

**Yukon Legislative Assembly
Whitehorse, Yukon
Thursday, April 30, 2009 — 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 proceed at this time with the Order Paper.

Are there any tributes?

TRIBUTES

In recognition of the Live Words Yukon Writers Festival and the Yukon Young Authors Conference

Hon. Mr. Lang: As minister responsible for Yukon public libraries, it gives me great pleasure to rise today to recognize the 19th Annual Yukon Writers Festival, known as Live Words. Each year, this successful event brings Yukon people together with local and visiting writers to celebrate the joys of Canadian writing through many exciting literary activities. The opening reception for this 10-day festival is tonight at the Ber- ingia Centre. It showcases Yukon writer Celia McBride, as well as five well-known writers who've come from across Canada to visit our territory.

Mr. Speaker, the next big event will be the 29th Young Authors Conference, which is taking place today, April 30 and tomorrow, May 1, at F.H. Collins Secondary School. This event includes almost 100 grade 8 to 12 students from schools throughout the territory. Workshops, readings and discussion groups assist the students in developing their writing skills. For our young writers, this is a unique opportunity to write and be coached by accomplished Canadian writers.

Events like these only happen with support from national organizations, local community groups and businesses. The excitement will continue for the next week, as Yukoners exchange ideas, skills and stories with these acclaimed Canadian writers.

The Yukon public is encouraged to participate in the many readings, receptions, workshops and book signings that will be held throughout the week of the Yukon Writers Festival. There will be something for everyone, including teens, nature enthusiasts and budding journalists.

Mr. Speaker, I would like to emphasize that the festival is Yukon-wide, with events taking place in Yukon communities as well as here in Whitehorse. The Yukon's abundant literary talent is part of our culture and our history. Events such as this expose Yukoners to some of Canada's finest writers and encourage Yukon writers to pursue literary success at all levels.

I would like to thank all our partners and sponsors who have collaborated over the years to ensure the success of this festival.

Financial support from this government as well as the Canada Council for the Arts and the Writers Union of Canada made it possible to bring writers from across Canada to Yukon.

Special acknowledgement and thanks is due to our Yukon festival committee and of course the volunteers. Their love of the written and the spoken word and their hard work will ensure a successful event.

Finally, Mr. Speaker, I would like to remind Yukoners that festival events are open to the public. The festival is produced this year by the public libraries branch, public schools branch, Gwaandak Theatre and the Yukon Science Institute.

Program information is available through the local media and at the Yukon public libraries. Thank you, and I invite all Yukoners to enjoy the Yukon Writers Festival.

Thank you, Mr. Speaker.

Speaker: Are there any further tributes?

In recognition of International Workers Day

Mr. Cardiff: Mr. Speaker, I'm really pleased to be able to rise today on behalf of the Legislative Assembly and pay tribute to May Day, also known as International Workers Day. This is going to be a little bit of a history lesson. It's interesting because history gives us pause to look back and learn lessons from the past and reflect on what we would do as leaders if we were placed in a similar situation. There were political leaders on both sides of the issues back in 1919.

This May Day marks the 90th anniversary of the Winnipeg General Strike. It's an important piece of Canadian history and who knows if anyone is alive today who participated in it. That's a good question. 1919 has been referred to by labor historians as the high watermark of labour agitation in this country. In 1919, there were 428 strikes involving nearly 150,000 workers and accounting for 3.4 million days of work lost.

Demands for increased wages and better working conditions that were behind the strike did not come to Winnipeg unexpectedly. Action from workers had been building for years in cities around the world, from New York to Seattle and Limerick to Liverpool. There was a one-day general strike in Vancouver in August of 1918. In February of 1919, 100,000 people walked off the job and it's actually considered the first general strike the United States ever had.

When the City of Winnipeg's teamsters, electrical workers, waterworks employees and office workers approached the city council in April of 1919 for a wage increase and were flatly rejected, the strike began. With other workers joining in, city council in turn dismissed those striking workers, which only strengthened their resolve. The bosses were nervous, the federal government was nervous, and they dispatched the North West Mounted Police to spy on and infiltrate strikers' unions and political organizations.

One of the big debates among strikers and at labour conferences was whether workers should organize into one big union, so that the actions and demands of workers would be united and strong.

The local media ran stories, fear mongering that strikers were Bolsheviks infiltrating Canada. Editorials and cartoons were racist and sought to whip up fears about the strikers, rather than give a fair hearing to their legitimate demands.

Contrary to the press coverage, most strikers were not revolutionaries. They wanted to amend the system — not de-

stroy it — and build a new one. They wanted pay raises to provide better for their families; they wanted better working conditions and protections for working conditions.

The Citizens' Committee of 1,000 was created by Winnipeg's wealthy elite to counter the demands of the strikers. The federal Interior Minister Meighen then issued a statement on May 24, stating that he viewed the strike as a cloak for something far deeper an effort to overturn the proper authority. In response, he supplemented the army with local militia and the Royal North West Mounted Police and special constables.

Legislation was quickly passed to allow for the instant deportation of any foreign-born radicals who advocated revolution or belonged to any organization opposed to the government. On June 17, the federal government ordered the arrest of 10 strike leaders, including J.S. Woodsworth and A.A. Heaps. Four days later, as strikers assembled for a demonstration at Market Square, the mayor called in the police, who rode in on horseback, charging into crowds of strikers, beating them with clubs and firing weapons.

The violent encounter resulted in many being injured and numerous arrests and the death of one striker. Amid the backdrop of this repression and violence, the central strike committee officially called off the strike and strikers returned to work.

The 10 strike leaders arrested on June 17 were eventually brought to trial. One was deported, five were found guilty of the charges laid against them. Their jail sentences ranged from six months to two years.

When the dust had settled, a royal commission was called to investigate. The commission found that the strike was not a criminal conspiracy by foreigners and the commission noted that if capital does not provide enough to assure labour a contented existence, then the government might find it necessary to step in and let the state do these things at the expense of capital.

Where we find ourselves today is no doubt due to the actions of our ancestors: the right to join a union, the right to strike, the right to collective bargaining, workers' compensation, the social safety net, unemployment insurance and public health care. We are proud that our society has progressed from those days of 1919 when workers literally had to put their lives on the line for social justice. On May Day, we recognize with pride the work of our ancestors to make this a better country and a better world.

Thank you.

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

TABLING RETURNS AND DOCUMENTS

Speaker: The Chair has for tabling a report of the Clerk of the Legislative Assembly on travel expenses of members of the Assembly during the 2008-09 fiscal year.

Are there any further returns or documents for tabling?

Hon. Mr. Hart: I have for tabling an order-in-council for the *Workers' Compensation Act*.

Mr. McRobb: I have a document for tabling.

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

NOTICES OF MOTION

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

THAT this House congratulates the Whitehorse Food Bank on this its opening day and urges the Government of Yukon to move expeditiously to develop and implement the government's proposed poverty strategy to ensure we are working toward a day when Whitehorse no longer needs a food bank.

Speaker: Are there any further notices of motion?
Hearing none, is there a ministerial statement?

MINISTERIAL STATEMENTS

Re Human swine influenza

Hon. Mr. Hart: I rise in the House today to inform my colleagues of the actions being taken in the Yukon to inform our residents of and protect them against the H1N1 Influenza A that is now spreading around the world.

The outbreak of this new strain of human swine influenza stems from Mexico where almost 200 people have died so far as result of the illness. Since the middle of April, Mr. Speaker, the virus has spread to the United States, Canada, Great Britain and several European counties.

Fortunately all cases outside of Mexico are mild and very few are even requiring hospitalization. The one case that has resulted in a death in the United States was a Mexican citizen visiting the U.S.

The World Health Organization yesterday raised the outbreak level to a phase 5 alert, which means that all countries are to immediately activate their pandemic preparedness means. At this stage, effective and essential measures include heightened surveillance, early detection and treatment of cases and infection control in all health facilities.

The Government of Canada is already taking measures to step up vigilance against the disease, including increased surveillance and sharing of information as recommended by WHO. No cases of H1N1 have been reported in Yukon. Our health emergency operations team is closely monitoring the situation, and all necessary preparations are being made by the Department of Health and Social Services under the direction of the Yukon's medical officer of health. This team has been operational since last Thursday.

I believe the Yukon is well prepared. We are working in close collaboration with other provincial and territorial governments at all levels and the Public Health Agency of Canada, which, in turn, is our link to the international partners. It is clear, Mr. Speaker, that the world learned some very valuable lessons from the SARS experience in 2003. We have been working in concert since Mexico established it first had a problem. Prior to SARS it is unlikely we would even have heard of

the outbreak let alone being able to work together to contain and respond to the spread.

Although Yukon has been fortunate so far, the Government of Yukon has been diligently doing its part to keep our stakeholders and residents informed, and we've also introduced steps to reduce the risk that the H1N1 swine flu poses to the health and wellness of our citizens.

We have enhanced our surveillance through the territory. All health care providers, including physicians and primary care nurses in rural health centres, have been provided with guidelines on what to watch for and how to respond in the event of a suspected case of human swine flu.

Whitehorse General Hospital is another partner in our task, and they are part of our daily updates and briefings so that their staff and care providers are kept fully aware. The Yukon medical officer of health, Dr. Brendan Hanley, has taken a very public role and is providing appropriate messages to the public, both through the department and through the media.

Childcare centres have been provided with information, as have schools. We are updating our departmental Web site daily with the most up-to-date information on the virus. We have done this not to panic people, but to provide an update of factual information that will assist individuals to make good decisions and healthy choices.

Yukon residents who are coming back from visiting Mexico or the United States do not need to visit their physician or health care facility simply because they have been travelling. Individuals who have been travelling but are not ill do not need to stay at home from work or school. Individuals who have returned from an affected area and are ill with flu-like symptoms are asked to call the Yukon HealthLine at 811 for advice. They should clearly state their travel history to ensure that the proper advice is provided.

Yukon residents who may have returned from a trip and are not seriously ill are being encouraged to follow the same measures as they would with any flu. They should stay home from work and limit contact with others to reduce the chance of infecting them. They should reduce the spread of germs by avoiding touching their eyes, nose, and mouth and by washing their hands frequently. They should contact their health care provider or Yukon HealthLine at 811 if symptoms get worse or they are concerned that they may need care.

Everyone is advised to practice good hygiene such as washing hands, coughing or sneezing into their arm or using a tissue. We know that these simple steps can help reduce the transmission of most viruses including the swine influenza.

We are not in a pandemic situation but we are ready for one. We have the knowledge, we have the capacity, we have the dedicated people and we have Yukon strength.

Mr. Mitchell: On behalf of the Official Opposition, we thank the minister for the information provided today. We understand that many members of the Yukon public have questions and concerns about the human swine influenza, or as it is more properly known, the H1N1 Influenza A outbreak that is spreading around the world. That is why I asked a question

about this two days ago in this House, to get the information out as fast and as widely as possible.

We know that many Yukoners vacation in Mexico; in fact, there was a radio interview on CBC this morning with two well-known Yukoners who are currently in Mexico and just embarking on their return trip to Yukon. We also know that there is much visitation between Yukon, Vancouver, Edmonton and Calgary, and points beyond. As Yukon's medical officer of health has stated, it is very likely that we will see cases of this influenza eventually in Yukon.

We appreciate the steps that Dr. Hanley, the Yukon's medical officer of health, and the Health department have taken to prepare Yukon as much as possible for whatever occurs here in the coming weeks. As the minister has stated, Whitehorse General Hospital is prepared to deal with any influenza outbreak that may occur. There are also plans in place at the Watson Lake hospital and the other 24-hour facilities.

We join with the government in reminding all Yukoners to practise good hygiene and common sense. Wash your hands with soap and hot water frequently. If you feel you are getting sick, do not go to work; stay home. If your children start to get sick, do not send them to school. If you or your family needs information, you can call the 811 line for the current information. If you need medical assistance, you can go to the hospital if it appears serious, or phone your family physician and follow their instructions. We must all act responsibly, as a community, to minimize the likelihood of a wider outbreak.

Mr. Cardiff: We're pleased to see this statement from the government and we hope that it will serve to help assure the public that this serious threat is under control in the Yukon.

We were actually looking for a ministerial statement earlier in the week about this. We're aware the situation has been acted upon for about a week now and we're looking to the minister for an update. It would have been helpful, I think, for Yukoners to know what was in place to react to this illness a little earlier.

There was a time in the Yukon when we were isolated enough to not worry too much about diseases from the south, but this is no longer the case. It is good to know that there are no cases of swine flu in the Yukon at this point. There are many people in the Yukon who travel south in the spring to enjoy the sun and beaches; many go to Mexico and the southern States. The news about deaths in Mexico and the spread to the U.S. have forced many of them to change their plans.

If they have already gone, they may return ill or they may have already returned with the virus without knowing. It's important for them to have early professional advice and know that this government is working on that problem.

We are pleased to know that Dr. Hanley and the Department of Health and Social Services is implementing a thorough plan of messages to the public about the risk to their health and how to cope with this threat and that there is a well-organized media plan and information has been given to public institutions such as schools.

We congratulate Dr. Hanley and wish him all the best in the next few weeks and we look forward to further updates from the minister, as needed, on this emerging health problem.

The other thing I'd like to say is that this serves to remind us well about the causes of these diseases and where they come from and the importance of paying attention to clean living conditions and clean water and access to health care. If you look — as I saw, watching the national news the other night — at the living conditions and where this epidemic has originated, that's something we as citizens — not just here in the Yukon, but as global citizens — need to pay attention to, to work on and change.

Hon. Mr. Hart: I thank the members opposite for their comments. I would just like to add a little bit more here. There are things we don't know. We don't know how long this will last. We don't know why the disease is so much more severe in Mexico, and we don't know if it will change from the present mild disease to something more serious as it spreads.

We do know the answers to these questions are being sought by the best medical and scientific brains around the world. We know that Canada is well prepared and, should this outbreak accelerate, we know the Yukon is ready. We have been working diligently on a pandemic plan for several years. This is an evergreen document that will never be final, so I don't want anyone to take the fact that we are working on it as a negative. We need to keep it fresh and we need to keep populating it with new information and advice and we need to keep it current.

We are ready. We have the stockpile of necessary supplies, including antivirals and masks. These are stored in a secure facility and we can easily access them when needed. We have care plans in place at the Whitehorse General Hospital, the Watson Lake hospital and other 24-hour facilities. We have had the support of the federal government, which has the capacity to produce a vaccine for all Canadians. Recent reports say the vaccine could be ready within months.

