

**Yukon Legislative Assembly  
Whitehorse, Yukon  
Wednesday, November 4, 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.

Tributes.

## TRIBUTES

### In recognition of Paralympic School Week

**Hon. Mr. Rouble:** I rise today to celebrate the courage and perseverance of Paralympic athletes and the Pan-Canadian Paralympic School Week, which runs from November 2 through 6. Paralympic School Week focuses on the triumphs of Paralympians, not their disabilities. As a lead-up to the Vancouver 2010, the event is a great opportunity to prompt community celebration, foster unity and take pride in our diversity.

Canada has competed at every Paralympic Games since 1968 and is a world leader in sport for persons with a disability. This year, for the first time in Winter Games history, Canadian Paralympians will compete on home ground and approximately 40 Canadians will join the field of 600 para-athletes from 40 countries in para-alpine skiing, biathlon, cross-country skiing, ice sledge hockey and wheelchair curling.

With Canadian athletes currently world champions in four of the five Paralympic winter disciplines, we can look forward to having our most competitive team ever at a Winter Games, and that's certainly reason for national pride and celebration.

Paralympic School Week honours more than the spirit of healthy competition. The event offers rich possibilities for our schools to reflect on human physical function and capacity, athletics and the value of active participation. Through community-building activities, our youth can embrace Paralympic values of determination, courage, inspiration and equality. I congratulate educators at several Yukon schools, including Grey Mountain Primary and Selkirk Elementary for rising to the challenge.

At Grey Mountain Primary, for example, students will participate in Canada's red-mitten campaign and stage an in-school torch relay. They will also try their skills at versions of Paralympic disciplines like scooter hockey, one-armed basketball and guided sports.

Mr. Speaker, like the games themselves, Pan-Canadian Paralympic School Week is an opportunity for students, educators, and Yukon as a whole to embrace the international Paralympic model, spirit in motion. I invite you to join me in paying tribute this week, not only to elite Paralympians, but also to all Yukon persons with a disability as they strive to achieve their personal best with dignity and determination. Thank you.

**Speaker:** Thank you. Are there any further tributes? Introduction of visitors.

## INTRODUCTION OF VISITORS

**Hon. Mr. Fentie:** It is indeed an honour to ask all members of the House to join me in welcoming His Excellency Tsuneo Nishida, Ambassador of Japan to Canada, and Second Secretary Mr. Tamura Koji. Let's give them a warm welcome.

*Applause*

**Speaker:** Are there any other introductions of visitors? Are there returns or documents for tabling?

## TABLING RETURNS AND DOCUMENTS

**Hon. Mr. Rouble:** I have for tabling the Yukon Teachers Labour Relation Board Annual Report, 2008-09 and the Yukon Public Service Labour Relations Board Annual Report, 2008-09.

**Speaker:** Are there any further documents or returns for tabling?

Hearing none, are there reports of committees?

## PETITIONS

### Petition No. 8 — received

**Speaker:** Under petitions, the Chair must inform the House of an oversight during yesterday's proceedings. Following the Clerk's report on Petition No. 8, the Chair should have informed the House that, based on the Clerk's report, Petition No. 8 is accordingly deemed to be read and received.

Are there any petitions today to be presented?

Are there bills to be introduced?

Are there notices of motion?

## NOTICES OF MOTION

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

THAT this House supports the Government of Canada's initiative to extend employment insurance special benefits, including maternity, parental, sickness and compassionate care benefits, to the self-employed through the proposed *Fairness for the Self-Employed Act*.

I give notice of the following motion:

THAT this House urges the Yukon Member of the Parliament of Canada, Larry Bagnell, to support private member's Bill C-391, *An Act to Amend the Criminal Code and Firearms Act (repeal of long-gun registry)* presented by the Member of Parliament for Portage-Lisgar, Candice Hooppner,

**Speaker:** Are there any further notices of motion? Is there a ministerial statement?

## MINISTERIAL STATEMENT

### Re Telework policy for Yukon government employees

**Hon. Mr. Rouble:** I rise today to highlight a new policy that will demonstrate the government's commitment to innovative human resource practices. One of the goals of the

Yukon public service is to attract, develop and engage talented people as employees. A key way to do this is through progressive human resource policies that balance the needs of the workforce with the needs to deliver high quality service to Yukon people.

The public service has demonstrated this in recent years by introducing flexible work arrangements, such as compressed work weeks, flex time and job sharing. These measures, when they fit with operational needs, can result in highly productive employees who are able to balance work more easily with their life in general.

Today, I would like to talk about a new measure, which is becoming increasingly more common in public and private sector workplaces, and which the Yukon government is now supporting through policy and guidelines. It's called telework. When used with the right employee, the right job and in the right workplace, telework can be an excellent work arrangement. It can help departments achieve their organizational goals, while supporting employees to achieve greater life-work balance.

Telework is an alternate work arrangement in which an employee works from another location, usually their home, for part or all of their work week. Telework is permitted only if it is appropriate for the employee, the job and the workplace, and only if the level of service provided by the employee is maintained. The telework policy includes clear, comprehensive guidelines. Employees who ask for a telework arrangement must have at least one year of service in their current position. They must meet specific criteria with respect to their suitability, the nature of the job and the appropriateness of the telework place. All requirements concerning hours of work and terms and conditions of employment continue to apply. Telework can benefit both employees and employers. The *American Journal of Applied Psychology* published a report in 2007 based on 20 years of research. It found that telework can be a win-win situation, resulting in higher moral and job satisfaction, lower turnover and higher performance ratings by supervisors.

As I mentioned earlier, it is a practice being adopted by both private and public sector employees. The federal government has had a telework policy since 1999. Provinces such as British Columbia, Alberta, Saskatchewan, Manitoba and Quebec have adopted similar guidelines through policy and collective agreements.

Here are some of the benefits employers have cited: they have an increased ability to hire and retain experienced employees who are seeking greater work-life balance; they see higher levels of employee satisfaction and motivation; they see improvements in productivity, coupled with reduced absenteeism; and they have fewer service disruptions during bad weather and other emergencies.

As for employees, they have more flexibility, greater work-life balance, and an improved quality of life. They spend less time on the road commuting. They are able to take advantage of the times when they are most productive, and they have less stress and higher morale.

Experience has shown that the best candidates for telework are employees who are self-motivated and have the right balance of experience, demonstrated productivity and personal suitability.

Mr. Speaker, I am confident that we have situations within our public service for which telework will function very well and that it will benefit employees, the workplace and the Yukon public we serve.

Thank you, Mr. Speaker.

**Mr. Inverarity:** Mr. Speaker, I rise today on behalf of the Yukon Liberal Party to respond to the telework policy for the Yukon government employees. We note that this is a progressive human resource policy that has been a long time coming. This is not a new idea, though. Telework has been growing in popularity over the last 20 years. It does not fit every circumstance. A customer service representative who serves the public, for example, would not be able to do their job from home. There are, however, many situations where this type of work is very effective and offers benefits to both employees and employers.

My personal experience with telework dates back to 1996. As a business owner some of my staff enjoyed the benefits of telework policy that was in place. The telework policy that we used was well received by all the employees, even if it was for different reasons. Flexible working hours was especially welcome to employees with small children who had busy lives to balance. Telework has special considerations, and its success depends on strong trust relationships between the employer and the employee. There is an added responsibility on the employer's part to carefully and clearly communicate with employees about expectations.

Employees have an added responsibility to meet job expectations without direct supervision. Telework can take the employee/employer relationship to a higher level of effectiveness and productivity if done right. We are pleased to see this policy being put in place. I hope to hear good feedback from Yukon government employees about how the policy is working for them.

Thank you.

**Mr. Hardy:** Mr. Speaker, telework is the result of a shift toward more knowledgeable workers, more ITUs, changes in traditional family structures, changes in work expectations and a broader definition of career aspirations and satisfaction. There's no question about it — many people who are entering the workforce or who have been in the workforce for awhile want to move in this direction. So it's really good to hear that the government is responding to the movement — the shift — in how we were from the workers themselves and putting in place a mechanism to allow this to happen.

The arrangement should suit the job and the people who are involved, be cost effective, operationally feasible and ensure quality and quantity of work. Telework should be for select employees and permanent staff, but it also should be allowed for part-time staff as well.

If you think about it, we already use telework when we contract out to private firms. Many of them work out of their own homes and do much of their work through telenetworking themselves, so this is something that's being recognized for the employees as well who are employed by the Yukon government, and that's very good.

It should be for employees with satisfactory or better performance reviews, be voluntary, not be guaranteed nor alter benefits of collective agreements. There should be a written and signed telework agreement that covers total hours worked, hours and days of work, location of business meetings, liability for job-related accidents, workplace standards for health and safety, government policies, rules and regulations, termination of the agreement, provision of equipment, agreement with a bargaining agent. It is extremely important that Public Service Commission works very closely with the representatives of the working people to ensure that all the concerns are being met and that we don't find ourselves in a situation where there's a lot of arbitration or disagreements in how this is being brought about. That will be an onus upon the Public Service Commission.

An evaluation of the agreement also needs to be in place, and it needs to be evaluated on at least a yearly basis to ensure that it's flexible enough to meet the competitive edge for attracting and retaining highly skilled personnel. It needs to be evaluated so that it reduces the levels of stress and dissatisfaction within many departments like we have seen with recent surveys over the last couple of years, that it produces higher productivity, reduces absenteeism, gives higher employee satisfaction and motivation, reduces traffic congestion and air pollution on the environmental front and support regional economic development.

It allows employees from the huge area we live in, the Yukon Territory, which — just as a note — I think, is probably as big as Japan, if you think about it — and that's only one tiny part of Canada. Japan, of course, in my heart, is as beautiful as the Yukon.

But it would allow the people from Old Crow, from Ross River — from wherever — to be able to work out of their homes in that region and still stay connected with the Whitehorse base. So we definitely support this and are glad to see it.

Thanks a lot.

**Hon. Mr. Rouble:** I appreciate the positive and supportive comments coming from both the Official Opposition and the Third Party. It's reassuring to see that we can agree on some policy changes that are being made to become more progressive and to respond to the needs, not only of our employees, but also of the territory at large.

I certainly appreciate that they recognize the benefits and the limitations that such a program will have and that it is important to work with the right person, the right job and the right situation and, of course, as the Leader of the Third Party mentioned, to have the right arrangement in place.

I can assure members in this Assembly that those types of protocols will certainly be worked out, in addition to looking at health and safety criteria and additional security protocols.

I certainly appreciate that most members in the Assembly are familiar with it. We probably do it as part of our normal day-to-day operations, whether it be from the beautiful Marsh Lake or from Fox Lake, where I know personally —

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

**Hon. Mr. Rouble:** I stand corrected — by beautiful Fox Lake as well, where members will often participate in meetings through conference calls or through Internet-based communications. I know in my personal situation, folks in my office appreciate it when I'm at home more because they know where to find me and they can easily contact me with a quick e-mail or telephone call and that the e-mail traffic between my home and here is just as quick as from my assistant's office to my office.

Indeed, this is a progressive step forward. It recognizes the tremendous infrastructure that we have in Yukon, with over 98 percent of Yukoners having access to high-speed internet in their home, and it recognizes many of the changing workplace norms that we're seeing.

I thank the members opposite for their support of this policy change.

**Speaker:** Is there a further ministerial statement?  
Hearing none, that brings us to Question Period.

## QUESTION PERIOD

### Question re: Yukon Energy Corporation/ATCO

**Mr. Mitchell:** Yesterday, the Premier wasn't able to answer my questions about what was in the letter that he wrote to ATCO President Nancy Southern. Maybe today he can answer some questions about what is missing from it.

In this letter, the Premier thanks Ms. Southern for having already met with him to discuss privatizing the Yukon Energy Corporation. He says the Yukon government will move quickly to prepare for detailed negotiations with ATCO and that his entire caucus has given full approval to do so.

When the Premier wrote this letter about privatizing the Yukon Energy Corporation, he copied it only to the former Minister of Energy, Mines and Resources. Strangely, he left the Minister responsible for the Yukon Energy Corporation completely out of the loop. Why did the Premier exclude the Minister responsible for the Yukon Energy Corporation from receipt of this letter?

**Hon. Mr. Fentie:** You know, Mr. Speaker, what is becoming abundantly clear in these discussions and the debate that has been ongoing for some days now is that the Leader of the Official Opposition is somewhat confused — has confused concepts with concrete action; has confused proposed models with actual entities; has confused the selling of assets with what is clearly a government position of not selling assets; has confused partnership with privatization; and as we all are aware from yesterday — which is duly noted on the public record — has confused paraphrasing by a reporter as a direct quote.

Mr. Speaker, there is a way for all this confusion to be addressed and the government is very confident that the Public Accounts Committee will provide that clarity to the member opposite. But in saying this, it's very difficult to respond to this

member until due diligence has been done to check the facts because of that confusion.

**Mr. Mitchell:** I'll note for the record that the Premier never answered the question and what is confused is the Premier's explanations from what the documents demonstrate.

The Premier's letter says a lot of different things about selling out Yukon's energy future and it also says a lot about how he runs his government. Under this Premier, the Yukon government has turned into a corner-office democracy. Ministers are excluded from information and decision making in their own departments. The Premier himself meets with departmental officials directly, going over the heads or behind the backs of the ministers who are supposed to be in charge. Now we see the Premier is willing to go further than that. In this letter, we see he negotiated with the president of ATCO about the future of the Yukon Energy Corporation while leaving the minister responsible completely in the dark, just like this morning. Why didn't the Premier include the minister responsible in this letter about trading away the Yukon Energy Corporation?

**Hon. Mr. Lang:** Getting into the debate this afternoon, I think we should move on. Obviously, the member opposite — the Leader of the Official Opposition — is a bit in grey areas. Certainly, in defending the Premier and how he manages his government and who he meets with and when he meets with these individuals, I have met with the Premier many times in my capacity as a minister and have taken advice from the Premier and given advice to the Premier.

As far as putting on the floor of this House that he's doing anything different from any other Premier would do, that's why he's called the premier — working with his Cabinet and his colleagues to govern the territory.

Let's get down to what Yukoners are interested in. What about the energy strategy for the Yukon? It's a document that was put out here in January, a very solid direction on where this government is taking the Yukon into the future on how we're going to manage our energy.

This is pertinent information for today's Yukon. They might talk about the past. This side of the government will talk about the future in energy in the territory.

**Mr. Mitchell:** The current Minister of Energy, Mines and Resources wants to sweep this under the carpet, but Yukoners are telling us they want us to shine a light on it.

The Premier has made it clear that not only was he in favour of privatizing the Yukon Energy Corporation, he wanted to be the one to get this job done. It was the Premier who thanked the president of ATCO for having already met with him. It was the Premier who told her how long the president of the new energy corporation should hold that position, and it was the Premier who said they should also talk about ATCO getting involved in Yukon's water, Yukon's waste management and Yukon's housing.

It's clear the Premier made himself an essential part of the negotiations with ATCO to privatize the Yukon Energy Corporation, and that's why he left the minister responsible for the Yukon Energy Corporation out of the loop when he wrote to the president of ATCO.

Will the Premier finally come clean to Yukoners that he personally led negotiations to sell out Yukon's energy?

**Hon. Mr. Fentie:** That would be misleading to make any sort of statement in that regard. Let me point something out to the Leader of the Official Opposition. He's now accusing the Premier of having these very intense negotiations with an individual from a corporation, who yesterday he said and made the accusation and claimed that the Premier had said publicly that I've never met the individual in my life.

See, that's the problem we have here, Mr. Speaker — the members opposite — the Leader of the Official Opposition's confusion around facts. So the Public Accounts Committee will certainly provide clarity for the member, and then the member can get on doing his job, representing his constituents, and indeed, being a productive member in this Assembly in the public interest.

#### **Question re: Yukon Energy Corporation/ATCO**

**Mr. Mitchell:** On June 12, 2009, the Premier was questioned about the resignations of the Yukon Energy Corporation chair and board members during a media interview. When asked if the Premier was trying to do something with YEC that the chair and board members did not want, the Premier replied, "I don't know what you're talking about."

It has become clear that the Premier knew exactly what the reporter was referring to. It has been stated by the Yukon Energy Corporation chair and board members that they resigned because the Premier was trying to sell out the Yukon Energy Corporation. The Premier's own officials have confirmed negotiations were in the works, but the Premier continues to deny that negotiations ever took place. So, Mr. Speaker, should we believe the Premier when he says that no negotiations took place, or should we believe everybody else?

**Hon. Mr. Fentie:** I could reciprocate in this manner. Should we believe the member opposite when he makes claim that paraphrasing by a reporter is a direct quote from an individual? This is the point the government side is making, Mr. Speaker. Furthermore, clearly the government thanked the former members of the board for their service and dedication to Yukoners. By the way, the government has also tabled a letter from the former chair, which we believe is certainly something that is productive in meeting the goals of reliable and affordable energy delivered to the Yukon public. We see nothing wrong in those types of discussions taking place between the corporation and other corporate entities, whoever they may be. We have done the same thing. So, Mr. Speaker, again the members' confusion has to be cleared up, and the Public Accounts Committee will certainly do that.

**Mr. Mitchell:** The only one who is confused here today is the Premier. He's confused on the difference between a letter from a chair responding to the letter of instruction provided and the much broader undertakings of this Premier.

Now the letter dated November 7, 2008, to Nancy Southern of ATCO made it expressly clear that the government was negotiating a new entity for electrical generation, transmission and distribution in the Yukon, that the government caucus supported this decision.

