

**Yukon Legislative Assembly
Whitehorse, Yukon
Thursday, November 20, 2008 — 1:00 p.m.**

Speaker: I will now call the House to order. We will proceed at this time with prayers.

Prayers

DAILY ROUTINE

Speaker: We will now proceed with the Order Paper. Are there any tributes?

TRIBUTES

In recognition of the Be The Change movement and Stand Up to Bullying Week

Hon. Mr. Rouble: It's an honour to rise in the Assembly today to pay tribute to the Be the Change movement and Stand Up to Bullying Week. This program works to realize a vision in which every child lives in a world where they feel safe, loved and celebrated. The official kickoff for the Be the Change movement is Challenge Day, which took place at F.H. Collins, and for the first time this year, at Porter Creek Secondary, at the beginning of the school year. Students from École Émilie Tremblay were also involved.

On Challenge Day, school staff, adult volunteers and youth facilitators work with an entire class of grade 8 or 9 students to challenge common issues seen in most schools all over the world, including cliques, gossip, rumours, negative judgments, teasing, harassment, isolation, stereotypes, intolerance, racism, sexism, bullying, violence, homophobia, hopelessness, apathy or living up to the expectations of others.

Mr. Speaker, students are encouraged to dream and to create a positive vision for what they want their lives to be like and then act as a catalyst for positive change in schools and communities. After Challenge Day, students are invited to participate in the Be the Change team. The F.H. Collins Be the Change team was responsible for the Campaign of Kindness that took place last May where students tracked their acts of kindness for a week and made conscious efforts to do more acts of kindness than usual.

The Be the Change teams have ongoing activities as well as special events throughout the year. On this Friday, November 21, the Be the Change teams of F.H. Collins and Porter Creek Secondary School are launching the second annual Sea of Pink campaign. The Sea of Pink campaign coincides with international Stand Up to Bullying Day, which marks the end of Stand Up to Bullying Week, November 17 to 21.

People across the territory will be joining millions of others around the world in wearing pink in solidarity against bullying in schools, families and workplaces. F.H. Collins art classes are tie-dyeing pink shirts to lend to students who don't have pink at home. Students are planning pink hair, pink feather boas and pink hats. I see that some members of our Assembly are getting a jump on that today.

The Sea of Pink campaign was inspired by the story of a school in Nova Scotia that stood up for a grade 9 boy who was being bullied after wearing pink on his first day of school.

Other students who became aware of the bullying launched the Sea of Pink campaign and encouraged their peers to wear pink to show their support. With dozens of students wearing pink in the schools, bullies were silenced and the bullied student was empowered.

This year, the Be the Change teams of Porter Creek and F.H. Collins Secondary schools are coordinating their efforts and extending their invitation to participate in the Sea of Pink to other schools and workplaces.

I would like to commend the Be the Change teams and all of the youth who are working for better communities. It is said that the youth of today are tomorrow's leaders. But in fact, these Be the Change teams are already leading our communities in positive change.

In seeing our young leaders, I'm happy to say that the future looks very bright indeed. Some of those bright stars are in the gallery today. I would like to introduce Ms. Christine Klaassen-St.Pierre, the vice-principal for F.H. Collins, and with her are a couple of representatives of the Be the Change team, and they are Breanne Leschert and Nicholas Terry. Welcome to our Assembly.

Mr. Fairclough: I rise today on behalf of the Official Opposition to pay tribute to Bullying Awareness Week. This week brings to the forefront the devastating consequences of a problem that is much more than just kid's stuff and affirms that the destructive behaviour must be stopped.

Bullying and harassment are methods of misusing power to demean, to degrade, to humiliate and to hurt someone. Bullying comes in many forms: physical, verbal, relational, and now rampant on-line among students of all ages.

There are also more subtle ways of bullying, such as isolation and rejection, which occur every day in Canadian schools, extra curricular activities and communities. Bullying can devastate young people, leading to long-term emotional problems. Bullying is an issue that touches all people directly or indirectly, regardless of their age, gender, culture or religion.

Research has shown that approximately 15 percent of a given population in the school or workplace is directly involved with bullying. That leaves 85 percent of potential bystanders as a silent majority.

Bullying Awareness Week is an opportunity to get involved in this issue, not by waiting for someone else to do something, but rather for all of us to work together to prevent bullying in our communities through education and awareness. For far too long, society has seen bullying as a rite of passage, or a normal part of life.

In our schools, every opportunity must be seized to ensure a safe, caring and respectful environment. It is also critical that any incidents of bullying or violence are taken seriously and addressed appropriately. Bullying is not just a school problem; it is also a community problem and we must all be part of the solution. If you see bullying, you have the power to stop it. Youth who bully love an audience. People who stand by and do

nothing make bullying worse. If they support or cheer the aggressor on, they are also part of the problem. We have seen positive changes in society's attitude, but we still have a long way to go. We may never completely eliminate bullying from society, but to do nothing makes us part of the problem. Now is the time to commit to being part of the solution.

The students from F.H. Collins and Porter Creek Secondary are organizing the Sea of Pink as was mentioned to emphasize the importance of taking a stand against bullying at schools, at home and in the workplace. We ask all Yukoners to join with the students to be the change team, by wearing pink on Friday, November 21, in solidarity against bullying. Let us all stand up to bullying and Be the Change.

Mr. Hardy: I rise on behalf of the NDP caucus to pay tribute to Bullying Awareness Week.

I would like to recognize the schools that are involved. They have been mentioned already: F.H. Collins and Porter Creek Secondary. Students are here today representing their schools and leading the effort to deal with bullying, as well as the Yukon Teachers Association with their involvement. There are many many others, not just in Yukon, but in Canada.

It is very timely that it is happening, as we see more and more reports — more exposure to what happens in schools, in institutions, in sports, in any kind of organization where you have somebody or a group of people who feel they can bully. It is also very timely that in this month of November, our attention has already been drawn especially to the violence that is often perpetrated against women and families.

We need to ask these questions: how does that start? Where does it come from? Because that is a form of bullying and abuse, and we have to think — as most of those conflicts come from men — about the physical abuse one human being can put upon others — most often people who cannot defend themselves. How do we deal with that? Where does it come from?

Many times violence, such as beatings, rapes, harassment and psychological and economic control, begins with a child witnessing that same behaviour within the family, in the community or groups they belong to. When a child is an adolescent, the pattern can be very well established and that violence, in their minds, may be seen as acceptable. He or she thinks bullying is simply a mild form of acceptable violence, because they see it happening daily or they are subjected to it, and no one tries to stop it.

Rituals in sports are seen as a rite of passage for young athletes who want to be part of a team. Bullying such as hazing is meant as a way to build the team and to have bonding between its members, but activity expected of someone joining a group that humiliates, degrades, abuses, or endangers them, is teaching the abusers and the abused that it is not frowned upon and is even expected. This kind of bullying has consequences on the rest of life for both the person doing the bullying and the person being bullied. It is not something that any of us should want for our own children or for any others.

There are programs available that teach adults and youth about the deplorable results of bullying. They should be made

readily available to schools, sports groups and any other organizations or group experiencing bullying.

Mr. Speaker, there are many rituals of acceptance that are an important part of growing up in every culture around the world. Birthdays are a very common example of a ritual. Religious rituals come to mind. They are an important part of growing up.

The lesson we should learn from the sad events of recent weeks that we have seen in the papers is that it is time that we make a more creative approach to rituals of acceptance in sports rather than hazing. We can create rituals that bring people in to an organization, make people welcome in our society, and recognize a transformation of a child as they go through the years and mature.

We can bring in good rituals or we can recognize and honour the old rituals that were self-informing, that gave courage and strength and made people feel welcome. Unfortunately, many of those rituals have been lost in our society, and what we have now are demeaning actions and abuse.

We must look at better ways that show that respect and honour to the child or the youth who is eager to please and use his skills and talents or just wants to belong to a group. We have to find other ways. We have to put something in place of the void that exists today and has been filled with violence and destruction that has an impact for so many years in a person's life.

We need to advocate for inclusive rituals rather than the abusive acts our children now endure and we hear about so many times. When that is the case, we will have begun to put a stop to much of the violence that is now senselessly passed on.

In recognition of National Child Day and Universal Children's Day

Hon. Mr. Hart: I rise today on behalf of the government to recognize November 20 as National Child Day.

Monsieur le Président, en cette journée du 20 novembre, je prends la parole pour souligner la Journée internationale de l'enfant.

Today marks the 15th anniversary of the adoption of Bill C-371, the *Child Day Act* by the federal government. When it passed the act, the federal government did two things: it designated November 20 as National Child Day in Canada to promote awareness of the rights of children across this country and it supported the United Nations *Convention on the Rights of the Child*, which was adopted in 1989.

By ratifying the *Convention on the Rights of the Child*, Canada made a commitment to ensure that all children are treated with dignity and respect. This includes giving children the opportunity to have a voice, to be protected from harm and to have their basic needs met.

Mr. Speaker, the Yukon government supports these tenets. All children have the right to have a voice in the matter that concerns them, the right to special education and care, the right to play and rest, the right to health and the right to special protection. The theme for this year is, "The right to protection from sexual exploitation." That we even have to raise this issue is alarming to me, both as a father, as a minister and a citizen of the world. Sadly, however, it is a fact of life that children the

world over, including in our own country, are being exploited sexually. As a government, the Yukon is already taking many steps at the community level to prevent sexual exploitation and abuse of our most vulnerable citizens.

Le gouvernement du Yukon prend déjà de nombreuses mesures, dans les collectivités, pour protéger les citoyens les plus vulnérables de la société contre la violence sexuelle.

We all need to think about how we can help to reduce the vulnerability of children.

Merci, monsieur.

Mr. Edzerza: I rise on behalf of the opposition parties to pay tribute to Universal Children's Day and National Child Day. Both of these days are based on the Declaration of the United Nations *Convention on the Rights of the Child*. It was signed by more countries than any other convention, which shows the broad support and concern for the rights of children.

The theme for this year's National Child Day is, "The right to protection from sexual exploitation." This is a timely theme for the month of November when we direct our thoughts toward preventing violence in families and in the community. Sexual exploitation of children is a worldwide phenomenon. UNICEF estimates that at least one million boys and girls are involved in the sex tourism trade business. Most western countries have made it illegal to engage in sexual acts with children even in foreign countries. Sexually transmitted diseases, including AIDS, are present in many children who are forced into prostitution for economic reasons.

More and more children are being trafficked across national borders and sold in slave markets. Closer to home, child pornography is a problem. Pedophiles use the Internet to trap young boys and girls into meeting and then being exploited. Prostitution rings of boys and girls are increasing in Canadian cities hand in hand with the selling of drugs.

In paying tribute to these days dedicated to children, we commit ourselves to treat all children with dignity and respect.

It is with regret that we must acknowledge that the right of protection listed in the *Convention on the Rights of the Child* is not the privilege of all children in the Yukon. Young boys are being used at this moment for sexual favours in exchange for a place to sleep out of the cold. Children in poverty are neglected in overcrowded homes, having to use unclean water, not having enough to eat because of unemployed parents, and abused by adults who are suffering with addictions.

It is within our power to control much of the sexual exploitation of children by passing and applying legislation. But sexual exploitation is largely the result of economic disparities in society and the ever-expanding gap between the rich and the poor. We must address the underlying economic causes of sexual exploitation of children before we can say that we are paying a true tribute to children, and protecting them as much as they deserve.

Speaker: Are there any further tributes?
Introductions of visitors.

TABLING RETURNS AND DOCUMENTS

Speaker: The Chair has for tabling the annual report of the Yukon Human Rights Commission for the year ending March 31, 2008.

Are there any further returns or documents for tabling?

Mr. Hardy: I'd like to table the report on the audit of the Pharmacare and extended benefits program, and the report of the audit of contracts.

Speaker: Are there any further documents for tabling?
Are there any reports of committees?

REPORTS OF COMMITTEES

Hon. Ms. Horne: I have for tabling the final report of the Select Committee on Human Rights.

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

NOTICES OF MOTION

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

THAT this House urges the Yukon Party government to fulfill its responsibility to properly maintain the Shakwak section of the north Alaska Highway to acceptable safety standards by stepping up the existing rip-and-reshape program to ensure the section north of the Duke River bridge to the Alaska border is resurfaced in its entirety within each four-year period, and to make available the proper resources to highway maintenance crews so they can ensure, at minimum, this international highway meets acceptable standards of public safety protection at all times.

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

THAT this House urges the Yukon government to work cooperatively with the City of Whitehorse, Yukon Housing Corporation, Yukon College, and Whitehorse Housing Authority to address the public transportation needs of the senior citizens residing at 600 College Drive by:

(1) upgrading the property maintenance program at 600 College Drive to meet public transportation accessibility standards;

(2) extending the public bus service to include the location of 600 College Drive as part of the regular bus schedule; and

(3) installing a bus stop at the entrance to 600 College Drive.

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

THAT this House urges the Yukon government to post on the government Web site and table in the Legislative Assembly in a timely fashion all internal audits done on government departments and services.

I also give notice of the following motion:

THAT this House urges the Minister of Environment to provide the House with an update on actions completed as part of the Government of Yukon's climate change action plan prior to the all-party delegation's departure to United Nations Climate Change Conference in Poznań, Poland.

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

THAT this House urges the Yukon government to direct the steering committee for the consultation on the findings and recommendations of *The Yukon Health Care Review* report to investigate and listen to recommendations on savings and efficiencies that can be realized in the Pharmacare system, such as:

(1) negotiating a new agreement between the Yukon government and the Pharmacy Society of the Yukon which reduces the markup rate on the cost of drugs;

(2) implementing new strategies between pharmacists, prescribing physicians, and the Government of Yukon which improve the cost-effective delivery of the Pharmacare and extended benefits programs;

(3) establishing appropriate procedures for verifying claims and approving payment within the finance, systems, and administration branch of the Department of Finance;

(4) providing adequate software for the Pharmacare system;

(5) assuring that the Pharmacare and extended benefits programs have systems for reporting information to internal and external users; and

(6) implementing a policy of auditing pharmacies to recover funds and to deter potential abuse.

I also give notice of the following motion:

THAT this House opposes the permitting of coal-fired power projects anywhere in the territory before Yukon people have been fully consulted on the acceptability of such activity, or before a comprehensive regulatory regime is in place to safeguard Yukon's people, wildlife, and natural environment from the negative impacts of coal-fired projects, including safe and effective means of dealing with what has been described as the dirtiest method of energy production on earth.

Speaker: Are there any further notices of motion?

Hearing none, is there a statement by a minister?

This then brings us to Question Period.

