides the holder of the licence the authority to un-

dertake the activities listed in the licence in relation to the development and production of minerals. Without this licence, a person or corporation is not legally authorized to engage in development and production of a mine or minerals. Staking a claim does not give someone the right to ever develop it. If there is zoning that prevents it or issues identified through the application process, including permitting through YESAA, that make it clear that there are significant enough adverse impacts to the interests of other citizens or businesses — and that includes surface rights, properties and buildings and other improvements — and the impacts are identified as significant enough to be unfair, those processes will turn down the application for a licence.

I know the members are really, really trying to make an issue of this. I point out again that the standard within Canada and the practice and the law in the Yukon for over 100 years is all that is being left in place. We are moving to two specific areas of legislation. What the members are trying to raise a red flag about and suggest is a change that is going to threaten the rights of property owners. It has been the status quo in Yukon for over 100 years and is the status quo nationwide.

That being said, any such areas — any such issues — the Yukon public may wish to raise can be dealt with at the appropriate time. For the members to suggest this is the appropriate time — the members know any such statement on their part would be wrong, would be mistaken and that if we had delayed it, if we had gone through the lengthy consultation required, the Yukon would have not taken advantage of this opportunity right now to see investment in good projects within the territory, responsible mining would not go forward and the Yukon would see more impact from world economic problems. I would hope the members opposite would not have us make the wrong move for Yukon citizens.

I would hope they would not have us leave the Yukon behind the eight ball or ill-positioned to advance the interest of our citizens, including their ability to have jobs and feed their families.

Again, I think I've addressed that question numerous times; I suspect, unfortunately, that the Official Opposition will try and make an issue out of this and will try and hold themselves up as the defenders of all things holy. Mr. Chair, if they do that, they know that they're going down the track of not reflecting the facts, of raising unnecessary concerns, of not reflecting the fact that the Yukon has provisions for protecting the rights of other affected users, including those with surface title — but not limited to those — and also others with interests and others with businesses in the area that may use Crown land, even recreational interests.

The *Yukon Environmental Socio-economic Assessment Act* was required under the negotiated provisions of the *Umbrella Final Agreement*; it is legislation that takes a step beyond what is the practice in most of Canada and takes a step forward to go beyond environmental assessments to a socio-economic assessment, which is something that is not a practice nationwide.

Again, I have reminded members that this board is independent of any government. Its membership is nominated by the Council of Yukon First Nations, by the federal government

and the territorial government. If the members look at the current and past members of the board, they will see that these individuals are Yukon citizens, most of whom have lived here for many years and have families and friends who all have interests that would be impacted by any type of unreasonable or unfair development.

Safeguards are in place and the members know that the time to discuss changing, restructuring and reinventing the regime is not now. The members also know, though they are attempting to ignore it in debate, that the mining industry would regard any attempt to restructure, re-jig and reinvent the regime as a real sign of uncertainty and would back off on investments until the Yukon had completed the years — the years, Mr. Chair — that would be involved in such a process.

That would go back to the days of the Yukon protected areas strategy, which the members supported and which took an approach of sending a real signal to the mining industry that the rules were not clear, that the rules might change; that what they were investing in today might not be possible to ever bring forward under a new pending regime — in that case, of parks and protected areas.

So for the members to suggest that, they would be suggesting, once again, to send the Yukon economy into a nose-dive, to send Yukon citizens fleeing south and send the signal to not only the mining industry but the entire Yukon private sector that the last businessman out of the territory should turn off the lights — as was the saying under the previous Liberal government and under the previous NDP government.

That is not what we are doing. We are providing certainty. We are addressing two specific areas of the act that need to be addressed quickly and responsibly. We are allowing the other processes and safeguards to be in place, as they have been in recent years, though they were not in past years. We are allowing those boards, bodies and jurisdictions to do their good work and consider the opinions of all Yukon citizens and consider the impacts to all Yukon private sector investors and others.

Mr. McRobb: Well, Mr. Chair, this debate has proven to be very unproductive. The minister keeps repeating his allegations about how we're taking issue with matters for whatever reason. I would suggest that once would suffice. There is no need to repeat it over and over. The same goes with his allegations where he takes our comments out of context. How many times have we heard about that? How many times have we heard his rendition of the history of the territory's economy? All of it is extraneous to the piece of legislation at hand. We are prepared to proceed to the clauses of this bill and vote on it.

The minister talks about how it's important to make progress on this bill; yet he is the one who finds it necessary to keep repeating over and over these very unproductive messages. I suggest that we put an end to the unproductive debate and get to the clauses.

Hon. Mr. Cathers: Unfortunately, it doesn't seem the member moved that as a motion. I would be happy to get to the clauses and happy to discuss what's in the legislation.

The member suggested that I am giving the same response. Well, Mr. Chair, I have not given quite the same response. I have elaborated and added further detail, because I have an-

swered the questions, answered the same speech by the members opposite numerous times, and it seems they're either not getting it or they don't want to get it. What option do I have but to keep responding and laying out the factual responses to the questions they ask when they keep making the same speeches and keep posturing in the same manner as they've done in debate in previous days?

The member suggested expanding the review of this bill into other areas, which would have constituted changing the regime. It would have required a process of many years. The very fact of entering into that process would have sent the same type of red flag to all industry, investors and prospectors — including Yukon citizens. The member seems to like to refer to only Outside investors, but the member is forgetting that a number of Yukon citizens make their living as prospectors, doing exploration and drill work. For the Yukon to have embarked on that type of process would have sent the same red flag to these individuals, as did the NDP and Liberals, by starting the Yukon protected areas strategy process, which was a massive red flag and negative signal to all investors, large and small, that the Yukon was not open for business under the NDP and under the Liberals.

It sent the message to them that the rules were not clear, the rules would change, and no one in their right mind invests millions of dollars in a project when they know there is a very good chance that the government is going to slap a protected area on it or take some other step to prevent them from ever being able to develop it. So for us to do what the Member for Kluane would suggest would send industry fleeing from the territory.

Mining exploration under this government's watch — \$140 million last year. Under the Liberals, it was down to \$5 million. There are a lot of Yukoners working and putting food on the table with those extra hundreds of millions of dollars. The development work that has occurred — Sherwood Copper and work that is going on now in other areas, such as Alexco Resources, is putting food on the table for Yukon citizens, money in their bank accounts, and helping them pay their mortgages.

The issue the members attempt to raise would do nothing but create uncertainty for all involved, including Yukon citizens who don't have the money to invest in projects but depend on those jobs in the field.

The member's approach would see uncertainty take place and take hold once again in Yukon, as it did under the NDP and the Liberals. It would see Yukon citizens, Yukon companies and investors fleeing the territory for neighbouring jurisdictions, fleeing for places where the rules are clear. The Yukon government is not about to go down the road of creating uncertainty. The playing field is here. The rules will be clear. They will be fair to all involved. The safeguards are in place to protect public interests and to protect the interests of others in the private sector, to protect the interests of citizens, to protect the interests of governments — territorial government, federal government, First Nation governments and municipalities. All of those processes will remain in place. We are not going to reinvent ourselves and spend a significant amount of time navel-

gazing at all areas as the members opposite would suggest. We will not do as they suggest, going into a lengthy process of many years that would send a very, very negative signal to anyone even considering investing in the territory.

We are proceeding forward with two specific areas that need to be changed. The Official Opposition and the third party have attempted to suggest that somehow the amendments were doing something that is negative for other Yukoners outside the mining industry. Well, if we go into the line-by-line, the members will be at a loss to point out any area that is negative toward Yukon society as a whole, because it isn't there.

This is a positive step forward for Yukon citizens and for the Yukon economy, and if we do not take this step, as the members would suggest — if we engage in a process of years, and reinventing things as the members suggest — the Yukon will simply see a return to the dark ages, as was the practice under NDP and Liberal governments.

So, Mr. Chair, I have answered the questions from the Member for Kluane numerous times. If he persists in asking them again, I will have to persist in giving the same answers, because the answers to the questions are the same. The member may not like them; the member may not understand them; the member may prefer, despite understanding them, to continue getting up and making his same speech because he may be trying to make an issue with the Yukon public, who might not look at the bill and understand what it does; he may be trying to convince them that somehow the government is doing something it's not and isn't doing something it should. I would hope the member doesn't go down that road because that is not the behaviour that any member of this Assembly should be engaged in — so I would hope the Official Opposition does not go down that road. I would hope the third party does not either.

Questions have been asked; questions have been answered. If members wish to get into more substantive debate, I would suggest we proceed to line-by-line because their discussion in general debate has been repetitive. The repetitive questions are going to receive the same repetitive answers because the answers to the questions are still the same. I have given the members the facts. Whether they like them, whether they understand them, whether they want to acknowledge them — those are all things within their control. But in the service of Yukon citizens, I would suggest it is incumbent on all members to acknowledge the facts, acknowledge this is good legislation, acknowledge that it needs to be moved forward now, acknowledge that this is balanced legislation for Yukon citizens, including the industry but recognizing the needs of others, that the changes being made to the legislation in Bill No. 58 do not in any way alter the balance. The member's suggestion that balances and structures be reinvented is simply bad policy, because it would result in the Yukon once again seeing the economy go into a slump and see us in a return to the dark ages.