These are challenging times. There is uncertainty and some degree of fear of what might come, but Yukon residents can rest assured that our pandemic plan is in place, the national plan is in place, and all is working as it should. We are not in a pandemic situation, but we are ready for one. We have the knowledge, we have the capacity and we have the dedicated people. As I said, we have the Yukon strength to pull through.

Speaker: This then brings us to Question Period.

QUESTION PERIOD

Question re: Commission scolaire francophone du Yukon, court action

Mr. Fairclough: The francophone school board is not buying the minister's plans of meeting, meetings and more meetings with their many partners in education. They are demanding a fundamental right. The chair of the francophone school board has said, "It is unfortunate that the minister does not understand the importance of community governance in education."

I will make it clear, Mr. Speaker, we consider this minister to be the issue. We consider this minister to be the second greatest hindrance to progressive education in Yukon.

In addressing my question I referred the minister to Guidelines for Oral Question Period No. 11. Will the minister resolve the issue with the francophone school board before any more money and time is wasted?

Hon. Mr. Rouble: Let's get right to the point of personalizing debate here. There is no sense in wasting any time on that.

Mr. Speaker, the member opposite and the Liberal Party know full well the progressive work that this government has done in education. The member opposite is aware that the Commission scolaire francophone du Yukon has filed a claim against the Yukon. I believe their statement of claim is a publicly available document. They can review that if they like.

We now find ourselves in a situation where that has been the method that the Commission scolaire francophone du Yukon has chosen to resolve this issue. As such, we will respect that process, and we will continue to use that. As it's a matter before the court, I feel, and the government feels, that it's inappropriate to comment on it any further.

Mr. Fairclough: Well, the minister needs to bone up on the Standing Orders here, Mr. Speaker, and read Rule No. 11.

"Yukoners have said very loudly and very clearly that they want to be more involved. They want to be involved in their school and their community."

Those, Mr. Speaker, are the words of the minister April 23, 2009, in *Hansard*.

So we know he has heard; we know he understands what the words mean; we know both the *Education Act* review report and the education reform project recommended a bottom-up approach. We know First Nations are demanding it. The francophone board is demanding it. Yukoners in general are demanding it; however, this minister insists on micromanaging the system. A top-down, I-know-all-you-know-nothing approach to leadership is not leadership.

So will the minister resolve the issue with the francophone school board and avoid costly court proceedings?

Hon. Mr. Rouble: Mr. Speaker, the member has asked his question and I have answered it.

Mr. Fairclough: Well, I did ask the minister to read the Standing Orders. He is able to answer the question. He can. The rules are clear. I quote again from the chair of the francophone school board: "It's unfortunate that the minister does not understand the importance of the community governance in education." And I said it earlier: the minister is the issue, period.

So I want to repeat for the minister again what the francophone school board said: "It is unfortunate that the minister does not understand the importance of community governance in education."

The minister, Mr. Speaker, can either bow to the Premier, or stand up for the children of the Yukon. He obviously can't have it both ways. Will the minister accept the challenge before

him and show some real leadership here, or will he just roll his eyes at the question again?

Speaker's statement

Speaker: Before the honourable member answers, the Chair is uncomfortable that this is going to lead to discord, honourable member. This is going to lead to discord if the member keeps up, and there are going to be the types of answers that the question evokes. Be prepared for that.

The Minister of Education has the floor.

Hon. Mr. Rouble: Mr. Speaker, the Government of Yukon will continue to work very closely with all of our partners in education — with First Nation orders of government, with school councils, with school boards, with parents and with teachers.

We've outlined many of our plans and many of the initiatives. We can only take a look at the budget to see additional initiatives to do such a thing.

It's business as usual working with the Commission scolaire francophone du Yukon in order to assist them and to assist the teachers in that school to provide French first language education to the students at École Émilie Tremblay. We will continue to work with them.

Mr. Speaker, they have asked that several questions be put forward and answered through the court process. We will honour that process.

Question re: Asset-backed commercial paper investments

Mr. Mitchell: In August 2007, the government made some bad investments. These were investments that the Premier and the Deputy Premier said were guaranteed by a bank. They were not guaranteed by a bank, and the Auditor General of Canada confirmed that. Twenty months later, we have still not been able to get our hands on the \$36 million that is outstanding.

The Premier also assured Yukoners that we would receive regular interest payments on this investment. In a letter to investors released on April 16, 2009, the company holding these investments said, and I quote: "There would be insufficient funds available to pay any interest accrued on April 22, 2009."

Will the Premier confirm that we received less interest than we were supposed to last week?

Hon. Mr. Fentie: First off, what the Premier is going to confirm is the fact that the member opposite continues to avoid all the facts of the matter and is simply trying to establish what he continually puts forward into the public: that the government has lost money. That's not the case at all, Mr. Speaker. In fact, the government hasn't lost any money on its investments — it has made almost \$21 million in its investments.

Secondly, the member has continually expressed the fact that this particular investment is lost and I would refer the member to some of the facts again that the member avoids. In the restructuring process, which included the federal government, many other governments in the country and many corporate entities, the amount of the original notes is the exact same amount of the existing new notes. So, the member's facts are

simply incorrect and the member knows that, so I would encourage the member to try to engage in a debate that's factual so we actually have a constructive exchange.

Speaker's statement

Speaker: When the Hon. Premier says that the member's facts are not correct and he knows that, the implication of course is that the honorable member, the Leader of the Official Opposition, is misleading the House. Hon. Premier, please do not make that reference.

Mr. Mitchell: Well, here are some facts that minister managed to avoid in 90 seconds of not answering the question. We were due an interest payment last week and not all of it arrived.

Now according to Colin Kilgour who advises investors, "As long as the bank rates stay low, these notes will not pay interest." He said, "In fact, they'll incur interest charges."

We know rates are going to be low for at least another year. The government invested \$36 million in August 2007 and it can't get the principal back — that's bad enough. Now we find out that we're not even getting the interest we were promised from the banks.

Another reason the interest payments are not coming through as planned is a payout of fees and expenses to the banks involved. These are the same banks that the Premier criticized that couldn't give us our money back in the first place. Now the Premier is paying these same banks even more money. Why is the Premier allowing the banks to withhold our money?

Hon. Mr. Fentie: That is an interesting view of the facts, Mr. Speaker. The member says that we're not getting our interest. I refer the member to this fact. In January we received \$1.15 million of interest on this very investment. A second payment, Mr. Speaker, will be due next month and that is a total of \$423,000. The interest payment the member refers to we did receive a portion of the payment — the balance deferred to July of 2009. That total payment is around \$38,000.

I want to try to get the member to understand the facts here. We've received a total of \$1.15 million in interest already; we received a small payment due now, with a deferment of \$38,000 for July; plus we have \$20.8 million earnings in our investments.

So maybe the member would like to engage in that debate because those are the facts.

Mr. Mitchell: We wouldn't be in this mess if the government had simply followed the *Financial Administration Act*. They did not; the Auditor General confirmed that. Now we're on the slippery slope of getting part of our interest back. We haven't gotten any of our principal, and I'm hoping that Yukoners won't be losing their shirts, like a recent cartoon showed shirts being lost.

The Premier said these investments were guaranteed; they weren't. The Deputy Premier said they were guaranteed; they weren't. The Premier said we would get all the interest we were owed. Last week we did not get all the interest, as the Premier promised. Finally, we may never recover all the original \$36 million.

The chairman of Baffinland Iron Mines recently told the *National Post* many companies, including his own, "...have already written down the value of their" asset-backed commercial paper "by 50% ..." We know the Premier will be forced to do much the same this fall.

How much of a write-down is anticipated when we close the books on this year?

Hon. Mr. Fentie: The member opposite once again is ignoring the facts in their full context. How can the member explain that, some years ago, OSFI, a regulating body in this matter, allowed for a policy change or amendment that allowed the banks conditional guarantees on these investments? How does the member explain that for years the Yukon government has been making these investments? How does the member explain that even the Auditor General informed the member and others — those who chose to listen — that in good faith, officials in the Department of Finance were making these investments?

However, when the matter became the issue that the Auditor General pointed out, it's this government that acted immediately and put in a new policy to ensure that officials will no longer be encumbered with trying to make this kind of choice based on past practice.

The member's talking about write-downs. Again, we cannot have a constructive or meaningful exchange because the member doesn't know the difference between corporate accounting and how they must attend to their books and public sector accounting guidelines. The only adjustment here that is relevant is the fact that we have had to adjust interest, not principal.

Question re: Corrections programming

Mr. Cardiff: On many occasions the Minister of Justice has listed programs currently available at the Whitehorse Correctional Centre for inmates. She talks about educational opportunities, anger management courses and Alcoholics Anonymous sessions.

That all sounds good. However, we continue to hear complaints that not enough is being done. People who work in the field have told us that more could be and should be done before a new facility is built.

Has the minister evaluated the present programs at the Whitehorse Correctional Centre with a view to meeting the various needs of inmates over the next two or three years before a new system is in place?

Hon. Ms. Horne: I would like to point out our new *Corrections Act, 2009*, which was passed in this Assembly last week.

This new *Corrections Act, 2009*, lays out the plan for programming for inmates.

Mr. Cardiff: We're talking about programming and I was here for the correctional act debate.

Judges this past year have complained that there are inmates who receive no assessment, no programming and no treatment. In one case a judge raised concerns that an inmate was in the Whitehorse Correctional Centre for five months and received no mental health programming and not even a mental assessment. The inmate had a history of substance abuse, men-

tal health issues and was going through a very significant emotional episode.

And this isn't the only case, Mr. Speaker. Judges sentence people on the basis of rehabilitation services being available and proceeded with. Why did the minister allow this individual to be incarcerated for five months with no access to programming or assessment?

Hon. Ms. Horne: I will not comment on any specific person or situation involving a person at Whitehorse Correctional Centre. We do have the programming available. The programming is available, which is unusual — in Yukon, we offer the programming to inmates on remand, as well as to sentenced inmates. We are well advanced in the programming but, as I've said in this House previously, those inmates can either accept the programming or refuse to accept the programming. That is entirely up to them.

Mr. Cardiff: Well, the minister didn't answer the question. This is not only a concern for the rehabilitation of inmates; it's a public safety issue. The treatment of mental health issues involves a continuum of assessment, regular treatment and evaluation along the way, and discharge plans for the inmate's inevitable release.

Discharge plans include assessing the person's support systems back in the community, including family, friends and professionals. It includes giving these supports and the information and the help they need to deal with the problem. It includes looking into and establishing supportive living conditions, such as employment, housing, physical health and nutrition.

What does the Department of Justice do to ensure that the public is not at risk and that the inmates are receiving the needed supports when they're released?

Hon. Ms. Horne: Of utmost importance in the Whitehorse Correctional Centre is the safety of Yukon citizens and the safety of inmates. I said in this House before that we have two nurses in Whitehorse Correctional Centre who are employed full-time, we have doctors on contract, we have a dentist on contract, we have two nurses with forensic experience, and we have a psychiatrist on contract. They provide services for the inmates on mental health.

If someone needs a mental health assessment that is certainly done at Whitehorse Correctional Centre. We make sure that the inmates receive the utmost top care in mental health while they are in our facility. We have some who are ordered by the court to stay at the Whitehorse Correctional Centre and they have access to the psychiatrist and forensic nurses. We have excellent care for our inmates.

Question re: Social inclusion policy

Mr. Cardiff: Yesterday, the Minister of Health and Social Services told us he learned a new expression — we're glad because it's a good expression. It's "social inclusion." Social exclusion is rife in our society and the government has a strong role to play in reducing the barriers that prevent people from full participation.

The minister referred to a strategy to look at social inclusion. How is he planning to address the needs of Yukoners

struggling with mental disabilities to work for their social inclusion in today's Yukon?

Hon. Mr. Hart: Mr. Speaker, as I stated yesterday for the member opposite, we are in the early stages of this review. We're digging up the information as this particular item was brought up in doing our assessment for the poverty strategy aspect. We are looking into this particular item.

As I said, this is an important element that has to be looked at because we are looking at this particular entity because it will address many of the situations the member opposite brought up yesterday, as well as issues for many low-income users. We're looking at what has to be covered and how it's going to be done, and we are checking. As I said, we are in the early stages; we are working with other jurisdictions; we are actually one of the leading people on the edge of taking this particular aspect in addressing a strategy for low-income people.

Mr. Cardiff: Our society must make accommodations for people with mental disabilities to be socially included, that's important. A job is very important for people to feel productive and part of society and so there is much that we need to do around employment equity to reduce social exclusion.

In response to a court case, the Public Service Commission issued a new policy on accommodating employees with mental disabilities. It was supposed to be in place by 2007. It's 2009. The public service policies addressing employees with mental disabilities that are available on the Web site are dated from 1994 to 2004. Can the minister responsible for the Public Service Commission tell the House why we are behind in updating that policy and when we can expect this policy in place?

Hon. Mr. Rouble: The Government of Yukon is very proud of the work that the Public Service Commission has taken in this area, especially in one of the key initiatives: the workplace diversity employment office. The workplace diversity employment office offers a variety of service for First Nation citizens and people with disabilities who seek employment within the Yukon government. Mr. Speaker, this is a very progressive step that the Government of Yukon has taken, that we have supported.

We will continue to take efforts, not only through the Public Service Commission, but indeed through all departments in the Government of Yukon to promote inclusion of all people in our society.

Mr. Cardiff: The minister didn't answer the question about when we'll see the policy. Mental disabilities include a whole gamut of conditions from schizophrenia to FASD, bipolar, et cetera. There are lots of them.

Housing has long been recognized as a vital way to help those with mental disabilities. Having supportive housing helps people-to-people relationships and helps them have supports in the community. It means other institutions like jails, the emergency room at hospitals and shelters are freer to meet other needs. Sadly, in today's Yukon, these institutions are band-aids that keep the mentally disabled moving through society.

We have been saying since the start of the sitting that the \$1-billion budget is weak on social infrastructure and — surprise surprise — there is no new funding for supportive hous-

ing. Will this government commit to building, renting or leasing houses for those with mental disabilities or is social inclusion just a buzzword?