QUESTION PERIOD

Question re: Contract audit report

Mr. Mitchell: Mr. Speaker, the second objective in the *Report on the Audit of Contracts* was, "to evaluate the extent to which contracting practices and activities in departments complied with the contracting authorities." Here, from the report, are the facts: "It is our conclusion that the fundamentals of the current contracting process are not designed to encourage competition, fairness or transparency in the process. We found very few instances where contracts had clearly fulfilled the requirements of the criteria."

That is a fact, Mr. Speaker. What is the Premier going to do about the fact that the contracting process is not designed to encourage competition, fairness or transparency in the process?

Hon. Mr. Fentie: I think the salient point, Mr. Speaker, is what the government has already done and the information that the Leader of the Official Opposition has just shared with this House is the direct result of the actions taken by this government in ensuring that these types of audits were taking place and dealing with the issues that the government and its departments must deal with.

I think it is fair to say that we all recognize that the contracting and procurement processes in this territory have been in existence a long time and the government saw fit early on its mandate to start addressing these areas. The information the member has is the direct result of the action taken.

Thank you to the internal audit committee.

Mr. Mitchell: Well, Mr. Speaker, we thank the internal audit committee too, but the facts are this government has been in place for six years and the internal audit committee is still finding these problems. Here are the facts. The report goes on to say: "Overall, 65 percent of all the sampled service contracts issued by the government did not meet one or more of the compliance requirements, as stated in policy." "We reviewed 40 contracts that should have been subject to competitive bidding under normal circumstances. As indicated in the table, we identified 12 contracts where we were concerned about the defensibility of the exemptions from competitive bidding that were given to these contracts." "The occurrence of claimed exemptions without full ministerial justification continued to occur despite a letter issued on April 12, 2005 by the Chair, Audit Committee..."

Will the Premier explain why departments do not give justification through ministerial approval rather than just claim exemption?

Hon. Mr. Fentie: I think the explanation is clear. There are problems in the contracting and procurement processes. They've been long-standing and this government has taken action. That action is going to result in addressing the issues with the pertinent solutions. That has been happening under this government's watch. When you consider that the department is engaged in great detail on modernizing and updating our procurement and contracting process, when you consider that we've taken a special operating agency and put it under the auspices, management and control of a department — in this case, Department of Highways and Public Works and its deputy minister, directors and managers within the department — these are but a few examples of the actions being taken by the government to address long-standing issues in contracting and procurement.

Mr. Mitchell: What this year's report indicates is that this government has not taken effective action or it wouldn't continue to cite these problems. The Premier's answers are normally as hard as steel, but today they sound more like soft lead. I will continue with the facts, Mr. Speaker.

I quote: "Many of the contracts we encountered whose purpose was to upgrade and maintain software systems could not be completely justified for sole-sourcing. Typically, the

program or project manager would claim that there was only one possible supplier.”

Yet another fact from the report: “The easy circumvention of this principle erodes the contracting process and the government’s objectives that underlie the contracting policy.”

What does this government intend to do to actually ensure that it receives the best value for the public money it spends?

Hon. Mr. Fentie: At the risk of being repetitive, the answer is essentially the same: the government is taking action. The member is once again demonstrating this propensity to single out government employees and what they are doing in carrying out their role and responsibility.

Furthermore, the member cited what I believe to be the IT sector — information and technology — and if the members had looked into the budgets over the last number of years, they would have seen an annual allocation toward the IT requirements — the information and technology requirements within the government. I think it’s fair to say that this government recognizes that we must do what we can to ensure we maximize the retained benefits of the expenditure of government for Yukoners.

The Leader of the Official Opposition may take issue with that and want to see a massive amount of leakage flowing from this territory when it comes to investment of government fiscal resources, but we as a government recognize that there’s great value in making every attempt to ensure a maximum of retention when we invest hard-earned dollars.

Question re: Contract audit report

Mr. Mitchell: At the risk of being repetitive, I’ll repeat it again. The report indicates that the political oversight is not being effective — not the officials, the oversight. Ministers often like to refer to their due diligence in matters involving their departments. Here’s what the *Report on the Audit of Contracts* had to say — these are the facts, Mr. Speaker: “Thirteen of the 40 bids reviewed failed to leave an adequate audit trail that would prove the selection of the winning bid was carried out with due diligence. ... We found four contracts that were clearly intended as grants for contributions, but apparently these have been put into a commercial contract format. In one case there was not even an invoice from the recipient, and payment was released on the basis of an e mail rather than the receipt of an invoice.”

The facts are very clear: this government cannot run a business — and the expenditure of public money is a business.

When is the Premier going to start practising some due diligence and restore accountability to government contracting?

Hon. Mr. Fentie: Well, you know, Mr. Speaker, this is a serious matter to imply that those officials and employees charged with the role and responsibility are not being accountable. I mean, this is the same member who referred to Finance officials as being “overzealous” and essentially incompetent. We don’t do that as a government, Mr. Speaker.

I know the member is fond of reports and selecting certain information out of reports. At the end of the day, the member is in opposition and doing what I would call a substandard job in holding the government to account or anything else to account. What we are doing is modernizing our procurement and con-

tracting process, which is exactly what we should be doing under the circumstances and with all available information that we have been able to ascertain in doing the audits that this government has been conducting. It is this government conducting those very audits.

Speaker’s statement

Speaker: Before the honourable member asks his next question — I interjected yesterday with regard to personalizing debate. Now the Chair is not comfortable with the way this debate is going, and eventually the Chair will be forced to get involved and interject at a time when the members are speaking. I don’t wish to do that so please, honourable members, keep that in mind.

The Leader of the Official Opposition has the floor.

Mr. Mitchell: Mr. Speaker, it is a serious matter to imply that it is the fault of the officials, and I hope that is not what the Premier is implying, because we are making it clear that we are holding this Premier responsible and he needs to take ownership.

More facts, Mr. Speaker: “Work should not commence before a contract has been entered into and work should not commence prior to authorization pursuant to Section 24.

“Of the 136 sample contracts reviewed, 72 (or 53 percent) of these were signed only after the stated commencement date.

“Of the 72 exceptions, we found that six of these showed evidence that work started before a valid contract was in place. None of these six exceptions were emergency situations ...”

Mr. Speaker, Rick Mercer of CBC Television would love this, “Hi minister, want to build that bridge? Fine, I’ll start tomorrow. Send me a contract when you get around to it. Bye.” Unfortunately, Mr. Speaker, this is not a comedy script. This is how this Yukon Party government is doing business. Precisely how is the Premier going to deal with this?

Hon. Mr. Fentie: Well, we are dealing with it, Mr. Speaker, and we’ve already articulated that for the member opposite. But, you know, Mr. Speaker, I think the Official Opposition, in its desperation and haste to criticize, ignores the fact that there is a lot more going on in dealing with contracting and procurement than the snippets that the member is pulling out of a report. So let’s go over the issue. In the first instance it is this government that ensured that these audits began taking place. It is this government that handed, to the Auditor General, requests for her and her office to audit departments. It is this government that undertook the process to look into the Energy Solutions Centre, a forensic audit in Dawson City and the issues around the Mayo-Dawson inter-tie.

I am demonstrating, Mr. Speaker, on behalf of this Assembly and for the benefit of the Yukon public that the government is doing exactly as it is accountable to do. We are taking action and the first step of that action is to trigger these audits, to have these thorough assessments and get on with the job. We don’t take this as a comedy at all. We take this as a serious matter. It is too bad the Leader of the Official Opposition doesn’t.

Mr. Mitchell: Mr. Speaker, the opposition is not desperate; what we are is determined — determined to hold this Premier and this government responsible and accountable.

More facts, Mr. Speaker: “Forty-six contracts we sampled involved change orders. Twenty of these did not satisfactorily meet the conditions that could reasonably support a change order.” “Six failed to explain the reasons for the increases in cost. One of these gave the reason ‘additional hours required.’ Two were created to extend the deadline for contract completion, but were signed off after the new deadline.” “Four related to a totally different job. These change orders should have been set up as whole new contracts. Three clearly did not meet the requirements as described in the contract regulations.

Mr. Speaker, these types of non-compliance with the government’s financial policies increase the risk that payments will be approved for services that were not rendered in full as per the contractual agreement. For the sixth time, when and how does the Premier propose to actually address this contracting process that has clearly spun out of control under his watch?

Hon. Mr. Fentie: Well, for the sixth time, and probably the hundredth or thousandth time, the government will continue to present the facts on all issues for this House and for the benefit of the Yukon public. In holding a government to account, Mr. Speaker, we can demonstrate — and it’s in the pages of *Hansard*; there are reams and reams of examples in the pages of *Hansard* — how the accountability that the members speak of is done with information that is entirely incorrect. That’s not holding anything or anybody to account.

So, for the member’s benefit, we’ve articulated many times what the government is doing. It first began by getting the audits underway to ferret out this information and the areas of problem and concern. It has proceeded with the modernization and updating of our contracting and procurement process. It has taken the special operating agency of Property Management, removed it from that stand-apart situation that it was in, put it under the guidance and the auspices of a department and a deputy minister, where all the matters the member speaks of — financial, law, regulation, policy, the GAM policy, regulatory and contract requirements — are being addressed within the department where they should be addressed. These are some of the examples that the government has undertaken, so for the member’s benefit, if he can’t grasp it today, we can provide him copies of *Hansard* tomorrow.

Question re: Contract audit report

Mr. Hardy: Well, you know, one of the Premier’s favourite expressions is, “Let’s deal in facts.” Actually, I think he should be saying, “Let’s make a deal,” the way this audit points to the way this government has been operating. But another one of his favourite expression is “under his watch”, and we’ve heard it already a couple times today. Okay, under his watch, government contracting activities are a total mess; the internal audit states this point categorically. Of the 136 contracts it reviewed, 36 “could not clearly demonstrate value for money.” So what’s happening over here? After six years, what is actually happening? The Premier cannot stand there and say now it’s being addressed. For six years he’s known this and nothing has changed. If anything, it has probably gotten worse. So why has he done so little on this file in those six years?

Hon. Mr. Fentie: I guess the response for the Leader of the Third Party would be, does he consider all the work the

Auditor General has done to provide this information to this House, to its members, to the Yukon public as “doing little”? Does he consider the internal audits we have directed take place and all the information that’s coming out of those audits “doing too little”? Does the member consider the significant moves in modernizing and updating procurement and contracting “too little”? Does the member consider putting the Property Management Agency under the guidance and control of a deputy minister and a department, and all the regulatory and policy requirements therein, “too little”?

I know it’s very difficult for a government to please the opposition. We could do handstands over the moon and they’d find fault with that. The government will continue on with doing what it’s supposed to do, and it begins with those audits and providing the members opposite the information.

For them to form opinions from that information is entirely their prerogative. It doesn’t mean their opinions are relevant or correct.

Mr. Hardy: Yes, the Premier is flying high there. Mr. Speaker, we on this side of the House are saying this government’s leadership is doing too little. Surely the government has known for a long time that its contracting policies and processes are deficient. Maybe he was not paying attention when the Auditor General of Canada came to the same conclusions, when she did an audit of the contracts. The latest audit found very few cases where contracts had clearly fulfilled all the compliance requirements under the existing rules — that was over a year and a half ago.

Many were signed and approved after their stated commencement dates, had incomplete statements and work, did not contain standard terms or conditions or, where the standard terms and conditions existed, they were not enforced. Change orders also raise serious issues as more than 40 percent of those examined were of questionable nature or not fully justified in the file documentation.

This government is guilty of being either willfully ignorant, incompetent —

Speaker: Order please. Ask the question, please.

Mr. Hardy: Yes. Which is it?

Hon. Mr. Fentie: It’s very difficult to respond to the latter portion of the member’s question. The member also referred to “leadership”, so let’s try to respond in that manner.

Leadership would require and dictate that the government engage the Auditor General. Leadership would require and dictate that we would make sure our internal audit processes looked into all these matters. Leadership would require that we do appropriate things in light of the information and some of the circumstances that come out of these processes, but leadership also requires that we keep Yukoners working, keep our contracting community working, doing the best we can to build Yukon’s future, its infrastructure, providing benefit for Yukoners. That’s what leadership is all about.

Leadership also requires the ability to absorb criticism, no matter how empty or irrelevant it is. That’s what this government is demonstrating — leadership.

Mr. Hardy: Leadership requires a little bit of humbleness, a little bit of respect for other people’s opinions; leader-

ship requires the ability to recognize when you've done something wrong or have been negligent in an area to admit to it and move forward to address that. That's what real leadership is about.

In 2006-07, the government awarded 4,245 contracts valued at \$374 million. That's a lot of money so you would think it would do its due diligence and oversight to make sure the contracting rules were followed to the letter and the public's money was spent prudently and wisely.

I think the Premier owes the Yukon people an apology for wasting so much of their money. I would like to see real leadership. Will he do that?

Hon. Mr. Fentie: This is a good one. Being open and transparent as a government, the member opposite obviously takes issue with and finds fault with. The member just said that there has been a waste of money. Does the member consider a 67-percent increase in health care a waste of money? Does the member consider the increase in the number of teachers and education assistants a waste of money? Does the member consider that we, in our education system, have one of the highest per student investments in the country? Does the member consider that the investments this government has made have improved our infrastructure across the territory, including enhancing our ability to produce hydroelectricity and reducing our carbon output? That's a waste of money? Does the member consider that the Yukon has now reached a level of fifth place in the world when it comes to the attractiveness of our mining sector due to our potential, our assessment processes and the investments we've made there? That's a waste of money? Does the member consider the status of the Yukon today, nationally and internationally, a waste of money? He can explain that himself.

Question re: First Nation apology ceremony

Mr. Hardy: As per our rules, I cannot respond.

When the Harper government officially apologized to Canada's aboriginal people for the horrors inflicted on them by the residential school system, I watched with mixed emotions. I saw the proceedings, along with the Premier and the Leader of the Official Opposition, on the TV in the gym at the Council of Yukon First Nations building, which was formerly the student hostel. Actually, it was where my mother used to work as well, so it was interesting going back into that building.

Afterwards, some members of the audience got up and spoke eloquently and emotionally about their experiences or the experiences of their parents and grandparents in the residential school system. A great many Yukoners were directly and indirectly affected by the physical, mental and sexual abuses that occurred in those awful places.

In June, I wrote letters to both the Premier and Leader of the Official Opposition to seek their support for inviting Yukon First Nation leaders and citizens into this Chamber and holding a similar apology ceremony here. Why did the Premier not even bother to respond to my letter?

