

**Yukon Legislative Assembly
Whitehorse, Yukon
Monday, April 19, 2010 — 1:00 p.m.**

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

Prayers

Withdrawal of motions

Speaker: The Chair wishes to inform the House of a change which has been made to the Order Paper. Motion No. 1031, standing in the name of the Member for Mount Lorne, has been removed from the Order Paper as Bill No. 82, *Civil Forfeiture Act*, has now received second reading.

DAILY ROUTINE

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

Are there any tributes?

TRIBUTES

In recognition of National Victims of Crime Awareness Week

Hon. Ms. Horne: I rise today to pay tribute to National Victims of Crime Awareness Week, April 18 to 24. This year's theme is "Every Victim Matters," and serves to remind us that every person who is a victim of crime should be treated with respect and dignity.

The main goal is to raise awareness about the issues facing victims of crime and about the services and laws in place to assist victims and their families. It is important for society to know and appreciate the detrimental effects crime has on our communities and why it is important to offer support to people who are affected by criminal activity.

It is essential for individuals and families in our communities to be aware of the resources available to victims of crime. It is vital for victims of crime to know they have community support. Depending on the type of offence, victims of crime often face a number of challenges; therefore, we must recognize that victims of crime have a part to play in Canada's justice system and must be provided with the opportunity to have their voices heard at various stages in the criminal justice process.

In Yukon we have developed a strategy to place more focus on victims of crime as they move through the justice process. The *Victims of Crime Strategy* will ensure that victims will receive the resources and information they require in a timely manner. The five-part strategy is designed to acknowledge, formalize and strengthen the government's existing services; confirm and explore new and emerging initiatives including legislative options; and establish mechanisms to work with others to examine new supports for victims of crime.

As part of the strategy, we have tabled a new *Victims of Crime Act*. This act recognizes that in all stages of the justice system, consideration is given to the needs and concerns of victims of crime, that they have access to appropriate protection. Being a victim of crime can be isolating and can affect

relationships with family, friends and community. To move forward we need to help victims of crime find their voice and restore the self confidence and sense of control that crime can take away.

I would like to take time to recognize the dedication of professionals and volunteers who work determinedly and selflessly with victims of crime and their families. In their everyday actions, each victim truly does matter. National Victims of Crime Awareness Week reminds us to examine the past, reflect on the present and move forward to a healthier and balanced future.

By working together to help victims respond to the aftermath of crime and resume their full participation in society, we can all reap the benefits. Günilschish.

In recognition of National Organ and Tissue Donor Awareness Week

Hon. Mr. Hart: Mr. Speaker, it is my pleasure on behalf of the House to pay tribute to National Organ and Tissue Donor Awareness Week. I rise today to pay tribute to Organ and Tissue Donor Awareness Week and to remind my colleagues that if they haven't already considered registering to become a donor, this is the week in which to do it.

Monsieur le Président, j'invite mes collègues à se joindre à moi pour souligner la Semaine nationale des dons d'organes. J'aimerais également leur rappeler que cette semaine est l'occasion idéale pour s'enregistrer à titre de donneur potentiel, s'ils ne l'ont pas encore fait.

In 1997, the *National Organ Donor Week Act* declared that the last full week in April every year would be known as "National Organ Donor Week". The purpose of this act was to raise awareness about the importance of organ and tissue donation and to provide an opportunity to publicly thank organ donors and their families.

I realize that this is not a subject we like to talk about. Frankly, it makes most people uncomfortable to talk about dying, let alone giving permission to harvest the tissue or organs of a loved one, and yet, Mr. Speaker, this is one selfless act that can help give meaning to death.

According to the Canadian Association of Transplantation, "Canada's low rate of organ donation in comparison to other countries is not a result of lack of generosity or altruism, but because of better health practices. Canada's risk of death from automobile accidents or gunshot wounds is much lower than the United States. Canada's access to excellent health care also lowers the probability of death." The association was quoting a report by David Baxter and Jim Smerdon.

While this report speaks well of the country's health system, it nevertheless highlights the importance of every single donation. According to the statistics from the Canadian Institute of Health Information, there were 4,330 people on the waiting list for an organ transplant in 2008. Two hundred fifteen of them died while on the waiting list and 2,083 life-preserving transplants took place. Of those transplants, 1,541 were made possible thanks to donors who had indicated they wanted their organs and tissues donated. And there are many more living donors we don't hear about.