In a media interview, the Premier said, as he has said so often, “The government is not involved in any way in privatizing energy in the Yukon.” The Premier cannot have it both ways. A letter was personally signed by the Premier to engage the government in these negotiations. The Premier maintains even today that there were no negotiations.

Does the Premier expect Yukoners to believe his bluster or his signature?

**Hon. Mr. Fentie:** Now I am confused. I didn’t know the written word, in the form of correspondence, was “bluster”. It’s a statement of fact, by the way, especially if you put your signature to it.

Again, I point out to the member opposite his confusion around “partnership” and “privatization”. There’s nothing that the member has provided in the way of evidence in regard to the government privatizing anything, and that’s why the Public Accounts Committee can clear all this up for the member. No matter how many times the member asks the question, no matter how many times the member confuses by interpretation letters, the transcripts from the media, comments in the public — they said, who said, what was said, hearsay. All of that, Mr. Speaker, is basically counterproductive.

The member is confused; I’ve listed a number of examples of that confusion, and the Public Accounts Committee will certainly help the member clear his mind.

**Mr. Mitchell:** We’re going to give this Premier lots of opportunity to clear the record, and we’re going to do it right here in this Assembly, in front of all members.

On Wednesday, June 24, 2009, during a CBC interview, the Premier was quoted saying, “This government has never talked about, dreamt about, fantasized about selling the Yukon Energy Corporation’s assets.” The next day, Thursday, June 25, the Premier had this to say about the negotiations with ATCO: “We could be looking at all kinds of things; we haven’t received the final outcome of any of these preliminary discussions as yet. When we do, we’ll go from there.”

From one day to the next, the Premier claims there are no discussions with ATCO, then states the discussions with ATCO are not yet finalized. Which is right? The Premier’s version of the facts on Wednesday or his version of the facts on Thursday?

**Hon. Mr. Fentie:** The first thing the government side is going to have to do is pull all the transcripts to verify the member’s statements. As the government side has pointed out, the member yesterday actually stood on the floor of this Legislature, attributed a direct quote from a paraphrase by a reporter to a member of this Assembly. That’s of great concern, Mr. Speaker: therefore the research on what the member is saying will be done.

However, is the member confused about proposals? The government receives proposals from the private sector all the time. In many cases, those proposals are based on the desire or the impetus to invest in Yukon. The government doesn’t preclude what the private sector may envision, but I can tell the members opposite and the Yukon public who may be listening and concerned, that the government never entertained selling of assets. The government has no plan to sell assets or privatize.

All the members opposite have to do is look at the energy strategy.

I challenge the members to show this Assembly, its members and the Yukon public where in that blueprint that the government is following is the word “privatization” in regard to our assets in energy.

#### **Question re: Public/private partnerships Canada fund**

**Mr. Hardy:** Ottawa has set up the P3 Canada fund. According to its website, it is making available \$1.2 billion to support public infrastructure projects procured via public-private partnerships. The deadline for round 1 project submissions was October 30, 2009. Were any submissions made by this government?

**Hon. Mr. Fentie:** The Management Board of this government — Cabinet — has not submissions to the federal government’s P3 initiative.

We obviously have received investment from Canada from a number of funds — the green energy infrastructure fund, the housing fund — as by way of examples. I also want to relay to the Leader of the Third Party in this House that the overall initiative that Canada has in terms of its strategy for investment in the country has not gone very far. As I understand it, not a lot of the investment has taken place, and one of the challenges that Yukon faces with P3s — as they are envisioned — is the way we must account for our expenditures. The advantage of a P3 for Yukon is somewhat limited and at this time we’re not entertaining any P3s with the federal government. What we’ve done is entered into a partnership through the Yukon Energy Corporation with the Government of Canada on an investment on infrastructure that will be owned by the Yukon Energy Corporation, increasing our hydro capacity, reducing our carbon footprint and providing more reliable energy to Yukoners.

**Mr. Hardy:** Well, the NDP believes the territory’s energy assets should continue to be publicly owned and publicly operated and not just what we have today, but also in the future. The NDP believes that the territory’s health care assets should continue to be publicly owned and publicly operated and, if anything, the public ownership should be expanded, around both the energy and the health care assets.

The NDP believes all the territory’s publicly owned assets should continue to be owned and operated by and for the people of this territory and not by the for-profit private sector. In order to ensure that, the people of this territory need to be involved in any decisions that are made in that regard.

I will give one example. Anyone who drives out of Riverdale or drives into Riverdale will see these big towers going up. I think they’re elevator shafts. Can the Minister of Health and Social Services or the Premier inform us what arrangements have been made by the Yukon Hospital Corporation to finance that new residence and office expansion?

**Hon. Mr. Fentie:** First, there were a number of points made here. I will quickly get to the answer. The arrangements that were made to finance the capital project were done by the Hospital Corporation, well within its mandate — its own contract authority — and the government is very pleased that the

Hospital Corporation is dedicated and committed to work within its mandate.

The member talked about expansion of assets. Well, let me point out to the member when it comes to energy assets — a third wheel at Aishihik; the first phase of Mayo B by extending the WAF grid — the Whitehorse/Aishik/Faro grid — from Carmacks to Pelly; two hospitals committed for Yukon — Dawson City and Watson Lake; an increased investment to the Hospital Corporation in terms of a three-year agreement with the corporation — a longer term agreement giving them more certainty and, of course, increasing their ability to deliver health care to Yukoners.

So I share the member's view — publicly owned and publicly operated — and that's exactly what is happening.

**Mr. Hardy:** Actually, Mr. Speaker, I don't know if I had got an answer about the right question at the end. My question was fairly simple. Could the Minister of Health — who is of course responsible for the Hospital Corporation — or the Finance minister give us some information regarding the financial arrangements that the Hospital Corporation has either entered into — because the building has already started; the project is already on the way, and maybe we need some clarification just around that one. Are we doing this as a as-we-find-money-we-build-it project? Is it a cost-plus approach to this building? Ultimately, what are the financial arrangements made — or have they not been made yet, so they're just building the initial stage and they're going to stop until they're finalized?

**Hon. Mr. Fentie:** No, the Hospital Corporation has done its work; it has done its due diligence; it has done its planning; it has done its design and has commenced its construction. The Hospital Corporation, by way of its mandate, can seek financial investment as it sees fit, as long as it's within its mandate and meets all the obligations therein and is consistent with government policy. Of course, that means the Yukon Hospital Corporation can access financial institutions for money.

**Question re: *Yukon Energy Corporation Protection Act***

**Mr. McRobb:** I have a question for the Premier and it's a pretty simple one. It relates to the second order of business this afternoon, the *Yukon Energy Corporation Protection Act*. To date, we haven't heard a peep from the government with respect to its position on this bill. We don't know if the government is opposed to it or supports the bill or if it will take some other measure.

What I'm referring to by "other measure" — in Assembly terms, it's called a filibuster. In more simple terms, it's when the government-side members talk out the bill until closing time so it can't be voted on.

Let's get the Premier clearly on the record. Does his party, the Yukon Party, the government side, support this bill or not?

**Hon. Mr. Fentie:** First off, the bill, as tabled yesterday — the government sees great merit in such an approach, because we share I'm sure everybody's view in this Assembly — all members — when it comes to the issue of a public utility. Under the structure in the Yukon, that's exactly what we have and that's exactly what we intend to maintain.

That said, I've also stated publicly some days ago — I guess that's a media transcript that wasn't of interest to the Official Opposition — that we will, in the spirit of making this Assembly work better, do our thorough and due diligence on the proposed bill, and that's exactly what we'll do.

We do see merit in it, as I've said, but I think, in the course of debate today, there are other things that we need to address overall. But we certainly do not oppose the concept or the idea of ensuring and maintaining a public ownership of our electrical or energy assets. By the way, that is to a large degree already in place, because selling all or substantially all of Yukon Energy's assets can only be done by Yukon Development Board approval.

**Mr. McRobb:** It's reassuring to hear those words, which I will assume are supportive, from the Premier. I'll just take a moment to explain our concern about this. At the House leaders' meeting this morning, the government side House leader indicated they would be putting up several speakers to this bill this afternoon. That means that it'll consume a lot of time. When I asked the Government House Leader if they would be supporting this bill, his answer was, "We don't know. Our discussion didn't get that far" — another indication that the government side intends to talk out this bill. When I asked what business would be up should these items conclude, he said, "We don't know. We never got that far."

On previous bills we saw the Minister of Energy, Mines and Resources filibuster them. Will the Premier give his assurance now that his members will work productively to see this bill voted on this afternoon?

**Hon. Mr. Fentie:** Well, I must apologize. The Member for Kluane is obviously having a bad day. One should not speculate about things like filibustering. The member mentioned that we are going to chew up a lot of time in this Assembly. We have been chewing up a lot of this Assembly with his leader's confusion around partnership and privatization and so on and so forth. I think it is clear that the government sees merit in this. The government has stated that. The government intends to provide constructive debate on the bill. The government will stick to its commitment to try and make this Assembly work better, and I would hope the Official Opposition takes the same view.

**Mr. McRobb:** Not only do we take the same view, but we will lead the way if necessary in terms of being productive and constructive with respect to this bill. I won't take the bait on the other issues from Question Period, because I think the public has already reached a conclusion on those matters. It will be very interesting to see this debate. Let me also say that with honest humility, if the government side —

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

**Mr. McRobb:** I'm sorry if the Leader of the Third Party finds this funny.

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

**Mr. McRobb:** Well, if I'm permitted the opportunity

**Speaker's statement**

**Speaker:** Order. Address your remarks through the Speaker, please.

**Mr. McRobb:** Mr. Speaker, it's too bad we're not given the opportunity to respond to some of these comments. Anyway, Mr. Speaker, it's good to see there will be constructive debate.

**Speaker:** That was a question, I'm assuming.

**Hon. Mr. Fentie:** I guess it was a question. Please bear with me, Mr. Speaker and members. I must respond.

This whole concept of making the Assembly work better is something that must take place. The Member for Kluane just said that not only are they committed to that, but they will, if necessary, lead the way. I think the House, the members and others have noticed that over the last number of days by all of the off-mike comments and the conduct so far.

So we're glad to hear now, publicly and on the record, that the Official Opposition is interested in making the Legislative Assembly work better, and we will definitely support them in that regard.

#### **Question re: Yukon Energy Corporation/ATCO**

**Mr. Mitchell:** This summer, the former chair of the Yukon Energy Corporation Board lifted the veil of secrecy that surrounded this government's plan to privatize Yukon's energy future.

The former chair released a joint position paper that was the result of months of negotiations between ATCO and the Government of Yukon. The Premier directed those negotiations on the Yukon side of the table.

The document outlines the government's plan to start a new company to share ownership of the Yukon Energy Corporation with ATCO. The Premier said yesterday, "Firstly there were no negotiations with the president of ATCO by me. Let's get that on the record." The joint position paper, on page 6, says otherwise. ATCO wanted the term of president of the new corporation to be a minimum of five years. It says, "ATCO noted that the Premier told Nancy Southern that longer would be better."

How does the Premier explain this contradiction?

**Hon. Mr. Fentie:** The question is, how can we explain the member's confusion if he keeps referencing this said document. Maybe this will help the member — once PAC does its work, it certainly will clear the matter up. However, I'm sure the member must understand that, for any government department to negotiate anything, a mandate must be provided, sanctioned by Cabinet, before that can take place. To get there, clearly — and there's a litany of examples where government officials have discussions with proponents about matters, proposals, whatever the case may be. Those discussions are to scope out, to frame the elements and the content of what may become a Cabinet submission by said department for the Cabinet's review. That submission will have, in detail, the pros and the cons of the possible mandate should we go forward and, at the end of it all, Cabinet — not one individual — would have to make a decision, duly recorded by a Cabinet minute, should the mandate be given to the department, and it would be sanctioned by Cabinet.

**Mr. Mitchell:** The Premier stands on his feet and outlines how things should be done, and then he tables letters with his signature on how it was done.

The joint position paper is very clear. It proves beyond a shadow of a doubt that the Premier was right in the middle of the negotiations with ATCO. On page 6, it says, "ATCO wanted the term of the president of the new corporation to be a minimum of five years; ATCO noted that the Premier told Nancy Southern that longer would be better."

Under the terms of the joint position paper, ATCO would have eventually controlled half the Yukon's power equipment through the funding of new power developments. This is privatization, no matter how you slice it.

We know the MLA for the Southern Lakes is a big supporter of the Premier and his privatization plans. He came out this summer and backed the Premier and chastised the former Minister of Energy, Mines and Resources. The Deputy Premier has also endorsed the Premier. They're all in this together. Why won't the Premier admit the obvious — that he was involved in the negotiations?

**Hon. Mr. Fentie:** The whole aspect of why members have spoken out is because it requires a Cabinet decision and minute. Now that's clear. The member has just made another statement that demonstrates confusion. The member thinks that private sector investment in assets in the Yukon Territory — and in this case energy assets — would result in privatization. How can the member explain then the investment in the first phase of Mayo B, which is an extension of our main grid — the Whitehorse/Aishihik/Faro grid from Carmacks to Pelly? How can the member explain the investment by a mining company — a private company — in that asset? It's still wholly owned by the Yukon Energy Corporation? It's the Yukon Energy Corporation's asset. There is no equity position for this mining company at all.

So the member is confused, Mr. Speaker. The member, in the ever twisting, turning approach that the member always has had in this Assembly, is still trying to turn misinformation into fact.

#### **Unparliamentary language**

**Speaker:** I think that I chastised the Leader of the Official Opposition for using that term a couple of days ago, and I'm going to turn the same thing back on you, Hon. Premier. That terminology is not acceptable.

**Mr. Mitchell:** Well, the Premier knows full well that the mining company that contributed to the cost of a public asset doesn't own the asset.

Now, the Premier said yesterday: "Firstly, there were no negotiations with the president of ATCO by me." Let's get that on the record. We're not buying the Premier's denial, because it contradicts what was in the joint position paper. The JPP confirms, and I'll state it again for the record: "ATCO noted the Premier told Nancy Southern that longer would be better for the term of the president." It is contradictions like this that have caused us to lose confidence in this government. Those are the things that are confusing the issue. It is contradictions

like this that have caused Yukoners to lose confidence in this government.

Through it all, the rest of the Cabinet has continued to endorse the Premier. They are all in this together, and Yukoners will remember that come the next election. All the members on that side of the House had a choice: endorse the Premier or stand up for Yukoners. Does the Premier think he's fooling anyone with these denials?

### Speaker's statement

**Speaker:** The Chair has a problem. The implication, of course, in your question honourable member is that the Premier is misleading the House with that statement. I'm not going to make you withdraw the statement, but just keep it in mind in the future.

Hon. Premier, you have the floor.

**Hon. Mr. Fentie:** Mr. Speaker, firstly, the reason the member opposite isn't buying anything is because the government, this side of the House, is not trying to sell anything to the member opposite. Secondly, no matter what the member may want to put on the public record here in this Assembly it will not change the government's position in any way. The member is requiring assistance in clearing up the confusion and the Public Accounts Committee will do that. We don't see any problem with that at all. We find that to be a very constructive thing.

Now let's look at what this team has accomplished. This group of people is definitely well aware of the fact that after seven years, much has been done for this territory. This territory has turned a direction from a negative to a positive. This territory's quality of life has improved. This territory's economy has improved. This territory's investment capacity has increased. This territory's investment by the private sector has increased.

Look at the example of all of the hard work that the Minister of Economic Development has accomplished — millions upon millions of offshore investment here in Yukon developing our resource. All of these things are good for Yukon, and I am sure the member really recognizes that and the next election will reflect that.

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

## ORDERS OF THE DAY

### OPPOSITION PRIVATE MEMBERS' BUSINESS

#### MOTIONS OTHER THAN GOVERNMENT MOTIONS

##### Motion No. 852

**Clerk:** Motion No. 852, standing in the name of Mr. Hardy.

**Speaker:** It is moved by the Leader of the Third Party THAT a select committee on Bill 108, *Legislative Renewal Act*, be established;

THAT the membership of the committee be comprised of equal representation from the government caucus, the Official

Opposition caucus and the Third Party caucus to be determined by the Premier, the Leader of the Official Opposition, and the Leader of the Third Party;

THAT the committee conduct public consultations for the purpose of receiving the views and opinions of Yukon citizens and interested groups on the act;

THAT the committee report to the House its findings and recommendations no later than the 2010 fall sitting of the Legislative Assembly;

THAT the government introduce in the House legislation no later than the 2010 fall sitting of the Legislative Assembly;

THAT the committee have the power to call for persons, papers and records and to sit during intersessional periods;

THAT the committee have the power to seek background information from experts and to be able to call and hear these experts as witnesses;

THAT if the House is not sitting at such time as the committee is prepared to present its report, the committee transmit its report to all members of the Legislative Assembly and then, not more than one day later, release the report to the public; and

THAT the Clerk of the Legislative Assembly be responsible for providing the necessary support services to the committee.

**Mr. Hardy:** There's a saying, "third time lucky", that is used often. I feel that this is the third time I've stood up now. This will be the third time I've stood up now to bring forward legislative renewal act or some attempt of that, from my perspective — and I think from many people in the territory's perspective — to correct some of the problems that exist within a system that we inherited. I shouldn't say we "inherited," but that we adopted. It's called the Westminster system, which hasn't really been reformed since it was introduced in 1832. At that time, it was called the *Great Reform Act*. I'm not going to go into the long history of the Magna Carta and all that stuff, of course.