Hon. Mr. Fentie: Well, you know, when we consider what has transpired in history and how our national government, our federal government, has clearly taken the responsibility for this matter, under the Prime Minister's leadership and

direction, a full apology by our national government on behalf of Canadians and this country has been tabled.

Mr. Speaker, we feel that this is a very historic and required point in time.

I know the member opposite has views on this matter, but to suggest that we should respond to correspondence in regard to this matter is one thing — we as a government recognize what our national federal government has done, what the Prime Minister of this country has done, and understand fully that that apology was on behalf of all Canadians. I'm sure the member wants to have further discussion on this issue. The third party has a motion tabled on the Order Paper that speaks specifically to this very issue.

Mr. Hardy: Mr. Speaker, the legacy of residential schools casts a very dark cloud over the Yukon. There were several such schools in this territory and just beyond its borders and they changed the lives of thousands of people for the worse.

Offering these former students and their families a formal apology in their homeland, the place where they have lived for thousands of years, would greatly help them. In my opinion, it would help them in their journey of spiritual healing and reconciliation if they heard from us as well.

It would bring some degree of closure to them as well as acknowledge the direct role this territory played in this very, very sorry saga.

Why won't the Premier let the members of this House apologize formally and officially to Yukon First Nation citizens for the horrors they suffered at residential schools?

Hon. Mr. Fentie: Mr. Speaker, I'm going to have to suggest to the Leader of the Third Party that he not get so far ahead of himself. The government side has not interfered in any way. The member has a motion on the Order Paper. If the member wants to debate and discuss this matter further on behalf of this Assembly, that's a choice the member can make. That's the process; it's called democracy.

But I'm going to have to repeat for the member: I was at the Council of Yukon First Nations when the apology was delivered live. I listened to what many First Nations said after the apology. I understand that this issue is such a difficult issue for First Nations in the territory and in the country to deal with, but I think what is critically important is the fact that our Prime Minister in this country, in the federal government, on behalf of all Canadians, has delivered a sincere and genuine apology to all aboriginal Canadians in Canada. That's priority one.

If the member wants to debate further his motion, they can call it when their day arrives.

Mr. Hardy: Mr. Speaker, the Premier is not listening. We are having a debate right now — right now in the Legislative Assembly. That motion is another part of that if we have to get to that. If a decision is made today, we may not have to call that motion; we can move forward with setting up an apology structure in here to have First Nations in here and hear us.

Jack Layton, during that apology on the federal level said, "The destruction of family and community ties, the psychological wounds, the loss of language and culture and substan-

dard education all led to widespread poverty which remains rampant in aboriginal communities today.”

Former residential school students are leaving us at an alarming rate, Mr. Speaker. We're running out of time. The time to apologize is now; we can do it here. We can't wait forever.

What's wrong with following the lead of the federal government and the Prime Minister and say, “We're sorry for forcing you, your parents or your grandparents to attend residential schools against their will and at great cost to your family and cultures.”?

Hon. Mr. Fentie: The member is inferring that there's something wrong with that and I fail to recognize how the member comes to that determination. I don't think anybody in this Assembly has any opinion or view that there's something wrong with the apology. That's completely in contradiction to what actually has taken place.

Question Period is part of our democratic process. The member opposite now is trying to use Question Period so that he can advance an issue that he has tabled before this House. The government side is more than willing to debate the member's motion. I think our response today in Question Period is very valid. We recognize what the Prime Minister has done on behalf of all Canadians — that would include us.

I also listened to the many First Nations who responded after that, over at the Council of Yukon First Nations, who were quite explicit in their view that the apology should be accepted and we must move on. We must move on building this country, which is a process that is all-inclusive, and I think that's where the country is going. Great progress has been made. In the Yukon today, our final agreements, our treaties, are a demonstration of that progress. So I urge the member to bring forward his motion.

Question re: Trapper support program

Mr. Elias: I have some questions for the honourable Environment minister. We have 334 traplines and 17 group trapping areas in the Yukon. We cannot put a value on the skills, ability and knowledge of Yukon trappers who know the land like the back of their hand. Over the past 25 years, Yukon's fur harvest has fluctuated in value between \$200,000 and \$1.7 million annually, with economic spinoffs of \$2 million to \$3 million. The economic, social and cultural value of trapping is significant here in the Yukon. It is a winter revenue source in smaller communities when unemployment is traditionally high.

A trapper support program to aid the individual trapper with the high costs they are faced with, including fuel costs, would go a long way in helping out the industry. Is the Minister of Environment prepared to implement the trapper support program here in the Yukon and truly diversify our economy?

Hon. Ms. Taylor: I thank the member opposite for that constructive question. This Government of Yukon appreciates the work of the trapping industry toward a very stable, sustainable and diversified economy. As the member articulated, there are a number of challenges that face the trapping industry these days and we as a government have gone to work through renewable resource councils, through the Yukon Trap-

pers Association, through trappers themselves and through the Yukon Fish and Wildlife Management Board to see what we can do to be supportive of the trapping industry.

We continue to fund trapper training as demonstrated through the Yukon Trappers Association. In previous years we funded the Klondike Soft Gold fur program, a program implemented and created by the Yukon Trappers Association. We'll continue to provide support and we'll continue to work to address these challenges.

Mr. Elias: Getting Yukoners out on the land and trapping during the winter months is great for fish and wildlife management and I'll provide the minister with one example of what I'm talking about. Yukoners have noticed an increase in beaver dams being built across creeks around the Yukon. What that does is block the fish from getting to their spawning grounds, and that includes salmon.

Some of the objectives of a trapper support program would be to increase financial returns to the trappers, promote and recognize excellence in fur harvesting and pelt handling, encourage the participation of our youth and be market-responsive and market-driven.

I'm trying to create a situation where the trapper wins and to truly diversify and strengthen our Yukon economy. Will the minister at least give the proper direction and resources to the Department of Environment to conduct a trap-exchange program and begin the development of a trapper support program?

Hon. Ms. Taylor: The Yukon government, through the Department of Environment and in collaboration with the Department of Economic Development is doing just that: we are working in collaboration with Yukon Trappers Association, with the Yukon Fish and Wildlife Management Board and the renewable resource councils, which play an integral role in the growth of the trapping industry.

Work has been ongoing over the last couple of years on a Yukon fur strategy. That particular strategy has been identified as a priority for the growth and sustainability of the trapping industry. We are very pleased to provide support that has resulted in phase 1 of this particular project, and we look forward to working with these respective stakeholders on the continuation of that.

Mr. Elias: There are examples around our country of Canada that are working and I'll try to articulate one of them here. I've been advocating for a trapper support program and trap exchange as a realistic and responsible approach to revitalizing our trapping industry. If the Yukon Liberals were in government, we would find a way to get this done.

This is the kind of initiative that could be a part of a pan-northern vision for a stronger north and a better Canada with our sister territories. The Genuine Mackenzie Valley Furs program in the Northwest Territories provides a comprehensive fur marketing service and security for the trapping industry. So you can see there are successful examples out there that can help build a more prosperous Yukon, and we could speak with one northern voice and move forward in partnership in the fur industry, our oldest industry here in the Yukon.

Is the minister prepared to implement a trapper support program here in the Yukon to truly diversify our economy?

Hon. Ms. Taylor: We will continue to work with the Yukon Trappers Association. We will continue to work with the Yukon Fish and Wildlife Management Board. We will continue to work with the renewable resource councils throughout the Yukon to ensure we do have a sustainable trapping industry — one that flourishes and one that grows.

We recognize there are a number of challenges with respect to the trapping industry today. Those challenges provide and command attention by all respective partners at the table. We are very much committed to doing that, including the development of a Yukon fur strategy that will identify the state of the industry, an analysis of what other jurisdictions are doing — such as what the member opposite just referred to — and looking at other geographic regions throughout the world as to what successes they have garnered and what we can do.

We're very pleased to provide support in the form of trapper education courses. We will continue to work with the Yukon Trappers Association and trappers territory-wide to identify what it is that we can do, what the priorities are, how we can move collaboratively together. Certainly, it respects the full gamut of all respective stakeholders.

Speaker: The time for Question Period has now elapsed.

INTRODUCTION OF VISITORS

Mr. Inverarity: I would like to ask the House to welcome Melissa Atkinson, chair of the Yukon Human Rights Commission, who is with us this afternoon.

Applause

Speaker: We will proceed to Orders of the Day.

ORDERS OF THE DAY

GOVERNMENT BILLS

Bill No. 58: Third Reading

Clerk: Third reading, Bill No. 58, standing in the name of the Hon. Mr. Cathers.

Hon. Mr. Cathers: I move that Bill No. 58, entitled *Act to Amend the Quartz Mining Act*, be now read a third time and do pass.

Speaker: It has been moved by the Minister of Energy, Mines and Resources that Bill No. 58, entitled *Act to Amend the Quartz Mining Act*, be now read a third time and do pass.

Hon. Mr. Cathers: Thank you, Mr. Speaker. It is a pleasure to rise here in third reading of the *Quartz Mining Act*. I will be brief in my closing comments as we have already discussed this legislation — a significant amount both in second reading stage and in Committee of the Whole.

To recap: as members know, this is a time that we need to move forward with this legislation. It is necessary to improve Yukon's competitiveness. The bulk of the language in the *Quartz Mining Act* was developed under federal administration. It was brought over to the Yukon under the mirror-legislation provisions in the devolution transfer agreement.

The language in the *Quartz Mining Act* dates back in most cases to 1923 with some amendments made in 1958. It is very antiquated in nature. Some of the provisions refer to terms that are no longer relevant and create requirements for a change in the length of time, for example, of filing a claim based on increments of 10 miles away from a mining recorder's office. Again, these are provisions that were developed back in the early 20th century that no longer reflect today's needs and create lack of clarity in the process.

Most importantly in amending the royalty rate, the Yukon had the unusual situation of having an uncapped royalty rate whereby the level of the royalty would go up by one percentage point for each \$5 million of profit, as defined by the act. As I've pointed out before, the definition of "profit upon which royalty can be charged" includes more things than would be defined as "profit" under the *Income Tax Act*. Not as many deductions can be made for profit; therefore, it's a broader amount on which that royalty calculation is based.

Because of that uncapped royalty rate, had we not brought forward this amendment to the *Quartz Mining Act*, a large mine coming into production would have ended up paying 100 percent of their profit in royalty. That, needless to say, is a tremendous disincentive to mining investment, because no one is going to invest in any business and see 100 percent of their profits clawed back. What we have done instead is brought forward this amendment through the extensive process that occurred — consultation with the public, consultation with First Nations, consultation with industry and other stakeholders — and we have come up with a 12-percent capped rate which makes the Yukon very competitive. It is one of the lower rates in the country in terms of royalty, but it is not the lowest in that area. It is designed to be competitive but still provide benefit in that area. As I have noted, under the devolution transfer agreement, the Yukon receives a maximum of \$3 million from revenue from all resources in any given fiscal year; therefore, increasing the royalty rate would provide no benefit to Yukon citizens. It would not increase the benefits and royalties going to First Nations. It would simply flow that increased money to the federal government. So therefore, by capping the royalty rate at a very competitive 12 percent, we have taken a significant step for industry, as recommended by the Yukon Minerals Advisory Board and others within the industry and as we heard through the extensive consultation process.

Other changes surround the administrative areas, such as the current requirement — which this legislation would change — for claim posts to be four inches wide. That will change it to the requirement for them to be an inch and a half wide, allowing someone to use a milled two-by-two, rather than having to have a specially milled piece of wood that would be four inches wide. It significantly lowers the cost provided to industry that did absolutely nothing to benefit the public good. It simply imposed an unnecessary increased cost on industry and made exploration more expensive, thus allowing them to do less in any given year.

The legislation, once amended, will be consistent with modern industry standards, modernize Yukon's regulatory re-

gime, and be more responsive to the needs of this evolving industry, including protecting public interests in this area.

A number of amendments have been made to the administrative sections, which reflect the realities of today and reflect modern practices since, as I noted, the wording of the bulk of the legislation dated back to 1923, and it is quite simply outdated.

Another area around the resource royalty calculation is the language we inherited from the federal government — language that caused the federal government to spend extensive time in court dealing with cases such as the mine in Faro in an effort to clarify these antiquated provisions. Of course, it is not in the best interests of Yukon citizens or of the industry to have wording that leads to a lack of legal clarity and leads to unnecessary time being spent by both sides doing calculations and time and money spent on lawyers and the court system.

Mr. Speaker, we have dealt with most of this in earlier debate — including the fact that the scope of the legislation review was limited to two specific areas. Looking at other areas of the act would have taken much more time due to the requirements of the successor resource legislation working group process, and would have resulted in us being unable to move forward as we need to now. It would have resulted in two mineral projects that are in the development stages likely not occurring, because they would have a lack of legal clarity around the royalty rate; therefore, we have taken the appropriate action and put forward good, modern legislation at the necessary time. I would urge all members to support it.

Mr. McRobb: I'd like to first thank all those who participated in the process leading to the drafting of this piece of legislation, especially the members of the advisory board and the department personnel. In the future when this legislation is again amended, we would like to see other areas addressed that would further improve this legislation. While the act as amended represents a significant improvement, we would like to see those other areas addressed in the future and we will be voting in favour of this bill.

Mr. Edzerza: I would also like to thank all the people who worked and made the improvements to this bill. The NDP caucus accepts the amendments to the royalty structure of the *Quartz Mining Act* are an improvement but they do not go far enough.

The amendments do not provide clarity for either Yukoners or industry, since a key definition of “value” and “expense” are in the regulations and not the act. The NDP caucus questions whether these amendments actually get the best deal possible for Yukoners. Under the amendments, royalties are to be based on what is called “net profit interest.” This is abbreviated as NPI and has been referred to by critics as “no profit intended.”

Indeed, this has been Yukon's experience. The record shows here in Yukon that a net profit interest royalty system, which is what we've had, has generated absolutely no royalties since Faro and the royalties at Faro were generated under a specific agreement with the federal government and often came

into court and were challenged in court by mining companies. We argue that Yukoners would get a better deal for their non-renewable mineral resources if the royalty structures were based, at least in part, on net smelter return. This means royalties calculations would be based on the actual amount of product that the mine produces and sells. In other words, it's a portion of the income before deductions. Economic activities by the current generation must not compromise the ability of future generations to meet their needs and goals. Does this bill pass that test? We have serious concerns that it does not.

The NDP also believes the *Quartz Mining Act* needs further amendments. The free entry system by which mineral tenure is granted needs to be restricted and balanced with land use planning and other values of our land and environment. While the NDP will support this bill today, we will continue to advocate for more progressive legislation in order to maximize benefits to Yukoners for removal of their non-renewable mineral resources.