Hon. Mr. Hart: I think yesterday we were in debate with regard to the Department of Health and Social Services with regard to the budget. We have a substantial amount of monies in Health and Social Services, and we have a substantial amount of programming that has been made available for all aspects of health care within Yukon, including mental health. We are in that process; we have provided additional programs for addressing mental health for youth, as well as issuing that programming and providing health care services and assisting other people with mental health issues.

Question re: Yukon Development Corporation, chair remuneration

Mr. McRobb: Evidence now before this House proves this government used taxpayer money to pay its politically appointed chair of the Yukon Development Corporation's full salary for 2006 and 2007, even though the position was vacant for a period of 4.5 months. Will the minister responsible now explain this Yukon government policy to always pay a full year's salary to board members? Or was this simply a special exception?

Hon. Mr. Fentie: Well, Mr. Speaker, I'm really hesitant to accept the Member for Kluane's statement that the member has provided evidence before this House. The member is provided material that the member has dug up somewhere including, by the looks of it, receiving material from individuals involved in a Yukon Utilities Board process. That certainly isn't something this House can accept as evidence; it is information the member has formed an opinion on.

So, as the government expressed yesterday, we'd like to hear more from the member on the matter, because it includes Yukoners who have been appointed to boards and committees. And I think we all understand that there are many examples of government employees, when they take issue and exercise freedom of speech, who are going to be challenged by the Official Opposition. The list is quite extensive in that area, so we'd like to hear more from the Member for Kluane.

Mr. McRobb: Well, it wasn't a Liberal government that conducted a computer use investigation of Yukon government employees; it was the Yukon Party. The Premier wonders what evidence was tabled. Well, we tabled orders-in-council that came from the Yukon Party government itself and *Hansard*, in which the Premier himself indicated the chair was paid a full year's salary for 2006-07. That's the evidence we're referring to.

Once again, will the minister responsible now explain this new Yukon government policy to always pay full-year's salary to board members, or was this simply a special exception?

Hon. Mr. Fentie: Once again, the information that is public that the Member for Kluane is now using as what he calls evidence — it simply is not the case at all. It's public information provided to the public so they are aware of what is happening and what their government is doing. If the member wants to make a formal accusation outside the House and use orders-in-council as evidence, that's the member's choice, but

as far as a new policy on paying anybody on any matter with respect to public funds, the member knows full well that policies haven't changed in this area. The member knows full well that, when it comes to employees, there are collective bargaining agreements. The member knows full well that there are existing policies that set the levels of remuneration for people who are appointed to boards and committees.

I'm not sure what fishing expedition the Member for Kluane is on, but I can assure you, Mr. Speaker, that Yukoners in listening to this are becoming gravely concerned about what would happen to them should they choose to accept an appointment to any board or committee on behalf of Yukon citizens.

Mr. McRobb: I have been trolling for an answer for several days but it seems the only catch is a number of red herrings from the Premier. Now I have no problem repeating these questions outside the House and I know the Premier is scrambling for an answer here but to make such accusations, Mr. Speaker, I don't have a problem with. Again the evidence I am referring to are the government's own orders-in-council and the Premier's words in *Hansard*.

I have a slightly different question. Yesterday a spokesperson for Yukon Energy said it didn't pay the chair for the time he didn't serve. So my question is simple: why didn't the Yukon Party government follow the same practice with the Yukon Development Corporation?

Hon. Mr. Fentie: The answer is simple — the member is totally confused, Mr. Speaker. I say that in the kindest terms. Mr. Speaker, it is obvious that the Member for Kluane has something here that he feels very strongly about. That is why the government side is suggesting that he exercise process due to him, available to him, and make the formal accusations — especially around the area of payment for a four-and-a-half-month period that the member keeps fixating on. We would really like to see that accusation made formally so that those being accused could bring forward what can be defined as “real evidence” and present it in a venue and in a manner where they can defend themselves, which they can't do on the floor of the House.

Furthermore, I'll remind the member that this member who says that this information has been kept secret on what a board member or chair is being paid and that it's very tedious to get this information, that the member's own words in his question to this very chair in this very House are recorded on the pages of *Hansard*. I think the member has a real, real problem.

Question re: Yukon Development Corporation, chair remuneration

Mr. McRobb: The same issue and the information the Premier refers to was merely a drop in the bucket. For his information, I feel very strongly about this matter, because it's protecting the public interest. If the matter is totally confused, I think the Premier can take credit for part of that.

I have further questions for the minister responsible for the Energy Corporation; we'll see if he's allowed to answer this time.

Yukoners learned recently that the government evidently has two pay scales for how it pays board chairs. Most are paid

\$200 to \$300 per day, but the chair of the Yukon Energy Corporation is paid \$800 per day. It appears there was a decision made to make an exception in this case. Why was this one board singled out for special consideration?

Hon. Mr. Fentie: Mr. Speaker, I'm glad the member brought up protecting the public interest. Let's go over that and what we've experienced in this House when it comes to protecting the public interest. This is a member — the Member for Kluane — who took issue with a citizen, who just happened to be a government employee, exercising their right to freedom of speech. That's protecting the public interest? This is the same member and his colleagues, the Official Opposition, who have made reference to the fact that the Yukon Hospital Corporation is not accountable. This is the same Official Opposition that did debate at great length a motion that the Member for Kluane tabled in this House to investigate Finance employees on a matter that the Auditor General had already dealt with. This, as the member refers to, is “protecting the public interest.”

Mr. Speaker, I can be categorically clear here, emphatically stating that the only — the only — people in this House outside of the government and the third party who are taking issue with protecting the public interest is the Official Opposition. I think they have forgotten what the public interest is really all about.

Mr. McRobb: Another net full of red herrings. The public is quite disappointed with this government when it refuses to answer questions that are asked on behalf of citizens in the public interest. We can accept the fact the government doesn't like this line of questioning, but these questions are important because they speak to the true character of this government.

Obviously, the minister responsible isn't allowed to answer these questions. So much for ministerial accountability.

Rules are rules but, under this government, exceptions to those rules are allowed from time to time. Is the minister prepared to implement full disclosure reporting in the interest of becoming open, accountable and fiscally responsible?

Speaker's statement

Speaker: Before the Hon. Premier answers the question, I'd just like to point out to all members that the Cabinet is a collegial body. Any member on that side of the floor can stand up and answer the question.

Hon. Premier, you have the floor.

Hon. Mr. Fentie: I think we have just gone over this issue of openness and accountability, and we have demonstrated, through the course of six years of being in office, how open and accountable this government is.

I want to really challenge the Member for Kluane in this statement. The member is holding information that is orders-in-council. Those are public documents. I would call that being open and accountable.

The member has information in questioning of individuals who come before this House as witnesses with respect to the Yukon Energy Corporation and the Yukon Development Corporation, and those witnesses have been very forthcoming in

their answers. I would call that being very open and accountable.

When I look at the situation the Yukon is in today, from where it was six years ago — in its fiscal position, in its quality of life, in its economy and its growth — I would suggest that not only is this government very open and accountable, but this government has a very astute approach to fiscal management. This government has, through its plan and vision for the Yukon, definitely delivered a better quality of life for all. That's not by breaking the rules or by changing this phantom policy that the Member for Kluane refers to. It's by being open, accountable, committed and dedicated.

Mr. McRobb: I challenge the Premier to answer the question. At \$800 per day, the chair of the board for the Yukon Energy Corporation received about \$57,000 last year.

This is in addition to the \$38,000 he received for another part-time job at the Yukon Development Corporation. There are many government boards but only one pays \$800 per day. Most government boards pay within the pay range of \$200 to \$300 per day. Only this one board has been singled out at this much higher rate. We are looking for an explanation as are the many other hard-working board members who serve our territory.

I tabled today, Mr. Speaker, the section of the boards and committees handbook that lists the pay scales so there is more evidence for this Premier. Why was this one board singled out for a much higher rate than any other one and who made that decision? Can we get an answer to this question?

Hon. Mr. Fentie: Mr. Speaker, the member has tabled, once again, more public information — not evidence. I want to refer the member back to something because it is essential and it is fundamental to the discussion that we're having — and that is the member's view of the facts.

The government side has stated that the member is quite confused in the matter. The member was fixated for two days on a four-and-a-half month period and what someone may have been paid during that time. We'd like to hear more from the member on why he would be referencing that period of time and indeed categorically stating that someone was paid during that time. Mr. Speaker, there is evidence in that regard and it will refute the statements the member is making.

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

ORDERS OF THE DAY

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

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

Motion agreed to

Speaker leaves the Chair

COMMITTEE OF THE WHOLE

Chair (Mr. Nordick): Order please. Committee of the Whole will now come to order.

The matter before the Committee is Bill No. 70, *Child and Youth Advocate Act*. Do members wish 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. 70 — *Child and Youth Advocate Act*

Chair: The matter before the Committee is Bill No. 70, *Child and Youth Advocate Act*.

Hon. Mr. Hart: I am pleased to have an opportunity to explain the content of this bill today as we go through it in detail. Tabling this bill fulfills the government's obligation to develop child advocate legislation which is set out in the *Child and Family Services Act*.

The bill reflects what we heard in the *Children's Act* consultation. It also reflects what we heard during the education reform consultations.

By the time we went to put pen to paper, the need for a child advocate was well established. We had a very good idea of what people wanted because of the previous consultations.

Last November, a discussion paper on the proposed content of the child and youth advocate was released. Individuals, groups and First Nations were provided with a number of opportunities to respond to the ideas in the paper. We received written and verbal comments. Many of the suggestions received found their way into the bill. I would like to thank all those who took the time to provide their thoughts and recommendations. As we go through the bill, I will point out where the ideas came from and how the feedback was integrated into the bill.

On some issues, there was no emerging consensus of opinion. For example, some wanted the advocate to focus on systemic issues, while others wanted the advocate to provide individual advocacy services only. We had to make choices about the role and mandate of the child and youth advocate.

In making these choices, we were guided by some overarching objectives: one, we wanted the advocate to make a difference in the lives of the individual children and youth who need an advocate; two, we wanted to avoid duplication with other services and processes already in place in the Yukon; three, we wanted to provide flexibility for the advocate's role to change and develop over time; and four, we wanted the legislation to reflect the realities of the Yukon.

Yukon is a small jurisdiction and it does not make sense to set up a large bureaucracy. We wanted the advocate to provide practical assistance to children. We have an Ombudsman already in place to investigate complaints. We also have lawyers who can be assigned to represent the interests of children, and the youth and children welfare court proceedings.

We have provided a five-year review for this legislation. If at that time the review shows that the advocate should have a broader scope of authority, or different functions, the government of the day can explore those options.

At this time, we thought it was important to establish the office of the child and youth advocate as a resource for children and youth and those advocating on behalf of children and youth. While we did not mirror any one piece of provincial legislation, we did draw from various provincial laws, including British Columbia, Saskatchewan, Ontario and New Brunswick.

Some child and youth advocates across the country are the provincial ombudsman for children. They have the mandate to investigate complaints about services received by a child or youth. In the Yukon, our Ombudsman retains the responsibility to investigate complaints about the services for children and youth. The purpose of investigation carried out by the Ombudsman is determined by the facts of the case. The Ombudsman does not take the side of the government or the person who has filed the complaint. The Ombudsman examines the facts and makes recommendations on the specifics of the case. The role of the Yukon child and youth advocate will be to assist and support children and youth to advocate for their rights and needs. The advocate is not an impartial investigator; rather, their role is to help the child or youth express their preferences and be heard in decisions that affect them. They will also work to resolve matters informally.

Being an investigator and being an advocate are two different roles. While the advocate will not investigate the complaints, the advocate will have the power and the authority necessary to carry out his or her job.

When the people talk about having investigative powers, they often refer to the power to compel agencies to provide information. Section 23 of the bill provides the advocate with the authority to obtain the information they need to look into the matter. Most provincial advocates also have this authority. Like other advocates in Canada, the Yukon child and youth advocate will be able to make recommendations to the responsible department or agency.

The advocate's and the Ombudsman's offices alike do not have the authority to compel government to take a specific action; that type of authority rests with our court system.

I look forward to going through this bill today, starting with the definitions and principles that will guide the advocate in his or her work. These principles reflect the feedback we received from people on the discussion paper.

Because the advocate will report to the Legislative Assembly, the bill also contains provisions dealing with the appointment and remuneration of the advocate. We will see similarities between these provisions and the *Ombudsman Act*.

You will also notice the list of qualifications that must be considered in hiring the advocate. We had many comments and suggestions for the qualifications of the advocate. Some of those key ideas are reflected here. More specific skills and qualifications can be set out in the advocate's job description.

Part 3 of the bill sets out the functions, duties and powers of the advocate. This part is key to the understanding of the

role of the advocate. In brief, the four functions of the child and youth advocate are these: individual advocacy, systematic advocacy, provide information on the advocate's role and function, and review larger issues at the request of the minister or the Legislative Assembly. These four functions provide a broad mandate for the advocate.

Part 4 of the bill contains provisions about financing of operations, privacy, confidentiality and access to information. The amendment to the ATIPP act set out in section 31 would make the advocate subject to Yukon's privacy act. Exceptions to this are set out in the bill.

The advocate will provide quarterly financial reports and annual reports to the Legislative Assembly. Copies of the annual report will also be distributed to the First Nations.

Mr. Chair, I will be going through these various sections as we work our way through the bill. I look forward to discussing this bill and answering the questions on specific provisions.

Mr. Mitchell: I am pleased to rise on behalf of the Liberal caucus, the Official Opposition, to speak to this important legislation in Committee.

I want to start by again thanking the officials for the briefing we had just prior to second reading and all the officials in the departments of Health and Justice who worked on the drafting of this act.

The minister made some statements in his opening remarks that speak to what I guess is a philosophical difference that we have between this side — at least in the Official Opposition — and in the government caucus about the role of the child advocate. It starts with the explanatory note before the bill. It says that the advocate's primary role as set out in the bill is to support and assist a child or youth to access designated services and to ensure that the views and interests of the child or youth are considered.

Then it goes on to say that as part of that primary role, the advocate may also assist the child or youth and others involved to resolve issues related to the designated services.

I think that there are two different aspects of the role that are incorporated in the first sentence. Supporting and assisting a child or youth to access designated services is certainly important and valuable, and should be part of the child advocate's role but, in effect, that describes the child advocate much like the patient navigator services that we contract with for Yukoners who are working their way through the medical systems in British Columbia or Alberta. It's someone to literally explain what the services available are, point someone in the right direction, make sure they don't get lost on the way to where they should be going, help them get to the offices, et cetera. That is important. But the second part of that sentence says, "...and to ensure that the views and interests of the child or youth are considered."