Being an organ donor, Mr. Speaker, is the ultimate generosity — to ensure that someone sees because you donated your cornea; to ensure that someone lives because you donated your liver.

It's easy: just fill out an organ donor card. They are available through the hospitals and health centres, through Health and Social Services and through Motor Vehicles. I need all my organs right now and I hope to use them for a long time to come but, when I no longer need them, I hope someone else can have a better quality of life because of me.

J'ai encore besoin de tous mes organes pour l'instant, mais j'espère que le jour où je n'en aurai plus besoin, quelqu'un d'autre pourra jouir d'une meilleure qualité de vie grâce à moi.

Thank you.

Speaker: Any further tributes?
Introduction of visitors.

INTRODUCTION OF VISITORS

Mr. Mitchell: I would just ask for all members to join me in issuing a warm welcome back to Yukon to reporter Dan Jones, who has once again returned to the media gallery in Yukon.

Applause

Speaker: Any further introductions of visitors?
Returns or documents for tabling?

TABLING RETURNS AND DOCUMENTS

Hon. Ms. Horne: I have for tabling a letter that the commanding officer of M Division and I wrote to the chair of the Commission for Public Complaints Against the RCMP, asking to discuss how that office would wish to contribute to a review of policing in Yukon.

Speaker: Any further documents for tabling?
Reports of committees.

REPORTS OF COMMITTEES

Hon. Ms. Taylor: Mr. Speaker, I have for tabling the 13th report of the Standing Committee on Appointments to Major Government Boards and Committees.

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

NOTICES OF MOTION

Hon. Ms. Horne: I give notice of the following motion:

THAT this House urges the Government of Yukon, in conjunction with M Division of the Royal Canadian Mounted Police, to conduct a review of policing in Yukon that:

(1) reflects the RCMP's commitment to become more constructively self-critical, more transparent and accountable to its own employees, to the government and to the Canadian public;

(2) seeks to assist M Division in implementing in Yukon the force's national commitment to transformation;

(3) is co-chaired by the RCMP's commanding officer of M Division and the deputy minister of Yukon's Department of Justice, who will undertake the review and consultation with an advisory committee comprised of one representative from each of the following: First Nations, municipalities, women's groups, RCMP, Women's Directorate, Department of Community Services, Department of Health and Social Services and Department of Justice.

The review of Yukon's police force will have the following priorities: consider measures and make recommendations to better ensure that Yukon's police force is responsive and accountable to the needs of Yukon citizens; review how public complaints relating to the RCMP in Yukon are currently dealt with and make recommendations on any required improvements; determine the skills that Yukon officers require in order to provide policing services in Yukon communities and make recommendations to enhance training, including the potential for Yukon-based training; review the services provided by the RCMP to citizens who are in vulnerable positions, including victims of domestic violence and sexual assault as well as individuals who have been arrested and detained in custody; identify and build upon successes and best practices in the delivery of police services to Yukon; review and make recommendations on how best to implement in Yukon the existing RCMP policy on external investigations and reviews; has the co-chairs, through community and targeted consultations, produce a written report submitted to the Yukon's Minister of Justice by no later than September 15, 2010.

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

THAT this House do issue an order for any analysis conducted by the Department of Health and Social Services or the Yukon Hospital Corporation on the costs, benefits and justification for new hospitals in Dawson City and Watson Lake.

I also give notice of the following motion for the production of papers:

THAT this House do issue an order for all documents and papers related to the Yukon Hospital Corporation's community consultation meetings that included consideration of building health care facilities in Dawson City and Watson Lake.

I give notice of the following motion for the production of papers:

THAT this House do issue an order for all documents and papers related to the Yukon Hospital Corporation's health care study that was conducted by consultants in 2009, which forecast the medical needs of residents in Dawson City and Watson Lake.

I give notice of the following motion for the production of papers:

THAT this House do issue an order for all documents and papers related to the Yukon Hospital Corporation's ongoing public relations campaign that:

- (1) began March 27, 2010;
- (2) is expected to run for 10 weeks; and
- (3) is estimated to cost \$80,000.