Thank you, Mr. Speaker.

Speaker: If the member speaks, he'll close debate. Does any other member wish to be heard? Minister, please.

Hon. Mr. Cathers: I thank members for their comments here. I am pleased to see that the Liberal Party in particular has had a change of heart on this legislation, after the comments made by their critic in debate that this legislation was just dishing it all up for one group, that being the mining industry. And I'm pleased to see that they've recognized the error of their ways, apparently, and have indicated they'll indeed be supporting this legislation — though I hear some dissent in their ranks, so perhaps they will be voting against it, but I do hope they recognize that this is a necessary step forward for Yukon citizens.

In answer to questions raised by the Member for McIntyre-Takhini in his closing comments, I would note again, as I indicated in a very productive debate, in fact, with his colleague, the Member for Mount Lorne, that the reasons for not moving to a changed royalty calculation — the split calculation advocated for the Member for McIntyre-Takhini of having both a net profit royalty and a net smelter royalty — is the fact that we are reflecting what the standard is within Canada. Those such as B.C., who have moved to a split system deal with a significant increase in administration. As I have pointed out in debate, B.C., although they do allow the net smelter calculation to result in profits paid earlier in the mine's life, those profits paid can be deducted once the mine actually sees a profit and is paying on the net profit calculation factor.

Therefore those factors — and the other factor in the case of British Columbia that a company is allowed to write off 100 percent of its capital costs in any year after it has come into production — and a number of changes in calculation that we have dealt with in a much more straightforward process — costs can be amortized over a period of years in the write-down of capital investment. It is still a very competitive regime but it does not allow as much room for deductions as the B.C. system has. We in fact reached the same end outcome as British Co-

lumbia of having royalties come in at an earlier point in time, but we have gotten away from some of the challenges and flaws they have seen in their system, which the Member for McIntyre-Takhini appeared to be advocating we move to.

I recognize the intent but again, as I indicated and his colleague, the Member for Mount Lorne, recognized, making that move would not be the wise one. We have followed Canadian standards and have reflected on the experience of other jurisdictions to come up with a system that maximizes benefits to Yukon citizens but is also clear, fair and competitive for industry that's investing.

The Member for McIntyre-Takhini in his closing comments noted that the Yukon has not seen any royalties since Faro. I would point out that the Yukon has never received a mining royalty because, until the devolution transfer agreement of 2003, we did not receive any portion of resource royalties. There has been no mine brought into production on Crown land since that time, since Sherwood Copper's Minto project is on First Nation land and pays royalties to the First Nation.

The very concerns the member noted, as far as the issues with Faro's royalty, are the reasons why the royalty regime is being modernized in this area. Unfortunately, the member's conclusions about the way to address it do not reflect best industry practice. They do not reflect what is an appropriate regime.

I thank the officials of Energy, Mines and Resources, the Yukon Minerals Advisory Board, industry participants and all who contributed to the process, including communities, First Nations and conservation groups for their comments and perspective on this. The end outcome is a good piece of legislation. It will give us a piece of legislation that compares very well nationwide and a system that ensures the Yukon remains at its high level of favour as a good place to invest for mining and ensures that Yukon will continue to have the benefits received from such successful projects and from responsible, sustainable resource development.

With that being said, I thank members for their attention, and I thank those who support this legislation for that support. And with that, I will close and look forward to what I hope will be the passage of this legislation.

Speaker: Are you prepared for the question?

Some Hon. Members: Division.

Division

Speaker: Division has been called.

Bells

Speaker: Mr. Clerk, please poll the House.

Hon. Mr. Fentie: Agree.

Hon. Mr. Cathers: Agree.

Hon. Ms. Taylor: Agree.

Hon. Mr. Rouble: Agree.

Hon. Mr. Lang: Agree.

Hon. Ms. Horne: Agree.

Hon. Mr. Hart: Agree.

Mr. Nordick: Agree.

Mr. Mitchell: Agree.

Mr. McRobb: Agree.

Mr. Elias: Agree.

Mr. Fairclough: Agree.

Mr. Inverarity: Agree.

Mr. Cardiff: Agree.

Mr. Edzerza: Agree.

Clerk: Mr. Speaker, the results are 15 yea, nil nay.

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

Motion for third reading of Bill No. 58 agreed to

Speaker: I declare that Bill No. 58 has passed this House.

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. 59, *Forest Resources 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.

Bill No. 59 — *Forest Resources Act* — continued

Chair: The matter before the Committee is Bill No. 59, *Forest Resources Act*.

Hon. Mr. Cathers: It was a pleasure engaging in debate earlier on this legislation with the Member for Mount Lorne, who I believe still has some questions. I appreciate the fact that the member took a departure from the practice of previous members and was actually asking questions about the legislation and engaging in a debate. I hope that trend will continue today. With that, I would turn it over to the Member for Mount Lorne.

Mr. Cardiff: I do have a few questions still for the minister. In the discussions we were having earlier this week on Monday around the *Forest Resources Act*, the Member for McIntyre-Takhini cited the letters from six First Nations who had made comments on the act. The minister indicated that those letters and that input had been received at an earlier stage. I am hoping that the minister didn't think that because they were received at that stage that there was something wrong or

they were less worthwhile comments than on the actual draft act.

I'm wondering a couple of things: number one, can the minister tell us if the concerns raised in those letters were addressed in Bill No. 59 — whether they are in there?

And the other question I had was — to go back to some of the discussion we had last week as well — in the Blues here, on page 3372, at the bottom, the minister says, "The forest resource management plans do guide the annual allowable cut" that will be established. What I'd like the minister to tell me is: where does it actually say that in the act? I realize that the annual allowable cut is not entrenched in the act, and the annual allowable cut probably shouldn't be. It should probably be in the regulations because the minister is saying it has to be guided by forest resources management plans, and we don't have forest resources management plans for every area, and so I'd like the minister to tell me where in the act it says that the management plans guide the annual allowable cut.

Hon. Mr. Cathers: Mr. Chair, there's reference to this in section 92(f). The question I'm answering of the Member for Mount Lorne is a question about where it refers to the annual allowable cut being set based on forest management plans. It is in a general section related to the fact the regulations will be developed. It's under section 92, referring to regulatory powers and 92(f), establishing the process for determining the annual allowable cut and apportionment of the cut under subsections 16(1) and 16(3) of the act. So those sections also refer to it.

Most of this will be in regulations, as the member was recognizing, I believe, in his question. Because the issues related to the levels of the annual allowable cut are linked to the forest management plan, that work, which has been completed in a few cases, needs to be done in other areas. The work that is in the plan needs to be done to deal with referencing the planning, the amount of harvest, identifying various issues related to the area and anything related to sensitivity, protection and so on and so forth, which is reflected in the plan. All these things need to be dealt with in that planning exercise. That is something that the regulations and the act are designed to enable and to set. The regulations that will be set will reference when it is set and when it's put in place. Of course, we can't go beyond what there is regulatory authority for.

There is primarily, in the act, a power to establish that, but as I indicated to the member in debate earlier, the forest resource management plans are a very key component of ensuring this legislation works. In cases where it has been done, of course those are replaced, and where it has not been done, it will still need to be determined. This is primarily enabling within the legislation. Details will be provided primarily within regulations, but the actual specifics for any area will be very dependent on that individual forest resource management plan.

The Member for Mount Lorne was also asking about letters received from First Nations and when they were received. He noted that I had mentioned they were received in an earlier phase of consultation. He was questioning whether that meant, as the member put it, "the input was not considered as important at that stage."

What I would emphasize to the member is that most of the issues identified in the letters from First Nations — which did vary to some extent, but had some similarities — were indeed addressed within the legislation or are set out in the legislation to be dealt with in — either or both — regulations and forest resource management plans as they proceed forward. So, yes, most of them have been responded to. In the other case, I would point out the other way in which they were responded to is in the later phase of consultations — if officials believe that there was a misunderstanding of the process or they did not have all the information when writing that letter — the response was not necessarily that it would be included in the legislation for providing that clarity to both the members of the successor resource legislation working group and individual First Nations on a bilateral basis about what steps are being taken to address that concern or how that could be dealt with.

I think it is fair to say — although, of course, I can't speak for any individual First Nation — that the interests and the issues brought forward in the earlier phases of consultation have either been addressed in the act or will be addressed in legislation and/or the forest resource management plan or, alternatively, an explanation has been given by the department to the First Nation of how that issue can be otherwise addressed or that concern has been resolved through that dialogue. I think that would apply to the issues that have been brought forward. Of course, individual First Nations may have differing views on that, but I don't believe that there are, with a few exceptions, such as the one that put forward a position paper. I don't believe that there are a lot of issues that First Nations would consider to be "left dangling", so to speak, in that they haven't been either addressed in the act, been committed to being addressed in the legislation or forest resources management plan or thirdly, have received a good explanation from officials of how this issue will be otherwise handled, or perhaps, if it were based on a misunderstanding, giving them that information to correct that misunderstanding.

Mr. Cardiff: One other thing we talked about on Monday was the forest management plans. I just want to get some clarification from the minister about the department's commitment. He mentioned a number of forest management plans that are in place. I know there are some — I'm not sure if they're entirely complete — in southeast Yukon that the Liard First Nation was working on. We had that discussion last week about those plans and the government's participation in those.

The minister mentioned there was a forest management plan in place for the Kluane region. Just for clarification, can the minister tell us how many forest management plans are in place, how many forest management plans are currently being worked on, what the status of those is and what resources the government is prepared to commit to ensure forest management plans are completed for all regions of the Yukon in a timely manner? And what would that time frame be for the completion of those plans?

Hon. Mr. Cathers: First of all, just to add some information to the previous question asked by the Member for Mount Lorne, with the issue of annual allowable cuts and forest resource management plans, I'd refer the member to part 2 of

the act, which refers specifically to it. The entire section is entitled “Forest Resources Management Plans,” and it notes in there that, under section 6(1) and 6(2) and their various subsections, the purpose and scope of forest resources management plans.

The purpose of a forest resources management plan is to: (a) establish the requirements for forest resource management; (b) identify areas in which forest resource harvesting may occur; and (c) establish guidelines for harvesting in the area to which the plan applies.

Section 6(2) says, “A forest resources management plan must take into account the principles set out in paragraph 17.5.5 of chapter 17 of the final agreements and any matters prescribed by regulation.” That’s noting the relevant section of the First Nation final agreements. The key part of this is to note that although that section doesn’t specifically refer to annual allowable cut, the basic objective of a forest resource management plan — almost the entire purpose of doing a forest resource management plan — is to determine how you establish the annual allowable cut.

So although it’s not specifically referenced in that section, the entire reason that the forest resources management plan exercise is established is to determine how much can be cut in any given year and where within a given area. That’s what it’s out to accomplish.

As far as the plans that are in place, if the Member for Mount Lorne will look to section 14 of the act, it does refer to existing plans. Section 14(1) “The Forest Management Plan for the Teslin Tlingit Traditional Territory...” “...and the Strategic Forest Management Plan for the Champagne and Aishihik Traditional Territory...” and notes that those two are forest resources management plans for the purpose of the act.

It also provides a provision under that clause for plans that work has commenced on prior to the start of the legislation, that the whole process doesn’t have to start again as prescribed by the legislation to develop that forest resources management plan; we can build on that work. And in the case of the Kaska Forest Stewardship Council, work on a draft plan has been underway, of course, which we hope to bring to a successful conclusion at the earliest possible date.

The answer to the member’s question about timelines for completing plans really is a very difficult one to prescribe, because when it deals with issues of community planning, when it deals with the provisions for First Nation involvement, particularly if First Nations agree to put their settlement lands in as part of the planning process and ultimately then have half the memberships of the committee established to conduct the plan, in those cases to lay out a firm deadline would be difficult, and probably not well advised, but all parties, including the government, in developing these plans would like them done in as timely a manner as possible.

We do have a unit within the forest management branch that is dedicated to planning with the objective of trying to conclude all areas where there is not a forest resources management plan in place that are relevant in that area, that have forest resources that should have a plan. The intent is to come up with one at the earliest possible date. Since we are talking

about plans that have provisions for public consultation with various stakeholders, there aren’t any firm laid-out timelines at which a decision will be made if it is determined in the view of the government of the day that there needs to be further discussion or the consultation period extended. That ability to respond to public and stakeholder interests, and the interests of other governments, particularly if the First Nation government is a partner in the committee that is conducting the plan, that hasn’t been restricted in the ability to extend something another few months or whatever period of time — it has not been eliminated by this. Of course, the objective is to conclude these plans at the earliest possible date.

There are also preliminary discussions underway with regard to other forest management plans, those being in the Whitehorse periphery and the Dawson area. Those are at very early stages at the current point in time.

I think I have addressed the member’s questions.

Mr. Cardiff: We are still experiencing some sound system problems, but we will get through that.

I do have a few more questions regarding some comments from the minister on Monday. I asked the minister about raw-log exports and the minister responded by saying that exporting outside of Canada requires a permit to export goods — from Foreign Affairs and International Trade Canada. He said that he thought that those things will be on the discussion table in the development of regulations. Then he goes on a little while later to say — and this is all in the same paragraph referring to the same subject about raw-log exports — “For the Member for Mount Lorne, it is an issue that I recognize is out there, and it is something that there is a possibility to deal with through regulations, potentially, but it would be an appropriate area to deal with in the act itself.”

It’s on page 3373 of the Blues, halfway down the left-hand column. The minister acknowledged on Monday that the issue of raw-log exports would be appropriate to deal with in the act. So my question for the minister is, if he thinks it’s appropriate to deal with it in the act, why isn’t it in the act? Or if it is in the act, where is it in the act?

Hon. Mr. Cathers: In this case, I have not actually reviewed this section of the Blues before. With all due respect to our very capable and dedicated *Hansard* staff — of course they are having challenges with the sound system and I have been told that upon occasion I mumble when I speak. I believe what I actually said is that it wouldn’t be an appropriate area to deal with within the act itself. Certainly that was my intention in that area, that it’s appropriate to look at in regulations and deal with in discussions but that it would not be an appropriate area to deal with within the act itself.

Mr. Cardiff: Can the minister explain why something as important as raw-log exports — when the government says that it would like to diversify the economy to promote value-added, why isn’t the issue of raw-log exports something that’s appropriate to deal with, within the act? I think it’s an issue that’s on the minds of Yukoners.