But what we do work under is an act and a system of government — the Westminster system — that I do not think has kept up to date with our society and with the expectations and demands within our society. Each of us in this Chamber, each MLA, is challenged to be able to represent our constituents, to be able to represent our viewpoints, our party positions, to be able to respond back to our constituents on the work we do in here. Unfortunately, it has become very obvious that the people do not have much faith in any of us, really, and all we have to do — and I'll get into it in a moment — is look at the voter outcome and the engagement of the public within our legislative system.

I know there are people who will defend the system until they fall over, even though there are so many problems. We live in a house that has a lot of leaks, and this is a legislative house. There's an onus on us to make those corrections, to fix the problems that exist. I do know that the Member for Klwane has brought forward, over time, a list of changes that he would like to see. Some of them are very good. The NDP on our side have brought forward a bill, and I'm going to just read parts of



the bill. I won't go through the whole thing, just to put it on record, because it wasn't put on record with the motion.

The bill we are discussing is Bill No. 108. The mandate of the bill: "The Committee shall conduct public consultations throughout the territory, beginning no later than three months after this bill receives assent, and shall report its findings and recommendations to the Legislative Assembly no later than nine months from the date of assent."

"The scope of the public consultation shall include, but not be limited to, the following areas of consideration: (a) establishing a Code of Ethical Conduct for members within the *Legislative Assembly Act*; ..."

Now, the public has been asking for this one for a long time. From their perspective, what's ethical conduct? What do they want from us? It's very difficult for us in here; we're challenged by that. First off, we really don't have a code of ethical conduct. When opposition questions the government, the Speaker is often challenged in trying to keep a sense of decorum within the Chamber.

We on the Opposition side are challenged, of course, in trying to be able to debate and ask questions of the government, and we're frustrated at times because the government doesn't respond.

The government, on its side — and I've been on the other side as well — is frustrated and challenged sometimes by the questions of the Opposition and their insistence in getting what they may be wanting that the government or the individual may not want to respond to, because they feel it's inappropriate.

We don't have a code of ethical conduct, truthfully, that helps us guide that. We rely upon the Speaker to try to keep the right tone in here, but each time we change Speakers, there is a different bar, I guess, that's set and sometimes it's higher and sometimes it's lower. Sometimes it's not understandable for us down here. Sometimes we shake our head at how the Speaker ruled. I'm not criticizing you, Mr. Speaker. I think you do a fine job, but it's definitely a concern.

Second, "(b) creation of an *Executive Council Act*, including: (i) definitions of the terms 'Premier' and 'Minister' and the principal duties pertaining to those roles, (ii) qualifications required of members to be appointed or, once appointed, to continue to serve as Cabinet Ministers; (c) options for increasing resources and support for members' constituency responsibilities;" — very important if we want to engage the public, once again, in the Legislative Assembly and the decisions and actions and behaviour that we do within here on their behalf, because we are here on behalf of the public. We have to get that link stronger again.

We have to have the public believe that what we do in here is relevant to their lives. Now that doesn't excuse the public's apathy, and I'm not going to get into a long dissertation around why the public is not engaged, why people do not raise their children to be engaged in politics, or to be engaged in voting, why young people are apathetic about politics, or why so many people have walked away from it, but it is a serious concern. I'll talk about that a little bit.

"(d) measures to improve public awareness of proceedings of the Yukon Legislative Assembly and the legislative process,

and to encourage public participation in the decision-making process; (e) amendment of the Standing Orders of the Yukon Legislative Assembly respecting (i) fixed opening dates for legislative sittings, (ii) composition and role of standing, special and select committees, (iii) mechanisms for the referral of reports from departments and agencies and for the review of government bills prior to second reading, (iv) suggested rules for tributes, ministerial statements and private members' statements, (v) proposals for the review of Deputy Head appointments and appointments to major boards and committees, (vi) measures to improve the accountability of Ministers to the Legislative Assembly for the performance of the departments, Crown corporations, or agencies for which they are responsible, (vii) ways to increase public involvement in legislative decision-making, such as allowing witnesses to appear before standing, special or select committees, (viii) improving the ability of opposition members to exercise their legitimate roles of legislative review and government scrutiny, (ix) proposals for greater access of private members' business to the Order Paper; (f) suggestions for periodic future review of legislative practices and procedures; and (g) any other matter the Committee may deem appropriate for public review."

It is important that this committee's work and engagement with the public be broad and open and that there are no "sacred cows" — in other words, no taboo topics — no topics on which we will not allow the public to engage. We need a process that the public will direct. In order for us to re-engage the public, they have to feel they are part of what is happening.

Why do we need it? Well, we have to combat apathy; we have to combat poor voter turnout; we have to take on this unbelievable disassociation that exists between Yukon people — Canadian people even, but we're talking about the Yukon particularly — and their view of the work we do in here, how they feel we're all the same, that all we do is bicker and complain and argue, and all the opposition does is try to drag the government down — it doesn't matter which government it is or who is in the opposition — and all government does is try to avoid answering questions or never does answer questions. Somehow we have to be able to instill some confidence back into the minds of the voting public — all people of the Yukon — that what we're trying to do in here is make it a better place to live. We're trying to show that the decisions we make are well thought out, they are debated appropriately, that people respect each other and, when they do hear a very good suggestion on something that is brought forward, will engage in that debate, will bring constructive amendments forward, they will be considered properly — it doesn't matter from what side — and at the end of the day, possibly we vote together on something that is of significance and is beneficial.

But there is apathy and there is very little voter turnout now. Recent DataPath polls find — some examples are — one-third of Yukon surveyed didn't know which party they would support — one-third — 33 percent, at this point, have no clue which party they would support, because either they are not paying any attention to the positions that are being put forward by the Liberal Party, for example, the Yukon Party, for example, or the NDP, or they don't want to support any party; they

want to just vote consensus government and have Independents. That's a very serious number.

Take a look at ultimately what the vote ends up being. Voters are not sure who to look for in terms of leadership right now. They're not happy with the Yukon Party, but they're not rushing to support any new leader right now, says Donna Larsen, who conducted that poll. A majority of those surveyed gave all parties poor ratings. No party showed strong positive ratings.

"All parties have a lot of work to do to gain public support," commented Ms. Larsen. I know the work that's done in here by all parties and by all individuals. A lot of it is extremely good work. The message is not getting out there; it's not working. The communication back is not working.

Finally, in that recent poll, for the first time since collecting data in 2001, the polls show that poor government is the number one issue facing the Yukon, ahead of the environment and the economy — number one issue: poor government. That's almost unheard of really. That's what we're living with and that's our work environment. The public thinks we're doing an extremely poor job. That "poor job" is not just referring to the governing party — it is us on the opposition side as well. We have to question that. We have to find ways to turn that around; otherwise, we really are not relevant any more. I don't know what other system we would use. I'm not going to quote Winston Churchill, because he gets quoted far too often. I think most people know what I'm referring to, but I don't honestly know the changes that we need to make.

Personally, I have some ideas, but I'm sure the public — the people who want to engage in this debate on this bill — would have a lot of ideas, but I also believe all the parties themselves should be engaged and bring forward ideas to make this a better place to work. It can't be partisan; otherwise, we're right back in the Legislative Assembly, right back where we started. We would be wasting our time and the public's time if we were to turn this select committee into a partisan debate.

Now, voter turnout — in the 2006 Yukon territorial election, voter turnout was the lowest in 24 years. In recent municipal elections as well — we just had one last month — the turnout has been unbelievably sad. What was it in Whitehorse? I think it was between 36 and 37 percent of voters who actually came out and cast a ballot at a municipal election that, without a doubt, has a direct impact on the quality of life of the people who live in this city. We're almost down to one-third of people voting and two-thirds of people absolutely refusing to participate in a vote that would take 10 minutes out of their lives. They would rather go and wander down an aisle in Wal-Mart and look at stuff from China than come out and cast a ballot that will have a major impact upon their lives for the next three years. What is going on out there?

On a federal level, nearly 10 million eligible voters did not cast a ballot in the last federal election. Less than 60 percent bothered to vote. That's another record we can hold up there — a record of shame, and it's not just shame for the politicians. Let's make that very clear. This is not just criticism of us; it is a criticism of individuals. It is not just a criticism of the individuals who do end up being elected with a very small number of

votes, but it is a criticism of the system that we work under, a system that has not kept up to date, has not responded to the desires and wishes of the public. It is a criticism of the public for not being engaged. It is a criticism of our education system that does not teach the responsibility of exercising their democratic rights. There is a lot of criticism out there that I will articulate, but this bill is not about that, so to keep it in the context that I need to, I'll continue on with this.

Only 50 percent of eligible voters bothered to vote in the recent B.C. election. Only 50 percent — half the population felt that it's not worth 10 minutes of their lives. It was not worth it to go down and vote. The hockey game was more interesting, maybe. I don't know.

The B.C. Chief Electoral Officer has said, "A significant number of people were simply disengaged with the political process and just didn't have an interest in following politics, being involved and being part of the voting process. People are tuned out of politics, and we must all share the responsibility of turning this around and bringing people back into the political debate."

Greater transparency and accountability — not just in government, but in the people's elected representatives is necessary. We need to restore the public's trust in politicians. Perceptions in the public that politicians are incompetent, partisan and inefficient seems to be something that the media loves to print — and they are also part of this picture, they have to share some guilt in this, whether they like to or not. What they write does influence the attitudes of people in regard to us — to politicians. Those perceptions exist out there, so that is a challenge for us.

We have to somehow turn that around, and not just by knocking on doors once every four years. We have to improve the way we as legislators work together by somehow removing — not totally removing; there will always be the adversarial type of debate, and that has its place, but debating in a manner that has thoughtfulness, wisdom and openness to hear the other side, not debating to get your media clip. Lord forbid, that's what we've become in many ways. What can we say so the media will print it? Then we think we've done something good. Move beyond that. Rise above that. Let the media print what they want. But we in here must act and behave in a manner that is respectful of the people who voted us in, that is respectful of each other, and that is respectful of the position we've been put in. We would all like to be in a position where we have more say, where we are in the position of being in government, where we can bring forward our party views and shape the territory. But when we are not voted into government, we still have an opportunity to direct or shape or participate with the government of the day.

I know that, from my perspective, I have been able to do that, as well as my colleagues, because I was put here to do that. It's not just about tearing down whoever is on the other side, no matter who it is. But we are still responsible to do good work in here. Debate needs to be received with respect and it needs to be given with respect. It needs to be challenging, it needs to be thoughtful, and it needs to be done in a manner that is not a personal attack, but that deals with the issues that are

before us. It needs, on both sides, to be felt that we're all working on behalf of the people of the Yukon.

We need to bring forward constituents' needs and issues, but we also need to bring forward the whole vision of where we are going with this territory — never mind party politics, never mind individual desires — and that's a huge challenge for us as people. But we also need an environment in which we work in that allows that to happen — so improving democracy. We want greater participation. That's one way to do it. To participate, the people need information and they need access to education. We must realize as well that there are social and economic barriers to people's participation; we must tear those down. Our political institutions need to foster these values of participation, that people affected by decisions should participate or be able to come into this Chamber and participate in these decisions, not sit up in the gallery and shake their heads at times and laugh at times. We also want them to be part of it.

The committee is going to go out to the people and ask them what they would like to see, which will, of course, open a whole can of worms. At least I hope it does, because I don't want the public to express their dissatisfaction with us by not coming out to vote every time we go back to the polls. I would rather they come out to the select committee and express their satisfaction, dissatisfaction, ideas, whatever, to us while we are in here so that the next time they come out to vote they are more a part of the process. There are more people voting. They are more informed and the decisions that they make, because they are more informed and they have had a part of creating a better Legislative Assembly, will make better choices for the next makeup of this Chamber.

There is no question about it, we do have to make changes. What is possible? What can Bill 108 look at? Well, it can look at just about anything it really wants. I know we are talking about Legislative Assembly, but part of that bill also indicates very clearly that it is "not limited to", and that is why the select committee when it goes out there needs to keep a really open mind about what it hears and what it reports back to. There could be changes to relevant acts — the *Elections Act*, for instance. We know that there is a very strong group of people out there who continue to bring forward voting reform, election reform. I am sure they are going to make presentations. The committee could say "No, no. We are just talking about the Legislative Chamber and the rules and regulations that we work under."

That should not be the answer; the answer is, "Okay, let's hear you. Let's listen to what you have to say. We will take that under consideration." Because what we want is people's engagement. We don't want to limit what people can and can't say. We want the people to have the ability to say that it's just not good enough, if that's what they want to say — it's just not good enough to make legislative changes within the Chamber itself. We have to look at the broader context — which may lead to other actions that we may need to take, as Members of the Legislative Assembly, such as looking at voter reform. If that is really what we hear out there, that is something that needs to be considered.

*Conflict of Interest (Members and Ministers) Act* needs updating, the *Cabinet and Caucus Employees Act*, the *Ombudsman Act* — these are all something that we may hear about. These are all something we may take under advisement and report back to the Legislative Chamber. Changes to our democracy, more direct democracy, recall of members if constituents are not happy, more referendums on important issues — these are things that may come forward.

To be really frank, I haven't been very impressed with recall legislation anywhere in Canada so far, where it has been tried, for a variety of reasons. I'm not going to go into them, but this is what we may hear.

Ways to increase involvement of the public in the political process: like the Legislative Assembly would need to consider whether we need to utilize witnesses more on committees and discussion of legislation. We've had this discussion where we wanted to allow the First Nations to come to the Legislative Chamber to make a presentation regarding the *Child and Family Services Act*. That did not happen, but that may be what the public wants — that direct participation.

We may need to restructure how we sit in this House, both physically — so it's not across the floor from each other. There aren't many chambers that don't have this across-the-floor kind of model, and they still have party politics. I have been in those chambers. I think the one I was in was in Manitoba. You sit up in the gallery and they're all in a big curve, however they're situated. The N.W.T. is a circle; Manitoba is a curve, with everything funneled through the Speaker — as we're supposed to talk through the Speaker. We're not supposed to talk directly to each other in debate.

I should be turned so I can talk to the Speaker better. We could change this Chamber. On a physical level, we could start with something like that to make it so we are not feeling like we're in a confrontation so much but that we are talking through the Speaker. That is the way some of the legislative chambers are set up in Canada already. I think even on a physical level that makes a slight difference in how we behave in here, how we act and how we address each other, if we do go through the Speaker, as we are supposed to.

Unfortunately, this model obviously was copied from a place that I am reasonably familiar with, and that's the parliamentary chamber, which is, frankly, a mess, to put it politely. Maybe at some point they will seriously talk about reforming themselves because they definitely do need it.

We can lead the way in that regard. Petitions, for instance — which are wonderful to have and I'm glad we still have petitions and we are allowed to read them in the Chamber. That's one way the public has been able to participate. I read one in just recently. Now, the minister is to respond to a petition within eight days, but perhaps we should respond to the question, given the petition. What action will the government take in regard to the petition? And allow the opposition a response to the petition as well, so there's more engagement in debate in that sense.

Petitions generally reflect a fairly large segment of our population on very specific questions. It's just one really de-

mocratic way that the public can be engaged. We just maybe need to add a little bit more weight to those petitions.

Improve elections and voting — which again, like I say, may not be part of this bill, but may be brought up. We might hear about mandatory voting, voting for MLAs, voting for a party and voting for a Premier as separate. Other countries do that. Maybe we need more referendums. I don't think we have referendums in here, but maybe it's a consideration.

Increase constituency outreach — consider a week in the middle of a sitting where MLAs go back to the communities, go back to the people and talk about legislation, budgets and other issues of concern. Then MLAs come back in. In other words, something that is done on other levels in Canada is you take a break, you go back out to the community, get feedback on what's happening, have an opportunity to have your constituency meetings and then come back in.

What I'm saying here is, don't attach to any of this, any particular one. I'm just saying how broad this can be, but also the huge challenge that this select committee is going to have.

We have gone and had ceremonial sittings in other communities. It is a huge challenge to go out to a community, move in for a week and have a legislative sitting in a community, but you know what, maybe it is something that needs to be considered. I don't know, but it is definitely something that needs debate. We need to engage the communities better than in just the Whitehorse area.

We definitely need more education and training about the political processes in schools. We need to somehow engage the schools. I do know that the Speaker has been very involved in that at a certain level in which we have — I think it's once a year — representatives from various schools who come in and they sit in the Chamber. There are specific topics that are put on the table, and they basically — I shouldn't say this, because I actually haven't sat in and watched one — I hope they don't act like us, but they do engage in debate. They do take the pros and cons of the issue. How do we expand that? We don't necessarily have to bring them down here all the time. How do we take that into the classrooms? How do we make that part of the curriculum? How do we make sure that when they graduate — which is usually around 17 or 18 years of age when many of them become voting age — that they feel passionate enough about politics that they will go out and vote?

How do we turn apathy around? We start it at a young age, really. The best place for many of us — because we can't interfere with family and tell family what they should be talking about — is actually within the school system where we can teach them about politics and the importance of being involved.

So they need training and education and they need to feel that they are part of it, so that when they reach voting age they feel empowered enough to participate on whatever level they want but, ideally, to make sure they vote.

Mandatory voting — there is an interesting one. Australia has mandatory voting, and you get fined if you don't vote. At some point, we're going to have to consider a lot of options. If we start going under 50 percent of the population voting, we have pretty well lost any kind of authority with the public. These are all things that need to be considered: more free votes,

changes to the Standing Orders, issues. How do we — government, Official Opposition, Third Party, Independent members — organize our time effectively, so that there is good debate and discussion of the public's business?