Mr. Fairclough: Mr. Speaker, I give notice of the following motion:

THAT this House urges the Yukon government to work with the affected municipalities, industry associations, First Nations and the public to resolve matters relating mineral claims and conflicting surface rights within municipalities.

Speaker: Are there further notices of motion?
Hearing none, is there a statement by a minister?
That then brings us to Question Period.

QUESTION PERIOD

Question re: Hospital Corporation public relations

Mr. Mitchell: Mr. Speaker, last week the Minister of Health and Social Services wanted nothing to do with answering questions about a public relations campaign that is trying to justify the borrowing of \$67 million to build new health care facilities. The money for these projects has been moved off the main books in order to improve the government's bottom line. \$100 million is also being borrowed by the Development Corporation for energy projects and it, too, is off the main estimates.

After he was done swearing at reporters, the chair of the hospital board admitted this budget for this ad campaign was \$80,000. For about the same salary, the Government of Yukon could hire another community health nurse. What does the minister think is a better use of taxpayers' dollars — hiring one extra nurse or spending \$80,000 trying to justify political decisions that have already been made?

Hon. Mr. Hart: I thank the member opposite for the question. I also would like to ask him to remember just what the witnesses did provide last week, and they did indicate that the information being submitted over the next 10 weeks is going to be education and it is going to be education provided to all Yukoners on just what services are available to Yukoners throughout the Yukon, just exactly how that service can be provided, and which entity will be providing that service throughout the Yukon Hospital Corporation, either locally or in the Watson Lake facility.

Mr. Mitchell: We think there're a lot of different ways to spend \$80,000 of the health care budget, but the Yukon Party government and the Health minister think that the best use of that money is a PR campaign to justify some very expensive political promises.

The government has approved the borrowing of \$67 million for new facilities. It has moved the \$67 million off the main books in order to make the bottom line in this year's budget look better than it otherwise would.

The government knows these decisions can't stand on their own merit, and that's why taxpayers are on the hook for an

\$80,000 public relations exercise to try to justify the spending. The \$80,000 could have been used to hire a nurse for a year. Here's another suggestion: that money could have gone to pay specialists needed for children with autism.

What does the minister think is a better use of taxpayers' dollars — specialists for children with autism, or \$80,000 trying to justify political decisions that have already been made?

Hon. Mr. Fentie: The Leader of the Official Opposition continues to make statements that reflect badly on all the individuals who actually put budgets together. The member knows full well that his statements about "off the books" to make the bottom line look better is incorrect. The public accounts are all-inclusive and, at the end of the year when the public accounts are tabled, that is the actual starting number for the fiscal year we are in.

We all know changes take place in the public accounts process, after all our statements are audited. So it would be very refreshing if the Leader of the Official Opposition would at least recognize that Finance officials don't cook the books, the Auditor General doesn't cook the books, and that all numbers and estimates as presented are done through due process — and the member knows that full well.

Mr. Mitchell: The Official Opposition's comments don't reflect badly on officials; they reflect badly on this Premier and on his ministers and it would be refreshing if he would acknowledge that. The chair of the board admitted on Thursday afternoon that these decisions were made long ago. That is why we're asking why \$80,000 is being spent asking Yukoners for their opinion when the decision was made over a year ago in the corner office upstairs. The Yukon Party government thinks PR campaigns trying to justify these new facilities and the borrowing that comes with them is a good use of health care money. We'd rather see it spent on an extra nurse or more money spent on children with autism.

Here's another suggestion: the budget has money for an addictions counsellor for the Community Wellness Court. There could be a second counsellor hired if the money wasn't being spent on expensive newspaper ads. What does the minister think is a better use of taxpayers' dollars — another addictions counsellor or \$80,000 trying to justify political decisions that have already been made?

Hon. Mr. Fentie: The government will never acknowledge wrongdoing of officials when, in fact, there's no such thing.

Furthermore, this government has demonstrated by its investments in health care that we actually care about Yukoners and their health. That's why you see the significant increases in our investments in health care. Furthermore, maybe the member opposite — the Leader of the Official Opposition — could explain to people in communities like Watson Lake why they should have to go to Whitehorse to get a broken bone mended. Why should they have to go to Whitehorse when simple acute care should be made available in their home community? Actually, what the Hospital Corporation is doing is informing Yukoners about health care at home. That's what they should do; that's what they are doing. Unfortunately, the members oppo-

site — especially the Official Opposition — have a much different view about the health of Yukoners.