I haven’t heard all of what was in the Speech from the Throne, but I understand that the federal government went so far as to say that they were going to ban bulk water exports

from Canada — something I think is a good idea, given some of the terms of the North American Free Trade Agreement. Once we begin doing things like that, it's hard to curtail them, and there is an expectation on the part of other federal governments and the ability to actually sue — to sue us here in Canada if we were to curtail or regulate against things like bulk water exports or, in this case what we are talking about in Bill No. 59 is raw-log exports.

What is the rationale for not putting it within the act and to legislate it — to put in place the rules either totally eliminating the possibility of raw-log exports or setting the ground rules for what the rules are? Why would it be better to have them in regulations — regulations that can be changed further down the road by governments and opened up? Why wouldn't the minister want to entrench that in the legislation?

Hon. Mr. Cathers: Mr. Chair, the answer to the Member for Mount Lorne's question: first of all, as I noted, export outside of Canada is a different issue and it does require federal permit to export goods through Foreign Affairs and International Trade Canada. However, that creates questions.

Basically the reason for not including it as a broad prohibition in the act is the need to be flexible in regulations to the state of the industry, the local economy and other socio-economic factors. It ensures that the government of the day is not tied to a blanket decision or process that may not reflect the circumstances. As examples of possible situations where it might be decided down the road by the government of the day at whatever point in time that it should be allowed — perhaps through the regulations when we do that work we might hear from individuals, industry and other groups that there should be exceptions to that. For example, should British Columbia — Lower Post and that type of area — allow logs to be shipped immediately over the border to someone who has a mill and is doing operations across the border there. This might include First Nations, of course, because of the fact that they have transboundary issues. While the issue of actual land claims rights and harvesting rights under final agreements are, of course, a different matter, it might be a First Nation citizen or another individual in that area in what is commonly a local economic zone that flows a little bit on both sides of the border. They might wish to allow it and, from a policy perspective, it might be determined that it does not make a lot of sense to prevent a small mill operator from shipping logs back and forth from a cutting spot in one area to a milling spot in another, and the end area of destination might even still be in the Yukon.

That's one completely hypothetical example. Another situation could be a mine, such as Tungsten, just over the border into the Northwest Territories — that the question of whether there were logs in the area, whether at Watson Lake or somewhere in that general area, that were being developed, whether a prohibition should apply to shipping over the border into the Northwest Territories for issues that they had there — whether that be raw-log or milled product. And those are different issues, but again there might be a situation where there would be a need for logs for some project or building where it might not make sense to put in place a blanket provision.

Another example is something that I know of anecdotally from somebody in Eagle, Alaska, who brought over some logs that had been purchased in the Yukon from the Dawson area, and had built a log cabin out of that because they had better logs in this case. For them, it was closer than buying it from somewhere within Alaska that created the same product. So in this case, logs for a log cabin, which as the member will know, in many cases, when somebody's building a log cabin, particularly if they're building it, as this individual did, by hand, from scratch, all they want is the raw logs — it's not a large quantity.

It's not something that is resulting in massive log exports, but it is something that — there may be differing views by some people. Perhaps the Member for Mount Lorne would say that shouldn't be allowed. I think, from my perspective, I'm not saying it necessarily should be, but I think it's a policy question — that is something that should be in regulations. It should be up to the work that occurs on the regulations — Yukon citizens providing the opportunity for input, industry providing their input, conservation groups providing their input, and consideration given to whether a blanket prohibition on any raw logs being exported should be put in place. Whether there should be allowance for small amounts to be shipped out, whether it should be allowed only in certain specific circumstances — these are all questions that are detailed in nature. For that reason, because the priorities and interests of Yukon society are likely to change in this area over the next 10, 20, 30 years, it's appropriate to leave it in the regulations so it doesn't become an antiquated provision that becomes a challenge to deal with but, in fact, allows regulations to be either loosened or tightened up from what we might do in the legislation.

The other area, as I've noted to the member — the act is designed to be primarily enabling in nature. Nothing prohibits this occurring in the regulations. Of course, if there ends up being any significant export of raw logs in advance of any regulatory provisions which may prevent it, that would be something that would undoubtedly become an issue in public policy. It will be something debated by whatever government or whatever Assembly is in place at that point in time. If that ever occurred, it would be a topic for debate and people in the public would have an opinion on it and it would be something that, again, because of being in regulations, would be flexible at that point in time. It would also allow a response to changing environmental and socio-economic factors. That brings to mind an example of a possibility. With broad prohibitions on anything there can be situations that might include the need to — whether somebody was transporting through a jurisdiction briefly, whether they were doing work in an area, whether they were having it dealt with either for practical purposes or perhaps for First Nation purposes related to traditional activities but not directly connected with subsistence harvesting rights —

All of these things are various permutations which, to put in the act, as I believe the member was suggesting — simply a prohibition on raw-log export, I think, would be a step too far, but as I've indicated, it does allow the ability for that discussion to occur in the regulations for people who support that type of prohibition or restriction and those who oppose it to

bring their views forward and for it to be considered at that point in time. And although we have not prejudged the outcome, the only thing I would note to the member is that we have, in the past, put in our platform — I can't recall the exact wording as I believe it was the 2002 election platform — a commitment to prefer processes that add value to lumber, over raw-log exports. We have committed to that principle, and again, I would stop short of noting whether it is something that would be banned, restricted or managed, but it is something that will be an issue for discussion and public and stakeholder consultation in the development of the regulations — whether there should be a prohibition, restriction, or other provision related to raw-log export.

Mr. Cardiff: Mr. Chair, I thank the minister for that explanation — as long as it was.

Some of what the minister was saying I understand. To some extent it does make sense. What I was suggesting was that there be some ground rules around raw-log exports. I am not saying that you can't expand on it or further clarify it in the regulations; I was just suggesting that there might be some ground rules or a framework — because it is a framework document — around which raw-log exports and some rules governing raw-log exports generally — then it could be further specified in regulation.

While we are talking about regulations, the minister said, as well, on Monday that there are already preliminary discussions on the regulations and that they are already underway with the industry and forest value focus groups. Can the minister tell us which groups are involved in the discussions? How far have the discussions on the regulations progressed?

I'm not sure whether or not we've jumped the gun; we haven't even passed the bill yet and we've started talking about the regulations. What is the minister's time frame for the completion of those regulations? It's November now. In the Yukon a lot of forest operations actually operate in the winter months due to the ground being frozen, and it's an access issue for some of these operators. I'm just wondering when the minister expects the regulations to be in place to govern the forest industry, seeing as how this is where the bulk of what's going to govern the forest industry and how it operates is going to be.

Hon. Mr. Cathers: First of all, with regard to the Member for Mount Lorne's question about raw-log exports, to actually put a provision in the act, as the member is suggesting, related to that policy issue, without having had discussion that occurred publicly, really specifically on the issue, which it did not, in large extent, or through the technical groups if the successor resource legislation working group and with the input of those who provided the input into the process. It is an issue. On the question of raw-log export, as I see it, there are basically three options: you prohibit it, you restrict it or you allow it. The details of that, if allowed, whether restricted or not — there could also be provisions related to increased stumpage fees or levies for sending timber out.

Other issues to make it feasible to actually enforce, if that is being done, — there is an implication from the enforcement end as to how you actually manage where the end product is going. It's all very well and good to pass an idea and put it in

place, but until the issues related to transportation, in particular, have been dealt with, you have to figure out the details of what you are going to do and how it is going to be done before putting it into the act. The intention is to address that question through the consultation that has yet to occur on the regulations and seek the views and opinions of Yukon citizens.

What has happened with regard to the regulations, as I indicated to the member — I think the member perhaps took more from it than I was intending to indicate or than is occurring. At this point in time the regulations are not — there aren't draft regulations that are being reviewed, discussed, et cetera, at this stage. It's early work — policy discussions, possibilities related to it, varying opinions, et cetera. That is being dealt with in the early stages of the process, much as the work commenced earlier with the successor resource legislation working group.

A technical advisory team has been established, reporting to that group, and is doing a lot of the work on policy options and very early stages of looking at what regulations might actually look like. That has been shared, to an extent — is my understanding — with the forest values and the forest industry focus groups. But again all of this is extremely early stages in discussion of policy options and any work that has occurred on possible views of what the regulations might look like is in such early stages that it is very, very preliminary.

The reason it has commenced is because once the processes started going and there were policy discussions and areas that it was determined through the work on the legislation that should be dealt with in regulations, it was natural to continue that momentum and continue those discussions of the policy issues, rather than putting a halt to it. As well, it was important for all who were involved in that process — for the successor resource legislation working group, for industry, for conservation groups and for all who were involved — to have things continue forward and to have that process of developing regulations commence, even though in the very early stages, rather than have everything grind to a halt and try to re-establish it.

Under previous governments, of course, they have had bad experiences in the past and there is a desire, once things are working and discussions around the policy issues have started, not to have to wait for an unspecified period of time and hope that everything could be brought back together again.

Regulations will be a product of this act and this act is successor resource legislation. We've initiated collaboration with First Nations and the work through the successor resource legislation working with the technical committee is being dealt with in a manner that — it's in the interest of good policy at this point in time.

Mr. Chair, just to clarify for the member, also, working through the technical advisory team established under the successor resource legislation working group, the reason it is being done is not a matter of specific requirements so much as it is about good policy and working with those who did contribute to the process. Because so many of the key details are being dealt with in regulations and the framework is part of it, it is something Yukon government is doing in the interests of good

policy and sharing and working with those who contribute to it and the First Nations involved in that process.

As well, of course, there will be direct discussions with individual First Nation, but I want to point out to the member that some of what we are doing at this stage is beyond what is a legal obligation and is being dealt with in a manner that is, we believe, simply good policy and better in the interests of reaching an end product that all users and interests, including other orders of government, are comfortable with. It is in the best interests that we continue to work in this cooperative manner that has worked, despite those who have brought forward some criticism, despite a few individuals and one First Nation and one group that did have some concerns with the end product and the legislation. I am not trying to minimize that they'd have some concerns with the end product of the legislation.

I'm not trying to minimize their perspective, but I want to point out that the majority of those involved would agree that work to reconcile differing opinions, priorities, ideas and interests has been good, that the work done by all members of this successive resource legislation working group done by the officials of Energy, Mines and Resources but also those who are employees of First Nations and those who represent industry, conservation, et cetera — all that work that has been done by those who contributed to the process has largely led to a good outcome.

Again I have to emphasize, I think the overwhelming majority from what we've heard and from the contribution that occurred through consultation is that most would agree this is a good end outcome for the legislation. Of course there will be regulations that will occur. The intention is to launch off of what we hope will be ultimate passage by the Legislature of this legislation in this fall sitting, to a period of public consultation in late winter of this year on the regulations and the early stages of that process. That of course will conclude the consultation and work directly with First Nations, even in areas where we do not have the legal obligation to do so. Much of the work that's being done in this area on the regulations, as I indicated, is in the interest of good policy.

Of course, there is an obligation in certain areas where it has implications in the *Umbrella Final Agreement* and First Nation final agreements to consult with renewable resource councils. That will occur, but again, the message I want to emphasize is that officials have done a good job of putting together a process that is beyond what the Yukon government is legally obligated to do in working with First Nations and working with RRCs and involving the public, including industry groups, both from the forest industry and from other industries, and conservation groups in bringing everyone together and providing lots of opportunity for comment and involvement in the process.

I think that the legislation will show — a fair analysis of the legislation will show that they've done a good job of reflecting those views and that the successor resource legislation working group and officials in Energy, Mines and Resources, in particular, have done a good job of doing the policy work of how to reconcile what are, in some cases, differing views that

need to be brought together to one end outcome, to actually come up with a piece of legislation.

Good work has been done and I hope I've addressed the member's questions about regulations.

Mr. Cardiff: Well, it certainly was a lot the minister said about the regulations, and I understand that we are in early times but I think that for the sake of all those concerned — not just the forest industry. I might add for the minister there are other stakeholders out there — wilderness tourism operators, guides and outfitters who are concerned about what is going on. That is why, I think, the issue is being raised, so I encourage the minister to listen to those groups, as well, when they are establishing the regulations. I have got a couple of other questions for the minister. One is around timber resources licences. In section 22 of the act, it says, "A timber resources licence must (a) establish the right of the licensee to harvest timber for commercial purposes..."

It sets the term, and it says that it establishes "the maximum allowable amount of timber that may be harvested annually and over the term of the licence." If you go to a woodlot licence, the woodlot licence 22(c) says, "establish the maximum allowable amount of timber that may be harvested annually and over the term of the licence."

If you look at woodlot licences, it says, "A woodlot licence must (a) identify the size and boundaries of the woodlot subject to the licence. The woodlot must not exceed 3,000 hectares in size." If you go down to — again, it is a "term not exceeding ten years." And in 23(d) it says, "establish the maximum amount of timber that may be harvested annually, which must not exceed 2,000 m³." If you go to a fuel wood licence, it says, "establish the right of the licensee to harvest timber for the commercial sale of the wood for fuel wood in an amount not exceeding 20,000 m³ in the area specified in the licence."

In the timber resources licence in 22(c), it says that it has to establish a maximum allowable amount of timber harvest, but it doesn't say what that maximum is. I understand that the forest management plan is going to drive and guide the annual allowable cut, but there doesn't seem to be anything in the legislation that limits the maximum amount of timber that can be harvested annually commercially under a timber resource licence.

So how are they going to set that maximum? I suspect that it will be in regulation. In the regulations — 92(g) — it says that it can establish limits on forest resource harvesting by region where no forest resources management plan has been approved. But in an area where a forest resources management plan has been approved, and there is an annual allowable cut, how is that divided up between multiple licensees?

What is the process for ensuring that the annual allowable cut is fairly and equitably distributed among all those who are operating a harvesting operation? Because the way that it sits right now, potentially we could have one operator who got the lion's share. One of the things that we've talked about is the fact that, for the most part, the forest industry here in the Yukon has survived and been sustainable, based on smaller, mom-and-pop operations, so to speak, smaller operations as opposed to large operations. But there's nothing in the legisla-

tion to prevent one large operator from receiving all the resources, all of the annual allowable cut, in a planning region, whereas if you look at the other licences that are available — the woodlot and the fuel wood licences — there are limits set. What's the minister's rationale for not establishing a maximum allowable harvest under the timber resources licence?

Hon. Mr. Cathers: First of all, the comment that the Member for Mount Lorne made about other industries being affected, that it's not just the forestry industry — I guess he didn't hear me earlier when, in the previous response, I had noted other industries, not just forestry, and by that I was meaning things including examples such as outfitters, tourism, mining, agriculture, trappers and hunters, which isn't so much an industry but of course has an impact on those issues and usage there. Also, personal recreation — all the many recreational uses that exist for forestry of course, particularly in populated areas — has to be considered and managed in any forest resources management plan.