That's the part that concerns us in the Official Opposition, because it's about the children. I'm not convinced that this bill does that. I'm not convinced that this bill does what it should and could do.

We've heard from First Nations, we've heard from the Grand Chief, we've heard from the Chief of the Ta'an Kwäch'an Council. We've heard that First Nations also feel

that this bill falls short of the mark and I agree with them, because I think it does.

As I said at second reading, there are some comments that were in the *What We Heard About a Child and Youth Advocate Act* summary discussion paper. I read a number of them into the record. I'm not going to read them all again but I'm going to read a couple. The first says — and these are comments from Yukoners: “The purpose of the legislation should be to establish a voice for children and youth who are most vulnerable and at risk and who do not have adults who can adequately care for them or advocate on their behalf”; “It should be clear how the advocate will represent the rights and interests of young children and children who cannot speak for themselves.” Another comment was, “A true made-in-Yukon model would provide a Child and Youth Advocate with the ability to receive, review and investigate any concern that a child, youth or concerned individual or group may have with the services being provided or should be provided to a child or youth in the child welfare system.” Again, that is to receive, review and investigate any concern that a child, youth or concerned individual may have.

I think the minister understood from my second reading comments where we were going and he has tried to clarify why it is the belief of his government that that's not necessary. He has indicated here today that we already have an Ombudsman in place to investigate complaints. Well, I have a couple of things to say about that.

First of all, the Ombudsman's powers are very limited in Yukon. We've seen numerous instances where the Ombudsman has told citizens who have come to the Ombudsman that the guidelines for the Ombudsman do not allow a particular complaint to be investigated. It has to be solely having to do with the provision of particular government services and whether those services are being provided or not. Not all areas where a child who doesn't have adults who are looking after them — as hopefully one should — may need more than just a type of investigation about whether a government department fulfilled their obligation.

Secondly, all the Ombudsman gets to do at the end of the day is make a recommendation, write a letter to the person and say, “We have looked into your issue and we find that in fact you are right. This particular issue was not dealt with as government should and we will make recommendations on how the government should change that in the future.”

There is no enforcement of it. There is no immediacy to it. The Ombudsman takes time looking into issues. They have a caseload. We hear every year from the Ombudsman that they don't have sufficient resources, in the view of the Ombudsman, to deal with the caseload that is there in the half-time position that it is. It could be a matter of weeks or months before an issue makes it to the top of the list to be looked into. A child in need doesn't have weeks or months to wait. Their needs are usually pretty immediate.

Secondly, I would ask: why should a child or a youth who is in need of advocacy have to deal with two different people? The way the minister has laid it out, the youth or child would deal with the child and youth advocate and if it came to something that needed to be investigated or have these other powers

to make a review, an investigation or to initiate such an event, then that could be passed over to the Ombudsman.

This is all pretty intimidating for a young person. This is very intimidating for a young person who, to have come to this position to begin with, is most likely not being looked after sufficiently by a parent or a relative or a legal guardian, or there would be no need to go to the child and youth advocate. So the last thing such a person needs to be told, and to try to explain this to an eight, 10 or 14 year old — “Well, here's how it works. You go to the child advocate, and they're going to look after you.” Then you run up against something, and the child advocate says, “Oh, I can't go there. I'm going to refer your case to the Ombudsman.”

It's a cumbersome process. It's an intimidating process, and it's an unnecessary process. The case was made very well in the letter from Chief Massie regarding this issue. Why, unlike so many different jurisdictions — and it's some of the jurisdictions that are referred to by the minister — the Chief of the Ta'an Kwäch'än Council writes and cites Saskatchewan, for example: “The Children's Advocate shall: ... (b) receive, review and investigate any matter that comes to his or her attention from any source, including a child, concerning: (i) a child who receives services from any department or agency of the government; (ii) a group of children who receive services from any department or agency of the government; and (iii) services to a child or to a group of children by any department or agency of the government; (c) where appropriate, try to resolve those matters mentioned in clause (b) that come to his or her attention through the use of negotiation, conciliation, mediation or other non-adversarial approaches; and (d) where appropriate, make recommendations on any of those matters mentioned in clause (b).”

In Manitoba, the *Child and Family Services Act* provides, in section 8.2(1): “The children's advocate shall (b) review and investigate complaints that he or she receives ...” and it goes on to lay out what that means.

In Alberta, the *Child, Youth and Family Enhancement Act*, section 3(3): “The Child and Youth Advocate shall (b) receive and review complaints or concerns that come to the attention of the Child and Youth Advocate respecting children who receive services under this Act or the *Protection of Sexually Exploited Children Act*; ...” They have the power to investigate.

It's also noted in this letter from Chief Massie, “We note that on the Yukon Ombudsman Web site, it is stated that, “It is not the role of the Ombudsman to advocate for people who complain about this government.”

So Chief Massie raises the question: “We question whether such a statement is consistent with the principle of ensuring that children's and youth's concerns will be adequately addressed and ultimately begs the question of who will be a champion for the child in the resolution of a particular concern.”

Why has the minister reviewed the legislation in these other jurisdictions, but decided not to include that sort of wording in this act for Yukon children, for Yukon youth? Why would we ask Yukon children and youth to have to go through this, to come to a fork in the road and have to go down both

paths, to have to seek assistance from the child and youth advocate and then have to go back down the other fork and request the assistance of the Ombudsman? Why would we do that? Why wouldn't the minister see that someone who is truly going to be looking after the needs of children and be their advocate needs to be more than a patient navigator; he needs to have the powers to initiate and investigate complaints on behalf of children and be a true advocate.

Hon. Mr. Hart: I would like to thank the member opposite for the questions — many of them. I will try to respond the best I can to many of the issues that the member opposite brought forth, although I did cover several of them in my pre-amble.

In many provinces the child advocate is the ombudsman for children and youth, as I indicated. The provincial ombudsman investigates matters involving youth and children. In the Yukon, the Ombudsman, as the member opposite indicates, retains that responsibility to investigate complaints.

The primary role of the youth and child advocate is to provide individual advocacy. While this is a major function for all provincial and child advocates, it is more clearly laid out in the Yukon bill. The made-in-Yukon approach does not duplicate or replicate processes already in place. It also clearly sets out the primary role of the advocate to support and assist individuals, children and youth. This bill incorporates the First Nation interests and issues specific to Yukon.

Also, Mr. Chair, in addition to discussions — when we indicated we were looking at other jurisdictions, we were. We were looking at issues that they had, and we had discussions with them.

Our focus, as I indicated, is primarily on dealing with children and the processes that would be required to assist those individuals in addressing the issues and mitigating issues on behalf of the child. The Ombudsman's powers are limited and don't allow complaints to be investigated, but we can only recommend, as was indicated by the member opposite. That's the way it is in all jurisdictions.

The advocate can assist the child with making a complaint to the Ombudsman or to the Human Rights Commission, whichever one it is. So that is part of the role that is seen in there. I believe this bill covers off many of those issues as they relate to providing the advocate with the right follow-up and assist the child, and assist them wherever possible to mitigate the issue.

The other thing I'd like to maybe get out specifically from the member opposite is this: what does he mean when he wants a definition of the word "investigate?"

Mr. Mitchell: Well, first of all, I'm going to say to the minister that I don't think he's only having a problem with pronouncing the word "advocacy," but I think he's having a problem with the concept because it's very hard to be an advocate for a child with the limitations that are being placed on the proposed role, as defined for the child and youth advocate. Again, I would refer to the made-in-Yukon model, the summary of comments on the discussion paper, *What We Heard*.

"The purpose of this legislation should be to establish a voice for children and youth who are most vulnerable and at

risk and who do not have adults who can adequately care for them or advocate on their behalf."

It was a couple of non-government organizations who said that, which represents a fair number of people. "It should be clear how the advocate will represent the rights and interests of young children and children who cannot speak for themselves." Again, a couple of non-government organizations.

"A true 'made-in-Yukon' model would provide a Child and Youth Advocate with the ability to receive, review and investigate any concern that a child, youth, or concerned individual or group may have with the services being provided or should be provided to a child or youth in the child welfare system." That's from one of the submissions by a First Nation. So that represents hundreds or perhaps thousands of people, Mr. Chair.

So we are really talking about the scope of what the child advocate will be able to do. It is a matter of choice. Whether it be a philosophical choice or a political choice, the minister had a lot of options open to him. He has chosen to table legislation that limits the powers to initiate a complaint on behalf of children, to investigate on behalf of children. Instead, it is much more of someone to provide them with a road map or they are there as a navigator type of role. This splits the role between — he tries to cover that off by referring the children back to the Ombudsman.

Again, the concern that I have is a very simple concern. Why are we making this so complex that a young person who is probably very intimidated by the situation in which they have found themselves has to seek the support of two very different offices, which may operate on two very different timetables, schedules and rules, so that when you're told something from one office it would be natural for a child to think that is how the other office will work. You go to the other office and then they say, "No, no, that's not how we can do it here. What we can do is to make a recommendation in this other area."

It just seems like it would be a lot simpler and a lot more direct to empower the child and youth advocate to do both aspects of the role. That is what the Council of Yukon First Nations is asking for; that is what the Ta'an Kwäch'an Council is asking for. I haven't heard the minister come up with an answer here yet that tells me why this approach wasn't chosen and wasn't doable.

For the minister — the minister wants me to answer a question. I think the minister knows what it means to investigate a complaint: to look into all the matters surrounding something that a child has complained about in the way they are being treated, and then to act in the best interest of the child — it is about the children. The act in every other aspect is a pretty good act, Mr. Chair. We're not criticizing this whole act — it is this one aspect of it that we think we've fallen short of the mark.

It is our obligation to try to ensure that the legislation we pass is the best possible legislation we can pass and I don't think we're doing that here. Again for the minister: would the minister not consider that this might be a better way to do it?

Hon. Mr. Hart: I believe, in regard to many of the issues the member opposite brought up, that they are covered in

section 1(c), and basically the priority is for the children who don't have others to advocate for them. So it's on page 14.

Also, I'd like to maybe discuss just a few things. The advocate does have investigative powers, and the advocate has the power to compel information from the government. This gives the advocate the ability to be able to carry out their work. It also — other investigative powers, like the ability to compel evidence, would make the advocate's role very, very, very formal, and we're trying to keep — we want to, as the member opposite indicated, we're trying to move things along quickly. A lot of these cases will be required to be done on an informal basis.

But the main focus, as I stated, is for the advocate to hang in there and mitigate issues on behalf of the children and the youth, and to work through the system and to achieve something on a quick basis and work through that venue. Again, as I stated, we do not want to duplicate services that are already out there and are already being handled by other sections of government.

There are enough formal and quasi-judicial processes in place, and youth need someone to assist them to resolve these issues that affect them on a day-to-day aspect of their lives.

Mr. Mitchell: Let's move to a different area of one of the submissions made in the *What We Heard* document: "The Advocate should be able to conduct independent reviews/investigations of child deaths, critical incidents and reviews of programs and systemic issues at their own volition. (some respondents, including submission by a First Nation)"

Does this act fully empower the advocate to do that?

Hon. Mr. Hart: No, this act does not allow the advocate to do that; however, if requested by the Legislative Assembly or the minister that the advocate investigate a matter that has to be done, then it can be done through one of those two processes.

Mr. Mitchell: Another submission: "The Advocate needs authority to provide direction to government to make changes and the ability to follow up with government to monitor that their advice is being implemented." Does this act fully empower the advocate to do that?

Hon. Mr. Hart: The member opposite is bringing out issues with regard to *What We Heard* and highlighting specific amounts. With regard to *What We Heard*, I'd also like to bring out some other issues with regard to this, but they've also been recommended by First Nations to focus on individual advocacy — period — and not be able to assist on there.

I believe the member opposite is pooling the information. We have provided that information to assist everyone with all of the information we did receive with regard to the act. In many cases, we did incorporate some of the issues that were provided and some, obviously, the member opposite has indicated, we have.

In essence, the consultation period was provided. We extended the period on a couple of occasions. We received information from individuals and NGOs, as well as some First Nations — but not all, as the member opposite indicated. In essence, we have gleaned what we feel is necessary for the advocate to do his or her job, and achieve the fact of basically con-

centrating, as I said, on the primary purpose of looking after the child or youth.

Mr. Mitchell: Let me reassure the minister that I don't intend to raise every issue that came up in the paper. I just asked a specific question, and the minister responded by talking about how they viewed the *What We Heard* information — and it has been provided as a resource. He didn't answer the question, so if the minister can refer back to the question. Does the advocate have the ability to conduct independent reviews or investigations of child deaths, critical incidents, and reviews of programs and systemic issues of their own volition — yes or no?

Hon. Mr. Hart: In addition to the functions set out in sections 11 and 12, the advocate may also review matters referred to them by the minister or the Legislative Assembly. This gives the minister and the Legislative Assembly flexibility to determine who is best suited to review the particular matter. In some cases, the advocate may be the office of choice. In other cases, a private contractor or a university research team may be the best suited to review the matter.

If a major issue is referred to the advocate, additional resources to carry out the review would likely be required. The advocate's annual budget will not include the costs associated with that major review, and thus, Mr. Chair, any issues that are in addition to or outside of their regular duties as identified in their job description and are requested by the Legislative Assembly and/or the minister, would have to probably be accompanied by additional resources to carry out that job.

Mr. Mitchell: That was a pretty lengthy answer to a pretty short question. It's usually the opposite with this minister and me; usually the minister gives short answers. Let me just summarize to make sure I understand the answer as presented.

The advocate would only have the power to conduct an independent review or investigation of a death or critical incident or a review of programs if he or she were asked to do so by reference, either by the minister or the Assembly, but not of the advocate's own volition. Is that what the minister is stating?

Hon. Mr. Hart: That's absolutely correct.

Mr. Mitchell: The second part of the answer — I believe the minister said that this is because the budget is insufficient for the position to provide for this. Is that the reason why that restriction is there, because there would be insufficient budgetary support to do that?

Hon. Mr. Hart: Obviously not. It was indicated that if the advocate is chosen as the body to do the investigation on behalf of the Legislative Assembly and/or the minister, then chances are there will be additional resources required for that investigation to take place.