One thing that was changed — there was a change within the *Legislative Assembly Act*, and it's called the guillotine clause. Man alive, that has been absolutely one of the worst things we could have done to democracy, but the people who were in the government of the day and the people who were in the opposition of the day agreed that the guillotine clause was good. No one really engaged in the debate about the pros and cons of it. It was decided, however — the three leaders talked about it, it was presented in the House, it was voted on and passed — and ever since then, it doesn't matter which government is in power, they have not wanted to change it. It doesn't matter which party is in opposition, they do want to change it. It has not been beneficial for democracy.

Why? It provides an incentive to filibuster. It provides an incentive to ignore bringing forward unpopular legislation for debate until right at the last of the sitting days and then it can just be rammed through and voted on. It takes away the opportunity of opposition to hold the government accountable until they get the answers that they need to feel comfortable enough to go back to their constituents to say, "We did the best we could. We debated it as best we could. There's an opportunity to debate that kind of legislation, but at the end of the day, of course, the government had the majority in this case and passed it through." Or else they could say, "We managed to bring forward amendments to strengthen the bill." As it is right now, what can be considered unpopular legislation can be held right at the end and there's almost no time to debate because, guess what? The guillotine clause comes down — boom, end debate, everybody is removed from the Legislative Chamber and that's the end of it. That is not democracy in any way, shape or form.

The length of our sitting — 60 days per year, with a minimum of 20 and a maximum of 40 per sitting, I believe, and if there's no agreement, 30 days for spring and fall. It seems we've fallen into a pattern where it's 32, 28, and that's what people seem to be accepting both on the opposition and government side.

So be it. If that's what it's going to be, why don't we just put it in stone and then we know what we're working with, spring and fall, and there's not this kind of to and fro, going back and forth. But the question: is 60 days enough? Interestingly enough, as we continue to have bigger budgets, as we continue to have more issues to debate, our time doesn't expand to allow us to have that kind of scrutiny and debate that's necessary. Instead, we're finding more and more issues that we need to discuss in here and we're finding less time to do it.

Fixed sitting days — members and staff, the EAs, researchers, *Hansard*, whatever — would benefit from having more advance notice when the House will reconvene. Some provinces have moved to fixed sitting days and it hasn't caused overly big problems. Everybody would work toward the sitting days and I think, personally, it would be more productive and it would probably save money if we knew exactly when we would be coming in, instead of a guessing game. Frankly, I get

tired of the media calling and saying, “When do you think they’re going to call you in?” I’m not government; how would I know? — play the calendar game and count.

Increase the accountability and transparency: examples would be major boards and Crown corporations need to report on a consistent basis, and when they would be reporting, so we know that, in the course of a year, they would all come before the Legislative Assembly. Of course, there are the ministers being compelled to answer questions. That is not unheard of in some democracies around the world. How do we do a better job as members?

We do have a lot in common. You know, I have a lot in common with every single person in here and we all get elected, we put our name forward for truthfully the same reasons: we want to improve the lives of people in the territory; we want to be involved; we feel passion about some areas in our society that we think need to change, and we are willing to become public about it — running either for a party, as an Independent, whatever. We want to see a better job in here.

Financing: we don’t have a committee that looks at the finances. There are a lot of different approaches in that area and I won’t go down them all. I’m going to speed it up a little bit here. I do want other people to talk, and I’m sure they have heard this speech before from me. I’ve done it before — not the same speech, but I have spoken on this issue many, many times.

Let me quote from David Kilgour — I don’t know if people know David Kilgour. He was, I believe, a Liberal Member of Parliament who ended up being an Independent, for whatever reasons of his own. I think he was a member from Edmonton. He says, “Some degree of party discipline is necessary in order to maintain the coherence of political parties as viable institutions; this should not preclude an elected person’s ability to represent their constituents.” I will add: or their ability to feel they can vote freely on issues that would be considered non-confidence, for instance.

We have challenges around floor crossing — big challenges in the territory now. It seems to be getting to be a common practice in every city that people shuffle around once they’re elected, interestingly enough — always after they’re elected and always before the next election. It has made the public quite cynical that politicians — that we — are willing to shop our allegiances. We could introduce rules in a code of ethics that, if you resign from a party, you must sit as an Independent until the next election, or else go into a by-election to, once again, get the constituents’ support for you to represent them. If you’ve done a good job representing them, you probably will get voted for again, whether you want to move to another party or not.

However, you get elected as a member of the NDP or the Yukon Party or the Liberals, and then you get dissatisfied with them and you decide you’re going to move. Maybe there should be rules about how that happens. The public would probably like to see something along those lines.

Once you’re an Independent, how do you engage in the debates? That needs to be looked at to increase the participation

of Independents in House business, motions, debates and committees, the ability to respond to ministerial statements.

Create a legislative library. This does exist in other jurisdictions and I think it’s time we have a legislative library here, with documents, information and research that all members and the public would have access to. I think that would be of benefit for all parties and Independents. It’s something that should be shared.

Create more opportunities for backbenchers: an example would be New Brunswick. Cabinet needs legislative assistants and there’s no financial compensation for it to ministers. This gives backbenchers the chance to learn a portfolio, expertise and become a minister-in-waiting. It engages them more; they’re part of the training.

Training is a very interesting thing. When you get elected, there’s no training at all. I mean, it’s like being put in front of a class to teach mathematics when you were a gym teacher, but you never had any training in mathematics. And all of a sudden, you’re frantically reading the books like mad, and asking anybody, “Well, how do I teach calculus when I’m still working on my times tables?” You know, it’s training right on the job.

I’m a big supporter of apprenticeship programs and stuff like that, but I also believe that we could have not just orientation sessions, but some training about the rules that we work under, the structures, the requirements, the roles of each person and what they play, and even more. When somebody is elected, they would have this, because it would speed up the process — their learning curve — and make them probably a far better MLA for their constituents.

How do we use time more productively? Motion debates — in the Yukon, the mover of the motion has unlimited time and the first response is unlimited. If an amendment is tabled, all members can again speak for 20 minutes. This of course leads to filibusters — we’ve witnessed it time and time again and hours upon hours of needless debate, particularly when one party wants to avoid debating another motion, wants to prevent another party from speaking, or wants to avoid having a vote on the motion. This has been part of our politics for over 30 years, in the Yukon anyway, and, frankly, when we’re doing that we’re not being very productive. We’re not serving the people.

A different example would be, in New Brunswick, motion debates are no more than 120 minutes and the MLA who introduces the motion has 20 minutes and the rest have 15 minutes each. There’s a limit on how long you’re going to debate. Now, I’m not saying that’s the model to follow, but other provinces have had problems with this and made changes and we can set strict, shorter time limits and require that members vote on the motion at the end of the debate.

Again, more free voting and MLAs could be empowered to consider a bill or motion along the lines of their conscience and their constituents’ needs, rather than party lines — to feel that they are empowered to do that is always important as well.

The role of the Speaker: that will be considered and should be considered. In the Yukon, the Speaker is neutral except when breaking a tie. In Ireland, the Speaker can compel and

can engage to the point where they can compel a member to answer a question. So the Speaker can say, "I'm sorry, you haven't answered the question. Answer the question". That's engaging, without a doubt — not engaging necessarily in the debate that goes back and forth, but it is engaging in what the response can be and ultimately it is to please address the question. Now the Speaker can bring the topic back, but there is no role the Speaker plays in here in regard to answering a question that the opposition may ask. Ireland is an example where they do it. I have no idea how well it works, but it is an interesting concept.

Time of House business — we are sitting Monday to Thursday from 1:00 p.m. to 5:30 p.m. People who work a normal 9:00 a.m. to 5:00 p.m. day just don't have the opportunity to watch the proceedings and come down here. There are different models, and we used to have a different model as well and I would suspect there would be great resistance in going back to it, but you know, if the public wants it — we're getting paid pretty damn well — then we have to consider it. On Mondays, Nova Scotia sits an evening sitting from 7:00 p.m. to 10:00 p.m.

In Quebec, for one month in the spring/summer sitting and one month in the fall/winter sitting, they schedule what are called "intensive workdays," where the House sits from 10:00 a.m. to 1:00 p.m., 3:00 p.m. to 6:00 p.m., and 8:00 p.m. until midnight, Monday to Friday. That's pretty intensive. I almost feel like we're slackers up here.

Saskatchewan sits on Mondays and Tuesdays from 7:00 p.m. to 8:30 p.m. — evening sittings.

Alberta sits on Monday to Wednesday from 1:30 p.m. to 8:00 p.m.

So we went the other way. We got rid of our evening sittings, and then we shortened the amount of time that we debate, then we shortened the amount of time we sit in here, and then we put the guillotine clause in, so we only sit so many days. So what direction have we been going in? Well, less work, more pay — not very impressive.

Tributes — you know, some tributes are absolutely beautiful. They are really quite moving, and they are spoken from the heart. They're wonderful, but sometimes what I like is the fact that somebody can stand up and tribute on behalf of the Legislative Assembly. We don't all feel compelled to get up and say the same thing. Of course, there will always be tributes that we all want to give our perspective and recognition to, whether it's an individual, an organization, or whatever. But tributes can end up becoming onerous and take up far too much time in the Legislative Assembly. We have a fixed time from 1:00 to 5:30, so if we do a solid half-hour of tributes, we've just lost a half-hour of really productive opportunity for debate and scrutiny and the government's ability to also present their legislation and budget. It does cut into that.

We should be able to find a way to ensure we do our tributes but that they're done in a manner that is more concise. We possibly need timelines on some tributes, I don't know; we definitely need to work better together.

Question Period is typically five to six questions. I think we have 28 or 29 minutes, roughly. Is that correct for Question

Period? Thirty minutes? Thank you. There should be a way to get more questions, and I don't mean supplementaries. Supplementaries are based on the first question, an exploration of the first question, and supplementaries are important, but there should be a way to get more questions on the floor because, at the end of the day, at the end of our sitting, I always have a huge list of questions I want to ask. Maybe we need shorter preambles, shorter times to ask the questions, I don't know. These are things that would be put out to the public that I think are important.

Committees — maybe we need some standing committees that look at budgets and look at legislation before they come into the House or are referred by the House, the Legislative Assembly, to a committee made up of all parties to take a look at and then bring back to the floor within a very proper timeline. Maybe that would help us in drafting better legislation as well as getting better buy-in for that kind of legislation. I believe we need to engage each other better, and we can do that through committees where they have a role to play, both in legislation and on financial matters, even on the budget. We can create terms of reference for committees that would be more productive and create new ones.

I think everybody understands what this is about. Everybody is aware that there are problems within the public's eye, but there are problems that we all know about within the Legislative Assembly. Debate, times, structure, responsibilities, ethics — all of that is important. I think it is really time and we have great opportunity to go out to the public, engage in that debate with the public and come back to the Legislative Assembly and present our findings with regard to the *Legislative Renewal Act* and anything else that the public wants to say to us that we may need to consider that is even outside the scope that would improve the public's buy-in and participation back into the political system. Hopefully, at some point down the road, we will start to rebuild the relationship in which the public truly believes that the people they elect are good people and are really trying to do the best they can and should be part and parcel of assisting and helping them in the decisions that they make, and not just voting — well, it would be five years now — in the Yukon. Even that is questionable because people aren't coming out to vote even now. It continues to drop.

These are all warning signs and if we don't take action now, it is going to get worse. This is an opportunity for us to move forward. So I present this Bill No. 108 to the Legislative Assembly with the hope that it will receive endorsement and we can move forward to repair a house that has a lot of leaks in it.

Thank you, Mr. Speaker.

**Speaker:** Prior to members carrying on here, the House is going to adjourn for five minutes.

*Recess*

**Speaker:** I will call the House to order.

**Hon. Mr. Kenyon:** I'd like to thank the previous speaker for stealing a good part of my thunder here, but there are a few things in the motion I would like to go over.

First of all, there was a quote by a British Columbia minister whom I travel with often that I think is very relevant in a lot of this discussion: "The world is run by those who show up." If you just stop and think about it, that's pretty much it. When we get our voting capacity down under 50 percent or 30 percent — nobody is showing up — and, really, I think that by not voting, you're giving a firm mandate to not have the interest and not have, in some cases, the right to speak to the end result.

I can think of two cases on that in the last election in my own riding. One was a fellow who greeted me at the door to announce very loudly that he had never voted and wasn't going to vote now and what did I think of that? And my immediate response was, "That's great because you're not going to vote against me." Interestingly, when we looked at the things at the end of the election, he did vote. I have no idea how he voted, but, anyway, he did vote. I'm not sure if I made an impression on that or not.

We had another person who was absolutely determined he wasn't going to vote — saw no sense in it — and then promptly gave his proxy to the first person who answered him. The guy who got the proxy was actually laughing that that was the first time he has been able to vote twice in the same election.

So it really is run by those who show up. The previous speaker had some comparative notes, and I won't go back into any of the statistics that I had, because he's right on in the concepts. The structure is different in every jurisdiction. I've been very fortunate to be the president of and be very active in the Pacific NorthWest Economic Region, or PNWER — and you get to see the other jurisdictions and see how they work or don't work. For example, in Montana — along with many other jurisdictions, but Montana is the funniest one — they have what they refer to as a "citizen legislature". In other words, it's not a full-time job. In fact, they meet for 90 days every two years. Someone a couple of years ago made the joke of putting a motion on the floor that they actually meet for two days after every 90 years — just flip those numbers around. Imagine what you can get done or can't get done in a system like that. What do you do in the 90 days and then two years go by and nothing happens.

Another strange one is just on form — not even on function, but on form. In the State of Idaho, it's considered impolite to clap or applaud and so when introduced in the House — we had the great honour of introducing Japan's Ambassador to Canada today — really it's quite an interesting feeling to have 70 legislators turn around and give the Queen Elizabeth royal wave silently with no sounds at all in the Legislature. I still think the funniest one regard Representative Mike Schaufler from Oregon, who sits as a Republican and is so well thought of in the Democratic circles that the Democrats didn't put a candidate against him. More as a joke than anything else — but I understand in researching this that it wasn't a unique situation — at the last minute of the last day he turned in a nomination form for the Democratic Party and when they printed the ballot

he was actually running against himself. I guess the Republicans won and he's sitting now as a Republican, but he appeared twice on the same ballot.

These are sort of funny ways of looking at it, but one of the things that PNWER has supported — we have what's called the "legislative academy". The idea is that the Americans have no concept, really, of how Canadians do business in our legislatures, any more than the Canadians have any concept of what the Americans do.

If we have five, six or eight pieces of legislation in a spring or fall sitting, we consider that very active. In some cases, they'll have a thousand in the same sitting at the same time. It's a very different structure.

So through funding from both Canada and the United States, once a year — ironically it's going on now as we speak, in Regina — there is the legislative academy. We use speakers as instructors, for the most part, or people with long political histories. The various speakers are usually invited to these things to explain to each side how the other side works. Sometimes it's an incredible revelation from one side to the other.

The Member for Whitehorse Centre has brought up a number of good things. In many cases, when coming into the Legislature or into any elected or political body, you don't have that kind of experience; you don't know what's going on. We certainly experienced that, and I think anyone who has jumped into this has experienced that. Incredibly — and sometimes not so incredibly — people who've been in the system for a long time still are missing the small, fine points, because there are lots of them there you can get caught up on.

We would certainly agree that there should be some sort of way to educate first-time elected officials. It's done, I believe, with the Association of Yukon Communities; it's done with many municipalities; it's done to a degree here by the individual party that comes into power, but there is nothing formal. Of course, from the opposition benches, there is nothing at all, unless they try to put it together themselves. Consequently, the one analogy that I always like is that it is sort of like jumping across the river and almost making it: you still get pretty wet. So, anything that can sort of smooth that out is a good thing.

I think in this House one of the things that has struck me over time — and I mention this to the House for its consideration, and it is something that I have felt strongly about for the years that I have been involved here — is that if you look at the guidelines for Oral Question Period, page 1 of those guidelines in the Standing Orders says, "A brief preamble will be allowed in the case of the main question and a one-sentence preamble will be allowed in the case of each supplementary question." Then there is a note that says, "Over the years a practice has developed whereby Speakers will allow questions up to approximately one minute in length, and responses of approximately one and one-half minutes," and that there is discretion on that.

I will take my direction from invitations that, if members want to get the Speaker involved in the debate, I would ask the people consider that.

I had a chat with a CEO of a company who had no idea why we did what we did, and why we did what we do and what happens in this House or other Houses. I sat down with him and said, "Let me explain something." I started going on about how his company is quite disorganized, that financially they have not had any kind of success, the client service is terrible, and I went on for about a minute and a half, then asked him a question very quickly. He turned quite red; I was expecting to get something thrown at me. Once he started thinking about it, he said, "You know, you're right." The more you allow the vitriolic responses and vitriolic things in — and I don't mean that in the sense of doing anything to disable the humour; God knows, that's needed in this Assembly — but to allow in a question or anything else, to have nothing but negativity and accusations, then ask a quick question, guess what you're going to get in response? That goes in either or any direction.

So I ask all elected officials to give that consideration.

One of the things I have thought about over the years is — and I'm not a political scientist. I have no qualifications and have never even taken a course on it. But having been involved in politics — everything from student politics too many years ago to politics right now — people in general think that it's a straight-line spectrum, going from the far left, to left of centre, then leaning right, and to the far right. I would argue that. I would argue against that and say that the political spectrum is not simply a left-to-right thing, but it is, in fact, to a large degree, circular. When you go far enough to the left, you start coming up on the right. And if you go far enough on the right, you start coming up on the left.