As far as his question about the timber resources licence and the different thresholds for harvesting licences, basically, what I would put on this now — to explain it to the member: the licences basically go in four different stages. Actually, I'll begin at the other end.

A forest resources permit is for smaller uses. The next level of licence is a woodlot licence, which has a maximum level of 3,000 hectares and 20,000 cubic metres per year.

Fuel wood licence is a threshold not exceeding 20,000 cubic metres over a licence maximum of five years. Timber resource is the largest end which is basically capped by the annual allowable cut. There are also provisions within section 92(f) that relate to establishing the apportionment on annual allowable cut so it can be prescribed in regulations.

Now to actually put something in the act would be difficult. If the member is thinking of hypothetical possibilities of setting a maximum percentage of the annual allowable cut in an area that a company could have — the downside to doing something like that in legislation would be, if there were only one operator or only one large operator in an area — the arbitrary level you might pick to set in the act might create a negative situation for an area if there ends up being, in any way, shape or form, any type of a large wood operation — whether it be for milled wood, or for fuel wood or some other usage — would create complications down the road.

That doesn't minimize the importance of needing to ensure that in an area there is some reasonable apportionment to prevent it from being taken up by one operator or by operators of comparable size, interest, et cetera, and comparable applications of being treated differently. There has to be fairness to the best extent possible set out through regulations, and it has to accommodate different uses. The different uses include not just the other industries that are affected by different types of use within the forestry industry — whether it be large-scale usage, someone going out individually to access it themselves within a defined area, or somebody who is cutting a small amount of fuel wood commercially.

The limits on the other tenure types — the reasons for the different levels is to enable regulations to reflect the size of the

industry, because regulations that might be necessary for a large operation, including for a very large amount of cut, would need more consideration — which would obviously occur to an extent through the YESAA process, but would also need to consider other interests when they're developing a plan.

There would be more consideration required for larger plans of what impact they will have on the environment and socio-economic issues than there would be for somebody who was going out to cut a smaller amount of timber and is just a small commercial fuel wood operation or some other small commercial use.

So, as I say, the level — I'll distribute that for the member, in case he didn't catch that. The reason for the different levels is because there may need to be more restrictions, requirements, et cetera, placed on larger operators versus a smaller operator, including the work that to some extent will be required by the YESAA process itself. But in the case of a larger operation, there will obviously be more issues, or more potential for issues, related to environmental or socio-economic impacts than somebody who is operating a very small commercial firewood operation.

The rationale behind setting out those four different levels of licences is to enable such regulations as are necessary to manage a large operation and various levels of operations to be put into place, appropriate to the size, scale, potential impact, et cetera, of that operation while not placing an unnecessary or unmanageable burden on a small operator who might just be a guy or lady with a truck and a chainsaw and a permit to cut wood.

We don't want that person to have to spend a lot of time doing paperwork for a very small cutting operation. They will have to follow requirements. They are going to have to do some work to submit their applications, but we want to minimize the paperwork and administrative burden placed on them; whereas, with a larger operation, obviously the potentially larger impacts have to be considered. So that's the rationale behind the multiple levels there.

As I mentioned to the member, the reason why there is no maximum for a timber resources licence is that it is for larger licences for things that might have included in the past — of course, at one point in time Watson Lake had a healthy forest industry. There may be areas where there is a large operation in an area. It could be First Nation or non-First Nation. It could be local and related to the community or it might not be. All of those things — a major employer might have different needs. To simply set things out in the legislation — if potentially down the road they were using a very high percentage and there was no other major operator — just small fuel woodcutters in the area — for a major operation to set a threshold in the legislation would probably be problematic down the road in some area due to either being too high or too low. Rather than going down that road, it makes more sense to deal with that in regulations and enable the ability to respond to what occurs out of forest resources management plans and what's heard from stakeholders and the public in those areas, and it allows that flexibility.

Of course, there is the provision in the regulations themselves, under section 92(f) of the act, for the regulations to deal with the apportionment of the annual allowable cut, and so achieve that end objective of good forest management and a level of fairness in being provided to all who apply for licences under that.

Mr. Cardiff: I think I understand what the minister is saying. I think the concern that's being raised — and some of these concerns are being raised by some of the groups the minister talked about being involved in the consultation around the regulations. And they participated, to some extent, in the consultations around the draft act as well.

So these are still live issues, and I hope that while they are not in the legislation — I hope that these groups and individuals and communities are going to be listened to and their concerns that they are not in the act are responded to in the regulations.

I would like to ask the minister about the fuel wood licences as well. It actually goes back to the beginning of the act as well. I will just find the appropriate page here for the benefit of those listening. I would like to ask the minister about the fuel wood licences, which is section 24 of the act. The definition of fuel wood is: “‘fuel wood’ means wood harvested for the purposes of heating or for conversion to a form of energy”. A fuel wood licence, according to section 24 — and I read some of this — establishes “the right of the licensee to harvest timber for the commercial sale of the wood for fuel wood in an amount not exceeding 20,000m³”.

That is 24(1)(a), but if we go 24(2), it says, “A person may hold one or more fuel wood licences with similar or different terms.” Also in 24(3), it says, “A fuel wood licence may be renewed by the Director subject to any terms and conditions specified by the Director upon application of the licensee for an additional term any time in the last two years of the existing term,” and a term being identified in 24(1)(c) as, “not exceeding five years.”

The concern I guess is that if you also go back to the beginning, to the definitions in section 1 of the act, the definition of “timber” means “living or dead trees, whether standing or fallen,” so it would allow a fuel wood license basically to cut living or dead trees, standing or fallen.

As a person who has been here for 30 years, I've had the opportunity to go out and harvest firewood — actually having a short stint working with a local firewood provider at one time during the winter and having harvested firewood for myself — the preferred product that most people like to burn is standing dead wood. There are dry trees out there that are lying down that have blown over that make perfectly good firewood. The minister referred to some of this the other day in his comments about providing the opportunity to include fuel wood for Yukoners' personal use.

I guess where the question comes up for me is in the conversion of energy. Basically, by allowing multiple licences, we could see a lot of harvesting done. I recognize that it has to be done with regard to and under consideration of the forest management plans, again, but we could see living and dead trees of all kinds and sizes converted to things like biofuel for the gen-

eration of electricity. And I don't know that that makes a lot of sense, but the legislation seems to allow for it.

I think that we need to allow for the personal and commercial cutting of firewood for heating not just residential homes. I know that there are commercial operations, retail operations, that are using firewood to heat their businesses, but when it comes to the generation of electricity, I guess what I need is some assurance from the minister that we're not going to see large-scale harvesting of both dead and green trees for the generation of electricity. It's my understanding — the minister's going to stand up and say, “Well, we'll look after that in the regulations.” Well, I want some assurance from the minister that they will look after that in the regulations, because I don't believe that. Traditionally, we know that in sawmill operations, sawmill waste is used for the generation of heat and in some instances electricity. I don't really have a problem with that if it's a waste product from the process and it makes sense to do that, but I don't think that it makes sense to go out and mow down forests, especially here in the Yukon, because it does take a long time for these trees to grow.

Can the minister give his assurance that this issue will be addressed in the regulations, and that the concerns of Yukoners will be addressed?

Hon. Mr. Cathers: With regard to this issue — first of all, with the fuel wood licence, the Member for Mount Lorne was referring to the fact of it being five years in length, and it can be renewed two years before the end of it. As the member will note, the two sizes of licences immediately over that — a woodlot licence and a timber resources licence — both allow for a maximum 10-year permit. So this one is, again, a bit of a bridge, recognizing the difference in size — that it allows a maximum of five years, but it provides the ability for it to be renewed before the end of the licence, which the others don't.

Yes, it does allow the potential for multiple licences but, again, that would be subject to the forest resource management plan and the timber harvest plan for the area, as well as the provisions around a portion of it within the legislation. Also, all of this, of course, has to go through the YESAA process. There will be issues with that, of course, and all of these issues, concerns, perspectives presented in that area.

What I would note for the member are a couple of things. First of all, the reason for the definition in this is an encompassing one that is allowing different types that might be used as fuel wood. One of the reasons for including the encompassing language is allowing it to be responsive to emerging technologies that are occurring and the concern that we all share around climate change.

While wood must always be the harvesting of wood, whatever the purpose it is being used for — anything that is being harvested in our forests has to be done in a responsible manner. None of us want to see our forests treated in a manner that is not appropriate for the ecosystem, the wilderness, the environment, et cetera. As I have noted before, Yukon citizens place a great deal of importance upon the natural beauty, the viability of the ecosystems, the fact that this is a largely unspoiled wilderness with pristine water and a well-managed wilderness. Yukoners place importance on wildlife populations and other

things that depend on the wilderness and also place importance on the ability to use forests for business purposes, in the case of other industries, and for recreational purposes for a great number of Yukon citizens.

So, the issue of ensuring that not too much is cut and that it is not dealt with in a manner that is inappropriate is the key question here. The end use — this is designed to allow that type of thing because of things, as I indicated, such as climate change. The fact is that, as the Member for Mount Lorne will know, burning wood is more environmentally responsible as a heating source than using fossil fuels because the greenhouse gas, the CO₂ emissions from decomposing wood, are going to occur anyway. That CO₂ will be released over that period of time as it decomposes. When it is burned it is released, of course, over a shorter period of time. Unlike fossilized fuels, which are a limited resource and putting carbon that is otherwise not going to be going into the atmosphere into it, if the oil or the propane is left in the ground the carbon, of course, stays there. With burning wood, the CO₂ will be released over time anyway. So in the end, it is better for the environment and better for climate change to burn wood than to burn propane, for example, or to burn heating fuel.

As well, because of the technologies that are emerging related to bioenergy and cogeneration, possibilities exist in this area that we have to be open to as we put the act in place that provide some opportunity for benefit for either electricity generation or electricity and heat, or heat primarily, with a spinoff of electricity, through these types of mechanical plans. So that's what it's designed to allow — to recognize those possibilities. That includes other biomass opportunities that exist, which could include things like pellets, chips — garbage is used in some areas.

I think the Member for Mount Lorne would share with me the desire to see — as we deal with the challenges faced at dumps in the Yukon, including dumps in his area and in my area — and to explore and consider the possibilities of whether it's feasible to convert some of that, rather than simply putting it into a landfill; whether it can be done as many European countries are doing: being burned in a way that it is used as an energy source and in a manner that is low impact from a carbon emission standpoint.

These are technologies that have been dealt with in other countries. They're newer technologies and those issues — obviously there will be considerations related to them but we don't want to block those possibilities as those issues are explored by government, industry and Yukon citizens individually.

That's the reason for the all-encompassing definition. Other things, live or dead, for example — the reason for permitting live or dead trees includes leaving it open to the possibility of not just FireSmart activities but activities that might not be under a FireSmart program but might be aimed at reducing the fuel load in the area around a community, for example, which might be dead trees, or might be dead and live trees. Those areas are things — it could also include an area where there was something being developed, whether a housing area or other type of development, permitting that type of usage, so

leaving the definition broad enough that it can apply to live or dead wood, whether it's used for that purpose. Live trees, of course, can be harvested for the timber purposes, and this is designed to ensure the definition is broad enough that, if someone is burning it, first of all, it doesn't prohibit somebody burning for fuel wood something that is green at that point in time.

For the actual common use that we see today of someone going out and harvesting dead trees with the end objective of burning them in a wood stove, as the Member for Mount Lorne and I both know very well, no one in their right mind is going to want to be burning green trees or green logs in their fireplace or wood stove, because they don't burn nearly as well as do dry trees. And, of course, from a wood harvesting perspective, it usually makes a lot more sense to cut down large dry trees, rather than trying to deal with stacking that wood for a year while it dries out, even from a strictly economic perspective from a harvester. And there will be restrictions on what can and can't be done within the forest resources management plans and the regulations under these areas. So, again, I hope that has explained why it's being left broad in the act at this point in time.

Checks and balances will be put in place through the plan, so the annual allowable cut is through regulations and the timber harvesting permitting regulations. Anything large scale, of course, would have much more tension placed upon it through the development of a plan, would have much greater implications when it comes to the annual allowable cut with the apportionment issues and would require review through the YESAA process as well. And that would include consideration of the impacts it is going to have on other users.

One thing I would note — when the member also noted concern that he'd heard from other industries using the forest about what might be allowed in forestry and for those from the forest industry, I understand where the member is coming from and I agree that there will always be concern. In fact, I would say with industries that have potentially competing uses of not just the forest but other areas within Yukon land and Yukon landscape, there is a limited ability for government to completely resolve those concerns that something might change down the road.

There is also the fact that anyone who is doing well under the status quo will always be concerned with something new that might come in and affect them. And I'm not trying to cast that as being an unreasonable perspective. Every individual and every human being by nature, in their business, in their livelihood, if they see something having the potential to affect it in a negative way, is going to be concerned. That does not necessarily mean that industrial activity or that type of activity will end up impacting them in a way that is negative.

But there is a limit to government's ability to bring forward legislation that is good legislation and also completely addresses those issues, because for any industry that is out using an area, which would include outfitters, tourism, trappers and so on, who are using wilderness areas, there is the potential when any new activity in a new type of industry or an industry that hasn't been in the area, that could potentially — when it's an unknown quantity of what that industry is going to be and

how big it's going to be — there is always the fear that will occur from the person who is there about what it could mean. That would also apply to others within the same industry, in some cases someone in tourism — trapping or outfitting, of course, all have restrictions on concession areas, but tourism would be a good example of where there are areas where they might be concerned that another operator would come in and cause a problem or make their product not as valuable to their clients. Trappers and outfitters might be concerned about a tourism operator, who could come in now without any change in legislation or regulations and start operating and do things that could have a negative effect on their operations.

There are always issues. I am not trying to minimize that concern, but I'm pointing out that government always has to, through various processes and regulatory procedures — licensing and so on — where they try to manage things and ensure that impacts and effects of industries that have the potential to compete are managed, where we can either through regulations or simply through trying to work with industries and have them engage in best practices that don't unnecessarily cause problems for others within the same or different industries, government can act as a facilitator and government can act as a regulator, but government can't, in bringing forward legislation or regulations, provide a complete level of comfort to anyone in any industry where there is no potential that another industry or someone else from within that industry could have a negative effect on them.

We just have to manage within that, try to work within that and try to ensure that, as these occur, forest management plans — as I've said several times and again, I can't emphasize it enough — and in doing that work on the forest management plans, that the legislation provides the ability and is intended through the process and the development of these plans to consider all these existing uses — including existing industries and including hunting, fishing, trapping, et cetera, and any of the uses for either commercial or non-commercial purposes that are occurring. This is whether it is being used on a commercial or personal basis; whether it is being used for recreational purposes — all of these factors are things that need to be considered in the development of these plans, which is the intent of doing it.