Mr. Mitchell: When the minister was previously answering or responding, I think he said that it would require a larger budget for the advocate to have the ability to initiate such independent reviews or investigations of his or her own volition. I recognize that if a specific matter was referred to the advocate, then additional funding would be provided, but the minister, I believe, previously stated that it would require a larger budget for the advocate to hold those powers. I am only

asking if we are strictly speaking about a budgetary reason or is there a reason of policy?

Hon. Mr. Hart: As I stated, and I don't know where he's running from, but the issue is that if in fact the Legislative Assembly and/or the minister chose the advocate to do the investigation, then chances are they would probably need additional resources to handle that particular aspect. I mentioned nothing about whether or not the advocate had sufficient monies to carry out their duties. As I mentioned previously, their primary objective is to handle and mitigate issues on behalf of the child, and that is the focus of his or her duty. The item that the member opposite indicated — if it is something that would be in addition, then chances are they would need additional funding to do that research or review.

Mr. Mitchell: I will make it perfectly clear for the minister where I am running from. I am running on behalf of Copperbelt and I am standing less than 10 metres away from the minister on behalf of children and youth who may be in need. That is where I am coming from.

Regarding other restrictions — section 18(1) says, “The Advocate may not act as legal counsel for a child or youth.”

If the advocate feels that a child or youth is in need of legal counsel, I recognize that the child could be referred to legal services or some public legal counsel, but does the advocate specifically not have the ability to contract with lawyers to act on behalf of youth in any way?

Hon. Mr. Hart: No provincial advocates provide legal advice to children and youth; however, the Alberta advocate does assign lawyers to children requiring legal representation in the child welfare system. In the Yukon, children are assigned lawyers if needed for the purpose of court proceedings in child welfare matters. The public guardian and trustee has responsibility to assign lawyers for individual children. Private family law lawyers are contracted by the public guardian or trustee to provide this service. Since this function is already provided in Yukon, the government did not want to duplicate this existing service.

Mr. Cardiff: Mr. Chair, I have a few questions. I'm listening with interest to the conversation, and we have some concerns. I think they are, in a lot of ways, probably similar to the concerns that the Member for Copperbelt has.

I think the expectation — I'm not sure, maybe we're using the wrong word here — the Member for Copperbelt was using the term “navigator”. It's hard to see how the person we're talking about who would be fulfilling the role of the child or youth advocate can actually advocate. The way that the act reads — I believe it's in section 11(a) — “support, assist, inform and advise...” but I don't see where they actually have the ability to represent a child's or a youth's interest in their rights to a service or to how they are receiving a service.

The other concern is, I believe, which services this advocate or navigator — whichever term you want to use — or this person who is supporting and assisting a child or a youth — which services we're referring to, because it appears to me that we're talking about services that are provided by the government, through the Department of Health and Social Services. So, social assistance, whether or not they're in the receiving

home or they are a child in care, whether they're in a foster home — those services that are provided or sponsored — I don't know if “sponsored” is the right word, but I think the minister understands where I'm coming from. When it comes to a child who receives services, say from a non-governmental organization that's responsible for providing services to youth — if the child advocate feels they've been mistreated or they haven't been treated fairly, that they're not receiving services from a non-governmental organization or, for that matter, an arm's-length corporation of the government — let's think about an arm's-length corporation of the government or arm of the government that might be providing service to a youth as defined as between 16 and 19 years old. Or it could be a child at the Whitehorse General Hospital — that's an arm's-length corporation. If they're not receiving the service or they feel they haven't received appropriate service or they've been mistreated, the child advocate — the way I understand it — can't support, assist or advise the child and enter into that informal dispute resolution process. It could be the Whitehorse General Hospital, through the Hospital Corporation; it could be Yukon College.

Can the minister tell me if that is, in fact, the case? That's the way that we're interpreting it here: that they're supposed to engage in some sort of an informal dispute resolution process, but only under certain strict circumstances, where those services, where they're engaged with the government, not where they're engaged with the Hospital Corporation or the college, or some non-government organization that's providing them service. It could be the Child Development Centre for that matter. This person is there to guide them through the process of some sort of informal dispute resolution process, but there's no guarantee that the outcome is going to benefit the child.

So how do we guarantee that there's an outcome that actually benefits the child, because the advocate has no authority to investigate or to make a recommendation or to make something happen? Because if it's a matter of government policy that this is the way it's going to be, the advocate doesn't have the power to change it.

Hon. Mr. Hart: For the member opposite, with regard to some of his questions, yes, the advocate deals mainly with governmental services with regard to handling issues on behalf of the child. As I stated earlier, the role of the advocate, his or her job, is to ensure that they mitigate the issues on behalf of the child, following through and ensuring that they get the support that's required to get mediation and to resolve the issue and to ensure that the child's rights have been upheld.

Mr. Cardiff: So can the minister tell me, then, if the child's rights aren't upheld, and if the issue isn't resolved, where does the child go in order to get satisfaction and who assists them to do that?

Hon. Mr. Hart: The advocate, obviously, will assist the child in the process right to the end, and make recommendations to the government or appropriate department to ensure that the children's issues are being addressed and looked at.

Mr. Cardiff: Well, the question is this: if they're not addressed, and if they're not, as the minister puts it, “looked at” — but it requires more than looking at it; it requires addressing

the concerns about the well-being of the child or the youth who's not receiving the service or has issues that need to be resolved.

The advocate can make all the recommendations to the government, but if the government won't move and change its policy about how they are treating the child or the youth, it makes sense to me, or it would be logical I guess, that there should be another next step, some sort of an appeal process.

I believe the Member for Copperbelt talked about overlap and inconsistency with the Ombudsman. What is the next course of action? Is it the courts? The advocate isn't able to represent them in a legal proceeding, according to what I read in the act, in my interpretation of it and the interpretation of the persons who are helping me do that. So what is the next step if the youth or the child can't get the satisfaction and the service that they are requesting?

Hon. Mr. Hart: With regard to the advocate, the position they take is that they can act on behalf of the child or youth in this particular case, make the recommendation to the appropriate ministry and ask for a follow-up progress report on where they are moving with that particular child and the issues that they are dealing with. If in fact the advocate does not receive appropriate action from the government over a period of time, that advocate has the ability to report the situation in her annual report here to the Legislative Assembly, where the matter can be discussed.

Mr. Cardiff: I thank the minister for that answer. I am not sure that we're making progress. I understand, I am just not sure that I am totally happy with the way that it is going.

I really believe that the advocate needs to have a little bit more power and authority to investigate matters and to actually make changes to ensure — I'm not sure exactly how that would happen, but there should be a process whereby the advocate has a little more authority to ensure the rights of the child or youth are upheld.

I'd like to ask the minister a question. I believe it's in section 16 of the act, where says that about a First Nation government or municipality may request the advocate to perform the functions referred to in section 11, which is about the primary role, for a child or young person receiving or eligible to receive programs or services provided by the First Nation or the municipality.

So basically First Nations and municipalities can use the services or request the services of the advocate, who is a government employee, but they may only do so if they are able to recover their cost from the First Nation or municipality.

The government is responsible for all youth regardless, and I suppose it may address a concern with regard to some of the services that can be investigated, but they can only be investigated if it's requested by a First Nation or municipality, and it's only the services they're providing.

I'm not sure exactly how that is intended to work. Does the Government of Yukon not represent all children in the Yukon? Why are we downloading the cost of the child advocate to municipal governments and First Nation governments?

Hon. Mr. Hart: This particular aspect is just being followed up and it's the very same as the *Ombudsman Act* and

has a very similar provision, which allows for the First Nation and municipality to refer an issue for investigation — just following up and utilizing the same aspect with regard to the child advocate.

Mr. Cardiff: What I want to know is why it's required that the advocate has to recover their costs from the First Nation or municipality? Are they not an employee of the government? Does the government not represent the interests of all children, regardless?

Hon. Mr. Hart: Again, we can only enact the services of the advocate upon the request of the First Nation because, obviously, we can't enforce our legislation on them.

Mr. Cardiff: I can understand that. There's the ability, I believe, for First Nations to enter into agreements with the Department of Health and Social Services under the *Child and Family Services Act* and there are similar provisions in this act as well, I believe, aren't there?

Hon. Mr. Hart: There's just a fee for service upon the request of the First Nation to look into the situation. This act also provides the flexibility so that the First Nation doesn't have to set up a separate situation on their own and they can utilize our services on a very similar basis to the *Ombudsman Act* and under the same provisions. There is no difference in the process; we just utilized that service and brought it through. Again, it was also a request of the First Nation for this type of aspect to take place and we're following up on it. That's part of their request and that's the way we're meeting it: by matching the same way we provide services under the *Ombudsman Act*.

Mr. Cardiff: There were requests for this legislation to be held over until the fall, for there to be more consultation. There were concerns, but I believe the Member for Copperbelt has talked about those concerns. We've seen the letters from the Council of Yukon First Nations' Grand Chief and from the Ta'an Kwäch'än Council.

There was a desire to have the ability to have more input into this piece of legislation. The government's response was that they were required to bring this piece of legislation forward. It is my understanding that, when you read the *Child and Family Services Act*, that actual section of the act requires this piece of legislation to be brought forward within a year of the proclamation of the *Child and Family Services Act*. Why is the government rushing ahead at this time when there is a clear desire on the part of a number of First Nations and organizations that represent First Nations to have a little bit more time, to have more input and maybe we could get this right in the fall?

The Premier says we have to do it, but the *Child and Family Services Act* says we have to do this a year after the proclamation. I mean, there are two questions there. Why haven't we proclaimed the *Child and Family Services Act*, and what is the rush right now?

Hon. Mr. Hart: A substantial amount of consultation has already gone on with regard to this act, the *Child and Family Services Act*, as well as the *Education Act*, with regard to working out the child and youth advocate. A substantial amount of time has been invested, so I'm not sure where the "rush" aspect is coming from. But with regard to the member

opposite's question, the Premier made a commitment to table the bill in the spring of 2009. So the information was provided out there.

The tabling of this bill fulfills the government's commitment to develop the child advocate legislation — the requirement to develop the child advocate legislation, as set out in the *Child and Family Services Act*. The government is committed to getting the child and youth advocate in place as soon as possible, so that children and youth can benefit from the advocate's services and also so that the advocate can be utilized in the implementation of the *Child and Family Services Act*.

That is the main focus for our run and we need to get moving so that we can learn from this process and enjoy the services of the advocate.

Mr. Cardiff: The minister has his point of view; I have my point of view; I'm sure First Nation governments have their points of view. My understanding is it was pretty much in January or February, it was, "Here it is. Take it or leave it. See you later."

The minister has his point of view and I have the way I understand it. In the end, it's about what's best for our children and youth. On that note, the advocate's primary role is to support, assist, inform and do all that. There doesn't appear to be an overall public advocacy role for this person to speak out on issues of importance to children about the need for more foster homes, about the need for a youth emergency shelter, about more funding for homeless youth, or the need for more training for social workers, or to address cultural issues that youth have in the delivery of services that they're trying to access.

There's no real way for this advocate to be an advocate, and to publicly advocate for what's in the best interest of our children. It doesn't seem that that role is there, and it would appear to me that the last thing that they would want to do would be to be critical of the services that government provides for children and youth. They're there, as the Member for Copperbelt says, to navigate their way through all the hoops and all the rails that they've got to jump over, and water obstacles and whatever. I don't see the role, other than they're allowed to report recommendations to the Legislature or the minister in an annual report, but how broad is the government and the minister — and most importantly, probably, the Premier — willing to allow that role to be? To allow this person to speak out and say what they believe. They are the ones who are going to be working on the front line listening to what children and youth are coming in and telling them. They are the ones who are going to be able to identify those problems and to talk to people and to look at the solutions and to find those solutions and then to make those recommendations. How broad and how critical are they going to be allowed to be?

Hon. Mr. Hart: The primary role of the youth advocate is to assist individual children and youth. In addition, the advocate may review and provide advice on policy or systemic issues. As I mentioned previously — systemic issues must be connected to their work in assisting individual children. In other words the systemic work must be grounded in real issues affecting children.

There are issues and, as I mentioned previously, they can bring those systemic issues up to the appropriate department and that individual, the ministry, and have the issues brought forth with regard to the issues that are standing in the way of children and affecting their rights.

The government expects the advocate to provide the advice on individual and systemic issues and welcomes the opportunity to resolve issues and improve services for children and youth.

Mr. Cardiff: I guess the question is just how public is this person going to be able to be? Are they going to be able to be critical of the government or are they going to have to work within the confines of government structure and do it all internally? Especially when their budgets are being approved by the Legislative Assembly.

The former Minister of Health and Social Services wants to answer this question maybe. Either that or he wants to ask a question.

There is no mention in the act about non-governmental organizations. I asked this question before, and I want to try it one more time. If there are services being provided by a non-governmental organization — I want to try this one more time and see whether or not we can —

These services don't appear to fit into what the act refers to as "designated services". It could be, like I said, the Child Development Centre, the Hospital Corporation, it could be FASSY or Autism Yukon or the Grandparents' Rights Association of Yukon — where they're working with children.

What can the advocate do to assist children in working with those organizations and directing them to services that could be provided by some of those organizations? Can the child and youth advocate do that?

Hon. Mr. Hart: As I mentioned previously, the child advocate takes care of children and youth in the handling of all government services, as they relate to Education, Justice and/or Health and Social Services.

Mr. Cardiff: So can the minister explain why it's not broader than that? Why isn't it broader than that? Is there no avenue for them to receive assistance in obtaining services from some of these other organizations, like the hospital or the college? How is that supposed to work? I need to go back there and understand the minister's thoughts — or the previous minister's thoughts — on this as to why this advocate doesn't have a role to play there.

Hon. Mr. Hart: As I stated, the advocate's role is to focus mainly on the issues and services provided by the Yukon government. Right now, we're unsure as to just what kind of volume is going to be maintained in this small department, and as such, if the member will look at it, there is a clause in there that states that a five-year review of this particular act will take place in the future.

My concern here is to let this thing get off the ground. Let's get the kinks out of the system, and get to work on the government's side of the issues. With regard to the other agencies the member talked about, this'll be something that, again, we would have to discuss with those facilities outside of government.