So, Mr. Chair, there is nothing else to add at this point in time. I would suggest to members opposite that perhaps, considering their failure to identify any new questions, it would be a timely time for us to proceed in line-by-line, clause-by-clause and discuss the bill.

Mr. Cardiff: I haven't previously had the opportunity to enter into this debate. Regardless of what the minister thinks, he hasn't provided clear answers to many of the questions. The minister provided quite the long answer just now and quite frankly I didn't even hear a question. So I'm not sure exactly what he went on about for so long, because I didn't hear the Member for Kluane ask a question, so I'm not sure what the minister was answering.

I would like to enter into this debate and I'd also like to take issue. I recall that he talks about the mining industry fleeing the territory under previous Liberal and NDP regimes.

The minister is probably too young to remember this, maybe, but under previous NDP regimes, I recall, as a construction worker, working on many a project for quite a few different mines that were operating under NDP regimes. So I think he needs to check his facts on that. I think there were probably more mining operations that were going concerns under NDP regimes than there ever have been under this Yukon Party regime when it comes to operating under the *Quartz Mining Act*.

The minister talks about competitiveness and to keeping the regime competitive, but we're not sure for whom — whether he wants to keep it competitive in a global context, in a North American context or in a Canadian context. Keep it competitive, so that companies will come here, but what about keeping it competitive for Yukoners, so that Yukoners have an opportunity to participate and get value for the resources that rightfully belong to them?

I have to remind the minister that we're talking about non-renewable resources. Non-renewable resources are resources that cannot be replaced, and once they're extracted — and the minister should know this — they're gone forever. They are taken out of the ground, they are milled, put on a truck, shipped to Skagway or to some other port, and they leave the territory. Now, what we need to do is ensure that there's value left. It's the principle of intergenerational equity, and it adheres to the notion that future generations should share in the resource. The benefits that we're getting from those resources now, future generations should actually receive something as well. And the minister talks about the \$3-million cap on royalties. So, anything over the \$3 million — I understand this — we cap the royalties at \$3 million and the rest goes to Ottawa. And if the minister thinks that that doesn't benefit — it benefits Canadians; it also benefits Yukoners.

The minister should look at the budget and see where the large part of the revenues for the territory comes from: they come from the federal government. We need to ensure that future generations share in that endowment and in the resources that rightfully belong to them; they belong to all the residents of this territory, just as they belong to the people of Canada. I suppose it could be argued that they belong to the people of the Earth as well, but what we are concerned about here is our community. The legislation addresses the community here in Yukon. There is nothing in this legislation that gives a value to the product that comes out of the ground. Everything is tied to the finances of a company.

It's not based on the clear value of the minerals that are extracted and gone forever. The minister has failed to address that. The value of those extracted materials is not clear to Yukoners, it's not clear to industry and it's left to the regulations.

The minister has never answered the question about what mining royalties have been collected in the past 10 years. I know they've only been around for the past six years, but I'd like the minister to answer the question. If he can't provide the answers today, here on the floor — I understand he doesn't have all the answers at his fingertips and that the officials don't necessarily bring those figures — but if he could provide a listing of what the royalties have been collected even for the last six years. How much has flowed to the Yukon, how much has flowed to First Nations and how much has flowed to the Government of Canada? Have we ever been near that \$3-million mark and, if so, when?

It raises another question. Under the revenue sharing on royalties with First Nations — I understand that it's on all resources — it's not just on mining resources, but it's on oil and gas and forestry resources. Once we've achieved that \$3-million cap, are there still royalties? Is there still a sharing provision where royalties are flowing to other First Nation governments? If there are, I would argue that even though there is a \$3-million cap, royalties that would be flowing to First Nation governments over and above the \$3-million cap would be a direct benefit to this territory and its citizens. That would to some extent address that intergenerational equity issue. I would appreciate an answer on that.

I take issue with the minister's statements about property rights. I don't want to dwell on it either and I don't need the minister to give me the long answer about how long it was going to take. I just want to put on record that this is an issue I raised a number of years ago, because it was an issue of concern to residents in my riding and it has been an issue of concern for a number of years.

It's a well-known issue. So the fact that it would have taken time to address that issue, to me, doesn't hold water, because the government has had ample time to think about this issue, to put forward a proposal, and include it in the consultation. They've had six years. Actually, they've had five years since devolution — five and a half years — to think about this and get it into the consultation. He seems to think that it would be lengthy, but if they had gotten an early start on it, it wouldn't have been a problem.

I think that the minister's comment about looking at the issue of property rights and the *Quartz Mining Act* — I think what he said was that they weren't about to enter into a navel-gazing exercise. I think that diminishes the fact that what he's talking about as a navel-gazing exercise would actually have been addressing the concerns of Yukon citizens.

I don't think that Yukon citizens would appreciate the minister talking about a process that would address their concerns as navel-gazing. The minister thinks that it is not important. I would argue that it is.

He is saying that it will be reviewed at some point, at a time that is appropriate. I would like the minister to tell me when that appropriate time is going to be. Is it going to be in

two years? Is it going to be in five years? Is it going to be in 10 years? Is there ever an appropriate time to deal with an issue as important as the property rights of Yukoners? It wasn't important enough this time for him to address it.

I would like to know the answers to the questions I've asked previously about the \$3-million cap, about the royalties for the past 10 years, whether or not First Nations continue to receive a share of royalties after we've achieved that \$3-million cap, and when the minister thinks the appropriate time is to deal with property rights.

Hon. Mr. Cathers: Mr. Chair, I think where the Member for Mount Lorne is getting distracted here — and I appreciate his question; I hope I can answer it for him in a way that he'll understand — First Nation revenue sharing only applies to the Yukon's share of royalties. It doesn't apply to any of the federal royalties. So once the Yukon has hit its cap for resource royalty sharing — once we go above that — nothing above that amount that is going to the federal government is being shared with First Nations. The other thing that should be noted as a side point is that, under chapter 23, the Yukon only shares any royalties with First Nations that are in excess of that which the First Nations are collecting themselves. In the case of Sherwood Copper, of course, because it is on First Nation settlement land, those royalties are going directly to the Selkirk First Nation.

Again, there is the answer to it. In answer to the member's question, once the royalties are above that amount — any of those royalties in excess of the Yukon's maximum \$3 million annual share — any of the royalties going to the federal government aren't being shared with First Nations. No percentage of it goes to First Nations.

So, again, that I hope has clarified why increasing the royalty rate, if we were to talk about any amount over that, anything that is going to the federal government over that \$3 million, none of the federal royalties are shared with any of the First Nations under any land claims agreements or under any resource revenue agreement. It hits a cap.

The Yukon has a cap, and the effect of that cap also caps what First Nations can potentially earn from the Yukon's share of royalties. What First Nations get themselves if a mine is on settlement land has no cap applied to it. So I hope that has answered that part.

Again, answering some of the member's questions about whether the Yukon has collected royalties from hard rock mines — the Yukon has never collected royalties from any hard rock mines because there have been none since 2003 — the devolution agreement, which gave us our first opportunity to collect a share of resource royalties. Since 2003 there have been no mines on public land. Sherwood Copper, which is operating, is on First Nation land and they pay the royalties to Selkirk First Nation not to the Yukon government. So I hope that has answered that.

Again I point out that when the members talk about the past record and collecting royalties, and past confusion and past court cases under federal administration, that's a good part of why this needs to be changed, because one thing that has been lost in the debate is that if a new mine comes into production

and they start paying royalties and the Yukon, as the federal government did, ends up in court arguing about what the royalties mean because the language is so antiquated, that will be court costs to the Yukon government, to the taxpayers, in arguing over what the royalty rate means, because again, the language is antiquated.

There is no benefit in going down that road by avoiding amending this area of the legislation in a timely manner.

The member briefly touched on the suggestion of going into broader areas of the act, including the issue of property rights. I've answered that question a number of times. I appreciate the member's concern and the intent that it's brought forward with, but I do have to emphasize that the structure that is in place in the Yukon with regard to surface rights and subsurface rights is the same as it is everywhere in Canada, the same as it has been since the Yukon existed as a territory. It is not a new thing. To contemplate changing that would have done two things. First, it would involve a very lengthy process of discussing what the process would be, what the rules would be and what would change. Secondly, the very fact of entering into that process would have sent a tremendous shockwave of uncertainty going throughout the private sector and through the investment climate as to how positive or negative the outcome might be. That would be with whatever might come from going into that type of exercise. The negative impacts would be tremendous in that, again, the Yukon would take a massive blow to the economy.

We didn't go down that road and we're not about to go down that road, because we need to create an atmosphere of clarity and certainty. And again, through the work of new processes like the *Yukon Environmental and Socio-economic Assessment Act* and board, there are increased provisions; there are more provisions than there were in past decades to protect the rights of Yukon citizens, including the rights of those with surface title.