We've seen this with an ability to work with the New Democratic Party, for instance, and to take some of their concepts, which are very good, but they don't have the meat in there to allow us to pay for it. If we can sort of meet on that far end and say, "Okay, we want to do this particular social program, for example, and we want to do it in such a way that we'll have the funds and the ability and the capacity to deal with that." — that's when we're going to start getting more stuff done. It's just a theory. But, again, I would ask people to sort of think about that.

It is embarrassing when you look at the civic participation and attitudes in a democratic governance. It is really in a considerable mess right now.

Election turnout is reaching all-time lows. Confidence level in political institutions has dropped markedly. Citizens doubt the capacity of elected representatives to respond adequately to their views. I would argue again that some of this is due to latitude in many discussions and would ask that people would give some concern to participating in reeling that back and actually asking those who would reel us back to give that consideration as well.

But how do we get that consultation? In this jurisdiction we're so involved in consultation to a point that other Canadian and American jurisdictions just simply can't conceive of the level of consultation that we do. Some of it really gets put to the extreme, but on the other hand, a lot of it isn't and sometimes out of one discussion comes a completely different discussion and it's very valuable to do that.

The use of certain things like referendums — I think we have found in the past — certainly in the U.S. jurisdictions — and I think on the municipal level, referendums can sometimes come around to bite you. So there is an interest in a wide variety of different electoral governance.

Without going through into incredible detail on this and getting all the examples, I tend to think this is a consultation that should be done. It's something to get the opinions of Yukoners; it's something that should be given great thought. There are ways to deal with it that may not involve any specific choices, but just simply adhering more closely to the rules of order within the Legislative Assembly, and all of us just wanting to sit down and make the institution work.

I do have a couple of concerns about that. One that will come out, I'm sure, within the consultation, for instance, is the single-issue voters. The voter has a spectrum of ideas but doesn't like one thing that was done, and they will vote against you because you didn't support something. I had a call awhile ago: why is the Yukon Housing Corporation slowing down on its mortgages? When is the election? No discussion of any other issue, but taking one simple issue and saying they are going to make a decision based on that.

It has to be a very metered discussion, a very metered referendum, but I do have concerns — those of us on this side who have some concerns about the timing — because in looking at the number of motions that have been placed on the table and some of the legislation that's coming up, we are dealing with a capacity issue.

We talked about First Nations with a small membership and what sort of capacity they would have to respond to things. I think with a jurisdiction of 37,000 — or 36,000, depending on which report you read — that we start having the same capacity. I don't want to cut any of the things short; things like consultation on the *Landlord and Tenant Act*, which is a very elderly piece of legislation and it is another one that should be looked at.

With that in mind, to put some of the work that the government has to do, especially in terms of select committees, and in order to try to meter out the work of our wonderful Clerk who sometimes gets a little frustrated, I'm sure, with what we keep throwing at him, I would like to move a friendly amendment.

*Amendment proposed*

**Hon. Mr. Kenyon:** I move

THAT Motion No. 852 be amended by deleting "2010" wherever it appears and replacing it with "2011".

**Speaker:** The amendment is in order.

It has been moved by the Minister of Economic Development

THAT Motion No. 852 be amended by deleting "2010" wherever it appears and replacing it with "2011".

**Hon. Mr. Kenyon:** I want to make it very clear that we consider this a friendly amendment. We are in support of the motion with an extended timeline to give a broader and



more involved discussion of the options on this. It's an area where a lot of people think they know what the concept is but they don't really know, and that's one of the hardest things, I think, for anyone who has come into politics to realize, that sometimes there are ramifications that seem to be completely obscure and then, when you have some time to analyze it, it becomes obvious that it's not obscure.

With that amendment, we certainly support the motion and will be supporting it.

**Speaker:** Do any of the members wish to speak on the amendment?

**Mr. Hardy:** Just for clarification, if I could have the amendment read into the record, please?

**Speaker:** If the honourable member would allow me to read it into the record, as per his request,

THAT Motion No. 852 be amended by deleting 2010 wherever it appears and replacing it with 2011.

On the amendment, Leader of the Third Party, please.

**Mr. Hardy:** Very briefly, because we do want to vote on this — and there is another important motion that's being brought forward following this one that I think a lot of people do want to also talk on — I can accept this amendment, as it's presented, as a friendly amendment and look forward to having a more in-depth consultation with the public and others in the next period.

**Speaker:** Is there any further comment on the amendment?

Are you prepared for the question on the amendment?  
*Amendment to Motion No. 852 agreed to*

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

**Mr. McRobb:** As House Leader for the Official Opposition, I have been asked to represent our party on this motion as amended. First of all, I want to clarify that the motion on the floor is about the select committee process, and it is not about Bill No.108. We received an e-mail this morning to that effect from the Legislative Assembly Office. We don't intend to comment on the legislative reform bill itself. That will be a matter that goes to public consultation, and when it returns to the Assembly, if we are all here, then we will all get a chance to debate it at that time.

As I indicated at this morning's House leaders' meeting, our party will be supporting this motion. We feel that addressing legislative reform is long overdue. Let me repeat that, Mr. Speaker — long overdue.

This issue has been referenced dozens of times in recent years, especially in the past seven years under Yukon Party rule. There have been too many instances where this government has used its majority to its own political advantage. There have been too many instances where the rights of opposition

members have been reduced. For specific information related to these instances, I refer members to several related motions and questions within the pages of *Hansard*; it's all there.

The upshot is that the rules need to be tightened in order to ensure this Assembly can actually fulfill its billing as a chamber of democracy. There simply exists too much discretion of the rules that a majority government can interpret to its own advantage at the cost of democracy. In the past seven years, democracy in this Assembly has taken several steps backward instead of advancing and keeping pace with similar jurisdictions that have adopted measures for the good of democracy and the people all members are supposed to serve.

It's just unfortunate that it has taken this long for the Assembly to take the first step. With that said, there are a few concerns related to the use of select committees. We've all seen the e-mail from the Clerk of the Legislative Assembly that was sent on October 30.

Mr. Speaker, I won't bother to read the entire e-mail, but we'll put on record this upshot. "The Yukon Legislative Assembly Office currently has insufficient resources to accommodate members' decisions to use select committees as suggested by this motion." The Clerk has suggested each one would cost about \$60,000 and require the addition of a limited-term position. It would be up to Members' Services Board to allocate these additional resources, and that hasn't been done. That's the upshot of the message.

The issue — as identified by the Clerk — is increasingly significant. I did a quick scan of the motions list this morning and have identified eight motions that are currently on the Order Paper, including this one, all requiring the use of select committees.

In fact, a few of them are already from this young fall sitting. It seems that the use of select committees has suddenly become a popular tool for conducting consultations. This has amplified the need to address the shortage of resources, which has yet to be done.

There is another important issue too. There are no rules, powers or mandate for the use of select committees within the Assembly's Standing Orders. To try to address this shortcoming, our party has put two motions on the Order Paper — No. 495 and No. 669 — both in the name of the Member for Porter Creek South. Mr. Speaker, again, I won't read the full text.

The first motion, No. 495, identifies the membership of a select committee. In addition to the member's suggestion, other members may choose to accommodate the inclusion of an Independent member or members.

The second motion, No. 669, addresses issues related to the mandate and terms of reference of a select committee to ensure it has access to sufficient material, to provide sufficient clarity with respect to its ability to establish meetings and hearings, and to create timelines to provide for meaningful consultations.

None of these items has ever been addressed by this Assembly or by the government in power. The member who provided these suggestions was speaking from experience as a member of a previous select committee. Perhaps other members have additional suggestions that should be considered.

Now, Mr. Speaker, I see some members reading the Standing Orders because maybe they recall reading something with respect to select committees. I'll just give the upshot of what's contained in the Standing Orders. The Standing Orders do not address any of the issues I have mentioned. The Standing Orders merely deal with how to treat a report of the select committee and so on.

To summarize all of these outstanding issues, all members of this Assembly need to get together and agree to provide select committees with sufficient resources and powers needed to ensure they can meet their responsibilities. In conclusion, Mr. Speaker, I'm hoping to hear other members also address these important matters.

**Hon. Mr. Rouble:** I appreciate the opportunity just to say a few very brief words today. I appreciate the sentiment with which the member opposite has brought forward this motion. Is it the answer for everything? No, but is it a step toward improving it? I think so. Many of us come to this Assembly with our ideals as to how we want our system to work and we find when we get there that the system restrains or constrains us and creates some frustrations, shall we say.

I remember when I was here for less than a year, a member in opposition, during debate, called the proceedings a game and that it's just a political game that we play here. That comment deeply frustrated me. We have a \$1-billion budget. We have legislation that will affect the lives of all individuals in the territory, now and into the future, and to simply call it a game doesn't do service to the importance of the work that we do here.

I look forward to seeing improvements made, including Yukoners' views and perspectives as to how we can do that. I appreciate some of the comments that the mover of the motion made. They don't require legislative change. You know, there isn't any legislation stating that the layout of our Assembly should be in this format.

Also, there are changes that both speakers talked about that don't require legislative or Standing Order changes. They just require the goodwill and intentions of members in our Assembly.

The mover of the motion also mentioned the other people who are involved in this, the other stakeholders, whether they be voters, the media, or educators, the Yukon public at large. Indeed, we all have a role to play in this and a responsibility. The previous speaker spent a significant amount of time talking about the standing committees and how that could be a limiting factor. Excuse me — select committees; not special, not standing, but select committees — which are a tool at our disposal outlined in our current Standing Orders, albeit without limitations on them or expectations on them, or granted budgetary approval.

We can have a meeting of Members' Services Board if there's willingness among all members to do that, to look at financing all of these. I think there's the expectation that when we do make a move such as this in this Legislature, that yes, it is out of the ordinary; yes, it isn't something that has been budgeted for already. However, we do have the opportunity to

effect changes through a supplementary budget, so that shouldn't be a factor that should prevent us from doing this. Indeed, this is a decision that we are making and we will have to work with the Members' Services Board in order to find ways to address how to properly and appropriately implement that.

If this turns into a change of how we do business, well, so be it. I don't see that as being a problem. There are many different issues that we debate in here and as the Member for Whitehorse Centre commented, it is often in an adversarial type of format. I know from doing committee work with other members in here, that when we work around a table, and we don't perhaps have a television camera in our faces — where we have the opportunities to sit down and have a discussion that isn't constrained so much by our Standing Orders or even restrained by some of the processes here, where we have the opportunity to ask each other questions and have an exchange of information and a dialogue rather than a 20-minute speech — it often becomes much more productive. I think all members recognize that we don't have debates in here so much as a collection of 20-minute speeches back and forth, which sometimes serves the purposes for which they are intended, whatever they may be.

I don't want to see financing for select committees be a detriment or a deterrent to people supporting this, or for supporting other standing committees, select committees or special committees. We have the opportunity here to start to work together. We do have the opportunity to change how we work together, and I think we have an expectation from Yukon people to do exactly that.

I support the motion that is before us, and I would encourage all members to support it as well. If we have to do some additional bookkeeping or send additional requests back to the Members' Services Board in order to fund some of these events in the future, so be it.

Thank you for your consideration.

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

**Mr. Hardy:** I would like to thank all Members of the Legislative Assembly. From what has been indicated, there is going to be a vote of support to move forward on the select committee to look at the system we work under and see how we can make improvements. This is significant. I think this is the first time ever in the history of the Yukon. I think it points to us responding to our frustrations on both sides of the House within the Legislative Assembly, but also from the public's perspective of their perceptions of us. By going back out to the public and saying, "Okay, you do have a voice; tell us," I think we are empowering them.

But we are also challenging them as well because if we're going to be criticized in here on a continuous basis, then maybe it's time that we go and meet the people who criticize us, give them the opportunity to do it directly and also open the door for that criticism to turn into constructive dialogue and debate and take suggestions that are brought forward — constructive sug-

gestions — and implement them back into the Chamber and thereby, hopefully, giving that voice of the public an opportunity to shape our future and how we act and behave in here.

I have been critical in my speech. I was critical — for a very, very brief period of time — of Members in the Legislative Assembly and how we have been swept up or caught in some actions that are not really what we ever thought we would ever be involved in — not constructive, not beneficial — and have fed the perceptions that have made the public very critical of us.

I have been critical of the media. It is not a criticism to say to the media that you are bad or anything, but it is also just to remind them that they are also part of our democratic process. There is no one who is innocent in that, and we need the media to also be receptive and responsive to what we are trying to do in here as well. In most cases they are; however, at times some of the stories can get — sometimes the responses are not based on really good debate, as the member just spoke previously, which is usually Committee of the Whole, in which we have really great debate. It is all based upon Question Period, and Question Period is not government.

I know the resources within the media are very limited and that is a shame. However, I think a lot of the real good work that we do never gets covered, and we do good work. We do a lot of good work, but it is just never really recognized or covered. Instead 99 percent of the coverage within the Legislative Assembly is truly, honestly, 30 minutes — 30 minutes. It is about little comments made in Question Period. That, to me, is a shame because there is so much more that we obviously do. However, there are limitations, so the challenge — it's maybe a criticism, but it's also a challenge — is to join with us in trying to correct yourselves.

Whether the Member for Kluane likes it or not, it is really about Bill No. 108. This *Legislative Renewal Act* — the select committee that will go out — is a criticism of ourselves. There is no question about it. And I criticize the public for not engaging enough, not raising their children to be engaged, not themselves setting an example, not voting and allowing our democracy to slowly erode. If everybody gets mad at me for doing that, then so be it. That's all right. But somebody has to articulate this and have the courage to say it, and have a thick enough skin to get the backlash — let's put it that way. I don't really care. I just know we've got a big problem and I want to see the change. If it takes a challenge to everybody, then so be it.

I think we all can rise to that challenge and do really good work.

For some reason we got into the select committee discussion, which is only one small part of democracy and it's only one small part of probably what we will talk about. I agree with the Member for Southern Lakes in that we make a decision here to have a select committee — therefore, if we make a decision to have a select committee, we're making the decision to support a select committee and that means the funding will be found to do that to assure the Clerk's office that we are not just dumping everything on them without resources. I, and I am sure the representatives of the Members' Services Board, will

ensure that the Clerk's office has the resources necessary to fulfill these roles.

The interesting thing about select committees is I feel responsible partly for them — the NDP definitely does — we were really pushing for them, never imagining that they would start to take such a huge role and be almost expected now on some of these issues that we discuss. This started five or six years ago and it has grown almost to be part of how we draft up changes to legislation that we bring forward in the House.

Do you know what? That's actually a very, very good step forward. It is taking it back to the people; it's engaging the people; it is us being out, listening to the people as elected members. It is empowering. Why would we ever criticize it? Never, never. It's just one tool that we are now using to show that we have changed to some degree. It's a change that I think is positive — very positive — and hopefully it will continue. But there are other ways as well and we have to look at those other ways of ensuring that the public still stays engaged. That could be whether somebody comes into the Chamber to present before us or we have standing committees in which people can make presentations to us and we're not necessarily going out to every community. There are lots of other ways. We can use them to varying degrees, depending on the importance and need that we feel in addressing some of the changes we want to make in our legislation.

We have some very good examples of how the select committees have worked already. We've learned a lot about how they should work and ways to move forward. There's nothing like going out, trial and error, and then coming back and saying, "That didn't work, but this did work. Let's strengthen that, let's correct that. So we already have some examples we can build on."

To conclude — third time lucky — I feel good about this. Whether or not some of us are here when this finally gets presented to the Legislative Assembly, I hope that what we do present is something that the Legislative Assembly can accept and does point to a future of greater democracy and more engagement of the public.

Thank you very much.

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

**Some Hon. Members:** Division.

**Division**

**Speaker:** Division has been called.

*Bells*

**Speaker:** Mr. Clerk, please poll the House.

**Hon. Mr. Fentie:** Agree.

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

**Hon. Mr. Kenyon:** Agree.

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

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

**Mr. Edzerza:** Agree.

**Mr. Mitchell:** Agree.

**Mr. McRobb:** Agree.

**Mr. Inverarity:** Agree.

**Mr. Hardy:** Agree.

**Clerk:** Mr. Speaker, the results are 10 yea, nil nay.

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

*Motion No. 852 agreed to as amended*

## BILLS OTHER THAN GOVERNMENT BILLS

### Bill No. 110: Second Reading

**Clerk:** Second reading, Bill No. 110, standing in the name of Mr. McRobb.

**Mr. McRobb:** Mr. Speaker, I move that Bill No. 110, entitled *Yukon Energy Corporation Protection Act*, be now read a second time.

**Speaker:** It has been moved by the Member for Kluane that Bill No. 110, entitled *Yukon Energy Corporation Protection Act*, be now read a second time.

**Mr. McRobb:** I would like to start by inviting all members of this Assembly to continue the spirit of cooperation shown this afternoon by demonstrating a high level of responsibility with respect to debate on this bill.

Should members feel it necessary to amend this bill, we can do so in a constructive way, but any amendment should only strengthen the bill, not weaken it with respect to public ownership. We also want to thank those Yukoners who took the time to read the draft bill and provide their comments within the 30-day consultation period.

It would be an understatement to say this bill only responds to public concern. The whole issue of privatizing Yukon Energy Corporation assets actually dominated the local news this past summer. The response from the public could best be called an outrage. People from across the territory were activated and outraged to learn that their ownership of key assets could be negotiated away without even knowing about it. In fact, we may still not even know about it had certain people not had the courage to do the right thing and bring these matters to the public's attention.