What I want to emphasize is that the work has to occur. It is not really possible for us here in the Legislature to put a piece of legislation in place that is going to give comfort to all existing users that there is no possibility of any of the currently existing users or new users having an impact on them that is negative; nor can we fully give the comfort to somebody that there is no potential of even an unfair impact occurring. What we have to do is — through the policy work and through the regulatory work by officials and through the development of these forest resources management plans — consider all these uses and try to ensure that the end outcome and the end management is dealt with fairly, equitably and appropriately.

Some Hon. Member: (Inaudible)

INTRODUCTION OF VISITORS

Chair: Mr. McRobb, on a point of order.

Mr. McRobb: Mr. Chair, with your indulgence, I would like to introduce someone in the gallery. I invite all members to join me welcoming former MLA for Vuntut Gwitchin and Speaker of the House here this afternoon, Robert Bruce.

Applause

Mr. Cardiff: Chair, I will be brief. I thank the minister for all those words. Just to clarify, the concern that I have — we support the use of wood to heat homes and businesses here in Yukon. We do support minimizing our carbon footprint. But we do have some concerns about including “biofuel” in the definition of fuel wood.

I understand that the minister thinks that there are all kinds of new technology on the horizon. I understand that. There are wood boilers out there that are really efficient. There is not a problem with that. What I am talking about is the large-scale use of our forests, both green and dead, for use as a biofuel for the production of energy, whether it be heat or electrical generation. I think we need to think long and hard about how we do that. The minister is right: there are all kinds of new technologies out there.

It would be nice if we here in Canada, in North America and the Yukon would catch up to some of the things that are going on in places like Europe, such as using more geothermal energy, using more wind power, making better use of photovoltaics, and maybe someday there will be technology where it would be advantageous to use wood in the generation of electricity. I don't think we're there yet; given the forests we have here in the Yukon, using them as a form of bioenergy is probably not a good idea.

I know the minister is not going to entertain any amendments to change the definition of “fuel wood”, although it would be nice if he would. I don't know what he can do in regulations to address this issue and ensure our forests are used appropriately in a sustainable manner and in a value-added manner.

I just wanted to put that on record. I have no further questions for the minister at this time.

Chair: Order please. 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. 59, *Forest Resources Act*.

Hon. Mr. Cathers: Mr. Chair, just before the recess, we had questions from the Member for Mount Lorne. He expressed concerns that the definition of “fuel wood” could include that it be “harvested for the purposes of heating or for conversion to a form of energy.” I would say, in answer to his concerns, I think, that the main question on the minds of Yukon citizens would be how the forest is managed and what is being cut, how it is being cut, what is being protected and auxiliary activities such as roads, et cetera — the appropriateness of them — not whether that wood is then being used for milling

into timber for putting into a stove — a standard woodstove — whether it's being used for putting into a large biomass facility for a cogeneration of heat and electricity or some other permutations of that.

Of course electricity potentially could be derived — unless it were prohibited — from a smaller scale operation. It might not be a big operation such as the member is envisioning, and the big operation that he appears to be concerned about — I would say by means of hopefully comforting the member in this area. I think the key questions around any such theoretical operation would be what is being done on the land base and those are things that Yukon citizens, communities, First Nations, stakeholders, et cetera, would all want to know about.

Large-scale opportunities could include things like beetle kill, for example. If the beetle kill had been dealt with years ago — as we all know — it would not be the problem it is today. If the action for pest control had been taken in that area to isolate the problem — cut around it as the area prescribed by scientific experts and get rid of the wood that's affected and the wood in the surrounding area, there would be a lot fewer dead trees out there than there are today.

So, again, having broader definitions to allow for responding to things like the spruce beetle is beneficial, because if legislation — would prevent it as activities from some who opposed cutting — blocked the appropriate action being taken when the beetle kill was small — we don't want to put in place legislation that is too restrictive and doesn't allow those types of activities either, although that's not the primary purpose of the definition being worded in this way. It's better to have a broader definition and to provide the restrictions in the main manner. Restrictions will be applied anyway through the development of forest resources management plans, the restrictions through the annual allowable cut, developed pursuant to those forest resources management plans — or through them, I should say — and any restrictions that come out through the YESAA review, which particularly — any large project of any type will be scrutinized by YESAB once it has crossed the level 4 that triggers — that crosses a threshold and hits one of the triggers within the YESAA process. Any operation of any type, not just forestry, has to go through the YESAA process when it goes over that particular level, or rather, those levels, because there are a number of triggers within YESAA based on impact on the land, number of days, et cetera.

I won't go through a list of them now, as I know the member would not consider it productive and nor would I. I hope that has given him an explanation and addressed his concerns.

Chair: Is there any further general debate? Seeing none, we will proceed clause by clause on Bill No. 59.

On Clause 1

Mr. McRobb: Clause 1 is the section on definitions under interpretation. I just have some concerns with the definition of “fuel wood”. This is a relatively new definition, which includes wood cut for the purposes of conversion to a form of energy. We heard some discussion on that earlier today. Part of that concern is that it allows the very enabling clause 24 to be the vehicle through which biofuel can be logged. That would include green trees as well as dead trees.

I believe that if the definition of “fuel wood” was modified to remove the reference to biofuel, the problem would be solved.

Other types of logs aren't defined in the act — for instance, sawlogs, roundwood, et cetera.

Amendment proposed

Mr. McRobb: Therefore, I would like to introduce an amendment to this section that would amend Bill No. 59, in clause 1(1), at page 6, by deleting the last part of the definition of “fuel wood,” so that the definition reads: “‘fuel wood’ means ‘wood harvested for the purposes of domestic heating’”.

Some Hon. Member: (Inaudible)

Point of order

Chair: Mr. Cathers, on a point of order.

Hon. Mr. Cathers: While it is being reviewed whether the issue of potentially amending it is in order, I would suggest that this amendment is not in order. The wording in the amendment tabled by the Member for Kluane is nonsensical. In suggesting that deleting — he didn't even read the document correctly and it is not —

Chair: Order please. The amendment, as presented, is not in order.

Amendment ruled out of order

Chair: Is there any further debate on clause 1?

Mr. McRobb: Thanks for the indulgence of members. The proposed amendment has been amended. It is in a form that has been distributed to everyone. This is just a retake on the amendment.

Amendment proposed

Mr. McRobb: I move

THAT Bill No. 59, entitled *Forest Resources Act*, be amended in clause 1(1) at page 6 by:

- (1) deleting all words after the word “heating”; and
- (2) inserting the word “domestic” after the word “of”.

Chair: It has been moved by Mr. McRobb

THAT Bill No. 59, entitled *Forest Resources Act*, be amended in clause 1(1) at page 6 by:

- (1) deleting all words after the word “heating”; and
- (2) inserting the word “domestic” after the word “of”.

Is there any debate on the amendment?

Hon. Mr. Cathers: The revised amendment, brought forward by the Member for Kluane — if this Legislature were to agree to pass it, would fly in the face of the request of people who responded during public consultation: members of the public, industry and First Nations, including the Champagne and Aishihik First Nations.

The Champagne and Aishihik First Nations noted in the third phase of consultation in comments provided to the government the definition of “fuel wood” — the legislation defines fuel wood as wood harvested for the purposes of comfort heating. Considering a large proportion of the wood harvesting opportunity in the Yukon is and will likely continue to be based

on salvage of fire-killed or beetle-killed wood, this definition is too restrictive. The definition should also apply to fuel wood for the purpose of commercial heating: for example, commercial greenhouses or energy. Examples are small-scale wood-fired combined heat and power.

That is why the government will be listening to the interests of Yukon citizens, the industry and First Nations — including the Champagne and Aishihik First Nations — and voting against this ill-conceived amendment.

Mr. McRobb: Well, the only thing that needs to be said in response to that, Mr. Chair, is: this act can be amended later on to accommodate that interest. End of story.

Chair: Is there any further debate on this amendment? Shall this amendment carry?

Some Hon. Members: Count.

Count

Chair: Count has been called.

Bells

Chair: All those in favour, please rise.

Members rise

Chair: Would all those not in favour, please rise.

Members rise

Chair: The results are seven yea, eight nay. The amendment does not pass.

Amendment negatived

Chair: Is there any further discussion on clause 1?

On Clause 1

Clause 1 agreed to

On Clause 2

Mr. McRobb: Mr. Chair, I feel you were a little hasty moving that forward; I didn't even hear both opposition parties

Chair: Order. Order please. On clause 1, the Chair heard no nays and clause 1 has carried. If a member wants to revisit clause 1 or a previous clause carried by this Assembly, he can request unanimous consent to do so, to go back to a clause that has been carried.

Unanimous consent re revisiting clause 1

Mr. McRobb: Thank you, Mr. Chair. As a firm believer in democracy, I think both opposition parties should say "clear" before we move on to the next clause. That clearly didn't happen, so therefore I move we get the unanimous consent to revisit clause 1.

Chair: Mr. McRobb is requesting unanimous consent to reopen clause 1. Do members agree?

Some Hon. Member: Agree.

Some Hon. Members: Disagreed.

Chair: There is not unanimous consent.

On Clause 2

Clause 2 agreed to

On Clause 3

Clause 3 agreed to

On Clause 4

Clause 4 agreed to

On Clause 5

Mr. McRobb: Clause 5 deals with the public land in the territory and there is an issue with the definition in that. I believe the comment respecting the amendment I'm going to propose is that, having failed to adequately provide for the sustainability of aboriginal rights in the act, the government should at least provide assurances it intends to act in accordance with constitutional law. This is particularly so given the repeated request to simply trust them and that it will be dealt with in the regulations. So this provides certainty that common law would be upheld with this amendment that I will introduce now.

Amendment proposed

Mr. McRobb: Mr. Chair, I move

THAT Bill No. 59, entitled *Forest Resources Act*, be amended in clause 5 at page 8 by inserting a subclause marker of (1) after "5" and by adding a new subclause:

"(2) For greater certainty, nothing in this Act shall be construed as to abrogate or derogate from the protection provided for existing aboriginal or treaty rights of the aboriginal peoples of Canada by the recognition and affirmation of those rights in section 35 of the *Constitution Act, 1982*."

Chair: It has been moved by Mr. McRobb

THAT Bill No. 59, entitled *Forest Resources Act*, be amended in clause 5 at page 8 by inserting a subclause marker of (1) after the number "5" and by adding a new subclause:

"(2) "For greater certainty, nothing in this Act shall be construed so as to abrogate or derogate from the protection provided for existing aboriginal or treaty rights of the aboriginal peoples of Canada by the recognition and affirmation of those rights in section 35 of the *Constitution Act, 1982*."

Some Hon. Member: (Inaudible)

Chair: It is in order. Is there any debate on the amendment?

Hon. Mr. Cathers: This is really a very surprising amendment to see come forward. It is needless, and every member of this Assembly knows it. This Legislature — even if we passed a law saying that we override the Canadian Constitution, it doesn't have the power to do it. Every member knows it and the Member for Kluane knew exactly that fact when he proposed this amendment, as does his party.

Mr. Chair, need I point out again that we are bound by the final agreements. We are bound by the Canadian Constitution, including — the Member for Kluane mentioned in his preamble "in accordance with constitutional law". We have no choice in that matter. No matter what the legislation says, we have no choice.

It is not necessary to reference this. It is not standard to reference this. The member is — I can't think of a way to make my point that wouldn't be out of order, Mr. Chair. But let us say that this is needless grandstanding by the Liberal Party.

Some Hon. Member: (Inaudible)

Point of order

Chair: Mr. McRobb on a point of order.

Mr. McRobb: On a point of order, Mr. Chair, the word “grandstanding” has been ruled out of order. This amendment is very important to Yukoners. It shouldn’t be —

Chair’s ruling

Chair: Order please. Order please. On a point of order, there is a point of order. The comment was, overall, overtly personal and I ask the members not to personalize the debate.

Hon. Mr. Cathers: Let me quote from the amendment by noting that nothing in this act or any other piece of Yukon legislation can abrogate or derogate from protection providing for existing aboriginal treaty rights of the aboriginal peoples of Canada under section 35 of the *Constitution Act, 1982*.

Every member of this Assembly knows it and this is a needless amendment brought forward by the Liberal Party. That act, no matter what any Yukon legislation says, cannot override the Canadian Constitution and constitutionally protected rights. Again, a needless amendment and a pointless use of the Assembly’s time by members opposite and the government, of course, will not be supporting this amendment.

Mr. McRobb: I would simply point out if there is no problem than why not include this in the act. That is why it was suggested to me by Yukoners to bring this forward. That is why it was brought forward. It should be in the act and for the government to just say “Trust us — we’ll respect all laws.” — well, Mr. Chair, I don’t think that has worked too well and that is why a number of First Nations in the territory have taken the government to court to contest how the laws are not being totally respected. In order to give these particular rights that respect, this piece of legislation should be amended to make specific reference to this *Constitution Act, 1982*. If the minister wants to vote against it, that is fine. I suggest we proceed to a vote.

Chair: Is there any further debate on the amendment? Are you prepared for the question?

Some Hon. Members: Count.

Count

Chair: Count has been called.

Bells

Chair: Order please. All those in favour of the amendment, please rise.

Members rise

Chair: All those who disagree, please rise.

Members rise

Chair: The results are seven yea, nine nay.

Amendment to Clause 5 negatived

Chair: Is there any further debate on clause 5?

Clause 5 agreed to

On Clause 6

Mr. McRobb: Yes, Mr. Chair, if I can comment on clause 6, the management of forest resources for the sustainability of aboriginal rights should be a fundamental principle

guiding forest planning. This should direct that fish and wild-life need to be taken into account in this process and that effective information-gathering processes must be in place to inform forest resources management plans on an ongoing basis. We believe this can be done by entrenching the management of forest resources for the sustainability of aboriginal rights as a fundamental principle.

This clause is a major problem in that it referentially incorporates parts of the *Umbrella Final Agreement* which do not reflect the contemporary law of aboriginal rights and title. This section should set out purposes that reflect the current law of aboriginal rights and other issues reflecting sustainable forest management.

Amendment proposed

Mr. McRobb: Mr. Chair, I move that Bill No. 59, entitled the *Forest Resources Act*, be amended in clause 6 at page 9 by adding subclause (3):

“Where a forest resource management plan addresses an area within the traditional territory of a first nation who does not have a final agreement, the forest resources management plan must take into account the asserted Aboriginal rights and title of the affected first nation and set out provisions detailing specific steps that will be taken to mitigate and accommodate any potential impacts on those asserted rights.”