I hope that has addressed that question; I suspect, based on what members have said before, that they won't like the answer, but that is the answer. The members know that my belief in the importance of property rights and that citizens not be deprived of that without due process of law is very strong and, I would argue, a stronger record than — well, I won't personalize the debate; I'll say a stronger record than most members in this Assembly. But we can go down this road for hours; the answer is still the same. The issue the member raises is important. The solution he proposes would not have worked, and would have caused tremendous uncertainty and would have caused an economic downturn in the Yukon, and a loss of exploration. So we are not going into a whole regime change structure, because that would have created uncertainty and the Yukon needs certainty and continued certainty.

Competitiveness of the rates of royalty — again, competitiveness, as I've said before, but perhaps the Member for Mount Lorne did not hear my answers to previous questions. We focused on reviewing what other Canadian jurisdictions do. There was some review of other places in the world but we focused on being competitive within Canada because, of course, we're in Canada and Canada's situation has a lot of

experience with how it works. Although every jurisdiction has different laws and mechanisms and processes, by and large our fundamental approach is the same in Canadian jurisdictions to permitting such things where it is not in other areas of the world.

It is also important for Canadian companies that are looking at different jurisdictions that we not get into royalties and other structures that are very different and require a lot of time and investment to understand and scare them off simply through being determined that we have to invent our own wheel and decide our own shape for it. We have used what has worked in Canada. We focused on Canada. We focused on competitiveness within Canada and, again, the proposed royalty rate capped at 12 percent is competitive with other Canadian rates.

It is not the cheapest. The member was trying to get into this issue of things like net smelter royalty. The reason the government has not gone down this road is that it doesn't work that well. Those who propose it and suggest a combined royalty that would blend a revenue royalty with a net profit royalty, like the one used in B.C., again, I've pointed out that, first of all — well, it would be a regime change, anyway, and would have again been a lengthy process. But it requires both government and the company to have two sets of books and do two sets of very detailed and expensive calculations. In the long run, because we don't allow as many deductions from the net profit calculation as B.C. does, we wouldn't end up getting any more revenue from a duplicate structure, but we would sure spend a lot more money on figuring out the two rates and doing as B.C. does, which is figuring out under which calculation the company owes more to the government.

A blended royalty, like the one used in B.C., consists of a net profit royalty with net revenue at the front end. It is comprised of the greater of two percent of net revenue — net smelter return or proceeds — or 13 percent of net profits.

Now if the member didn't understand that explanation, I think that points out that if the high level explanation can't even be understood, it makes it clear why the detail would be expensive not just for industry but also government to deal with.

In the B.C. system, any net revenue — front-end royalty paid — is pooled and deductible from eventual net profits royalty. Therefore, the net revenue royalty is just an advance on the eventual net profit royalty. I will repeat that again for the member. Any of the net smelter royalty paid is pooled and is deductible from eventual net profit royalty. So B.C. ends up with revenue earlier. Then they allow the company to write off that revenue paid as a deductible from future amounts owed to the Government of British Columbia through a net profit calculation.

So they're not getting any more money. Their system is designed to give money up front, as is ours, because we use a simpler calculation in net profit. But when they pay under their duplicate structure, that money is paid to the Province of British Columbia and the amount paid under the net smelter royalty can later be deducted from what they're required to pay once they're earning a profit. So they're not really getting anywhere

with that process. We have the same basic aim that British Columbia had in the way that we have done an improved calculation of profit and allowed companies to write off fewer things in that calculation.

The difference is that once they pay us the royalty, they can't deduct it down the road, and we don't have to keep two sets of books. I hope that has clarified it and again I have to emphasize to the member that there is no difference, I think, in this House in terms of the desire to see benefits and the theory that benefits to Yukon citizens be maximized. However, a royalty is like a tax: if it goes too high there's a certain point at which it's made unmanageable or unattractive for businesses, large or small, to operate. There's also the point at which a royalty, specifically because of the fact that it's an impediment and a cost to business — as I said, Yukon royalties being capped at \$3 million per year and our share being capped at \$3 million — to go higher than that gains us nothing except raising the bar higher and making it more uneconomical for businesses to invest in the territory and to create jobs for Yukon citizens. Again I point out that the economic activity is really the main benefit to the territory, and in fact the Yukon Territory as a government would receive more income tax revenue from people working on a big mine than we'd receive in royalty.

Again, going back to the explanation of B.C.'s combined royalty, all eligible deductions for determining net profits are pooled, including operating costs and capital expenses, and allowed to be carried forward. Again, those potential deductions include any royalties paid under the net smelter calculation. So those deductions are allowed to be carried forward, which essentially guarantees that only the net revenue front-end will be paid until all the capital investment is recovered, when the net profit royalties may begin. Then once the net profit royalties begin, again, anything they paid before, any of the royalties they paid, are deductible.

So this format may result in a significantly different royalty amount, low in the earlier years from higher on in later operating years, and that is not good in Yukon for another reason — the devolution limitations are one reason and, of course, it has a real impact on fluctuations of own-source revenues rather than having a more stable stream of profit share being provided to the Yukon under the life of a mine.

We would end up then, rather than under our structure — whereas I indicated before that B.C. allows a company to take their entire capital expenses and write them off in the first year or in any subsequent year until they have used up 100 percent of those costs, and carry them forward for as much as they want.

The Yukon structures it so that the capital costs can be written off, but it has to be amortized over the life of the mine and spread out. In the case of, say, a 20-year mine, you couldn't write off more than five percent of the capital development costs in any given year — roughly. And that can change because there can be new capital development costs. But in any given year, they take the total capital development costs, total years remaining in the life of the mine — based on their plan and their closure plan — and that defines the percentage that can be written off in any given year.

So again we limit it, unlike B.C. We limit the deductions they can take off. There are other examples, but that's probably the simplest one to explain, of how we do not allow as many deductions as B.C. does from the royalty, which would be — or, sorry, what would be defined as profit. We don't allow as many deductions to be made as they do. And we don't allow them as many write-offs.

So what this does in our proposed structure is it creates more stability, as I indicated, because of those restrictions on what can be written off and when it can be written off that are beyond what B.C. has.

B.C.'s royalties from any given mine are a lot more susceptible to fluctuation and are at the mercy of when the company chooses to write something off or when they choose to deduct it, rather than us defining it in a clear, consistent way — fair for them but clear and simple for the public purse. We limit when they can do those write-offs and how much they can write off to gain us more royalty at the front end; royalty that, unlike B.C.'s, can't be deducted from royalties they pay when they have to make a profit.

In British Columbia, a company can take operating losses and pool them with other deductions and carry those forward as deductions into future years, which again may result in a significantly varied royalty year by year, which again is not good, particularly with the devolution transfer limitation and also simply the issue of revenue coming in.

The B.C. royalty also includes a deduction for carrying costs as a stand-in for financing. This is not an eligible deduction under the *Quartz Mining Act* or under most mining royalties across Canada. Key reasons why a royalty like in British Columbia was not recommended — and again as I've pointed out, to get into that type of recalculation would have been regime change and a longer process anyway — but even in the analysis of the merits of it, officials came very quickly to the determination that the B.C. structure was not in the best interests of the Yukon to go to.

So the key reasons why a royalty like that in B.C., a combination of net revenue and net profits, was not recommended were: first, it would be regime change, which is beyond the mandate and would evoke a higher level First Nation consultation and lengthier consultation periods; second, it could result in widely varying royalties year by year, which was not a desired goal; third, it is complex with two distinctly different calculations plus deductions pooling and cross deductions. Another point is that, because of a very significant change, it would have made it very difficult to manage the transition provisions for the Sherwood Copper mine at Minto and their sections there.

Of course, as the members will note in the act, which we'll get into discussing later, there are provisions in there for transition provision to be put into place later for Sherwood Copper and for the changes to be set. In that case, since those revenues are going to Selkirk First Nation, prior to making any changes in that area we need to have a very lengthy discussion process with Selkirk First Nation because they are the primary affected party in that interest. In the interest in that and in talking with them, we came to the determination that those provisions

should be put in place so that it does not affect their current structure and then we could free up the ability to go through a detailed discussion with Sherwood Copper and with the Selkirk First Nation — but in that case, as members may see, the Yukon government is more of a facilitating party to those discussions than directly affected, as are the mine and the First Nation.

I see I am running out of time here. I hope that has answered the member's questions. Thank you.

Mr. Cardiff: Thank you for providing those answers and some clarity to some of the questions that were addressed.

If the minister doesn't have the information, he could provide it by a legislative return and that would be adequate. What types of expenses are allowed as deductions? Could he provide a list of those? I understand capital costs in developing a mine, but is there specifically a list? It might be easier if the minister provided a list of which items aren't allowed.

What I'm talking about is — I'd be curious about things like travel, entertainment expenses and things like that. What is it that's not being allowed in this jurisdiction that is allowed in other jurisdictions?

The other one that ties in with this is that there is mention of a community economic development expense deduction. I understand that that's going to be dealt with through regulations. I'm wondering if the minister can provide some clarification to us here in the Legislature about what types of projects are going to qualify for that. I think it's good to encourage companies coming to the Yukon to invest in communities. When you look at some of the communities before — I mean, when we look at a community like Faro, the mining company basically built the town and provided most of the infrastructure. We realize that that's no longer the case. A lot of the mining operations are either fly-in or they are situated close to an existing community.