I would like to acknowledge their sacrifices by specifically thanking the former chair of the Yukon Energy Corporation, Willard Phelps, and three board members, Greg Hakonson, Paul Hunter and Martin Allen — all who resigned their positions on principle. Each of these people sacrificed their positions on the board in the public interest. Such an event at our publicly owned utility was unprecedented. Never before have we seen mass resignations or resignations for the purpose of letting Yukoners know what was actually happening behind the scenes.

Yukoners were shocked to hear about the secret negotiations without their knowledge. People in our territory feel their ownership of our power generation and transmission facilities is sacred. No government should ever be allowed to sell, give away or lease these important assets without public approval. This bill addresses that point. It will not allow any government to do that, unless Yukoners have approved it in a public referendum, in which they have the opportunity to vote. This bill

also prevents any government from conducting negotiations related to the disposal of Yukon Energy Corporation's assets. This bill will only allow officials from the Yukon Energy Corporation or Yukon Development Corporation to be involved in rationalization. Mr. Speaker, I'll define that word later, because there has been a lot of confusion about what rationalization really is.

Any arrangement must first go to the Yukon Utilities Board, which will conduct a public hearing on any arrangement, followed by a recommendation before any rationalization arrangement is finalized. It's unfortunate there has been so much confusion regarding the definition of rationalization and privatization. Let's take a moment to try to define each of them.

In the bill, it sets out a definition of rationalization which I shall put on the record: "Rationalization" means an exchange of assets of comparable value that shall increase the holdings of the Yukon Energy Corporation with respect to electricity generation and transmission assets and provide benefit for Yukon consumers of electricity.

Mr. Speaker, privatization is far different. Privatization is basically the selling off of Crown-owned assets to a private company. In the case that is still being examined, the Yukon government attempted to sell assets of Yukon Energy Corporation to ATCO. That is way beyond the definition of "rationalization"; that is privatization.

I will just give a bit of history about rationalization. As a former participant in hearings before the Yukon Utilities Board, I can say this is something that's not new. This goes back about two decades, and nobody has ever expressed any concern about rationalization, to my knowledge.

I'll give members an example of what rationalization could mean in real terms. We know that the Yukon Electrical Company Ltd. — the private company — is the main owner of distribution — electrical infrastructure in our territory, but it also owns a small hydro plant on McIntyre Creek called the Fish Lake Hydro Station.

Now, the publicly owned utility, the Yukon Energy Corporation, is mainly a generator and transmitter of electricity. Its main assets are the hydro dams at Whitehorse, Aishihik and Mayo and the main transmission lines that basically constitute the Whitehorse/Aishihik/Faro grid, including the line to Faro that was built in 1969, I believe. YEC also owns some distribution infrastructure in some smaller communities, and because of this there's an inefficiency in the operations of both companies. So what's being floated over the past two decades is a swap of those assets, so the Yukon Energy Corporation can focus mainly on being a generator and transmitter, and the private company, Yukon Electrical Company Ltd., can focus mainly on being a distributor and retailer. The net result is less expense required to operate both companies, which translates to a saving for electrical consumers. So, any deal for rationalization must benefit consumers. That's the upshot of it.

Now, based upon what Yukoners have said during the summer and fall so far, it could be rendered down to just a few words: rationalization good, privatization bad. We support

those conclusions fully, and they are the very basis of this bill we are now debating.

This bill is also neutral with respect to independent power producers — or IPPs. There is no reason for this bill to even get into that issue. The whole issue of IPPs is more appropriately dealt with on its own. In fact, the Yukon government has stated it is setting out this fall to consult the public on independent power producers. Therefore, one can assume it will be dealt with in some other way. So, there is no need to try to deal with that huge issue in this bill. This bill accomplishes what the public wants to see. This bill also provides for the normal operational disposal of small assets that become obsolete, not needed or scheduled for replacement. Those decisions have always been up to officials at the corporation, and that's where those decisions should remain.

As referenced earlier, this bill would require a public process involving the Yukon Utilities Board to examine and make recommendations on any rationalization arrangement.

This bill honours land claims agreements and, in the event of any future conflict, the land claims agreements would prevail.

Now, the meat of this bill is all contained on one page, and it's quite an action-packed page because it includes all of the items I've summarized. I know the former Leader of the Third Party criticized the bill because it wasn't long enough. In response, I will only say that we had the time to write a shorter bill.

So, Mr. Speaker, I will follow through on the challenge I put to other members by remaining productive and mindful of the time — the limited time here today. I will complete my remarks and I'm looking forward to hearing others and getting into Committee of the Whole and passing this bill today.

Thank you.

**Hon. Mr. Lang:** As Minister of Energy, Mines and Resources, I would respond to the member opposite. It's interesting that — just a little sideline here, Mr. Speaker — in the last sitting the member opposite was questioning the president or chairman of the Energy Corporation on his perceived double dipping, and certainly that will come to light in PAC and hopefully we can resolve those issues, too.

It gives me great pleasure to rise here today on a private members' day to address Bill No. 110. As members opposite have highlighted, this bill addresses issues very important to Yukoners. Energy is clearly an important issue to our modern energy-reliant society. Before I address the specifics of the bill, I would like to take a few minutes to highlight the efforts we have taken to fulfill commitments to sustainable management of Yukon's energy resources.

First, Mr. Speaker, we believe it is important to maintain a clear vision for how energy is generated, distributed, used and developed in the territory. To this end, the Government of Yukon released the territory's first comprehensive energy strategy in January 2009. The *Energy Strategy for Yukon* provides a vision for conserving, using and developing energy resources to meet Yukon's energy needs. The energy strategy identifies opportunities and priorities for actions that improve Yukoners'

access to reliable and, of course, affordable energy. The strategy was developed in consultation with stakeholders, the public and other governments. There are 24 priority actions in the energy strategy, including a commitment to release the first progress report by the end of 2010. The energy strategy complements the climate change action plan. These initiatives work together to reduce greenhouse gas emissions.

The Yukon government is moving forward on implementation. One area of this work is steps to establish a new policy for independent power production and a new policy for net metering. The Government of Yukon looks forward to public consultation on net metering, and independent power production this fall, and IPP policy would not, in any way, privatize Yukon's public assets. Rather, the policy would offer both the Yukon Energy Corporation and the Yukon Electrical Company Ltd. increased options as to how to meet the future energy demands in the territory.

Working with the Yukon Energy Corporation and Yukon Electrical Company Ltd., the Yukon government will seek public input on IPP and net metering policies to ensure that the resulting policy reflects the needs of all Yukoners. This consultation will be a step toward fulfilling the energy strategy commitment to develop a policy that will facilitate the purchase of electricity from independent power producers and allow individuals to connect clean energy sources to the grid.

The IPP policy will enable individuals and organizations other than utilities to generate electricity for communities or industrial projects in remote areas. Net metering will enable electricity customers to sell surplus electricity from clean energy sources to the grid and receive a credit on their electrical bill.

A more diversified mix of power producers will serve to strengthen Yukon's energy security, keep electrical rates low, and make the electrical system more reliable. There was widespread public support for IPP and net metering during public consultation on the energy strategy. The Yukon government is taking steps to fulfill the commitments made to Yukoners on the energy strategy.

Another priority area identified by the energy strategy is the need to consider the management of Yukon's energy resources. In the energy strategy, the Government of Yukon committed to "consider appropriate roles, responsibilities, and corporate structures for Yukon Development Corporation and Yukon Energy Corporation to ensure effective management and operation, and optimize the efficiency and reliability of electricity generation and distribution."

The *Energy Strategy for Yukon*, on page 4 says that it is very disappointing to note that there is no recognition in the proposed act of the Yukon government's obligation to manage Yukon's energy resources. That is an overview. This, unfortunately, is a key failure of this bill that the member put on the floor today. The Government of Yukon has a clear mandate and responsibility to Yukoners to manage Yukon's energy resources.

Clearly, following the energy strategy commitment, Energy, Mines and Resources officials continue to work to fulfill the Government of Yukon's obligation to Yukoners. Of course

we agree to no sale of assets. The proposed act's overall direction to prohibit the sale of public assets clearly aligns with the commitments and actions of this government. This government fundamentally supports the principle that Yukoners' public energy assets should remain publicly owned and operated. In fact, the key basis of the scoping discussions with ATCO was that existing public assets would remain publicly owned. So, overall this bill does address and highlight some issues that this government supports. In fact, legislation with similar principles to this exists in both the provinces of British Columbia and Manitoba.

I would suggest that this proposed act would benefit from a thorough review and a full analysis. With such a review and correction of the problems I have briefly outlined within this current draft, this government may be prepared to support this bill with some amendments.

In closing, I would like to thank the Official Opposition for their interest in this very important area for Yukoners. I am confident that Yukoners recognize the important role that government plays in ensuring their energy resources are sustainable and managed well.

Thank you, Mr. Speaker.

**Hon. Mr. Fentie:** Mr. Speaker, I am indeed pleased to stand and respond to Bill No. 110, the *Yukon Energy Corporation Protection Act*. As the Minister of Energy, Mines and Resources has stated, this government supports the fundamental principle that Yukon's public energy assets should remain publicly owned and operated.

While we support this fundamental premise of the bill, as the minister and others would agree, there are flaws in the legislation that we need to address. Legislation must be right, not hurried. Legislation must be driven in the public interest or by the public interest. The Minister of Energy, Mines and Resources mentioned the failure to recognize the Yukon government's obligation. To manage Yukon's energy resources is just such a flaw — one of a number.

The bill has some other flaws, Mr. Speaker, that we would be more than willing to review and correct through due process, and of course, that would include deliberation, but also consultation. I'm sure the Member for Kluane does not intend this as an outcome from the bill, but the bill should not become an impediment to providing Yukoners with more efficient, affordable and reliable energy. In that context, Mr. Speaker, we have to remember that that means we must meet the needs of supply into our future. That, indeed, is a challenge for the Energy Corporation today, and there are many reasons for that.

Mr. Speaker, in that context, I am referring to the process of rationalization, which, as the Member for Kluane pointed out, has been an item of discussion for many, many, many years. I'm sure many concepts were discussed and many proposed models were presented, but there is yet to be any conclusion to rationalization.

This must be in the best interests of Yukon and the Yukon public, and one of the ideas is to have the Yukon Energy Corporation responsible for the generation of energy, whereas the Yukon Electrical Company Ltd. would be responsible for the

distribution of power. But here's another flaw: who would have the fiscal capacity and the responsibility for building assets into the future? There's no question that, due to the plan and vision of this Yukon Party government, this territory is growing and, within that growth, the need for increased supply of electricity is ever increasing. That is why the Mayo B project is such a critical project in the short- to mid-term needs of the Energy Corporation in meeting that supply — and ensuring, by the way, that that supply of electrical energy is affordable and is reliable so that the ratepayer is not encumbered with the very significant cost to put in place the infrastructure. That includes the need to meet our obligations under the climate change action plan to reduce emissions. There is so much detail that must be dealt with in this context that I must say, though there is great purpose in 30 days of consultation, that the bill will require more work, as I said, in deliberation and consultation.

A rationalization involving the swapping of assets to make the provision of electricity to Yukon consumers more efficient is indeed a logical, constructive approach. But there is a difficulty that we need to understand better, which is attaining an agreement around the value of the respective assets — the replacement value, for example, versus book value. The discussions that have been ongoing I'm sure tried to address that issue.

Again, it comes down to the fundamental challenge of the Yukon Energy Corporation's capacity to build and invest into the future. I must say at this juncture that this is not a new challenge. That challenge existed for a long, long time. However, for whatever reasons, governments of the day chose to expend vast amounts of resources on things that did not address the ever-increasing challenge of energy infrastructure requirements for this territory. I refer to sawmills and subsidies through the rate stabilization fund. Much has been expended over time that has brought us to this very critical juncture in Yukon's energy history.

Now we are seeking partnerships as our energy strategy commits — our blueprint for addressing energy issues in this territory. It is all about partnerships. Yukon needs partnerships.

Let me just deviate for a moment from the bill itself to make a brief comment about partnerships and the benefits that have accrued to Yukon because of partnerships. Let me reference our partnership with our sister territories in the pan-northern approach and what that partnership has garnered in terms of benefit for Yukon and health care in our ability to establish input into the northern vision of our national government into their concept and initiative of Arctic sovereignty; to take our rightful place at the national stage. That partnership has been very productive and the benefits are being realized by Yukoners.

Our partnerships with First Nations — much of it is designed by, defined by, housed in and invested in the *Umbrella Final Agreement* and the treaties here in the Yukon. It is a government-to-government partnership. Of course our energy strategy emphasizes partnerships with other governments and partnerships with First Nations.

But we've also got partnerships with industry. Again, discussions with private sector companies like the Yukon Electric-

cal Company and ATCO are critical to fostering those partnerships in the best interests of the Yukon public. The unfortunate part is confusion that reigns in some areas and some quarters, but we need not delve into that. The government's more than prepared to address all matters going forward as best we can within the limits of our capacity in this territory overall.

Mr. Speaker, here's another issue: referendum. The bill is specific on referendum. It's a provision in the bill. It is problematic. Although there are many reasons, I will just touch on a couple. History has taught us, in this territory, for example, that referendums are not necessarily the most demographic means to ascertain the will of the public — Yukoners. In the context of democracy, this is a critical issue in question. Referendums can be divisive and polarizing, and voter turnout would be critical if the referendum is to be a true indication of the will of the people — a problem — and this is one of the flaws that must be addressed.

Mr. Speaker, the public consultation on Bill No. 110 is limited. I think we all can agree on that. There is a litany of examples of consultation that we undertake that extends far beyond the time of consultation for this bill. We have to be very careful and mindful of that because we have to consult with the public for the right reasons, not, for example, to present a bill to this House. We still have a lot of work to do in that regard, including presenting this to the Yukon Development Corporation, its board and of course in its capacity of oversight and direction for its wholly owned subsidiary, the Yukon Energy Corporation. One of the reasons that that is critical is because the board already has the authority to approve or disapprove of the sale of all, or substantially all, of the Yukon Energy Corporation's assets. We can't ignore or exclude their views after due deliberation on such a bill.

The government side, Mr. Speaker, extends commendation to the Official Opposition for bringing this bill forward. The bill itself in its fundamental context would benefit of course from receiving the input of a broader cross section of Yukoners in the view of the importance of such a bill and what it would mean to our energy future.

Accordingly, Mr. Speaker, the government side would encourage the Official Opposition to work with us and the Third Party — in the context and spirit of making this Assembly work better — to address these deficiencies and maybe more will come to light. To address these deficiencies — that is in the interest of providing Yukoners with affordable, reliable energy while ensuring that the Yukon's public energy assets remain publicly owned and operated. That is the overall, overriding objective for us all, I'm sure.

Though there's much more that would need to be articulated in this regard, and though the government side fundamentally supports the premise of the bill — the action intended of the bill — there's much work to do. Mr. Speaker — and this is in the context and the spirit of cooperation and constructive, productive collaboration with the opposition members — in order to expedite further dialogue to do the work necessary on Bill No. 110, between all parties, the public, the corporation and possibly others, I move that debate now be adjourned on Bill No. 110.

**Speaker:** It has been moved by the Hon. Premier that debate on Bill No. 110 be now adjourned. As no debate on a motion to adjourn is allowed, I'll now call the question. Are you prepared for the question?

*Motion to adjourn debate on Bill No. 110 agreed to*

### **Bill No. 78: Second Reading**

**Clerk:** Second reading, Bill No. 78, standing in the name of the Hon. Mr. Fentie.

**Hon. Mr. Fentie:** I move that Bill No. 78, entitled *Act to Amend the Elections Act*, be now read a second time.

**Speaker:** It has been moved by the Hon. Premier that Bill No. 78, entitled *Act to Amend the Elections Act*, be now read a second time.

**Hon. Mr. Fentie:** Of course, this act is critical to Yukon and its overall election processes, starting with the next election. The *Elections Act* provides for the Chief Electoral Officer to, at any time, deliver to the Speaker of the Legislative Assembly a report setting out any amendments that, in the opinion of the Chief Electoral Officer, are needed — I emphasize “needed” — to improve the administration of elections under this act. The amendments to the *Elections Act* being tabled today are in response to the report of the Chief Electoral Officer that was tabled by the Speaker in December of 2008.

Before finalizing that report, the Chief Electoral Officer met with representatives of the registered political parties in April 2008 to discuss the issues under consideration regarding the conduct of elections. Mr. Speaker, this amending bill addresses the following: enumeration, swearing-in at the polls, appointment of returning officers and provisions for staffing polling places, distribution of special ballots, identification and logo for the office of the Chief Electoral Officer, offences and the prescribing of forms and other documents.

A major change being made in this amending bill is that the Chief Electoral Officer may direct that enumeration of qualified electors take place within six months of an anticipated election, before the writs for a general election are issued. The recommendation is a result of issues in enumerating electors during the 2006 general election, including limited time for enumeration, recruiting and training enumerators and the preparation of the preliminary lists.

The provision to enumerate before the writs are issued would be effective before the dissolution of the 33<sup>rd</sup> Legislature.

It is also proposed in the bill that electors missed at enumeration will have increased opportunities to have their names added to the lists to ensure that all Yukoners have the opportunity to exercise their democratic right and cast their ballot. Special revision will be extended from four hours, three days before polling, to eight days, with extended hours during the advanced polls.

Mr. Speaker, Yukon is one of the two Canadian jurisdictions where electors cannot be sworn in on polling day. This amending bill proposes that qualified electors be vouched for by an elector who is on the list for the same polling division and sworn in on polling day. This provision will eliminate dis-

enfranchising electors who have not been added to the list of electors and are unable to vote on polling day.