Mr. Mitchell: I'd like to just get into this debate a little bit, Mr. Chair, because I think the Member for Mount Lorne is making a very good point. I think the minister knows it, and that's why he's suggesting we can look at it in five years. Well, we should fix it now. And the example I'll give is the example of a youth shelter. The minister's department has contracted with a non-governmental organization, Skookum Jim Friendship Centre, to provide emergency services to youth in need. Now, granted, it exists after-hours as a cellphone number, if it's at night and there's nobody present, but there's a contact person. Now, the way the minister is describing this is that, if a youth in need has a problem getting these services from that particular non-governmental organization, which is being specifically funded by the minister's department to provide those services on behalf of the Government of Yukon, the youth advocate has no powers to be involved. That would appear to be a complete oversight. It is like we have outsourced the service and then we say that the youth advocate doesn't get involved once we outsource the service. And certainly the hospital is the obvious example that the Member for Mount Lorne has provided.

I look at this and this harkens back to an issue I had with the *Cooperation in Governance Act* that never used the word "consultation" in the entire act, but it was all about a consultative, cooperative partnership. Under the primary role in part 3, section 11, the primary role of the advocate is to perform the following functions in accordance with this act: support, assist, inform and advise children and youth. Well, why don't we call this person the child and youth supporter, the child and youth assister or the child and youth advisor? Where is the advocacy?

It doesn't actually talk about advocating. I think that the Member for Mount Lorne has identified a very serious flaw in the legislation and it's one that the minister may not be able to fix on the fly. The minister may want to consider whether this legislation is really ready for us to pass in this House, or the minister needs to be able to stand up and provide Yukoners with an answer as to how the youth advocate is supposed to provide those advocacy services on behalf of children who are dealing with non-government organizations who are funded to provide a service by this government, indeed by this minister's department.

Hon. Mr. Hart: With regard to the advocate services, as I mentioned, they are provided for us to assist the advocacy in handling all issues related to child and youth as they deal with government services. We are in the midst of doing that and handling that and pushing that forth and assisting the advocate with providing mitigation to help them through and help children in care. The advocate is to mainly establish the assistance for children who are in care. The Yukon will be able to provide the advocate with assistance and, as mentioned earlier, the advocate can make recommendations to the appropriate minister to assist in mitigating issues on behalf of a child on a quick basis.

Mr. Mitchell: I'll be more direct with the minister: who speaks for the street kids? Who speaks for the homeless kids? Who advocates for children who are couch surfing and then are given a cellphone number by the minister to call a non-

government agency when they're in trouble? Who is their advocate? Why can't this be their advocate? That's what this position should be doing, Mr. Chair. Will the minister take this bill back and fix it?

Hon. Mr. Hart: With regard to the member opposite's question, if they're eligible to receive services from the child advocate, they can be received and provided.

Mr. Cardiff: I appreciate the support of the Member for Copperbelt for this issue. It really is astounding that the minister is prepared to wait for five years. That's another five years that these kids can expect to wait to receive any kind of — and not even any advocacy.

All they can expect to really receive — to go back to it — is support, assistance, information and advice and no real form of somebody standing there with them on the street going "Rah, rah, rah."

We need to make changes in our society and in the way services are delivered to children and youth. The bill is designed to — and I don't even know that it's designed well to do that — but it seems the focus is if it's a child or a youth that's in the care of government, in a foster home, receiving home or on social assistance.

Yes, some of those kids out there on the street, couch surfing and selling their bodies for a place to sleep or a fix are probably eligible for social assistance, but they need someone to advocate for them. Right now, the people who are advocating for them are the people who are working for those non-governmental organizations that the minister refuses to fund. They're the ones who are advocating for them, making sure that they've got a place to sleep, trying to help them through the system and help them find jobs, and make sure that they're eating healthily.

That's what I see as the role of a child and youth advocate. It's not just what the minister's vision is. To wait five years so that kids can ensure that they receive appropriate services from the hospital or the college or the Child Development Centre, or the minister's emergency youth shelter project, then — you know, we've got to wait five years? What are those kids supposed to do for the next five years? In five years, it will end up being the Minister of Justice who will be dealing with them, not the Minister of Health and Social Services. It will be the Minister of Justice, because we're not addressing the concerns, and there's nobody there, other than the people who are out there on the street helping them, who really care and are willing to do something about it.

I just find it unacceptable. The minister doesn't seem to want to make those changes now and it is disappointing.

I would like to ask the minister a question about the restrictions in the act. It says that an advocate may not act as a legal counsel for a child or a youth. That is not surprising, because they are not supposed to advocate for them anyhow; they are just supposed to give them advice. Can the advocate assist or provide advice or support to that youth or child to assist them in getting legal counsel should they need it if they have to take the government to court in order to get the services that they require?

Hon. Mr. Hart: As I stated previously, no provincial advocates provide legal advice for children and youth. In Yukon, children are assigned a lawyer if needed for the purpose of court proceedings. Since this function already exists in Yukon, the government did not want to duplicate the service.

That's the main issue with regard to this particular position — to ensure that we're avoiding duplication, and in this regard, obviously, I would say that the advocate would be in a position to at least refer, because we do have services available, and they could refer the individual to those.

Mr. Cardiff: I think we made a little progress there. At least the child supporter, assister, informer and advisor can help them get legal counsel. But the minister said that those services were available. So are these government legal services that the child or youth would be accessing, or would the government be funding a lawyer other than — this couldn't be a government lawyer he's suggesting the advocate directs the youth or the child to?

Hon. Mr. Hart: It would be through either youth justice and/or legal aid.

Mr. Cardiff: I suspect if it were legal aid then — I'm just thinking about the ability. I mean it wouldn't be appropriate for a lawyer who is working for the government to take the government to court on behalf of a child to ensure they are getting the service. So it would have to be through legal aid or some other avenue.

The other part about restrictions is, and I'm just wondering how broad this can be interpreted. I'm obviously not a lawyer either but I have some questions and a concern about this and that is that it says that "the Advocate may not, in the course of taking action under its primary role in section 11..." "...interfere with or impede the work of another body, a tribunal or a court established under legislation that has jurisdiction in respect of the designated service or the programs and services for children and youth provided by a First Nation or municipality..."

I understand the need not to interfere with or impede the work, but where does the — again, here we are. Who's the advocate here? Because we're back to this person being able to support and advise and assist, and that's basically their role. So they can do that, but they can't impede or interfere with the work of one of these bodies that's providing programs and services. So who advocates for them at that point? And who tries to mediate, or if ends up in the court, who represents the child or the youth?

Hon. Mr. Hart: For the member opposite, the advocate, as he indicated, cannot interfere with or impede the work of other bodies, such as the Ombudsman or the Yukon Human Rights Commission. The advocate may continue to assist a child or youth with a complaint to one of these bodies, and assist the youth to express his or her opinion, as long as the advocate's work does not, as I said, interfere or impede the work of the other body.

Since the advocate does not investigate complaints, the role of the advocate is very different from the role of the Ombudsman or the role of the Human Rights Commission.

Mr. Cardiff: Just for clarity — can the minister tell me how the advocate helps a six-year-old or an eight-year-old child express their views and their opinions and their concerns in this process? How do they do that? How would the advocate or the informer/advisor — how do they help them or support them in making sure that their views and opinions are being heard in this processes without speaking for them?

Hon. Mr. Hart: "(iii) promoting the rights and interests of the child or youth receiving or eligible to receive the designated service particularly if the views and preferences of the child or youth cannot be determined due to their developmental level or inability to communicate ..."

Mr. Edzerza: To start out with, I just want to say that the first two speakers, the Member for Mount Lorne and the Member for Copperbelt, have pretty well raised all of the major concerns that I had, so I'm not going to repeat those concerns. But I would like to put a few things on record. Because of the massive number of contacts I've had from First Nations with regard to this bill or this act, once again, it is the general feeling that First Nations are being shunned by the Yukon Party government again, just like they were with the child welfare act.

It has become common knowledge among First Nations that they stand alone when it comes to the government developing legislation, because the government has a policy etched in stone: no sharing of power with any other government regardless of how much the legislation flies in the face and works against other governments, such as First Nation governments.

There is a lot at issue with that because there is such a large number — we're basically talking about First Nation children here, and I think the government knows it, the minister knows it and the department knows it.

The solution for the Yukon Party government is that, "If you don't like the way we do things, draw down this program — take it over." That's becoming a common theme of this Yukon Party government when it comes to First Nations trying in vain to work in partnership with this government.

The bottom line — the Premier said on the floor of the Legislature that they would have a child and youth advocate act in one year, not realizing that in order to accomplish a track record of good consultation with First Nations it would take more time — more time than one year.

However, it appears that the definition of "consultation" to the Yukon Party is to meet once to present the government's position and then move on. That's why First Nations are getting really frustrated with this government, because the definition of consultation between the two is so far apart, it's not even close. They don't even mean the same thing.

And because the Premier made this promise, nothing else matters. The Premier's commitments must be met. We all know we must never challenge the Premier and his desires. I mean, they're right next to God's. And if you ever challenge the Premier, a lightning bolt might strike you dead. And if you're a Cabinet minister, you'll probably be removed.

Chair's statement

Chair: Order please. I was just wondering if the member thought the terminology he was using was allowed in this Assembly, and was in a respectful manner. I feel the member is

way above these kinds of comments. I would urge the member to not proceed down this path.

Mr. Edzerza: Well, thank you, Mr. Chair, but it takes a lot to frustrate me. It appears that this kind of consultation is really getting there because it is quite a difficult thing to have legislation pushed down people's throats repeatedly here. It doesn't matter what the opposition says. It doesn't matter what other governments say that have to abide by this legislation. It is going to be ramrodded through one way or another and it appears that this government is going to continue on that pathway. Why? Because they have more authority than First Nation people. It is kind of like a David and Goliath approach to things, where the one with the most power will always succeed in pushing their agenda.

Some Hon. Member: (Inaudible)

Point of order

Chair: Point of order.

Hon. Ms. Horne: Standing Order 19(i) "uses insulting...language...in a context likely to create disorder." This certainly is.

Chair's ruling

Chair: On the point of order, I know where the member is coming from. The Chair did interrupt debate a couple moments earlier and kind of cautioned the members not to personalize or go down this road. I guess I'll just reiterate that same comment, Mr. Edzerza. Please continue.

Mr. Edzerza: Thank you, Mr. Chair. Sometimes it's rather difficult to explain your point of view other than to go to this level. I would prefer to stay always on the high road, but once in awhile we have to get our point across one way or another. If you get called to order on it, then I guess we get called to order.

But I believe that the staff who developed the act — if they had the choice — would say, "You know, we had better take a little more time with this," but they don't. It's the government, the politicians, who have the last say and they're going to get their acts passed regardless, because even if all the citizens in the territory disagreed with this, it will still be passed by the guillotine clause. So, at the end of the day, what the opposition pointed out here are really legitimate concerns with this act. What is the response of the government? "Well, in five years, we'll look at it."

I believe in my heart that the government would do justice to itself, if they would say, "You know what? We would entertain an amendment to this act." Even one would be a bonus for the government. Would the minister entertain an amendment to this act?

Hon. Mr. Hart: I thank the member opposite for his comments. I understand his level. I will try to respond a little bit higher.

I will say that we did have many, many responses to the act. Many of the ideas that we received from First Nations and others are reflected in the bill — the guiding principles included from First Nations and others. First Nations and stake-

holders provided feedback on skills and knowledge that should be assessed when hiring an advocate. Many of these ideas are incorporated in the bill.

The advocate must notify the child or youth's First Nation. This idea, again, emerged at the meeting with First Nation representatives.

A First Nation may use the services of the advocate, thus avoiding the need to create a stand-alone service for themselves. We heard this from First Nations. They wanted to see the flexibility in the act, so the First Nations could access the services of the advocate.

The advocate may delegate responsibilities to others, which would include individuals in rural communities. Some of the First Nation representatives wanted to ensure that community-based resources could be used — again, something that we've incorporated in the act.

The advocate must give priority to children who do not have others to assist and help them — a recommendation made by a couple NGOs and we feel this is in the act. The advocate must coordinate advocacy actions with others — again, in the act. The advocate may seek out advice or knowledge on First Nation culture, beliefs and values. This idea, again, came forward during discussions with First Nations.

Mr. Chair, yes, we did not receive information from all First Nations, but for those that we did and those individuals that did submit their information, we incorporated many of their concerns and issues in the new bill.

Mr. Edzerza: Once again, the government is not respecting the cultural differences that exist between First Nation and non-First Nation people. I know that meaningful consultation to First Nations means that you actually go and sit down face to face. You don't write letters or send emails. You have to go there and sit down and discuss this issue, face to face.

Now, I was told by several First Nations that they felt that this whole process was rushed. It was rushed to the point where they weren't even having time to respond to the comments that were coming back from the government. By the time they received answers, it was already moved to a different stage. So I'd like to have it on record whether or not the minister believes that the First Nations are exaggerating or is it the government's position that the First Nations are just slow in catching on or something?

Hon. Mr. Hart: I will just try to briefly go through it. In October of 2008, we presented an issue for the First Nations to review and they provided that process. We also asked the First Nation to come to meetings and set up meetings whereby they could attend and provide input with regard to this, in addition to getting that information.

We had a couple of days where an information session was taking place and we did get some input from members of the First Nation. After that date, additional time was provided to some First Nations to get us input. Information was submitted to us. Questions were asked. We responded back to those First Nations and, again, we extended the deadline so sufficient time could be provided to get their input back.

As I stated previously, I am aware that not all First Nations submitted information but the one First Nation that did submit

information and others that did submit, we did, where we could, incorporate many of the issues and concerns into the new bill.

Mr. Edzerza: The bottom line is, again, and I want to state this for the record, that a lot of the First Nations that didn't respond are coming to the frame of mind of: what's the use?

What is the use responding? It is almost like — I feel as an Independent and member of the opposition — what is the use of even talking to this act. Really, what is the sense to it?

There is going to be absolutely nothing that the opposition says that is going to have an effect on this act. So, in my opinion, it is a waste of time to even discuss it; however, we must at least say something on behalf of the citizens who really are getting very tired of not being heard by this government.

Now, even in the act itself, when you got to "guiding principles" — at 3(g) it says: "First Nations have a responsibility for children and youth who are members of their First Nation and a desire to be involved in processes regarding the protection and realization of their member's rights and interests." It's put in the act that they have a responsibility, yet when they ask the government to just spend a little more time here, that we're uncomfortable with what is not in this act and some of the things that are in it, the government says no.

So why did the minister even bother having this section in the act if, in fact, before it's developed, the government would not respect the fact that First Nations have a responsibility for their children? The First Nations realize that very strongly and that's why their desire was to get this right. Now why won't the government acknowledge this and postpone this legislation until the fall sitting?