I think that it is important that these companies recognize the impact that their operations have on communities. It goes back to what I was saying about the intergenerational equity issue, where future generations can benefit from it. I guess you could say that future generations are benefiting to some extent from some of the infrastructure in Faro — mind you, they are also left with dealing with the legacy of the clean-up of that mine. I see the minister is preparing to access the list of those things that aren't eligible or are eligible, so I will look forward to that.

On the community economic development expense deduction, I would be interested in seeing what types of projects this government would see as qualifying for these deductions. I think they have to be meaningful for the whole community. It is not unlike what I said in earlier comments, I believe — I'm not sure if it was directly to the *Quartz Mining Act*, but I think that it is important.

One of the things that I think is important, and maybe it is not appropriate in Bill No. 58, but I think that things like economic development expense deductions also equate to things like impact benefit agreements for communities, to ensure that communities have the opportunity to fully participate in these projects and to realize the benefits of working on those pro-

jects. As I have said before, not to just get the jobs on the end of the shovel or on the end of the broom or working in the bunkhouse, but they have an opportunity to receive training and participate in the skilled and technical jobs, the trade jobs, the management jobs, and to build capacity in their communities so they get the skills that are transferable.

Maybe that's not necessarily applicable in the *Quartz Mining Act*. But when I see references to community economic development expense deductions, I'm wondering where something like that comes from. I raised this with the previous Minister of Energy, Mines and Resources about impact benefit agreements, and the government's responsibility to deal with these issues and to use its support for Yukon communities — and especially Yukon First Nation communities — so they have the opportunities afforded to their citizens to fully participate in these projects.

I don't believe they're against resource development. I think it's pretty clear they enjoy the fact there is resource development and there are jobs there. They want the good jobs, not just the lower jobs on the pay scale. They want the training and the opportunities so they can continue to participate and be real partners in resource development.

But I think they not only need to be respected through respect for the land and the air and the water and our environment — the things that they hold dear — but I think that they also need to be respected through things like impact-benefit agreements. So, I don't know if the minister would have some comments around impact-benefit agreements, and if he could provide that clarity around the economic development expense deductions, it would be much appreciated. I'll await with my pen ready and take notes.

Hon. Mr. Cathers: Now, the member asked a number of questions. I think I've got them all down and will answer them, but if I miss it, I hope he'll bring to my attention what I failed addressing in his last line of questioning.

Mr. Chair, first of all, with regard to the issue of infrastructure and how it's established, this doesn't preclude a situation such as in Faro, and I couldn't speak to all of the details of who paid for what when, but it certainly doesn't preclude mines building their own infrastructure nor does it give them the ability to write off things that are just their mine construction and necessary — a bunkhouse, for example, or residences for their people at the mine site. The community economic development deduction doesn't allow them to do that type of thing. They also have to apply for it and get any such thing prequalified. It's not automatic that they can get, or can say they have a right to, something. It's an ability for government to approve such a thing.

Some Hon. Member: (Inaudible)

Hon. Mr. Cathers: Yes, in advance. They do have to apply for that project to be approved. I'll give the member some examples of this, but he can also refer to the discussion paper on the Web site that was put out — the discussion paper on the *Quartz Mining Act* review referring to community economic development expenses. I'll give the member the background and explanation here, and I apologize — it's a bit lengthy but I think it's necessary to explain it.

Currently there is no provision in the *Quartz Mining Act* royalty to recognize or allow deductibility of contributions or payments companies make to community infrastructure or economic development that is negotiated or agreed to between the company and First Nation governments or community organizations, which could also include a municipality, hamlet or other registered organization. So, in answer to the member's question about impact-benefit agreements, this is actually a main reason why this is in here — to allow for those types of things.

If a First Nation, or a community that might or might not be First Nation, is negotiating with the company or trying to negotiate and encourage the company to do things that are in the interest of that community and its people, it makes it easier for them to make that case because the company can, in fact, write it off over a period of time once they get it approved through that process. So it does give the ability for, under an impact-benefit agreement, the company to agree to make an investment in a community, whether it be building an infrastructure project or whatever the nature of it; they could then make that investment, agree to do so. The First Nation would benefit, or as I said, it doesn't have to be a First Nation but it certainly does allow for that.

The company can agree to make that investment in the community as part of the impact-benefit agreement or other agreement that might not be specifically termed an impact-benefit agreement. Any agreement they enter into, there's the ability to do that and to write that off over a period of time. As I said, it does have to be approved by the Yukon government first so they can't simply come in and argue about whether they legally have the right to call it a community economic development expense; it does require approval.

I won't reread the background part and the overview but the proposed change proposes a new provision be included in the allowable deductions for determining royaltyable income and that new provision, that new deduction, will allow for community economic development allowance.

The allowance would accept 100 percent of eligible qualifying expenditures pursuant to a benefit or socio-economic participation agreement with a First Nation or to a community in the Yukon to the extent the expenditure is not otherwise deductible in determining royalty. That means if they can write it off once, they are not going to be allowed to write it off a second time.

Eligible expenses would be pooled for the mine and allowed to be carried forward until fully deducted; however, the allowed annual deduction for the community economic development expense would be limited to the lesser of either 20 percent of the net mining income after deductions or to 15 percent of those other normal deductions. They are defining "normal" as anything other than a community economic development allowance. By the way, that is not an official term; it is just a descriptive term.

I will read from the discussion paper: "The Yukon government encourages the mining industry to work with First Nations and local communities in the development of Yukon's mineral resources.

“For its part, the Yukon shares a portion of mineral royalties received with First Nations through the *Umbrella Final Agreement*. Mining companies are increasingly involving First Nation communities in new mining projects through benefit agreements. Such agreements typically include objectives for training and employment of local community members. The terms may also include financial contributions to local communities, initiatives or projects.

“This proposed deductible community economic development expense would recognize the importance of providing direct benefits to communities through the economic development of the Yukon.

“The proposal builds on a similar measure recently introduced in Ontario in its new (2007) *Royalty on Diamonds* regulations.” As I noted earlier in debate, but the member might not have caught it, “The World Bank, in a report titled *Mining Royalties: A Global Study of Their Impact on Investors, Government and Civil Society*, recommends “requiring mining companies to pay a share of royalty (or other mining taxes) directly to the community without the funds moving through the central tax authority.”

That of course is what this is designed to do.

“The proposed deductible community economic development expense, while not directly sharing royalty with communities, would facilitate such direct sharing of benefits from mining with the local community without the funds moving through the government” first.

This means without government collecting it and then giving a contribution to the community. As the member was asking, it enables impact-benefit agreements or, as I said, other arrangements and agreements, formal or informal, between a mining company and a community or First Nation. I hope that has answered the question.

To assist the member, as I said, this is in the *Quartz Mining Act* review. It is part of the discussion paper posted on-line on the Web site. If the member wants to take a look at that or others wish to see it before it's in the Blues — and for assistance to *Hansard* as well, if anything I said was not coming over our new microphones clearly, it is on page 14 of that discussion paper. The discussion paper is entitled “*Quartz Mining Act* Review: Mine Royalty Provisions”, dated March, 2008 and available through the Energy, Mines and Resources Web site.

With regard to the question the member asked about royalty provision deductions, in summary — and this is outlined in the paper in some detail — the Yukon's amendments to the *Quartz Mining Act* royalty provisions are to:

“(1) make the royalty rate more competitive by capping maximum incremental royalty rate;

“(2) modernize the royalty provisions by:

“(a) eliminating the filing of royalty on a consolidated basis for all owned mines in the territory, making royalty the responsibility of each individual mine, while including related processing and assets within the defined mine for royalty purposes;”

By way of explanation of that point, if a company had two mines in operation, one well-established, and they opened a new project, under the existing structure which not only allows

but requires them to consolidate the royalty filings, it would enable them to write off more start-up costs from the other mine and lack of profit, and to essentially either hide their profits or delay them until a future date in paying royalty. So again, that's aimed at ensuring that on each mine, each project, we maximize the benefit received in each given year, while providing a clear and still fair and competitive rate structure.

Again, going back to the detail outlined in the discussion paper, “modernize the royalty provisions by:

(b) eliminating the deductibility of corporate income taxes, and updating the terms for deductibility of capital costs for assets, exploration and mine development; and”

Again, to avoid confusion and also eliminating the ability to deduct corporate income taxes as a cost in determining how much revenue they have to pay royalty on or how much profit they have to pay royalty on — that is eliminating a very significant deduction that they could otherwise claim.

Moving on to modernizing the royalty provisions by:

“(c) adding a deduction for community economic development expenses.”

That is the key area. It is also intended to increase our ability to be responsive by shifting royalty provisions from the act itself to regulations into the *Quartz Mining Act* and those are going to be going out for consultation with industry, public and, of course, First Nations, municipalities, et cetera — all those who wish to be involved in it.