Question re: Mineral staking within municipal boundaries

Mr. Fairclough: Mr. Speaker, at last weekend's AGM, the Association of Yukon Communities discussed their concerns about mining within municipal boundaries. This is not a new issue and it shouldn't surprise the government that AYC passed a resolution asking that it be resolved and stating that municipalities need to be included in that solution. The AYC has extended the invitation for the Yukon government to work with the communities to address conflicts between mining and other uses of municipal lands.

Will the minister be accepting AYC's offer to work together and finally address this issue?

Hon. Mr. Rouble: Mr. Speaker, this government is eager to work with all of our partners, including the municipalities, to address this very important issue to Yukoners. We had a thorough debate last week in this Assembly on this very issue, and one of the things that came out of that debate was a reaffirmation that the Yukon *Quartz Mining Act* prohibits staking of any claim on land occupied by any building or anywhere near residents, or any land under cultivation and the other conditions around the staking of claims under the *Quartz Mining Act*. We also discussed how the placer act currently prohibits staking claims within municipal boundaries.

This government and its officials are continuing to work with municipal officials — for example, with the City of Whitehorse, following up on their official community plan on how we can go ahead with addressing the needs and concerns within municipal boundaries.

Mr. Fairclough: Last week, this House was set to debate a motion on just this issue. Unfortunately, the House never got to address this issue because the Energy, Mines and Resources minister waxed eloquent for three hours, all the way to the end of the day. Debate was finally adjourned without government ever having to put a real position on record.

Over the weekend, the Community Services minister confirmed that this was government's intent all along. When he was asked a question for action on this issue, he mused, and I quote: "What kind of commitment could we make here today without really making a commitment?"

When will this government stop hoping the issue will go away and finally take action?

Hon. Mr. Rouble: Mr. Speaker, the debate last week was an opportunity to clear up a considerable number of the misperceptions that people have regarding this issue. It was once again an opportunity to identify that the *Placer Mining Act* prohibits placer claim-staking with municipalities. It is an opportunity to look at the *Quartz Mining Act* in detail and the conditions that it puts on staking claims within municipal areas or within areas of residences or farms. It was an opportunity to talk about the process required to conduct activity on a claim, including examinations of the YESAA process, the mining authorization process, water licences and land use permits. We had an opportunity to look at the role the municipality has in the process as well, of having control over what happens within

their boundaries and looking at the official community plan or zoning or bylaw impacts that they might have.

Mr. Speaker, this is an issue that this government recognizes is very important to Yukoners across the territory, and we will continue to work with Yukon First Nations and with other orders of government, including the municipalities, in order to find appropriate ways to address the situations as they arise.

Mr. Fairclough: For seven years, Mr. Speaker, that government has not done that. They haven't resolved the issues, and the minister figures that because he can talk for three hours in this House that the issue will go away. Well, it won't, Mr. Speaker. This government won't take a stand. They would rather coast into the next election without making any hard decisions.

Now, the mining companies and communities need to know where they stand, and if we were elected, Mr. Speaker, we would make resolving this uncertainty a priority, and this government should do that too. They have a few months left in their mandate, Mr. Speaker. Will the minister listen to Yukoners and finally deal with mining within municipal boundaries? Will they do that?

Hon. Mr. Rouble: Mr. Speaker, this government will continue to work with municipalities, with mining companies, with people with an interest in the situation or in the application that is before us. We will work with the law we have on the books. We will work with the laws that we were required to put in place under the devolution transfer agreement, and we will certainly work with the processes — the strong assessment and regulatory processes — that we have in the territory that are required in order to conduct activity on a claim.

Mr. Speaker, we will continue to work very closely with the individuals in the YESAA offices on their assessment processes.

As well, the licensing and regulating departments in the Government of Yukon that look after mining authorizations, water licence and other land use permits will also look very closely at these issues, at what can be done to mitigate the concerns that people have, and what can be done to ensure there is a long-time resolution to many of these issues.

The Government of Yukon is working with the City of Whitehorse and taking their official community plan very close to heart — once we have an official version of it, rather than a draft of it. Departmental officials will certainly meet with other orders of government or municipalities to address their concerns.