Chair: Is there any further general debate? Seeing none, we will — Mr. Mitchell.

Mr. Mitchell: Mr. Chair, I don't feel that just sitting there, or in the case of some members — standing with their back to the Assembly and mumbling — is an adequate response. The question has been asked by a member and I believe we should have responses from the minister.

So I'll ask a question of the minister and maybe a very direct question. There has been an obvious flaw in the legislation that has been brought forward on the floor of the Assembly today. We can try to fix it on the fly. We're prepared to bring forward an amendment to try to do that, but considering the lack of accountability for how the — I shouldn't say "accountability" — excuse me — considering the lack of ability for the youth advocate, as described in this legislation, to deal on behalf of children and youth when dealing with non-governmental organizations that are being funded, and have entered into contracts with the Government of Yukon to provide services — that's a big gaping hole. I believe it was unintentional. I believe, in watching the minister answer the questions, that the minister hadn't seen this. I didn't hear the minister say, "We decided to do it this way." The minister said, "It'll be up for review in five years." That's a long time.

Will the minister consider adjourning debate on this act and coming back with amendments that the minister feels would resolve this?

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. 70, *Child and Youth Advocate Act*.

Mr. Edzerza: Mr. Chair, I just wanted to more or less put one more comment on record.

Let the record show that a lot of citizens had issues with the forestry act but they weren't listened to. A lot of citizens had issues with —

Chair: I just want to ensure that the member knows we're talking about the *Child and Youth Advocate Act*.

Mr. Edzerza: Okay, I'll put it this way: let the record show that there are numerous acts that citizens had issues with — the same as numerous citizens have issues with this *Child and Youth Advocate Act*, and they're not being heard.

My final comment is that this government is not listening to Yukon citizens.

Chair: Is there any further debate?

Seeing none, we'll proceed clause by clause on Bill No. 70, *Child and Youth Advocate Act*.

On Clause 1

Clause 1 agreed to

On Clause 2

Clause 2 agreed to

On Clause 3

Clause 3 agreed to

On Clause 4

Clause 4 agreed to

On Clause 5

Clause 5 agreed to

On Clause 6

Clause 6 agreed to

On Clause 7

Clause 7 agreed to

On Clause 8

Clause 8 agreed to

On Clause 9

Clause 9 agreed to

On Clause 10

Clause 10 agreed to

On Clause 11

Mr. Mitchell: Mr. Chair, have I been recognized, or is it the House Leader who is chirping over there, "Clear"?

Yes, Mr. Chair, we were trying to talk about how to remedy what we see as, number one, the shortcomings in this bill regarding the powers and function of the child and youth advocate; and number two, the clear oversight in the drafting of this legislation that leaves the advocate powerless to address issues that arise with youth and children who may be dealing with Crown corporations, such as the Hospital Corporation, and having a problem with service, or non-governmental organizations, including non-governmental organizations who are funded by government to provide specific services. I don't be-

lieve that that is what was intended, but it certainly — in the latter portion, what was intended; apparently, it is what was intended in terms of the powers of the advocate. To address those issues, I'm proposing to amend Bill No. 70, the *Child and Youth Advocate Act*.

Amendment proposed

Mr. Mitchell: I move that Bill No. 70, entitled *Child and Youth Advocate Act*, be amended in clause 11 at page 10 by:

(1) Deleting the following: 11 The primary role of the Advocate is to perform the following functions in accordance with this *Act*, and replacing it with the following: 11 The primary role of the Advocate is to act in the best interests of the child or youth in accordance with this *Act* by performing the following functions; and

(2) inserting after Section 11(a)(iv) the following:

(b) receive, review and investigate any matter that comes to the Advocate's attention concerning any services provided or available to children from any department or agency of the government, or any non-governmental organization or corporation funded by government to provide services to youth and children on its behalf;

(c) where appropriate, attempt to resolve those matters that come to the Advocate's attention through the use of negotiation, mediation, conciliation or other non-adversarial approaches; and

(d) where appropriate, make recommendations on any matter that comes to the Advocate's attention.

Chair: It has been moved by Mr. Mitchell that Bill No. 70, entitled *Child and Youth Advocate Act*, be amended in clause 11 at page 10 by:

(1) Deleting the following: 11 The primary role of the Advocate is to perform the following functions in accordance with this *Act*, and replacing it with the following: 11 The primary role of the Advocate is to act in the best interests of the child or youth in accordance with this *Act* by performing the following functions; and

(2) inserting after Section 11(a)(iv) the following:

(b) receive, review and investigate any matter that comes to the Advocate's attention concerning any services provided or available to children from any department or agency of the government, or any non-governmental organization or corporation funded by government to provide services to youth and children on its behalf;

(c) where appropriate, attempt to resolve those matters that come to the Advocate's attention through the use of negotiation, mediation, conciliation or other non-adversarial approaches; and

(d) where appropriate, make recommendations on any matter that comes to the Advocate's attention.

Mr. Mitchell: There are a number of things I'm trying to accomplish with this amendment because, by and large, I want to state for the record that I believe there is a lot of good in this act. I encouraged government last year to come forward

with something that would enable us to have a child and youth advocate, so I think there are many positives in the legislation.

But there are a couple of things — first of all, I think it's important, as opposed to saying, "The primary role of the advocate is to perform the following functions" and then get into supporting, assisting, informing and advising, I think we should speak to the heart of the matter.

And the heart of the matter is that if there's going to be an advocate, the primary role of the advocate is to act in the best interests of the child or youth, in accordance with this act. That's why we want to have an advocate: it's to act in the best interests of youth. And I think the minister has made statements to that effect at various points in debate earlier in this House. We heard that in the public consultations. So I think we should state it up front, clearly. That's the purpose of it.

Secondly, as I've stated earlier this afternoon, as I stated on March 30 at second reading, I believe, as do many Yukoners and First Nations who have made submissions, including the Council of Yukon First Nations and the Ta'an Kwäch'än Council, that in order to truly be able to stand up for youth and children in need, in distress, the advocate needs to have the ability to receive, review and investigate any matter that comes to his or her attention concerning the services that are provided or available to children, or the lack of services that are provided, in terms of them not being provided when they should be. So that speaks to the change in 11(b), the initial portion of it.

The balance of it is to look after this oversight that appears to have occurred when it comes to non-governmental organizations or corporations, such as the Yukon Hospital Corporation, such as the Skookum Jim Friendship Centre, which is providing a service on behalf of the Department of Health and Social Services, such as all kinds of other agencies that are funded by this government but not empowered by this act in terms of the youth advocate to deal with that.

I believe that was an oversight. I did suggest to the minister before the break that one other possibility was that the minister could have adjourned debate on this act, taken it back and come forward with their own amendments and we would have considered those. The minister hasn't chosen to do that or has not brought forward any amendments and the minister's rationale was that he wants to get it going and he wants to get it started and then we have an automatic review in five years.

Well, five years is a long time, Mr. Chair. A 14-year-old child who is in need of services from the advocate in 2009 will be 19 years old in five years when we review this act. That just means that we review it; it doesn't mean that we address the issues immediately at that time. We have seen how long the *Education Act* review has taken.

So finally, in (c) and (d), "where appropriate, attempt to resolve those matters that come to the Advocate's attention through the use of negotiation, mediation, conciliation or other non-adversarial approaches", it would seem self-evident to try a non-confrontational approach to resolving the matters and, (d), "where appropriate, make recommendations on any matter that comes to the Advocate's attention". Again, it's for the advocate to be empowered to speak for the children. I think it's a posi-

tive amendment. I think it strengthens the act and the bill in front of us. If people can get past partisan positioning and always having to have a win, and act for the children — as the member for beautiful Kluane has noted — that's what we are here to do. Let's do it and let's get it right. Let's not say, "Well, we have to pass it because it's on the Order Paper the way it is." Let's actually act as legislators here and fix it and get it right. I would ask all members to support this. It's a positive change to the bill and it will be to the benefit of children and youth. That's why we're here.

Chair: Is there any further debate on this amendment?

Mr. Edzerza: Mr. Chair, I would like to put my support behind this amendment.

I think it's a friendly amendment. It doesn't change the act; it strengthens it. It would be beneficial to have an act pass through the Legislature with everyone in agreement with it. I would really prefer that this act be endorsed by everyone in the House. Without this amendment, I would have problems supporting this act.

Mr. Cardiff: I am very pleased to speak to this amendment. As I said earlier, I think the act may be titled wrong. Maybe that should be the amendment that is proposed when this one is defeated. When we get to clearing the title, maybe we should propose to call it the "child and youth supporter act", or "assister act", or "informer act", or "advisor act", because that's what the powers in section 11 — that's what the primary role is. It's not to be an advocate.

I see now the Premier is interested and that's good. That's what this is about in this Legislature — to put forward ideas, to have that exchange of ideas and to learn a little bit from each other.

We had this discussion over the course of the last couple of hours and what we found out was that there is a flaw in the bill. It doesn't allow for the child or youth advocate to address issues where services are being provided and where there is the need for support and assistance, and most importantly, advocacy, where children are receiving services from NGOs or from arm's-length corporations of the government. I'll go through it again for the Premier because I have a feeling that he missed it.

The Member for Copperbelt brought up the issue of the services that are provided by the Skookum Jim Friendship Centre with regard to emergency youth services that are funded by the government. I brought up issues around whether or not children or youth who are receiving services from arm's-length corporations like the hospital and Yukon College, from NGO's like FASSY or the Child Development Centre or other organizations which, to a large degree, in a lot of cases, receive funding from the government.

It is public dollars, and it's a service that's being provided for government to the public, for the benefit of the public, and in a lot of cases, to children and youth. This act does not provide for any form of avenue for them to ensure that they're receiving the service, and if they have complaints or issues around the services that they're receiving — or the lack of services, is what this is all about, or inappropriate services, or inappropriate treatment — they need an avenue to be able to do that. They need advice and assistance and support to go

through that, and they need advocacy too. As the Member for Copperbelt has laid out in his amendment — and I have to agree that the primary role of the advocate — and I think that we've seen in some of the letters that have written and the discussions that have taken place — that is what we're here for.

It is called the *Child and Youth Advocate Act* and advocacy in my mind is different from what is defined as the primary role, which is to support, assist, inform and advise. Advocacy is about acting in the best interests of the children or the youth.

I agree with what has been said here. We're not against the legislation. We just want to make it stronger and better. We don't want to wait five years in order to provide the best possible legislation for our children and our youth.

I will go back to what I was saying before — it is about advocacy. There are people who are working just down the street from us, not too far away. There are people driving around in vehicles at night who are working with children and providing services to them and are counselling and advising them. They speak out and they are able to advocate.

I think it's important that this person be given a voice too, to be able to act in the best interest of children and youth, and the way it's written right now, I don't believe that that's possible.

So I do support the amendment. I believe the Member for Copperbelt has laid it out very succinctly. It's a friendly amendment. It's friendly to children and youth, and I believe it's friendly to the government and their aspirations to provide the best possible service to our children and our youth in every community in Yukon.

So I would hope that the government would be accepting of this. That said I look forward to the Premier's comments, because I can see that he wants to get up and say something.

Chair: Is there any further debate on this amendment?

Mr. Edzerza: Mr. Chair, I would like to challenge the government to prove the opposition wrong. Prove the opposition wrong. We said the government would not accept amendments, friendly or not. That's the pattern that they have taken over the last several years.

So take a risk, accept a friendly amendment, and show clearly to the public that the government will work with the opposition, and work for the best interests of the children, and for the best interests of all citizens in this territory, regardless of political stripe.

Mr. Mitchell: First of all, I want to thank the Member for Mount Lorne and the Member for McIntyre-Takhini for expressing their support for this amendment, but more importantly, their support for children and youth at risk and in need. That's what this is about.

I just want to say that if there are reasons why the government can't support this, I would like the government to go on the record here in this Assembly, and tell us — speak to it — and give us your reasoning. Debate the bill and debate the amendment. Sitting and saying "clear" isn't providing us with any information. We know the government has a majority. We know the government can defeat anything that comes from this side of the House, but it would be good to actually hear the government's reasons.

The government is constantly speaking out in this Assembly and on radio and to the newspapers about how they're looking for constructive debate from the members opposite. Well, we're having that debate here, but there doesn't seem to be a debate, because the government won't speak to it.

So again, for the Premier, the minister, any members opposite, I respectfully ask you to stand and speak to the amendment and give your reasons for either supporting it or not supporting it.

Chair: Is there any further debate on this amendment?

Mr. McRobb: Mr. Chair, I'm quite disturbed by what we're witnessing here this afternoon. As the mover of this amendment, the Member for Copperbelt has eloquently stated on the record all members on the government side are simply remaining seated, calling "Clear" without expressing any support or dissent for this amendment. Obviously the members are willing to use their majority to defeat the amendment, simply because it came from the Liberal Party.

Mr. Chair, I can go on at length about that point, but I won't. Now the Member for Copperbelt, the Member for Mount Lorne, the Member for McIntyre-Takhini all spoke very constructively on this matter on behalf of children today and children tomorrow. What more needs to be said? This is for the children.

On another point, we are often challenged by the Premier for constructive debate. This point was mentioned by the Member for Copperbelt, yet the members of the government are running and hiding from this issue. They are running and hiding from the children. They are not willing to put up an argument for or against this. They are willing to merely sit there and call for a vote and defeat this amendment. I say, "Shame on this Yukon Party government." Shame on them because the rhetoric and the challenges we hear, especially from the Premier, we know are hollow today.

Chair: Is there any further debate on the amendment?

Mr. Cardiff: I would like to have one more thing to say on this. I think that it is quite right for the government to sit there and not respond and to not show their support or their lack of support for this amendment. I can't say what it is because it probably wouldn't be appropriate.

I believe it's up to the government to show leadership and to say yes or no to whether or not they support this. Ultimately, they will have to say yes or no to whether they support this because I assume this will end up being a recorded vote.

But let me put this on the record because this is about our children and our youth. This is about strengthening the bill. If the Premier thinks that this is weakening the legislation or weakening the government's ability to provide services to children and youth, then he should have the courage to stand up and tell us why. If he's not prepared to do that, then he had better be prepared to stand up and tell us why they didn't do it when we have to deal with the situation when some youth or some child ends up in the care of government, or who is in the care of government and ends up — like what we've seen earlier this year or what we've seen over the past few years, where children are left on the street, where young people with mental

disabilities are left on the street to freeze to death, where young people disappear for months on end, only to be found deceased.