Basically, as I note, the changes here — largely the royalty provisions from the act itself are not being changed; largely the deductions are not being changed. It is simply the royalty rate that is being capped, because for smaller mines there is a stepped up scale of when they begin to — for a very small mine, it would be pretty small, they wouldn't pay any royalty at all. But going up to any significant level they reach the point where, as laid out in the act — and that scale is not being altered from what it has been for years — they rise up to the 12-percent capped royalty rate. So that is not being changed; just a cap is being put on it.

As I said, some of the deductions, including the ability to deduct corporate income taxes from what is being defined as profit that they have to pay royalty on, those are being removed. By eliminating the ability to consolidate two mines in making payments, the net result in the royalty change is to eliminate some of the deductions they can write off and to simply cap that royalty provision. The only new provision, really, that can be written off is the community development expense.

So, another area the member asked questions about was good jobs or was noting the importance of — Yukon citizens want to have them. As I have indicated, of course, through work done at Yukon College in investment in training and expanding the trades training programs, through community training trust funds, through apprenticeship programs and through the funding that the Yukon government and the federal government and Workers' Compensation Health and Safety Board have put into the Yukon Mine Training Association, there are many investments aimed at doing just that.

Of course, we recognize that there is still more work to be done in helping people get the training they need to take advan-

tage of local jobs. But a key part of this — the Yukon Mine Training Association's approach is a bit unique in the fact that recognizing companies now — not just in the Yukon, but in many other areas in the country — are competing for workers and having difficulty finding trained workers and therefore needing to identify people and train them, it makes it easier for them to do that. It also encourages them to do that, rather than going outside the territory and hiring workers from somewhere else, by providing matching dollars if they invest in, for example in the case of Sherwood Copper and the Selkirk First Nation, some funding — Mr. Chair, I don't have the exact figure on how much has gone from the Yukon Mine Training Association into assisting Sherwood Copper and training citizens of Pelly Crossing and, of course, most of them being citizens of the Selkirk First Nation.

But funding has gone from there to do just that, and to help them do that training, which of course is good for the citizens. They can take advantage of the jobs. For a company, when they have somebody new receiving a certain type of training, there are some reasons why if they could acquire workers elsewhere, they would be tempted to do it — those who have many years of experience in the job. This is one way to make it more attractive to them to ensure that the benefits remain with local citizens by providing local citizens who are interested in receiving employment there with the ability to receive the training they need, paid for 50 percent by the company and 50 percent by the Yukon Mine Training Association. Of course, the Yukon Mine Training Association manages what's paid and to whom, and how, and has their own responsibilities and obligations in that area. But, again, good work is being done in that area, aimed at doing what we all, I would think, recognize as being an important goal: helping Yukon citizens who don't have the training necessary to benefit from jobs from a mine get that training, and making it easier for them to get that training to hopefully end up with a source of very valuable employment and money for themselves, their family, et cetera.

Mr. Chair, I think I've answered all the questions from the Member for Mount Lorne in his last questioning, so with that I'll sit down and look forward to further questions.

Chair: Is there any further general debate?

Seeing none, we will proceed, clause by clause, on Bill No. 58.

On Clause 1

Clause 1 agreed to

On Clause 2

Clause 2 agreed to

On Clause 3

Clause 3 agreed to

On Clause 4

Clause 4 agreed to

On Clause 5

Clause 5 agreed to

On Clause 6

Clause 6 agreed to

On Clause 7

Hon. Mr. Cathers: Actually, Mr. Chair, that's one area, just to highlight this change — it was a section I referred

to earlier that was antiquated and I'd just like to highlight for members that it's reworded to provide a flat number of days — 30 — for recording a mineral claim as opposed to the veritable number of days depending on the distance of the claim from the mining recorder, which was provided in the original legislation.

Examples of that had escalated. Based on every 10 miles from the mining recorder's office, it increased the number of days they had for filing a claim. So this is an example worthy of note of the antiquated nature of the existing provisions.

Clause 7 agreed to

On Clause 8

Clause 8 agreed to

On Clause 9

Clause 9 agreed to

On Clause 10

Clause 10 agreed to

On Clause 11

Clause 11 agreed to

On Clause 12

Clause 12 agreed to

On Clause 13

Clause 13 agreed to

On Clause 14

Clause 14 agreed to

On Clause 15

Clause 15 agreed to

On Clause 16

Clause 16 agreed to

On Clause 17

Clause 17 agreed to

On Clause 18

Clause 18 agreed to

On Clause 19

Clause 19 agreed to

On Clause 20

Clause 20 agreed to

On Clause 21

Clause 21 agreed to

On Clause 22

Clause 22 agreed to

On Clause 23

Clause 23 agreed to

On Clause 24

Clause 24 agreed to

On Clause 25

Clause 25 agreed to

On Clause 26

Clause 26 agreed to

On Clause 27

Clause 27 agreed to

On Clause 28

Clause 28 agreed to

On Title

Title agreed to

Hon. Mr. Cathers: Mr. Chair, I move that Bill No. 58, entitled *Act to Amend the Quartz Mining Act*, be reported without amendment.

Chair: It has been moved by Mr. Cathers that Bill No. 58, entitled *Act to Amend the Quartz Mining Act*, be reported without amendment.

Motion agreed to

Bill No. 62 — Animal Protection Act

Chair: Committee of the Whole will now proceed to Bill No. 62, *Act to Amend the Animal Protection Act*.

Do members wish to take a brief recess?

All Hon. Members: Agreed.

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

Recess

Chair: Order please. Committee of the Whole will now come to order. The matter before the Committee is Bill No. 62, *Act to Amend the Animal Protection Act*.

Bill No. 62 — Act to Amend the Animal Protection Act

Hon. Mr. Lang: Thank you, Mr. Chair. Again, we'll be addressing the *Act to Amend the Animal Protection Act*, Bill No. 62, this afternoon. I would take a moment — I would like to thank all the individuals who have actually gone out and done the hard work that it took to bring this bill here to the House. There was a lot of input from community members and associations, and of course the Department of Community Services has done a lot of work to bring this bill to the point where we can discuss it here in the House today.

The last day that we were discussing the bill, in second reading, there was sort of an overview, a breakdown, of how this bill would improve the *Animal Protection Act* and what we were doing as a government to modernize and to move forward with this act. We looked at increasing penalties, Mr. Chair, for not treating animals properly, and that is very important in that there is a cost, there is a penalty, for individuals who are mistreating animals. We looked at expanding on the definition of "distress," and defining it to make sure that it was very clear what "distress" meant, and of course clarifying what would happen if in fact people were found responsible for putting animals in distress. And, of course, defining and expanding on the definition of "abandoning an animal" — what does "abandoning an animal" mean and what are the penalties we would put in place to make sure that these kinds of things didn't happen? What are the consequences for an individual if these kinds of things were to happen?

In turn, we expanded on the powers to protect animals. That's very important in this act. How do we as a society take care of our animals and how do we as a society protect the animals? The important thing was putting a trained individual in place as an animal protection officer to enforce this act, so we have one person to oversee the act in the territory, to work with our municipalities, communities, in providing education, to be there for advice and to put policy together so we can move forward with this act as it unfolds here in the near future.

There was the question of what happens with transporting of animals and how is that going to be handled in the legislation? That was an important thing. What happens if a person were to hit an animal with a vehicle? What are the obligations of the individual if an animal is hit, maimed or killed? What is the process for that? That's being addressed.

The act also has provisions to help the animal protection officer or the local RCMP to enter into the premises when animals are in distress. In other words, what is the process for doing that — to give the RCMP and the animal protection officer the tools they need to go in and get the job done if, in fact, there is an animal in distress in a space, that they have the right to go into that space to correct the issue.

So it boils down to animals have to have food, water and shelter. Those are the things that are very important in the life of — well, every living being, really. They have to have access to those.

Some of the questions in the last discussion here in the House were interesting and good questions — questions like: how long will it take for the government to implement these amendments? Hopefully with the House sitting now, we can look at something in place, fully operational, within six months. We have gone to work to put together the job description and actually have advertised for the individual who will be taking on the responsibility for this legislation, and the animal protection individual will be hired and, of course, he will go out and do his good work. Roughly in six months we would have this act and the program change would be in place.

The other one was with respect to the situation that arose in Dawson City and what checks and balances were in place — how would this act deal with the situation that arose and was brought to our attention because of the nature of what happened. We addressed that in this legislation — what tools are out there for government to make sure that these kinds of things aren't done and if they are done that there are consequences to the actions of the individuals who do them; questions about the actual increase in fines and penalties.

We took a look at other jurisdictions and we came up with an increase from a \$500 to \$10,000 fine, and the maximum length of imprisonment has been increased from six months to two years. So that's a fairly large leap, and certainly would be a deterrent for individuals, hopefully, who would do these things.

The situation in Beaver Creek: another situation where a family of cats was abandoned and it was minus 40, and it was quite a distressful experience for the residents in Beaver Creek. This legislation would give powers, but also it would give obligations to owners, and owners would be charged in situations like that of abandoning the animals, so that situation would be handled in legislation like this.