Question re: Health care costs

Mr. Hardy: The chair of the Hospital Corporation warned the Legislature that we should prepare ourselves for additional costs to taxpayers of \$45 million to \$50 million for expansion of emergency and diagnostic services at the Whitehorse General Hospital. This will have to be done soon, he said. He stated the board had been in discussion with government about this.

So what we're talking about here is \$25 million for Watson Lake, \$25 million for Dawson City, \$17 million for the new residence, and another \$45 million to \$50 million for

renovations. So we're at over \$150 million that will have to be borrowed by a corporation that generates no money.

Will the minister tell the House what the position of this government is about financing the expansion of services in the Whitehorse General Hospital, as well as the other hospitals being proposed?

Hon. Mr. Hart: I thank the member opposite for the question, but I believe that during the review the chair of the Yukon Hospital Corporation provided a very good opinion with regard to the situation at Whitehorse General Hospital. That's his view on what he anticipates will be required for the emergency room facility upgrade. He did indicate that we're in discussions and we have been in some discussions with regard to that facility, but the concentration for us has been the facilities in Watson Lake and Dawson City, in addition to the residence facility, which is well underway across the river.

Mr. Hardy: I asked how the Hospital Corporation is going to assume a debt of \$115 million — the biggest debt probably ever accumulated by any government, never mind just a corporation. Is the government going to finance that debt or not? My colleague from Mount Lorne last week asked about studies and the chair indicated that there are no studies to his knowledge in regard to justifying this.

Will the minister reveal what is the evidence he has that this expansion is needed today, other than just the word of the chair?

Hon. Mr. Hart: I think it was demonstrated earlier this year during the H1N1 process, whereupon we utilized the Watson Lake facility to address the overflow at the local Whitehorse General Hospital, and we did transport some clients down to the Watson Lake facility to help with the overflow. We also tried to accommodate those who were moving down there to be residents of that area or region, so it wouldn't be like we took a Whitehorse person and sent him down to Watson Lake. We tried to accommodate those coming from that region by moving them down closer to their home. That was really evident through the process. It was very successful. We were able to utilize that facility and were able to utilize it to the best of the services for the H1N1 process as well as alleviating the overflow in our local Whitehorse General Hospital.

Mr. Hardy: Mr. Speaker, the minister ignored my question. The chair has stated that we have to look at some very innovative ways to be able to finance the needs of our health care system. When governments outside of the Yukon have been faced with huge expenditures for construction, they have turned to public/private partnerships or P3s. This government already has staff looking at this specifically, using private delivery.

Many of these ventures, though, have proven to be of greater cost than if they were done through the public funding alone. That is a guarantee; that is a fact out there. Government can borrow money more cheaply than businesses. There is not the need for profit for the private sector which raises the costs. My question very simply is — and it's around P3s as the minister obviously will be aware: will the minister assure the House that P3s will not be used as the innovative ways the Yukon

Hospital Corporation is looking at to finance their huge expenditures?

Hon. Mr. Hart: I am aware the member opposite maybe wasn't here when the witnesses provided information last week. Yes, we are not going to be utilizing P3s. The witness, the chair of the board, also indicated right here to the House that P3s were not an option for that facility and weren't being considered.

Speaker's statement

Speaker: Before the honourable member asks his next question, I would just like to remind all members that it is not appropriate to talk about whether any member is or is not in this Legislative Assembly.

Question re: Health care costs

Mr. Hardy: Yes, I would like to remind the member opposite that there are radios and we can listen in our own office. We don't have to necessarily be in here.

When he appeared last week as a witness to this Legislative Assembly, the chair of the Yukon Hospital Corporation told us we have to brace ourselves for new expenditures. Not only are Yukon taxpayers expected to back the costs of two new hospitals and a visiting staff residence, we have now been alerted to additional expenses of \$45 million to \$50 million for expansion of emergency and diagnostic services at the Whitehorse General Hospital, to the tune of over \$150 million. The chair said this would have to happen soon. The chair replied to a question about the case for the benefits of transferring services to the corporation and a consequent new construction, by saying that there are no studies — and I'm going back to studies — to my knowledge. The lack of planning and serious forethought for the huge expenditure expected to be backed by taxpayers is shocking. There should be some studies in place.