It also proposes that the Chief Electoral Officer be given the opportunity to appoint returning officers to streamline the process, which will ensure the necessary election officers are in place to meet the schedule of activities. The new election officer role is proposed to provide support and information in polling places on polling day. There is also provision for recruiting and training replacement deputy returning officers.

This bill further proposes that candidates not distribute special ballots to electors or deliver marked ballot papers to the returning officers. Wording in the offences section has been clarified and authority is given to take legal action if it is thought that an offense has been committed contrary to the provisions of the *Elections Act*.

There are a number of other amendments in the bill. Many of them are for the purpose of improving administrative processes, such as how ballot boxes are distributed, clarifying ownership of election materials, identifying election officials and candidates' official agents and how to prescribe forms and other documents. These amendments substantially reflect the Chief Electoral Officer's recommendations and the government urges all members of the House to give this bill their full support.

Thank you, Mr. Speaker.

**Mr. Mitchell:** It gives me pleasure to rise to speak to Bill No. 78, *Act to Amend the Elections Act*. Many of the items in here are very straightforward. I've spoken about one or two in particular with the Chief Electoral Officer, where I had questions or concerns. In terms of modernizing the definitions, we have no issues. In terms of the purpose of the act to make pre-election enumerations possible, we think that's a good idea because anything that increases the participation of more members of society in the ability to vote and in taking part in exercising their democratic franchise — as was mentioned earlier in the debate on the motion by the Member for Whitehorse Centre — is a positive thing.

There is an area of some concern — and I look forward to a little bit of discussion during Committee when we get there — are the sections regarding swearing in of an elector on polling day, specifically section 28, only being there to ensure that we accomplish what we want to and make sure that we don't open the door for abuse by members of the public who may think that this is available to them.

I've asked some questions regarding what form of identification would be accepted and how this would work, and I have gotten some answers from the Chief Electoral Officer, but I look forward to some more detailed questions and answers during Committee. As far as the other items in here regarding addressing some electoral boundaries, those are obviously necessary due to lack of clarity in the legislation that we passed previously, and I'm certain that the Chief Electoral Officer has provided us with the proper clarification.

So, again, I know that many Yukoners have felt that in past elections they were unable to vote by being sworn in on election day. There were frustrations with the process of enumera-

tion, special enumeration and so forth. If this legislation empowers more people to take their place in exercising the crucial right of franchise, then that's a positive thing and we will support it.

Thank you, Mr. Speaker.

**Hon. Mr. Hart:** With regard to changes in Bill No. 78, *Act to Amend the Elections Act*, I will state that during the last election several of my constituents came up to me and complained about their inability to get to vote during the last election and the difficulty, even when they were, for example, at the polling station, to get sworn in right there. In addition, there were other issues that I heard about concerning individuals who were working in camps away from their jurisdictions where they were to be enumerated and vote and it was difficult for them to be able to get a proxy or time for the election. I believe these amendments are all in a positive sense. All will enhance and provide for individuals to get out and vote.

I think that all of us in the House would like to see the percentage of people voting increase. Yukoners did express their disappointment with the enumeration in 2006. I think that all of us, in all parties, had some difficulties in getting their constituents on the list, wherever it was. I think some places even had a whole street missing. The Member Opposite put his hand up, so I think we've all experienced that particular aspect.

I think it was — and again, I think I stated it's not just prevalent in one particular riding; it was pretty much through many of the ridings throughout the Yukon. Plus, many people were not home when the enumerators came around the first time and they never came around the second time. Even though there was a slip of paper saying they would return, they never returned. I think that these changes in the act, under the enumeration clause, will go a long way to alleviating some of the issues, will provide some additional time for training of the individuals, will provide some additional time for recruitment of our enumerators, and also provide a more full and detailed list for the election when the actual election date takes place.

The proposed amendments will allow the Chief Electoral Officer to begin enumeration prior to the election and this again, provides more time for enumeration, recruitment and increased time to prepare the list for the election.

There were also changes to the revision being proposed to allow for — if you remember last time, Mr. Speaker, if you weren't on the list the first time, or the second time, you only had about a four-hour period in which to get your name in there. It's a very difficult time — four hours — and I think it was on Friday, that four hours. So I know several of my constituents — when I phoned them to get on the list — expressed really great concern with the fact that they were only allowed this four hours in which to get there. Many of them were away on vacation and weren't around this place.

With regard to swearing in at the poll, the member opposite indicated some concern with that. Again, I believe that I will recite an incident that happened to me on election day. I actually had to vouch for one of the constituents. I don't know whether she voted for me or not, but she had a passport and she had everything there, so we were able to go through the process



and sign in order for her to get there. This individual, for example, was not available for enumeration and was out of town and she wasn't enumerated on the first or second, and she just got there on election day.

With regard to this, I think the other important issue is to allow the Chief Electoral Officer to appoint the electrical officer — or electoral officer — we've been talking about Yukon Electrical all day so it slips every once in awhile. Also, I think this is an important element so we can speed up the process and make it easier for individuals to be on the list and to be enumerated and to get through the process on election day.

I look forward to the support of members on these changes because I feel they are changes that are going to take place and be of benefit to all constituents and represent all parties.

**Mr. Hardy:** I will talk very briefly, as I look forward to going into Committee of the Whole to go through the bill. Most of what I was going to say has already been expressed by both the Leader of the Official Opposition and the Member for Riverdale South.

As a caution — one caution particularly is that we must make sure that there are checks and balances in place to ensure that people who do come to vote are legitimate voters, that they do actually live in the Yukon Territory and are not, as one can well imagine, somebody who works here for four or five months, actually has a residence Outside, actually votes Outside, but feels that they also have a right to vote in the Yukon Territory. They may be a seasonal worker, but they do not necessarily pay taxes in the territory and do not necessarily own or rent a residence year-round.

That's a big concern, and it's a concern that has been expressed year after year after year, through the multitude of elections I've been in, especially in areas in which you have mines of all various shapes and sizes or you have big, big construction jobs, in which you have transient workers on these jobs — they could be on the jobs for however long — and an election comes along, and they either believe that they have a right to vote and make application to vote, or they are convinced that they should be voting and they want to vote for a particular person or party, and they try — and it ends up being done by proxy, or a special ballot, or whatever.

However, there's no check, really — no legitimate way to check if they are actually Yukon residents. There's never a follow-up on a lot of the votes. There's an accountability factor that needs to be put in place still — not just taking somebody's word, but there has to be a mechanism that ensures that the people who are voting are legitimate voters for this area.

Now, it's not fair for people of the Yukon to have their governments chosen by outside voters, truthfully. That can easily happen based upon the fact that we're a small Legislative Assembly and all it takes are one or two ridings to swing a certain way. All it takes is maybe 20 or 30 voters to swing a whole riding to a certain party or another. It doesn't matter which one it is.

Because of the small size, because we do have a tremendous number of transient workers that come up here, because we also have some of the spectre of a pipeline, for instance,

coming through the territory — where we could see up to anywhere from 1,000 to 2,000 workers within the territory, if not more, who could easily claim to be Yukon residents even though they may not own a residence here. They may not plan to stay here, may not be here long enough, may own property Outside, live Outside and have their families Outside, but they may still be wanting to cast their ballots here — swaying votes, swaying the election when it is really not their right. We do not go down to their area and do that. It should not happen — respect should be shown back into the territory.

Unfortunately, we do not have enough checks and balances in the *Elections Act* to ensure there is that kind of accountability or that kind of follow-up or even to check to ensure that does not happen. So from that perspective, I am a little disappointed in this. On the other side, many of these changes that are being brought forward are very good changes and they're necessary. Do I think it's going to increase the votes? Do I think it's going to re-engage the voter into participating in the elections? No, I don't think so. I think the number of people who were turned away at the polls — it would be a very interesting question, how many people actually were turned away at the polls who were not able to vote or felt that they were not able to vote. I don't see those numbers there, but I'm sure we could get those numbers.

So I don't think it would have a big effect on the percentage of participation. It may have a tiny bit — that's good. So some of the changes are good and I do support them. I will support the amendments, but I do believe that they don't go far enough. There are not enough checks and balances, once again, to ensure we protect the right to vote, to protect the outcome of how that vote is brought about and the results of it.

As well, I feel that unfortunately it won't all of a sudden change the percentage of people voting significantly enough to make us feel that the democratic process is well and strong in this territory. Those are my concerns that I wanted to put on the table. Maybe we will do this one and then we'll look at more major changes that we might have to make.

**Mr. Edzerza:** Mr. Speaker, this *Elections Act* was of grave concern to me as a candidate in actually both of the elections I participated in. It's not to discredit anyone who was in charge of running the elections or anything to do basically with the staff who work on the election. However, as a candidate, I ran into some severe problems in my riding.

Of course in the first election, being new to how an election process took place, I didn't realize that if a person wasn't enumerated they can't vote, because I was quite used to only being involved in elections with the First Nation. And we have a voters/band members list. Anyone on the band members list is allowed to vote.

So, when it came to the first election I was a candidate in, I didn't realize this issue. I just assumed that enumerations meant that everybody in the riding was enumerated. Lo and behold, when some of the voters went to the election poll, they weren't allowed to vote for me. Even some of my family members weren't allowed to vote because they were not enumerated.

So, in that first election, there were almost too many for me to even keep track of who said they would have supported me, but they weren't allowed to vote.

So in the next election, being aware of this from the past election, I knew a little bit more about the process. So I immediately got a hold of the voters list to see who was enumerated in my riding. I spent two and a half weeks of my campaign time enumerating my supporters. In fact, I think I enumerated something like 111 people.

Again, I was of the opinion that I could just take the people in and enumerate them. But when I got to the polling booth, again I was told that, "No, you can't. You as an individual could only enumerate as many as 10." So again, another challenge, another barrier — I had to go out and find 10 people to enumerate 10 people. Needless to say, I was really quite frustrated with the whole process and I'm pleased to see now, with the changes to enumeration, there's going to be a longer period of time to enumerate.

I know that in my riding there are a lot of people who are street people who have a home, but they're hard to catch at home. I would imagine that, over a longer period of time, the number of people to be enumerated would probably increase quite a lot. I heard it from every riding. I heard it from the rural communities and from all the ridings in the Whitehorse area that there were difficulties. It wasn't only in my riding; a lot of other people had the same issue. I know that this is something that really adds a lot of unnecessary stress to someone who is a candidate. I believe that now these changes will minimize that stress in that area. I also feel very strongly that the number of voters who turn out isn't really geared toward meaning that they don't like any party.

That's only part of it. It might be that, yes, some people are frustrated with the political parties and just say that they don't even want to bother voting; however, I think how an election is administered, organized, conducted and run also has a significant bearing on the number of people who vote.

I know from experience, being around for over 60 years, that, yes, people do get discouraged very quickly with any kind of a process where you have to jump through hoops in order to be able to do something. I know we're talking about the *Elections Act*, but it filters into a lot of other different areas as to why there is a lack of participation.

Quite often, having talked to a large number of my constituents, I know that quite a large number of them just say, "Well, I can't be bothered." And I would go through the whole process of explaining how important it is for them to exercise their right to vote and how important it is that they support the candidate of their choice.

Far too often, I've heard comments from people that they really didn't support somebody that got elected. If you ask them if they voted, they say, "No". So, we say, "Well, that's why." If they don't get out, sometimes they won't get the MLA or the candidate that they would really prefer to have. So it's always important to go out and vote.

As I stated earlier, the enumeration process was very difficult, but I've heard often from constituents and people that weren't even in my riding, asking why we can't be like other

places, where people can be sworn in at the poll. Just because someone's not on the voters list, though born and raised here and worked here for 40 years — why do they have to be excluded, because their name didn't appear on a list? I know this was one request that a lot of people made.

They were saying that there's no reason why we can't be sworn in at the poll. I imagine there are a lot of different identifications that can prove that you are a citizen of this territory. You know, you've got a driver's licence, health care cards — those kinds of identifications prove that you are a resident here, and to have your next door neighbour verify that yes, you've been living next door to each other for 20 years, should be sufficient for putting somebody's name on the voters list.

I'm really quite pleased to see that these amendments have been brought forward and I honestly believe that it's going to make the elections officer's job a lot simpler than it has been. I can just imagine how many complaints the elections officer got last election.

I had really mixed feelings about even wanting to raise it because I felt — I just knew that the officer was already probably just bombarded with a lot of the same concerns I had. I really didn't want to, but I ended up going and politely saying, you know, there was a real issue in this area because this was a very difficult election to be involved in as a candidate. It was just unbelievably stressful just trying to do three different jobs plus campaign for yourself in the riding.

Anyhow, I know that this is going to probably — I would be so bold as to say — even encourage more people to get involved as a candidate. I knew that some people I talked to refused to run in the election because this is just too complicated, to go in and start looking at the enumerations, and they identified some of the issues that are being changed now. For that reason they weren't prepared to even entertain becoming a candidate.

So I know I do support the changes in this *Act to Amend the Elections Act*. Like other speakers have said, there are probably more that could be done. I imagine somewhere down the road there will be some more revisions brought forward with this act.

Thank you.

**Mr. Inverarity:** I'll be brief in my comments this afternoon, mostly because I think most of the comments have been brought up already. I will vote in favour of this particular bill today. However, like other members here, I'd like to express some concern about a couple of sections within the act — the amendments rather.

First of all, I would like to just add my voice to the concerns regarding the special ballot paper that is being amended here. I have some concerns about the fact that there is some wiggle room in here. It says, "A candidate must not deliver a special ballot paper to or from an elector." — and I agree with that particular statement. However, as we know, it leaves some room in there for prospective abuse and I think we need to guard ourselves against this.

All we have to do is look at what's going on in places like Afghanistan, and we know that we don't want to go down that road, and so we must be diligent in this particular effort.

The other thing that I have concern about is the "no proof of right to vote required." That, together with the special-ballot issue, I think — again, leave some room in there. I think that if you're going to go and get enumerated on voting day, one of the requirements should be that you should be able to prove that you have been in the Yukon for a year.

We'll get into this more as we get into the Committee of the Whole. I just wanted to say at second reading that those are my biggest concerns about the bill at this point in time. I will be voting for it to move it through this portion, and I look forward to continued debate today.

Thank you.

**Hon. Mr. Kenyon:** I will be very brief on this one. I don't want to be repetitive because most of my points have been made already. I, too, during the last two elections have had a variety of incidents that have been — a house that was enumerated that was a vacant lot, to people I know who have lived there for 20 years and yet somehow they didn't get on the list. We need a more reasonable approach and a more reasonable way of doing it at the ballot.

I mean, imagine yourself some of the people who live in remote areas and have no chance to get enumerated. We need that mechanism there and set to go.

So, with those few comments, I look forward to Committee of the Whole and asking more specific questions in debate.

**Hon. Mr. Lang:** I'm going to be short on my comments. Certainly, the comments this afternoon on the *Elections Act* amendment are very real. I think that in the outlying areas there was certainly a bit of an issue with the *Elections Act*, as it stood at that time.

I will look forward to the Committee debates going on in future, and I'll leave it at that.

Thank you, Mr. Speaker.

**Hon. Mr. Rouble:** Mr. Speaker, I appreciate the opportunity to stand today during second reading to add a couple of comments to this. I think it's pretty much unanimous now, where all members of the Assembly were faced with issues where constituents of theirs felt disenfranchised in the last election. I, too, had constituents who were turned away at the poll, who took the effort then afterward to contact me and also write a letter to the Chief Electoral Officer.

I would like to add my thanks to the Chief Electoral Officer and her staff. They did respond to the issue; they responded to the criticisms when they were levied against them, and they have responded in a very responsive manner by going out and doing the appropriate work and assisting the government in tabling and presenting the amendments to the *Elections Act*. I just wanted to put out my thanks to the Chief Electoral Officer and to her staff for the work that they have done.

Yes, we do have that challenge that members have discussed earlier about if we should create a system that is so rigid

that it prevents all fraud, or do we create a system that is open to all and therefore one that is open to potential abuse. We have these two extremes. We have to find some happy medium in between.

Sometimes the pendulums do, as we're well aware, swing from one direction to the other. We did see in the last election where there were a significant number of people who expressed frustration with this. I believe, for one, that we want to create an open system — one that encourages people to participate in our democratic processes. We had significant discussions earlier this afternoon about how we encourage Yukoners to participate more in our democratic processes.

It is very frustrating for those who do want to take their democratic responsibility to cast a ballot, only to be turned away at the polls. While there might be some concerns from members here that some of these additional opportunities to enfranchise people could lead to greater — well, I guess 'fraud' would be the right word — situations where people would come in and act fraudulently in order to cast a ballot. I'm not so worried about that. I certainly am more worried about disenfranchising Yukoners. I do believe that we have a reciprocal trust that we have to have with our electorate.

When people show up at the polling station on polling day to cast a ballot, we do have to trust them that they are acting in their best interest and in the best interest of the territory, and that they aren't committing some type of fraudulent scheme. They are placing a tremendous amount of trust in those they elect, and I think we have a responsibility to trust Yukoners who say that they are indeed Yukoners, that they have met the eligibility criteria and that they are entitled to vote in the location in which they say they are entitled to vote.

Now, I also agree that we do need to have appropriate checks and balances in there. We do have the opportunity for scrutineers, who I believe the majority of political parties use to ensure that the election is carried out in a fair manner. We do need to have appropriate steps in place to prevent fraud in our system. However, we can't do that at the great risk of disenfranchising many of our voters.