Then questions about why did we expand the definition of "animal"? We know that there's wildlife in captivity in the Yukon, at the Yukon Wildlife Preserve, for example. We learned from the consultation process that there were numerous reptiles and amphibians in captivity.

As these animals are in care of people, they should be covered by this legislation. In other words, this act is covering all animals in captivity and pets. We tend to concentrate on dogs

and cats because they are more numerous than birds in captivity and also reptiles and amphibians. So this change in the definition of “animal” encompasses all animals that we could see would be in captivity or under the management or care of individuals.

Another question: would the bylaw officers in communities automatically be animal protection officers? The answer to that is no. They may, however, be appointed as animal protection officers either individually or as a group by a ministerial order, depending on specific circumstances. That, again, is another obligation of the act and the animal protection officer will be going around and working with our municipalities to make sure that individuals have as much professional training as they can on the ground to make the decisions they will have to make in the process of doing their jobs. So that is how it would work.

Another interesting question was: why is an owner required to assist an animal protection officer? That was brought forward in our consultation, because some of the animals — guard dogs, pit bulls, or pets like that — are not easy to restrain during an investigation and can be safely managed only by their owners. So there is an obligation on the owner’s part to help in situations like this. We certainly don’t want to put our animal protection officers in a situation where they are going to be hurt in any fashion. So there is an obligation in here for the owner of the animal to participate under the guidance of the animal protection officer in these situations.

Will the legislation put a stop to dogs riding loose in the back of pickup trucks? It certainly will. This practice will now be illegal under the act. Actually, as a layman who travels quite extensively on our highways, I don’t see much of that any more.

There doesn’t seem to be as many animals loose in the back of vehicles as there was, let’s say, 10 or 20 years ago, but this will become illegal. Animal protection officers who see this occur will have the authority to stop the vehicle, charge the driver and if necessary, seize the animal. In other words, animals have to be kept in a safe situation. Being loose in the back of a pickup is not a safe situation, as we saw with the situation that arose in Copper Ridge, where there was a dog in the back of a truck and it was dragged down the street. It was a terrible story of cruelty. We can’t tolerate these kinds of things in our society.

Another question: why are there references to the *Pound Act*? Well, the *Pounds Act* is overseen by Energy, Mines and Resources and the agriculture department and there could be technical conflicts between the *Pounds Act* and the *Animal Protection Act*. The amendments ensure that the *Animal Protection Act* will prevail. In other words, in doing the work we did with the individuals in Community Services, we addressed at the same time any overlapping legislation that it would affect. That in itself is good homework when you are doing bills like this.

In answering the questions today, I look forward to participating in the dialogue that we are going to have and I look forward to the questions.

Mr. Fairclough: I thank the minister for responding to some of the questions that were raised by the opposition par-

ties. I only have a couple of questions left. This one I left out. It is in regard to section 15; it says, “If an animal protection officer has reasonable grounds to believe”. The amendment has removed the provisions for animal protection officer to have probable grounds for believing and does believe — does this change not dilute the owner’s right and protection against frivolous complaints? Does it not dilute the owner’s rights? I would just like to know what the minister has to say about that.

Hon. Mr. Lang: Yes, in addressing the member opposite, I’ve been told by the individuals here that this is just standard language, and it has been defined by Justice, so it’s something Justice has put in, but it’s common language.

Mr. Fairclough: I asked the minister if he could provide the answer to that in writing for me, because I understand who has been putting it forward and it’s standard language but we still need the question answered.

Now, this amendment reduces the requirement for an officer to be sure that a violation exists before empowering an officer to get on the phone for a warrant. The amendment reduces the requirement for an officer to be sure. It’s a little different wording. Or worse, an officer decides on their own that an emergency situation requires the use of as much force as necessary to enter a premise and search and seize evidence of violation.

Now, I have some concerns with this — about this new-found authority. I would just like the minister to tell us what the checks and balances are for the officer in this type of situation.

Hon. Mr. Lang: I guess, in simple English, I would have to say the courts. The courts would hold the individual with these powers — he has to get a warrant, he has to have reasonable grounds and, of course, he doesn’t issue it himself. It’s done through the courts, so there are checks and balances. Of course, he has to have reasonable grounds because, at the end of the day, the proof will be in what he finds in the building or in the space he’s trying to get access to. So I think we have to rely on the professionalism of the individual and, of course, we always have the courts to make sure that rules are followed and the process is within the laws of the country.

Mr. Fairclough: I believe the animal protection officer doesn’t have to get a warrant, but can actually do this on his own, if the situation arises where it’s serious, and it does say “reasonable grounds to believe,” which is a diluted wording compared to the past. So that’s why I bring this forward. There is new-found authority here; it’s quite a bit of authority to “use as much force as necessary” to enter a premise, and to search and seize evidence of a violation — and maybe, if the minister doesn’t have it in front of him, to lay it out clearly what the checks and balances are for abuse, for example, of this new-found authority.

Hon. Mr. Lang: In answering the member opposite’s question, again, this wording is common wording in acts like this. Saying that there aren’t these checks and balances on this individual who is charged with doing this — that’s not correct, Mr. Chair. There are checks and balances. The courts, the law of the land, dictate how any individual or government official enters into a space that is privately owned. Those are done

through our court system, so there are lots of checks and balances on the individual.

He has a very responsible job. Any professional individual would want to have checks and balances in place because — whether you are the animal protection officer or whatever, you are in the government — you want it very clear on how things are done. He has to apply for a warrant. The warrant can be issued over the telephone but he has to have reason to believe that there is wrongdoing in the space and it can be issued.

In situations like that, I guess the proof would be, once you got into the space, whether in fact the incident was going on. But I am sure that the individual will be very prudent in what he does and will fall on the side of reasonable doubt when he is working on issues like this. There is a court system; there are laws in place and this individual will be tasked with following those laws.

Mr. Fairclough: Well, they don't always have to get that permission. They can do it on their own — the animal protection officers. I am hoping more information can come on that. I'd like to move on and just ask how much this amendment to the *Animal Protection Act* would cost government, now that we're staffing and running an office. There must have been some sort of budget put together. I'm just wondering: what is the additional cost to government to implement these amendments?

Hon. Mr. Lang: I'd like to remind the member opposite about entering spaces. Only the RCMP can go in without a warrant, if there is an immediate crisis. The RCMP would be tasked with something like that.

As far as the individual's pay or his office, that would be handled through the Community Services department and that money would be managed from the department.

Mr. Fairclough: Has the government — this department — put together a budget that would address the animal protection officer and staff, and what is it?

Hon. Mr. Lang: Certainly, doing the good work we do, we wouldn't go to all this work and not know where to get the resources to man this new position. Money has been put aside. As we grow into this and see just exactly what we're going to need in the future, there have been some resources put aside in Community Services. If in fact this legislation passes the House and we move forward with it, at that point the individual would be hired and this money put aside would be put in place to pay that individual's salary. I can't tell you on the floor here today where his office is going to be, but I imagine he will have some area and a telephone —

Some Hon. Member: (Inaudible)

Hon. Mr. Lang: — or a "she" as the Member for Lake Laberge says. Whoever the individual is will be housed somewhere in the government to do the job they're tasked to do.

Mr. Fairclough: I understand an animal protection officer — the way it was explained by the minister — will be staffed in the department and funds have to be identified for this office to work. How many FTEs does this amendment add to the department?

Hon. Mr. Lang: We're looking at one individual who would be the protection officer. There would be one individual hired.

Mr. Fairclough: I had thought that the response that we heard before was that there was office staff also assigned to this. I will take the minister's word on that and I look forward to some information about the additional cost. I thank him for the answers to my question. I'll just turn it over to the third party.

Hon. Mr. Lang: In addressing the member opposite on the staffing — I have been told by the department that existing staff members will be the backup, and whatever this individual needs can be handled inside the department as it is today.

Mr. Cardiff: It is good to be here today and to be able to enter the debate on Bill No. 62, *Act to Amend the Animal Protection Act*. I have read through a lot of the second reading speeches. I have read through some of the earlier debate. A lot of the questions that I had have been covered.

There are a few things that I would like — just a couple of things — to ask the minister about.

We understand that there is going to be the hiring of one animal protection officer. In the minister's earlier comments and in comments he made in earlier days, he talked about the ability of, I believe, the minister to appoint other individuals to be animal protection officers and that those individuals could be people who work for humane societies in communities or they could be people who are bylaw officers here in the City of Whitehorse or in other communities around the Yukon. I think I'm correct in that assumption, and if the minister can indicate that I'm correct, that would be good.

I'm going to tie a couple of things in here at the same time, because it's my understanding that RCMP officers are, by extension or by default, also animal protection officers. But what this calls into question, I guess, is the ability of these persons to perform the job adequately.