Chair: It has been moved by Mr. McRobb

THAT Bill No. 59, entitled the *Forest Resources Act*, be amended in clause 6 at page 9 by adding subclause (3):

“Where a forest resource management plan addresses an area within the traditional territory of a first nation who does not have a final agreement, the forest resources management plan must take into account the asserted Aboriginal rights and title of the affected first nation and set out provisions detailing specific steps that will be taken to mitigate and accommodate any potential impacts on those asserted rights.”

Is there any debate on the amendment?

Hon. Mr. Cathers: Well, once again, Mr. Chair, a needless amendment. Once again, the members know it. Once again, aboriginal rights that have not been addressed through a final agreement, self-government agreement and land claims agreement, anything that is unresolved, constitutionally protected — for any of those issues that are out there protected in common law, the government must, as prescribed by the courts, work within the process of what common law is when there is not a final treaty.

This and the next several amendments I suspect the members are going to put forward are not really that good a use of the Assembly’s time. I would strongly suspect the members know this. They know it’s needless; therefore, Mr. Chair, of course, we will be voting against this.

Mr. McRobb: The minister couldn’t be more wrong than to state what he did. We believe this is needed, and that’s why we’re bringing it forward. The government says, “Trust us. We’ll do the right thing.” Well, there are too many unknowns, Mr. Chair. For starters, trusting the Yukon Party isn’t on with a lot of Yukoners. That’s why we need some certainty in the legislation.

The minister said, "This is just silly, ragging the puck." Those were his words during the last vote.

I suggest that the minister should take this very seriously. Furthermore, he still has not provided the legal opinion that only he has. The other members on the opposition side don't have that legal opinion. Again, that speaks rather dismally about the Yukon Party's openness and transparency, contrary to the rhetoric we hear constantly.

This amendment is needed in the bill to strengthen the interpretation of aboriginal rights and the application of the *Forest Resources Act*. It could prevent needless lawsuits in the territory that fall into the grey area. The minister is completely ignoring the good in this amendment. I guess that's just the Yukon Party way.

Mr. Cardiff: I would just like to say a few words about this as well.

I think it's important to note the importance of forest resources management plans — we had this discussion about forest management plans earlier in the Legislature today and some on Monday, about how they guide the harvesting of the forests and how the forests are used. I think it's important to note that section 6 does reference the *Umbrella Final Agreement* — it references the final agreements, not the *Umbrella Final Agreement*, but section 17 of the final agreements. It does not allow, necessarily, the recognition of aboriginal rights and title for those First Nations that don't have a final agreement.

We had this conversation earlier on in my opening comments addressing Bill No. 59 and the minister did respond, but I just have to say once again that it is my feeling that the minister's belief that the Constitution and common law prevails and that Yukoners and First Nations have the ability, as the Premier likes to put it, to avail themselves of due process — that meaning, if you don't like it, take us to court.

I would have to once again say that it's my feeling that it is folly if there is the ability to recognize aboriginal rights and title as they are recognized in Canada and previously by courts, that that be done. The government shouldn't be afraid or unwilling to do that. The minister is right: there probably will be more amendments. By the minister's attitude and the government's attitude toward amendments like this, they just show their intransigence and their unwillingness to listen to what other groups are saying. I think they thought due process and the whole attitude of, "If you don't like it, take us to court," is not really the right attitude. It's not what I would view as being successful or moving forward and I would say that it actually does more harm.

The minister thinks that this is not a good use of the Legislature's time having this discussion. Well, I would say that the minister's attitude and the government's attitude that "if you don't like it, take us to court," is a bad use of taxpayers' money. When they know what's the right thing to do, they should do the right thing.

Just for the record, we will be supporting this amendment in the NDP caucus. It's unfortunate that the government has indicated their unwillingness to support it as well.

Mr. Edzerza: I'd like to put on record that I feel this is not respecting all citizens of the Yukon Territory when an

amendment such as this is not being honoured, especially where the forest is most plentiful in southeast Yukon. I'd like to put on record also that some First Nations are not bound by the *Umbrella Final Agreement* and some have not signed a final agreement. So I can't understand how the government is so 100-percent sure that their bases are covered here.

I take the legal opinions of the Liard First Nation very seriously and I believe the government does not. At the end of the day, I imagine the opposition will be able to also stand up and say, "We told you so," when there is a court case challenge launched against this act. I know the minister appears to demonstrate that it's quite funny and it's humorous, but it's not.

I think the government will, at the end of the day, really find out that it is not a joking matter and that other governments in other provinces that thought First Nation issues were joking matters found out by the Supreme Court of Canada that they weren't. They were to all be taken seriously.

Chair: Is there any further debate on the amendment? Shall the amendment carry?

Some Hon. Members: Count.

Count

Chair: Count has been called.

Bells

Chair: Order please. All those in favour of the amendment, please rise.

Members rise

Chair: All those who disagree, please rise.

Members rise

Chair: The results are seven yea, eight nay.

Amendment to Clause 6 negatived

Chair: Is there any further discussion on clause 6?

Clause 6 agreed to

On Clause 7

Amendment proposed

Mr. McRobb: Mr. Chair, I do have an amendment for clause 7, and I'll pass the folder to the Clerk now. It reads as follows:

THAT Bill No. 59, entitled *Forest Resources Act*, be amended in clause 7(2) at page 10 by adding the following sub-clauses:

"(c) consult with affected Renewable Resources Council(s) on the Renewable Resources Council's preferred method of being involved in the planning, and;

"(d) consult with the affected Renewable Resources Council(s) regarding a budget for their involvement in developing the forest resources management plan."

Chair: The motion is in order. It has been moved by Mr. McRobb

THAT Bill No. 59, entitled *Forest Resources Act*, be amended in clause 7(2) at page 10 by adding the following sub-clauses:

“(c) consult with affected Renewable Resources Council(s) on the Renewable Resources Council’s preferred method of being involved in the planning, and;

“(d) consult with the affected Renewable Resources Council(s) regarding a budget for their involvement in developing the forest resources management plan.”

Is there any debate on this amendment?

Mr. McRobb: Thank you, Mr. Chair. Well, once again, the minister is extremely hasty to disregard the concerns of many Yukoners. I believe this amendment deserves an argument in support.

First of all, the renewable resource councils have an important mandate in the territory to care for fish and wildlife in the respective local regions, and that mandate is entrenched in the *Umbrella Final Agreement*. However, that mandate and those councils are clearly given the short shrift in this act. That is why it is necessary to bring forward this amendment.

Now, out of the correspondence we received from renewable resource councils in response to the draft act, two-thirds of them had severe concerns. Mr. Chair, the minister ought to be open to improvements, even if one of them had concerns, but two-thirds — the majority — had concerns. The renewable resource councils are the instrument through which renewable resource planning takes place within the traditional territory. The councils need to be the leader in forest resources management planning. They have critical information on fish and wildlife rights and harvest to include in the planning process that only its members can contribute. I refer the minister to 17.5.5.5 on page 199 of the *Umbrella Final Agreement*.

The original clause 7(2)(c) is simply not strong enough to ensure that there is tripartite planning when it comes to the forest management plans.

I’ve attended renewable resource council meetings. I receive minutes of those meetings. I know present and past members of those councils. In the Kluane region, there are two such councils. I believe there are several more in the rest of the territory. They perform a critical role. No one political party should have the right to overrule those councils. I recall plenty of past discussions in this Chamber, even before my presence, on how those councils were relied upon for their input to the government and for their input into processes respecting their mandates and how all members should respect the roles of the renewable resource councils. Well, that is simply not the case in this act, the way it’s written.

There is another issue. The councils are simply not guaranteed a budget to even have the resources to even look at a forest resources management plan or participate in it, for that matter. These councils have a heavy mandate, and they’re short-strapped when it comes to financial resources. This amendment would resolve that by ensuring that they have a budget in order to become involved in these important processes. It would also ensure that councils have a role in the planning.

Now, if the minister is going to stand up and say that the councils have a role and can trust us or that they have a budget and they can trust us, well, that’s not good enough. I would suggest this rhetorical comment: if everything is fine, then

what’s wrong with including this amendment in the act to guarantee that it actually happens?

The minister was extremely dismissive of the good work of the councils the other day in Question Period. I hope he’s seen the light and will see the goodness in this amendment and not continue to engage in the denial that we’ve seen here this afternoon by calling this process that we’re doing now, trying to improve the bill, “silly ragging the puck.”

Those were his words. Mr. Chair, it has been said frequently in this House that no one party has a monopoly on good ideas. In fact, the other day, I think I heard the minister allude to that, saying that if they hear good ideas, they are open to them. They will consider them and include them in the legislation. Well, here is an opportunity for the minister. Will he ensure that the councils become involved in the planning processes? Will he ensure the councils have a sufficient budget to even participate or will he simply deny this amendment by use of the government’s majority in this Assembly to defeat it?

Hon. Mr. Cathers: Mr. Chair, the Member for Kluane — the Official Opposition Liberal critic — suggested that I was dismissive of RRCs. Well, once again, the member is imagining things, because I said nothing of the sort and *Hansard* will prove that. The member is referring — he talked about RRCs expressing concerns. Once again the member is cherry-picking comments from early stages of consultation. He is not reflecting the good work that the successor resource legislation working group, the focus groups and the department staff — the staff of Energy, Mines and Resources — did and the consultation and discussion, both formal and informal, that occurred between those officials, RRCs, First Nations and so on.

The member is talking early stages of consultation. He is not reflecting the end product and the member, once again, is ignoring the voices of the majority of Yukoners and cherry-picking a few comments he knows to be early stage, he knows to have been addressed, he knows to have been included within the legislation. So once again, the Liberal Party is bringing forward a needless amendment. Once again, this is a needless exercise on their part. Mr. Chair, really there is not a lot left to say or time that it is worth spending dignifying their proposal and their approach with a response.

The members know that the *Umbrella Final Agreement* places a requirement on working with renewable resource councils. Section 17.2.2: “The Minister shall Consult with the affected Renewable Resources Councils”. Then it goes on to 17.2.2.1: “prior to establishing a new policy likely to significantly affect Forest Resources Management, allocation or forestry practices”.

Mr. Chair, it is not practice in every piece of legislation to list in its entirety every other piece of legislation that holds force and effect in the territory. This is a needless exercise by the members. They know that the *Umbrella Final Agreement* takes precedence. The members would note — if the members were paying attention at all — that section 4 of the act states that final agreements prevail: “This act is governed by an *Act Approving Yukon Land Claims Final Agreements*.” That, of course, includes the section of the *Umbrella Final Agreement* I just read and the members know it. Once again, it is a needless

exercise by the Liberal Party, a needless waste of the Assembly's time and a pointless amendment.

Mr. McRobb: Well, Mr. Chair, it's very unfortunate for the Yukon that the minister responsible for this portfolio takes such an outlook on these councils.

Some Hon. Member: Point of order.

Point of order

Chair: Mr. Cathers, on a point of order.

Hon. Mr. Cathers: The member is putting words into my mouth about RRCs and he knows it. He is knowingly stating something that is not true.

Chair's ruling

Chair: With regard to the point of order, originally there was no point of order; it was a dispute among members. But when citing a point of order, you can't break the Standing Orders, which, Mr. Cathers, you did. I request that you not do that in the future, please.

Mr. McRobb, you have the floor.

Mr. McRobb: Thank you for that ruling, Mr. Chair. The minister's explanation simply doesn't hold water. The *Umbrella Final Agreement* does make determination with respect to a lot of matters, including giving effect to these renewable resource councils. But what really blows the minister's argument out of the water is the *Umbrella Final Agreement* ensures that renewable resource councils are consulted when there's new legislation affecting its jurisdiction and we have correspondence in front of us that clearly indicates that wasn't done.

So what good is it the way it is? I'm even aware of the possibility this bill could get held up by renewable resource councils that want to take a stronger position about their concerns. Yet the minister is dismissive. My quote of what he said won't be on transcript because it was said off microphone during a vote a couple of amendments ago. He called this a "silly ragging of the puck." That pretty well sums up his whole attitude. It's unbelievable, unbelievable that a minister of the Yukon government would call concerns such as this as "silly ragging of the puck" and a waste of time. That's totally disgusting.

Unparliamentary language

Chair: Order please. Sometimes the Chair actually gets speechless when he hears the comments that members make. Mr. McRobb, you know those comments aren't warranted in this House. I would encourage you — actually I would ask you — not to say that again, please. Mr. McRobb.

Mr. McRobb: Mr. Chair, I'm unaware of — can you elaborate? Specify what it was I said?

Chair: As the Chair, I don't even want to repeat this, but the member mentioned that actions from other members are disgusting and I am now going to ask the Member for Klwane to retract that, please, without repeating it.

Withdrawal of remark

Mr. McRobb: Thank you for that clarification, Mr. Chair. I will retract that and say that the whole approach shown

by the minister and the government toward this is really unfortunate for the territory. I am sure we haven't heard the last of this yet.

Mr. Edzerza: I just want to make a really brief comment to this, because it is quite troublesome when I hear from a minister that, when the opposition brings forward some amendments that we take very seriously, it is referred to as a needless operation.

I strongly believe that it would only be needless to those who thrive on power and control. The people who are requesting these amendments are the ones who have no voice here. They have no voice and the opposition is trying to bring their voice to this forum. We are constantly being told by the government side that we are wasting their time.

I believe that if the government will not support this amendment, it simply means they do not want to give the RRCs a voice in what extent their involvement will be, or even how they are involved. The minister does not want them to have a voice here.

Seeing the time, Mr. Chair, I move we report progress.

Chair: It has been moved by Mr. Edzerza that Committee of the Whole report progress on Bill No. 59.

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.

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: Mr. Speaker, Committee of the Whole has considered Bill No. 59, *Forest Resources Act*, and directed me to report progress on it.

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

Some Hon. Members: Agreed.

Speaker: I declare the report carried.

The time being 5:30 p.m., this House now stands adjourned until 1:00 p.m. Monday.

The House adjourned at 5:30 p.m.

The following Sessional Papers were tabled November 20, 2008:

08-1-89

Yukon Human Rights Commission Annual Report for the year ending March 31, 2008 (Speaker Staffen)

08-1-90

Select Committee on Human Rights: Report (Horne)

The following documents were filed November 20, 2008:

08-01-71

Report of the Audit of Pharmacare and Extended Health Benefits program (Hardy)

08-01-72

Report on the Audit of Contracts (Hardy)