We need this to strengthen the role of this advocate. That's what this is about. This is about providing the best for our children and for our youth, and the Premier needs to have the courage, and the minister needs to have the courage, to be accepting of this. I can see that he's reading it, and he's deliberating over it, but I would really like to hear what he has to say.

Tell us why this is a bad thing. Tell us why strengthening and improving the advocacy role of this person is a bad thing for Yukon, why it's a bad thing for our children. I think he owes it to the members of this Legislative Assembly. I think he owes it to the children and the youth, and I think he owes it to all Yukoners — to the public and to First Nation governments. This is about protecting our youth.

This is very similar to the piece of legislation that was proposed last year, last fall. It was about protecting our youth and our children in the workplace. This is about protecting youth and children in the care of the government and who are out on the street. If the Premier is prepared to let this slide, then the injuries and the deaths that occur can be on his head. He can take responsibility for that because he's not able to provide a response to this amendment. This strengthens the act. So tell us why it doesn't strengthen the act, tell us where it weakens the act and where it makes children and youth in this territory worse off. Tell us that.

Chair: Is there any further debate on the amendment?

Mr. Fairclough: I'd like to thank the Member for Copperbelt in bringing this amendment forward. I know governments in the past have clammed up in not wanting to take amendments to their bills that come across from the opposition; it has been done in the past. But I have to remind the minister that many a time there were bills that were amended because of public interests on the floor of this Legislature. There is no reason why the minister cannot take that approach. I know he is interested in it. I know he has been hearing this from a lot of people out there. The department has heard it. The ministers have. Every one of the MLAs who were elected on the government side have heard it. We have definitely heard on this side of the House. This amendment simply strengthens the act. If the government really does have a good reason for having this on there, why not just say it. Just say it, Mr. Chair. Just tell us and then maybe we can understand what the minister is saying or, if the minister is truly in support of this, then speak up.

You know, the public deserves an explanation and the minister needs to speak up on this one and not be silent. What is going to happen is that we're going to take this out to the general public and we'll hold every one of the government MLAs accountable for this. When this issue comes up in Teslin, we will hold that MLA accountable. Not one word is being said on the government side on this. Why? What is going on here? What is going on?

This is an important amendment. It needs consideration. If the minister feels that way — if he feels there is something to this amendment and would like to explore it, then why not just put this bill aside until such time as it could be talked about more, we deal with other matters, and come back to this? Or,

the government side could simply take this amendment and have their own name put on it. It doesn't matter to us on this side of the House. We want to strengthen the bill. I think the minister understands that, and I think the government understands it too, so why not do it?

This is the right thing to do, and the minister knows it. I know they're having a hard time with it. Somebody in government needs to talk. They can't be silent on this matter. They cannot be silent on this amendment.

So I'm going to ask the minister to give us an explanation — give us his rationale for not saying anything to this and tell us what it is, instead of holding it back, holding it in, and then the public come forward — and who is the finger going to be pointing to? It will be to the government side because it is they who are not accepting this amendment that strengthens the bill.

Every one of the members on the government side could see it. This is the right thing to do. So why don't they do it? If they have a reason, they should say it. The minister knows that this is the right thing to do. Just get up and be responsible. Show some leadership and give us an answer.

Mr. Edzerza: Well, Mr. Chair, I would like again to state for the record that this is a very serious bill. We are talking about the *Child and Youth Advocate Act*. In the background, on the government side, we have MLAs laughing and joking around like it's a joke. It's not; it is a serious thing.

I would have to say that because the government won't talk or accept this amendment, it speaks to maybe their solution. Send the children south to Regina and then the advocate will have less work. Children out of sight, out of mind — this is basically the attitude that this government is demonstrating today. It's embarrassing to have this kind of behaviour on the floor of the Legislature.

Mr. Mitchell: Mr. Chair, I appreciate the support of the members on this side of the House — the independent member, the third party and my colleagues. Excuse me, the Justice minister feels it's a waste of time.

That's what we're hearing off-microphone, Mr. Chair. I'm sorry that we are wasting the Justice minister's time speaking for the children, but there's silence on that side of the House.

This is called the *Child and Youth Advocate Act*. Well, who speaks for the children? There are 10 members on that side of the House. Who will speak for the children? Not a one of them, Mr. Chair. Not one — not even to stand up and say, "No, we disagree, and these are the reasons." Silence. Shameful silence. There should be debate. Someone on that side should try speaking for the children, Mr. Chair.

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: Would all those in favour please rise.

Members rise

Chair: All those opposed please rise.

Members rise

Chair: The results are six yea, eight nay.
Amendment to Clause 11 negatived

Chair: Is there any further debate on clause 11?

Clause 11 agreed to

On Clause 12

Clause 12 agreed to

On Clause 13

Clause 13 agreed to

On Clause 14

Clause 14 agreed to

On Clause 15

Clause 15 agreed to

On Clause 16

Clause 16 agreed to

On Clause 17

Clause 17 agreed to

On Clause 18

Clause 18 agreed to

On Clause 19

Clause 19 agreed to

On Clause 20

Clause 20 agreed to

On Clause 21

Clause 21 agreed to

On Clause 22

Clause 22 agreed to

On Clause 23

Clause 23 agreed to

On Clause 24

Clause 24 agreed to

On Clause 25

Clause 25 agreed to

On Clause 26

Clause 26 agreed to

On Clause 27

Clause 27 agreed to

On Clause 28

Clause 28 agreed to

On Clause 29

Clause 29 agreed to

On Clause 30

Mr. Mitchell: Clause 30 says: "Within 5 years after this *Act* comes into force, the Members' Services Board must establish a process, including terms of reference, for the review of the operation of this *Act*." So when the minister said, earlier today, that we'd have a chance to review it in five years, we'll start with terms of reference in the process for the review. Then the review may take another year or never get completed.

So I guess what I want to speak to is — I want to go on the record as saying that I'm ashamed that here today we are going to pass legislation out of Committee that's going to say, "Wait for five, six or seven years to fix the flaws that we know today are in this act." We had an opportunity here to do this right — to put the partisan stuff aside, get rid of the games, and address a problem — a flaw in the act, on behalf of the children.

But members wouldn't do that today on the government side. The record will show that in five or six years, maybe some Assembly will get it right.

Hon. Mr. Hart: For the member opposite, the issue with regard to clause 30 — it says the functions of the advocate could be reviewed during the five-year term. It is not at the end of the five-year term.

Clause 30 agreed to

On Clause 31

Clause 31 agreed to

On Clause 32

Clause 32 agreed to

On Clause 33

Clause 33 agreed to

On Title

Mr. Cardiff: I want to take the opportunity to say one more thing about this, as well, and that is that I agree that we had an opportunity to put the partisanship aside, and to make this a better piece of legislation for children and youth in the Yukon.

As I said earlier, maybe the title is where we need to be honest with each other and with the public about what this is. It is hard to believe that the role of the person or body that is empowered under this piece of legislation actually has the powers to advocate, given what we didn't do today.

I think it's sad. I think that we can't afford to wait the full five years to review the powers, the role and the responsibilities of this body. I just hope that the Premier can sleep well at night knowing what we didn't do today.

Some Hon. Member: Point of order.

Point of order

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

Hon. Mr. Cathers: For a member of this House to get into a debate about whether or not another member of this House can sleep at night due to comments, decisions, votes, et cetera in this House, I would suggest is certainly not in keeping with the practices and dignity of this Assembly. It certainly is personalizing debate. I would ask you to encourage him to respect all members of this Assembly.

Chair's ruling

Chair: On the point of order, it's just a dispute among members.

Mr. Cardiff, please.

Mr. Cardiff: I don't have an amendment to propose to change the title of this bill. As I said, I think we missed an opportunity where we could all leave here with clear consciences and know that we did the right thing. We tried to do the right thing on this side of the House and members on that side of the House weren't accepting of that; I think that's unfortunate.

I would hope that the minister thinks long and hard about what happened here today and that he perhaps goes back, talks with his Cabinet colleagues and consults with others about the need to strengthen this act, and comes back with amendments sooner than five years.

Chair: Is there any further debate?

Title agreed to

Hon. Mr. Hart: I move that Bill No. 70, entitled *Child and Youth Advocate Act*, be reported without amendment.

Chair: It has been moved by Mr. Hart that Bill No. 70, entitled *Child and Youth Advocate Act*, be reported without amendment.

Motion agreed to

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

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

Motion agreed to

Speaker resumes the Chair

Speaker: I will now call the House to order.

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

Chair's report

Mr. Nordick: Committee of the Whole has considered Bill No. 70, *Child and Youth Advocate Act*, and directed me to report it without amendment.

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

Some Hon. Members: Agreed.

Speaker: I declare the report carried.

GOVERNMENT BILLS

Bill No. 70: Third Reading

Clerk: Third reading, Bill No. 70, standing in the name of the Hon. Mr. Hart.

Hon. Mr. Hart: I move that Bill No. 70, entitled *Child and Youth Advocate Act*, be now read a third time and do pass.

Speaker: It has been moved by the Minister of Health and Social Services that Bill No. 70, entitled *Child and Youth Advocate Act*, be now read a third time and do pass.

Mr. Mitchell: I'll be brief, because I know that it's important we get to this vote. It's not important, apparently, that we consider the legislation and debate it.

Again, I'll just say that we had an opportunity here to do something, to do it right on behalf of children and youth in need, who might be in care, who don't have an adult to speak for them. We've done part of the job. We could've done all of the job, and it's very disappointing that the government wouldn't accept the opportunity to improve the legislation so that it was truly effective as an advocacy role for all children.

I want to make something very clear for the record because I wanted to support this bill. I had planned on being able to support this bill — we brought forward an amendment — but I'm not going to be able in good conscience to support this bill in its present form. When the Premier goes out and says, "The

Liberals didn't support the bill. They're against an advocate for youth and children. They don't support children," let the record show we tried to support children here today. We do support children. What we don't support are half measures. We could have done this right, but we didn't. The bill is flawed and the government's approach to debating the bill is more than flawed; it's an embarrassment.

Mr. Cardiff: I have to admit that I'm torn in this instance. We do support this piece of legislation, and I will vote in favour of this.

It's unfortunate that we missed an opportunity here today to strengthen this piece of legislation. I think it's important. One of the things we're supposed to do here is that we're supposed to do the best we possibly can for the citizens of the Yukon. It's hard to go home with a clear conscience and believe that we actually did that today because we had an opportunity to do something to amend this bill, to make it a stronger piece of legislation, to support our young children and to support youth who are struggling in our community. I think it's extremely unfortunate, and it's really an emotional thing that we could have done better today. We really could have done better, Mr. Speaker. We had the opportunity. The government chose not to even discuss proposed amendments that would have strengthened this bill.

It would have allowed us to do a better job for our children and for our young people here in the territory. I think it's a sad day. I will support the bill, because I think we need to have legislation in place for children and youth so that they have the services and support. What I don't see is the advocacy role. I see so many gaps. It's a shame, because I honestly believe that it will be hard for members on the other side of the House to go home with a clear conscience and know that they did the right thing today and to know that they could have done better. I really honestly believe that they could have done better.

Speaker's statement

Speaker: The honourable member talking about members going home with a clear conscience — we have discussed this earlier. All members are considered honourable in this Assembly, so please keep that in mind.

The Member for Mount Lorne has the floor.

Mr. Cardiff: Well, I am expressing my feelings. That's the way I feel.

Some Hon. Member: (Inaudible)

Speaker: You're fine. No, you're fine.

Mr. Cardiff: Thank you.

That's what I have to go home with tonight — knowing the fact that today, in this Legislative Assembly, we basically took a half measure in the protection of our children and our youth that are struggling on the street, that are in the care of government. We could have done a better job for them today.

Mr. Edzerza: I think it was a clear demonstration today, once again, that the government is not going to pay heed to the request of the First Nations. As I stated earlier, I had a lot of written requests, a lot of phone calls, a lot of personal con-

tacts and I was asked as an Independent to really speak out on behalf of the First Nation people, because they really felt that the consultation process was rushed and they never had adequate time or face-to-face dialogue with the government.

However, I did express my opinion at that time that, quite frankly, I am aware of the fact that the government does have the majority and that the opposition will be defeated regardless of what is brought to the government. My opinion was proven right once again today. The government refused to acknowledge the First Nations' request.

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

Hon. Mr. Hart: First of all, I'd like to thank all the staff who prepared all the information with regard to this legislation and the hard work they put in to prepare this information to bring forth to the Legislature.

The advocate's primary role, as has been set out in this bill, is to support and assist children and youth to access designated services and to ensure that the views and interests of youth and children are considered. The bill also provides that the advocate may review and provide advice on systemic or policy issues with respect to designated services that affect the public interest and that come to the advocate's attention while assisting an individual child or youth.

Mr. Speaker, I believe this particular bill provides an excellent venue for the advocate to go out and prepare services to help and assist all our children throughout the Yukon. I look forward to members opposite supporting this particular piece of legislation and assisting us in getting this job done in conjunction with the children and health services act.

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. Mr. Kenyon: Agree.

Hon. Mr. Rouble: Agree.

Hon. Mr. Lang: Agree.

Hon. Ms. Horne: Agree.

Hon. Mr. Hart: Agree.

Mr. Nordick: Agree.

Mr. Mitchell: Sadly disagree.

Mr. McRobb: Disagree.

Mr. Elias: Disagree.

Mr. Fairclough: Disagree.

Mr. Cardiff: Reluctantly agree.

Mr. Edzerza: Disagree.

Clerk: Mr. Speaker, the results are nine yea, five nay.

Speaker's statement

Speaker: Before I declare the motion carried, I just want to remind all members that during the vote, it's an "agree" or "disagree." Editorial comment has never been part of the process, so if the honourable members would just respect that, please.

The yeas have it. I declare the motion carried and that Bill No. 70 has passed this House.

Motion for third reading of Bill No. 70 agreed to

Speaker: 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 April 30, 2009:

09-1-112

Travel Expenses of Members of the Yukon Legislative Assembly 2008/2009, Report on (dated April, 2009) (Speaker Staffen)

09-1-113

Workers' Compensation Act, Order-in-Council 2009/67: Schedule re Compensation Fund Investment Policy (Hart)