One of the big complaints, I think, about the former animal protection legislation, Mr. Chair, was that it had no teeth. There was no real ability to enforce it. I thank the government for listening to constituents, listening to people of the Yukon — I know there are a number of my constituents and others who made representation to me about the need. That was one of the things, I think, that I heard loud and clear: there was a need for the ability to enforce something and to ensure. It is not unlike what we were talking about yesterday: the protection of children in the workforce so that they are not exploited and so that their health and safety is protected. That is what we are talking about here today. We are talking about the protection of animals in captivity — pets: dogs, cats, snakes, hamsters, horses, livestock. We want to ensure they are treated properly and that's important, but there was an inability to enforce what legislation we had, because there was no one to enforce it. The government is committing to hire one person — the minister can tell me, in his capacity as Minister of Highways and Public Works he knows right off the top of his head how many kilometers of highway there are in the Yukon — let alone how many back roads there are with farms and dog kennels — and

this person would have to travel in order to ensure the protection of all animals in the Yukon.

Broadening the ability to enforce this act is being done by both the minister's ability to appoint others to become animal protection officers and to use the goodwill and the fact we have a contract for service with the Royal Canadian Mounted Police here in the territory for which we pay them. I believe it's in the neighbourhood of \$14 million a year for that service, to also enforce this act.

These people need to be familiar with the act and they need the ability to understand the terms that are in this act. How are those people going to identify animals that are in distress? I think it was quite aptly put by one of the gentlemen who provided us the briefing. The minister may choose to appoint someone who is a volunteer, maybe at a humane society, as an animal protection officer to enforce this act; how are they able to distinguish between a dog, a high-performance sled dog, or a dog that has been deprived of nutrition? So it's about training. The minister is saying that they've made a commitment to open an office with an animal protection officer, and I hope that they're also going to provide that individual with the resources to do some travel; access to the car from the Fleet Vehicle Agency so that they have a vehicle to travel around in to do their job and enforce the act.

I trust that they'll be hired based on their qualifications and abilities to enforce this act, and to also gather evidence, because there's a lot in this act about, as the Member for Mayo-Tatchun was just saying about the ability to enter buildings, to get warrants, to seize evidence, and to gather that evidence. It has to be gathered properly, so that requires a lot of training. I guess what I'm saying — and I've rolled a lot into one question. I'm sure the minister is going to have a long answer to this. It's about, number one, whether the minister is willing to appoint, to work with other communities that have concerns, because we've heard those concerns. The minister was referring to them in some of his earlier comments in previous days about some of the things that happened in Dawson, I believe. I'm sure there is a desire in Dawson City to see an animal protection officer in that city. So is the minister going to be prepared to work with other communities to ensure that their animal protection officers, if they are bylaw officers or volunteers with humane societies — is the minister going to work with those communities to ensure that those appointments are made?

But, more importantly, is he going to ensure that there is training, so that they can adequately perform that job and that the government will also bear that cost so that this act — it is the government's responsibility. It is their piece of legislation. Are they going to put the resources there to ensure that training is available and to also make that training available and encourage the RCMP to participate in that training? Because in communities where there isn't the ability, where there aren't bylaw officers or there aren't volunteers, it is going to fall to the RCMP to enforce this piece of legislation. They are also going to need the training in order to act within the act.

This is a bit of a specialized area. It is not like going and dealing with break-and-enters or motor vehicle accidents or other things the RCMP are necessarily familiar with. There is

some specialized training that is needed in order to carry out the — and I'm sure that the Member for Porter Creek Centre would concur with what I'm saying on this, that it is specialized.

I read some of his comments from Tuesday about this — or it might have been Monday, I guess, that he was talking about it — and questioning my colleague, the Member for McIntyre-Takhini, about his veterinary credentials and the ability to understand what is in this act. When we talk about volunteers, when we talk about bylaw officers, when we talk about the RCMP, there's an onus on this government, I believe, because it's their piece of legislation — it's our piece of legislation — and I think there's an onus on us as legislators and as government to provide the tools for those people to participate.

The minister has to think about that before he goes and he appoints others to be animal protection officers. I'm not trying to discourage him from doing it, believe me. I want to encourage him to do it, so that the act is enforced equally in every community around the Yukon. I know that the minister definitely has something to say about this, but I think from my perspective the most important thing about this piece of legislation is the ability to enforce it.

We've made some great strides. I don't know that it's perfect, because I don't have the credentials to know whether it is or not. I'm trusting in the officials and I'm trusting in the consultation process. I did attend one of the meetings in my community. I have talked with other people who've raised concerns with me, and while they're maybe not totally satisfied with the legislation, they view it as something that's more progressive and a vast improvement over what we had previously. But as I said, I think enforcement is the issue, but it's about the minister's willingness to put in adequate resources. He says there are resources for one animal protection officer. I understand we can't hire an animal protection officer for every community. Maybe we'll get a second animal protection officer down the road. It's about the mechanisms that are in the act now for him to appoint people, but to ensure that they're qualified, and I'm asking the minister if he'll ensure that those resources are there.

Hon. Mr. Lang: I don't disagree with the member opposite. That's why we're putting a budget together and we're hiring this animal protection officer. That process is going forward as we speak.

That job will encompass what the member opposite is talking about. There is going to be need for travel. There is going to be need for vehicle access. There is going to be an education role for everyone who is working on this and this will be one of the animal protection officer's responsibilities.

Certainly there will be work with the local RCMP, especially in our small communities where they are responsible for animal protection, so that is going to be an education process. Of course, our communities — we will work with our municipalities and that will be a job that this individual will have to be tasked with.

Then, of course, Mr. Chair, we'll grow into this. Today we're hiring or today we're looking at legislation and we're putting a person in place to do the hard work of putting this legislation out there — get this act out into the communities,

out into our municipalities and make it work. Certainly, the minister of the day would appoint the officers. That is a process, but that certainly is done in Cabinet, so it is not an individual's responsibility. It is done in-house. It is done through the Cabinet like many appointments made in government. That is not an unusual way to do it.

Hopefully, the department is going to be tasked with bringing names forward of individuals who either have the training or are being trained and have the responsibility to enforce this act.

I agree with the member opposite but, in answering his question, the resources will be put in place for this individual to do exactly what the member's concerns are. The concerns are that this is a needed individual. This has been what was lacking in the old act — any kind of a chain of command on how processes were handled.

The member talked about livestock — livestock are covered under the *Pounds Act*. Again, that's done under Energy, Mines and Resources and through agriculture, so there is a definite line between the two.

But, yes, I agree with the member. This is going to be a vast improvement over what exists today. I think the communities and, of course, the individuals out there who have been pushing for this act to be modernized will be quite pleased at the end of the day to see the work this government did, how thorough a job was done, and how we involved everybody in the community and every association that we could talk to.

I think this is good news for the Yukon and certainly good news for pet owners. Remember, 99.9 percent of individuals who have animals under their control are great with their animals. So this is in place to handle situations we saw happen in the past. There are not many of them. There are not a lot of these situations, but when a situation arises, this individual will have the training and the tools to make sure these people and the issues are addressed quickly and that there is some "teeth" to whatever charges are laid and individuals will have to compensate for their wrongdoing.

Mr. Cardiff: I thank the minister for his comments. I thank him for the clarification about livestock — I did mis-speak.

At the same time, I don't know that this legislation is great for pet owners. I don't think that's what it's intended to be. I think it's great for animals, for pets, because what it's doing is affording them the protection so they're not mistreated or abused. As I said earlier in my comments, that is what this is about, to ensure that pet owners, owners of working animals, dog teams, don't mistreat their animals and don't abuse them.

The minister spoke about — he said that they are working on a budget, they have committed the resources, and they are going to hire the animal protection officer. Hopefully the department is looking for names. I would hope that the department has a fair hiring process and that they advertised this job through the Public Service Commission or that there is some sort of a public advertisement and that everybody in Yukon has an equal shot at it. They should be hired based on their qualifications and their ability to do the job as well as, I think, maybe their enthusiasm for the job. I'm not saying that should be the

only thing but I think we need to hire somebody who really cares about the welfare of animals.

What the minister didn't answer were my questions about training.

So, we're going to try and maybe take this down and deal with it in pieces. Can the minister tell me — and maybe we'll kind of do this hypothetically — if the minister is approached by the City of Whitehorse, because the City of Whitehorse has bylaw officers who deal with complaints about animals — I know this first-hand, because I had an animal abandoned at one of my former places of residence. What I'm asking the minister I guess is: if he's approached by the City of Whitehorse, and they ask the minister to appoint one or more of their bylaw officers as animal protection officers for the City of Whitehorse, would he be willing to do that? I would expect that in this instance the City of Whitehorse would want to enforce this piece of legislation.

Conversely, is the minister prepared to approach the City of Whitehorse or any other municipality to have their bylaw officers appointed to enforce this piece of legislation?

Hon. Mr. Lang: I guess today, as we move through with this act — this modernization of the *Animal Protection Act*, Bill No. 62 — the question the member has is certainly open for discussion. I'm not going to stand up here and commit that the City of Whitehorse would be treated any differently from any other municipality in the territory. I think that the animal protection officer will put the education component together for this act, and he will be going out — being in charge of that — to the municipalities. He will be educating not only the individuals in the communities who are going to be tasked with enforcing this, but he'll be working with the RCMP. Certainly, if the City of Whitehorse approached him, I imagine that an individual like that would be open to dialogue on education and working with the city to bring the city component up to a certain standard too.