I applaud the efforts that have gone into the amendments to the *Elections Act* with the expansion of enumeration, with changes to revisions, with the opportunity for swearing in at the polls, and with the changes to how electoral officers are appointed. I applaud the responsiveness of the Chief Electoral Officer and her staff, I support the legislation that is before us and I would encourage all members of the Assembly to do the same.

Thank you.

**Hon. Mr. Fentie:** Mr. Speaker, I want to thank all the members of the House today. I think over time — during the course of the last few elections — more and more evidence emerged that there was a need to do something. We have to recognize and commend all those individuals who work throughout elections — from the Chief Electoral Officer to enumerators to all involved. It is a very difficult challenge and one of the items that emerged in the legislation was there was a

need to amend the bill — the *Elections Act* — to better support those individuals.

But the most important thing is to ensure that all Yukoners who choose to exercise their democratic right to cast their vote in each and every general election in the Yukon Territory must, to the very extent possible, be able to exercise that right. This bill certainly, and the amendments therein, will address that to a great degree.

So, Mr. Speaker, it has been a timely tabling of legislation, getting this resolved before the next general election. And of course when we look at the numbers that turn out to elect on any given election in the Yukon, I think this also may help create even increased participation by the Yukon public in casting their vote.

I think it's clear that, in many cases, large numbers of Yukoners simply could not cast their ballot. It was especially evident in rural Yukon. This goes a long way to address that also.

Mr. Speaker, we do commend the bill to the House — Bill No. 78, *Act to Amend the Elections Act*.

Thank you.

**Speaker:** Are you prepared for the question?  
*Motion for second reading of Bill No. 78 agreed to*

### Bill No. 80: Second Reading

**Clerk:** Second reading, Bill No. 80, standing in the name of Mr. Lang.

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

### Point of order

**Speaker:** Member for Porter Creek South, on a point of order.

**Mr. Inverarity:** We've received no notice that Bill No. 80 would be on the Order Paper today. As such, I think that we should be given a bit of time to prepare for it.

**Speaker:** Duly noted. But, of course, the Chair has no control over what goes on in the House leaders' meetings.

**Hon. Mr. Fentie:** I respect the Member for Porter Creek South's view here and position. Of course, it is difficult to be prepared to respond in second reading to the bill. We would certainly look for a way to accommodate this.

Timing-wise, we did conclude the business of the day in an expeditious manner, which is essentially a good thing, but we're at this point now with approximately 30 minutes of sitting time left and we might want to take a five-minute recess and determine among the members — I'm not sure where the member from the Third Party is — to determine whether we should proceed, or possibly, and I don't think there's anything out of the ordinary here, adjourn for today and pick up the business of the House tomorrow. If the members wish to go through second reading today of the *Act to Amend the Access to Information and Protection of Privacy Act and the Health Act* legislation, we'd be more than willing to accommodate that. If they need a few minutes maybe to go receive some notes or put together some notes, we can reconvene after that few minutes has been utilized by the members opposite.

**Mr. Mitchell:** On the point of order, Mr. Speaker, and I'm not sure it is a point of order, but since we're speaking to it — and I recognize that you will make the ruling, Mr. Speaker — the other opportunity would be, since we've passed second reading, to move into Committee on Bill No. 78, which we've just discussed and which we are prepared to discuss for the time that's remaining. It is just a constructive suggestion, Mr. Speaker.

### Speaker's ruling

**Speaker:** From the Chair's perspective, of course, there is no point of order. I refer all honourable members to Standing Order 12(2), when the government business has precedent, that business may be called in such sequence as the government chooses. However, having said that, there appears to be an accommodation by all members of the House here, so I think probably the wisest thing for the Chair to do is call a five-minute recess and we will reconvene at 5:05 p.m. and allow members to have a conversation on this issue.

Thank you.

### Recess

**Speaker:** I will now call the House to order.

**Clerk:** Second reading, Bill No. 80, standing in the name of Mr. Lang.

**Hon. Mr. Lang:** I move that Bill No. 80, entitled *Act to Amend the Access to Information and Protection of Privacy Act and the Health Act*, be now read a second time.

**Speaker:** It has been moved by the Minister of Highways and Public Works that Bill No. 80, entitled *Access to Information and Protection of Privacy Act and the Health Act*, be now read a second time.

**Hon. Mr. Lang:** Mr. Speaker, it is my pleasure to rise in the House today to speak to Bill No. 80, a bill to amend the *Access to Information and Protection of Privacy Act* and the *Health Act*.

I have the pleasure of sharing responsibility for Bill No. 80 with my colleague, the Hon. Minister of Health and Social Services, Glenn Hart, who will speak to the *Health Act* amendments during the coming debate on this bill.

Mr. Speaker, the ATIPP act serves two primary purposes. It first provides access to public information held by public bodies, and second, protects personal privacy of individuals whose information is in the custody and/or control of public bodies.

Our government committed to review and amend the *Access to Information and Protection of Privacy Act* to improve access to information while ensuring the protection of personal information. The current and previous Information and Privacy Commissioner called for an ATIPP act review on several occasions. This has also been raised in the Legislative Assembly and in the local media. There is increased public and media interest in openness and accountability in government at all levels.

Amendments being proposed today will clarify and update several sections of the act, expand the scope of the act, remedy errors and inconsistencies in the legislation and clarify the role of the Information and Privacy Commissioner. The amendment addresses the way technological change is affecting how our information is gathered and stored and retrieved and how it is shared.

The planned amendments address some key concerns of the Yukon government, stakeholders and the Information and Privacy Commissioner. The amendments also reflect some of the suggestions made by participants during a two-month consultation process between October and December of 2008. The amendments balance the public interest in access to government information with the need to protect personal information.

The proposed legislation expands the scope of the act to include Yukon Hospital Corporation, Yukon College, Yukon Energy Corporation and Yukon Workers' Compensation Health and Safety Board. In most Canadian jurisdictions, these bodies are covered under the act.

Laws in other Canadian jurisdictions were reviewed in order to determine how our government dealt with the issues identified. The amendments reflect best practices from other parts of Canada and will help to modernize our legislation and bring it more in line with similar laws in other parts of the country. This set of amendments is set forward in making changes to improve the law.

The amendments also include a provision for regular review of the act every six years. We believe this will make it easier to keep this law up to date and relevant for Yukoners and demonstrate this government's commitment to the ongoing modernization of the act.

The bill also improves the wording of the section related to intergovernmental relations in order to reflect a more modern approach to our relationship with Yukon First Nation governments.

In addition to these key changes, there are a number of other changes that have been made in order to improve the administration of the act and to correct various minor errors. The government is also bringing forward regulatory changes to mirror the amendment to the law. All these amendments will help to strengthen our access and privacy legislation and improve our accountability to Yukoners.

I would like to take this opportunity to thank all those who participated in the consultation leading up to these amendments. In particular, I would like to express my appreciation to those First Nations who participated in the consultation. I would also like to recognize staff in our departments who provided valuable comments that helped to improve the legislation you see before you today.

Staff in the Office of the Information and Privacy Commissioner participated in the consultations, helped to raise public awareness of the consultations, encouraged public participation in the consultation process and provided many helpful comments that improved the legislation. Yukoners provided valuable comments during the consultation. We are pleased that we received over 40 written submissions, which included municipalities, school boards and councils, Yukon First Na-

tions, the media, several boards and committees, the broader public sector, including Yukon College, Whitehorse General Hospital, Workers' Compensation Health and Safety Board, Yukon Energy and Yukon Development Corporation, Yukon Liquor Corporation and Yukon Lottery Commission, and Yukon government departments and individual Yukoners.

I would like to express my appreciation to the Office of the Information and Privacy Commissioner's staff, to the legislative counsel and, of course, to the staff of Highways and Public Works in the ATIPP office and in the policy and communications unit, who all contributed to these important changes to the ATIPP law.

I look forward to the debate on the legislation in this House, and I respectfully request your consideration of the merits of the amendments to the *Access to Information and Protection of Privacy Act* and the *Health Act*.

A number of administrative changes are being made to clarify the act. Several substantive policy changes are also being made. The first substantive change addresses the scope of the act and the definition of the public body.

Secondly, section 20 of the act, dealing with intergovernmental relations and relations with First Nations, has been amended. Changes to this section bring the act up to date, as the landscape has changed quite a bit in land claims over the past 13 years.

Thirdly, section 69 allows for the review of the act every six years.

I would like to review with you some of the main changes that are being made and how these changes will help to improve the law.

Section 2 describes the records that fall under the act and the records that are exempt from the act. Section 2(1)(c) has been amended so that records in the custody of an officer identified as a public body in regulations are subject to the act. This amendment was made because the child and youth advocate position created in the *Child and Youth Advocate Act*, known as CYAA, was deemed to be a public body.

The child and youth advocate will also be an officer of the Legislative Assembly. Therefore, this position will fall under ATIPP once the CYAA is proclaimed and a person is hired to do this job. We have also added the child and youth advocate to the list of public bodies in the regulations amended as part of the ATIPP amendment process.

Yukon College is being added as a public body in the regulation under the act. Section 2(1)(g) makes it clear that teaching and research materials of college employees do not fall under ATIPP. This clause is common in other jurisdictions such as British Columbia that have access and privacy legislation covering colleges and universities. The current act does not have a clause that specifies what can happen to the records. This has created some uncertainty in the past regarding what records should be kept and which ones can be destroyed. We have amended section 2 to address this problem. This clause is subject to section 34.

Section 34 requires that personal information be kept for one year, if the public body makes a decision that directly affects an individual — for example, a hiring decision by gov-

ernment. The definition of public body has been changed. This issue was one of the items we consulted on. This is a substantial change; clause (b) is new. It means that a public body can be identified in the regulations made under section 68. The list of public bodies can be changed in the future by changing the regulations rather than changing the act. This means Cabinet will have the ability to add or remove public bodies by regulations in the future. The intent is to specify public bodies in the regulations rather than trying to cover them in the definition.

The definition of records manager has been changed to make it clear it is a person designated with that title by the minister. The purpose of doing this is to clarify administrative responsibilities in the implementation of the law. It is quite common for different laws to designate certain positions to carry out administrative jobs as set out in the law.

Subsection 6.1(1) is new. It is administrative and was one of the original items we consulted on. If the records manager has to contact an applicant to ask for more information or ask for payment of fees, then this section applies.

The purpose of this section is to ensure a file can be closed 30 days after the contact with an application if no response is received. Right now there is no clause like this and files can be kept open indefinitely. This is not an efficient way to operate and may require repeated attempts to contact an applicant before a file can be closed.

When a request is received, section 11 requires that the records manager respond within 30 days. Subsection 11(2) stops the clock if more information is required before the request can be addressed. This is an administrative change. Section 12 allows the records manager to extend the time for responding to a request for a reasonable period. The bill changes this clause to allow the records manager to extend the time for responding by up to 30 days. This is more specific and defines a period of time that adds clarity to the act.

A new clause has been added to section 12. This is one of the original items that the department consulted on. Clause (e) allows the records manager to extend the time for responding if multiple requests are received at the same time, and if the public body or bodies can make a case that response within the regular time will unreasonably interfere with their day-to-day business. This is a new section that provides the records manager with the ability to extend the timeline for responding by another additional 30 days. This type of situation can sometimes happen if several media staffers ask for information from the same department at the same time. If responding to a multiple request would take too many resources in the department, then it is likely the department would ask for an extension. Under this clause, a records manager would be able to give the department an additional 30 days to respond, if that was deemed reasonable.

Section 20 deals with refusing access to information if such information would harm intergovernmental or First Nation relations. Changes are primarily administrative in nature, although they are substantive as well in that they recognize the evolving nature of Yukon government's relationship with First Nations.

Section 26 deals with notifying third parties before information about them is disclosed. This section applies to both personal and business information. A number of amendments have been made to ensure that both business and personal information is treated in the same way in terms of how access to such information is dealt with.

Section 35.2 is new, and is substantive in the sense that it limits a public body to using personal information only where necessary to carry out its purpose. Section 42 sets out the general powers of the Information and Privacy Commissioner, also known as the IPC. Section 43 has been amended to allow the public body to ignore requests that are repetitive, frivolous or vexatious. If the applicant disagrees, they can appeal the decision of the public body. The meaning of the words "frivolous" or "vexatious" has been addressed in common law cases and therefore does not require further definition. The Information and Privacy Commissioner has the ability to conduct investigations under paragraph 42(b) or reviews under section 48.

Several sections of the bill have been amended by making specific reference to sections 42 and 48. This clarifies the language and sets out the powers of the IPC clearly. Subsection 48(4) states that third parties can ask for reviews of decisions to disclose information covered by section 26. Section 26 is about disclosure of personal and business information. The way subsection 48(4) is currently written, it only speaks about personal information, so you can only ask for a review if the information disclosed is personal in nature.

This is being amended to allow a request for a review if the information is personal or if it is business information, as both are covered in section 26 and both should be subject to the same review provisions. This is an administrative change.

Section 65 has been modernized to allow a variety of communication methods to be used when sending notices to applicants and third parties. Section 68 sets out the regulation-making power of Cabinet with respect to this act. Section 68(1)(a) allows for the designation of public bodies in the regulations. Section 68(a.1) allows Cabinet to develop criteria to be used to add or delete public bodies from the regulation if there is a desire to do so in the future, and 68(a.2) allows Cabinet to make regulations to manage requests made under this act if there is a desire to do so in the future.

Section 69 requires a review of the act every six years. This is a substantive change and was part of the public consultation. One of the transitional provisions in the bill is that any request for access to information received before these amendments are proclaimed will be processed under the old act.

There are also two sets of regulations with these act amendments. One set addresses fees, while the other explicitly lists public bodies. Both are fairly straightforward.

The fee regulation changes some fees to allow for a collection of the actual fee for producing the record in a format other than paper; provides authority to the records manager to waive fees in some circumstances; and establishes a threshold of \$25, which reduces the administrative burden of collecting small fees from applications.

The public body regulation lists organizations that will be covered by the legislation in addition to those already covered

by the current law. Public bodies can be added or deleted by Cabinet in regulation in the future. The regulations will be brought into effect at the same time as the bill.

Thank you, Mr. Speaker. That concludes my second reading of Bill No. 80.

**Hon. Mr. Hart:** Mr. Speaker, I'm pleased to add my comments to Bill No. 80, entitled *Act to Amend the Access to Information and Protection of Privacy Act and the Health Act*, and to specifically address part 2 of this bill that will amend the *Health Act*.

I want to point out that the *Health Act* amendment deals with only the sharing of personal health information. It is for this reason that the amendment is included together with the ATIPP act amendment in Bill No. 80.

The quality of health care available to Yukoners is of utmost importance to this government. Continued improvements to patient safety and the quality of health care are being made across Canada and, in more and more cases, these improvements are being developed and delivered, together with other jurisdictions. As these joint projects move forward and we determine that the improvements will benefit Yukoners, Yukon must be ready to participate with the other jurisdictions.

In order to be ready, Yukon must have the legal authority necessary to share personal information, similar to what other Canadian jurisdictions already have in place.

This government recently announced its commitment to bringing forward personal health information legislation, and this work is well underway with a reference group providing important advice to my department. In the meantime, we need to take advantage of the opportunities that will be available to Yukoners before this initiative is complete.

The *Health Act* amendment represents an interim measure that will allow Yukoners to benefit from new public health services that we will deliver jointly with the Government of British Columbia. The amendment will provide the legal authority required to enter into an agreement with the Government of British Columbia to share information necessary to deliver public health programs.

Improvements to the quality of health care must be balanced with the need to protect personal privacy. Yukoners, like all Canadians, want to be assured that their personal health information is protected, used for the purpose it was intended for and only by appropriate people. This is a very important balance that we are trying to achieve — the balance between protecting personal health information while supporting health care providers to provide the best care possible.

Today in Canada, advances to health care are being made that the Yukon is ready to adopt. Our role as government is to ensure that Yukoners have access to the highest quality health care while providing protection to sensitive, personal health information. Bill No. 80 speaks to this in a number of ways. Part 1 of Bill No. 80 expands the scope of the ATIPP act to include the Yukon Hospital Corporation as a public body.

While the hospital has been diligent in helping and implementing privacy and access policies within the corporation, the Yukon public can now enjoy that this protection is legislated

and overseen by the Yukon Information and Privacy Commissioner.

Mr. Speaker, part 2 of Bill No. 80 supports a similar approach to protecting personal information when it is shared by Yukon government. With this amendment, as Minister of Health and Social Services, I will be able to enter into agreements with other parties that are bound by privacy and access legislation in other jurisdictions. Any personal health information that Yukon shares with another party will remain under the privacy regime that has all the reasonable checks and balances that are common across Canada.

A pressing example of importance of this amendment is the public health project that my department has been working on for the past years with the Government of British Columbia. This project will see Yukon gaining access to a new electronic health record system for processing information about immunization and communicable disease. The project, known as "Panorama," will become available across Canada over time and will eventually mean that a Yukoner's immunization records can be accessed, as appropriate, should a Yukoner require public health services outside of this territory.

**Speaker:** Order please. The time being 5:30 p.m., this House now stands adjourned until 1:00 p.m. tomorrow.

*Debate on second reading of Bill No. 80 accordingly adjourned*

*The House adjourned at 5:30 p.m.*

**The following Sessional Papers were tabled November 4, 2009:**

09-1-135

Yukon Teachers Labour Relations Board 2008-2009 Annual Report (Rouble)

09-1-136

Yukon Public Service Labour Relations Board 2008-2009 Annual Report (Rouble)