Being the optimist I am, hopefully, the individual we hire is highly qualified and will be the individual to go out and do just that. As far as how the individual was hired, it certainly went through the regular process. I have been told it was publicized — I didn't see it myself, but the good news is that there were many, many applicants. The short list has been drawn up and out of that short list will come the individual we'll hire to do exactly what the member opposite has been asking us to do — put this legislation together and put it to work and have an individual in charge to make sure that this is enforced, where the education component is very important and where all municipalities in the territory have access to the individual and also the education component to this.

I look forward to the next 12 months as this thing unfolds. Of course, Mr. Chair, in answering the member opposite, again, I remind him this is something we're going to grow into over the next six months or 12 months and a lot of the questions he asks here today will be addressed as we move forward and put this act in place and get this individual confident in his job and also moving out into the communities and doing exactly what we task him to do as a government

With the many applicants we got, obviously it looks like there's an interest out there for an individual to do this job. Hopefully we hire the most capable individual. I don't know what his credentials will be, but hopefully they're high and they have an education component to them.

Mr. Cardiff: Well, I'm encouraged that there were quite a number of people who applied for the position. That says to me there are people who have qualifications. I'm sure there was a standard to be met and there were some criteria to be met in order to apply for the job to make the short list, so that's good.

My concern at this point is that what we heard before — about the enforcement of the act and the fact it wasn't really able to be enforced. Now the minister is saying that the animal protection officer is not only responsible for the enforcement of the act, but he's also responsible for education of others.

I'm just wondering how — that's going to be a bit of a constraint on the successful candidate's ability to perform his duties; if he's responsible for training other individuals, he's going to have to dedicate a considerable amount of time, I suspect, to that before he can adequately address some of the issues in the act.

I'd like to ask the minister another question about the RCMP and whether or not the minister intends — whether it be himself or through his colleague, the Minister of Justice — to communicate to the RCMP the fact that this new piece of legislation — it's not a new piece of legislation, but it's an amended piece of legislation with some new powers for the RCMP — and that it is a priority of this government, and I believe it is a priority of the government. It's a priority of Yukon citizens, because it was because of questions raised by citizens of the Yukon and by members on this side of the Legislature that the government proceeded on this.

So it is a priority for Yukoners, it's a priority for members on this side of the Legislature, and it's a priority for the minister. Will that be communicated to the RCMP?

Hon. Mr. Lang: The RCMP has been part of this from day one. We've been working with the RCMP as we expanded on this. So it's not something we have to bring them up to date on; they are aware of this. I lived in a small community in the Yukon for years. Getting individuals, from the community's point of view, to manage the dog or animal issues in the community has been — I don't know what it's like today — but it was not only a very tough job to do, but it was very hard to get individuals interested in doing it, because in small communities this could be a very, very negative thing to have on your resumé.

In saying that, we never, ever trained those individuals. There was no capacity for training. Now, this individual we're going to hire and who is going to be responsible for this act — when you say "responsible for the training", yes, he's going to train these individuals. So not only will people be more comfortable with their responsibility, they will be trained to do it.

I think it is going to be an improvement in all our communities. I think that the RCMP are in every one of our communities, so they are there for support, but in turn our municipalities will get the individual and get the training done to make sure

that we manage this act in a proper fashion. It didn't matter what act we had in place, Mr. Chair, or how tough it was if we had no body to enforce it. There was no phone, Mr. Chair. The incident in Dawson City was an incident where they had no access to communication. The general public doesn't know the difference between the *Pounds Act* and this act. In other words, there is a huge education component to this. I think it will be an improvement in our communities. I think you'll find that the individual we task with these jobs will be comfortable with what they are doing and there will be a new respect in the community for those individuals. I think, from an improvement side of the ledger, this is good news for the community.

We have been reviewing this act for many years. You know, this thing has been an ongoing discussion and consultation with all of the stakeholders, RCMP and individuals throughout the Yukon over the last 36 months, so it's not without its acceptance in the community. Mr. Chair, I agree with the member opposite that this is going to be a tall task for an individual to do, but as we grow into it — it's not something that's going to happen January 1. This is something that's going to take six to 12 months to get up and running. This individual will be tasked with it and we will certainly monitor it through the department to make sure that if this individual needs more help or if something goes off track, we're there to assist. So again, it's a work in progress, but I'm looking forward to this act going through the House at this sitting and getting the individual in place, so he can go out and do the job that this act requires.

Mr. Cardiff: Well, I understand a little bit more clearly now what the minister's intention is. I'd just like to say for the record that we're prepared to support this piece of legislation — the *Act to Amend the Animal Protection Act*. I think what I want to ensure is that there is a training component.

I think the individual, the successful candidate, has a huge task — if that's the first task — to go out and educate the community, to provide training to RCMP officers and to encourage the RCMP to actually enforce the act.

I understand the reluctance. I understand what the minister was saying about the reluctance to become involved in disputes about the control of a person's animals. Compared to other things and other issues that the RCMP have to deal with in communities, animal control issues and animal abuse issues might seem — I hate to use the word "trivial" or "petty" because they're not — but when you put them in the context of some of the other things that RCMP have to deal with in a community, they could be viewed that way. There could be a reluctance to deal with those issues.

So what I'm looking for, I guess, is that there is adequate training and adequate direction to ensure that the provisions of this act are taken seriously by all members of the RCMP, regardless of the other issues they might have to deal with, because I think that they are important.

With that, Mr. Chair, I have no further questions of the minister, just the encouragement to provide that they get on with the job. It sounds like it is going to be a daunting task for the single animal protection officer who is out there to enforce the act, to provide the education services and encouragement in

communities to ensure that this piece of legislation goes forward. I recognize that the minister feels it is going to take time. I just can't wait for the day that it is enforced fully.

I only have one other question for the minister and that would be — I'll wait for the minister to finish being briefed by the House leader.

The only other question I would have for the minister is whether or not there would be any regulations coming. I don't see a provision in here for regulations to be made under this act and I'm just wondering whether or not that's an oversight or whether there is a need for regulations under this act.

Hon. Mr. Lang: I guess the short answer to that is that we're not contemplating any regulations to this act at this time.

Chair: Is there any further general debate? Seeing none, we'll proceed clause by clause on Bill No. 62.

On Clause 1

Clause 1 agreed to

On Clause 2

Clause 2 agreed to

On Clause 3

Clause 3 agreed to

On Clause 4

Clause 4 agreed to

On Clause 5

Clause 5 agreed to

On Clause 6

Clause 6 agreed to

On Clause 7

Clause 7 agreed to

On Clause 8

Clause 8 agreed to

On Clause 9

Clause 9 agreed to

On Clause 10

Clause 10 agreed to

On Clause 11

Clause 11 agreed to

On Clause 12

Clause 12 agreed to

On Clause 13

Clause 13 agreed to

On Clause 14

Clause 14 agreed to

On Clause 15

Clause 15 agreed to

On Clause 16

Clause 16 agreed to

On Clause 17

Clause 17 agreed to

On Clause 18

Clause 18 agreed to

On Clause 19

Clause 19 agreed to

On Clause 20

Clause 20 agreed to

On Clause 21

Clause 21 agreed to

On Clause 22

Clause 22 agreed to

On Clause 23

Clause 23 agreed to

On Clause 24

Clause 24 agreed to

On Clause 25

Clause 25 agreed to

On Clause 26

Clause 26 agreed to

On Clause 27

Clause 27 agreed to

On Clause 28

Clause 28 agreed to

On Clause 29

Clause 29 agreed to

On Clause 30

Clause 30 agreed to

On Clause 31

Mr. Fairclough: I asked the minister whether or not other bills will be amended. Two of them have been listed here. Is there any need for the *Dog Act* to be amended as a result of amendments to the *Animal Protection Act*?

Hon. Mr. Lang: No, the *Dog Act* wouldn't have to be amended.

Clause 31 agreed to

On Clause 32

Clause 32 agreed to

On Clause 33

Clause 33 agreed to

On Title

Title agreed to

Hon. Mr. Lang: I move that Bill No. 62, entitled *Act to Amend the Animal Protection Act*, be reported without amendment.

Chair: It has been moved by Mr. Lang that Bill No. 62, entitled *Act to Amend the Animal Protection Act*, be reported without amendment.

Motion agreed to

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

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

Motion agreed to

Speaker resumes the Chair

Speaker: I will now call the House to order.

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

Chair's report

Mr. Nordick: Committee of the Whole has considered Bill No. 62, *Act to Amend the Animal Protection Act*, and directed me to report it without amendment.

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

All Hon. Members: Agreed.

Speaker: I declare the report carried.

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

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

Motion agreed

Speaker: Pursuant to Motion No. 518, adopted by this House on October 30, 2008, this House now stands adjourned until 1:00 pm, Wednesday, November 12, 2008.

The House adjourned at 5:20 p.m.

The following Sessional Paper was tabled November 6, 2008:

08-1-86

Yukon Workers' Compensation Health and Safety Board
2007 Annual Report and Audited Financial Statements (Hart)