Maybe the Health department had some studies, so my question is this: can the Minister of Health and Social Services tell us what studies have been done analyzing and verifying the need for expansion?

Hon. Mr. Hart: As I indicated earlier, we utilized the Watson Lake facility during an emergency, during H1N1. Also, the hospital facilities in Watson Lake have been there since 1979 and we're looking at improving that process.

We have consulted substantially with the staff of the Watson Lake hospital, the citizens of Watson Lake, the local YMA.

We have consulted with all individuals relative to providing health services to the citizens of Watson Lake, and we have also brought in consultants to assist with the consultation in the process, not only in Watson Lake, but for Dawson City. They have also provided us with some issues in regard to the services to be provided in both those facilities to enhance and improve the facilities of health care for all Yukoners, especially in both Dawson City and Watson Lake, and for the region around those areas.

Mr. Hardy: Mr. Speaker, this minister is flying blind — completely blind when it comes to health care services. The chair is completely blind. They have no studies — none — to justify this massive expenditure. What kind of accountability is that to the people of this territory? Zero.

Now there are a lot of examples out there. For instance, there are indications that many of the patients going to emergency in Whitehorse now are using it as a doctor's clinic. Has the minister talked about that? No. A good portion of them could and should be seen in regular hours with a physician's appointment, but that's not happening. Many more could be seen and treated outside the hospital if there were a collaborative clinic with a variety of medical staff. Has this minister done a study on collaborative care? No.

So my question: why has the minister rejected the idea of collaborative care clinics that offer much more logical and less costly medical care?

Hon. Mr. Hart: I thank the member opposite for his question. With regard to collaborative care, we have struck a committee with regard to providing collaborative care here in the Yukon, and we've already had several meetings with regard to how we can set this facility up here in the Yukon. Now, this requires a lot of coordination among all those concerned, and we are working our way through that process. We have had meetings, and we have been making some headway in this. But, of course, we have to consult with the appropriate individuals and the appropriate professions to ensure that we have the services needed.

Mr. Hardy: I'm not sure if consultation is good enough in this case. When you're spending this amount of money, studies would help. Of course, there are none, so he is flying blind, frankly, Mr. Speaker.

Constituents ask me questions and a lot of questions around the hospital — direction on what we're doing with spending on the hospital. One of the questions is a concern about the lack of foresight and planning, not only with the construction of the hospitals, but also new costs that would be encountered by daily operations of the facility. For example, we're aware that it is being suggested that patients have a limit of stay in the community hospitals from 24 to 48 hours only.

Of course, how does that affect a pregnant woman? One of the strongest concerns that communities outside of Whitehorse have is the transfer of birthing mothers to Whitehorse, and this has been going on for quite a long time.

So can the minister assure pregnant women in Dawson and Watson Lake that they will be able to give birth in their communities, or will they be shipped to Whitehorse weeks ahead of the birth, like it is at present? Or, is that going to change?

Hon. Mr. Hart: For the member opposite, I believe the chair of the facility, as well as the CAO, provided a very good response with regard to that exact question last week in the Legislative Assembly here. They are working, as I said, with their consulting firm that indicated what services are going to be provided, specifically both in Watson Lake and, in future, for Dawson City, especially with regard to those individuals and females about to provide birth.

Question re: Yukon Energy Corporation/ATCO

Mr. McRobb: Several questions still remain unanswered regarding the Premier's secret parallel negotiating process to sell out Yukon's energy future to private interests from Alberta, or the ATCO scandal. On Thursday, I asked the former YEC minister whether he did in fact say he was going

to resign his portfolio at that infamous meeting in December 2008.

As we know, this meeting, referred to as a "blowout" was attended by the former Yukon Energy Corporation chair and three board members who later resigned and pulled the fire alarm on this Yukon Party government. Instead of answering the question, the former minister chose to brief us on the proper procedure for resigning. So let's zero in on the question: did he or didn't he say he was resigning his portfolio at that meeting?

Hon. Mr. Kenyon: For the member opposite, who reviewed some of the people present at that meeting, there were a number of other people present at the meeting as well. For a third or fourth time: No, I certainly did not resign. I did not attempt to resign. I did not discuss resigning and I certainly wouldn't discuss any of that in a meeting of that nature. The member opposite knows that.

Mr. McRobb: Mr. Speaker, it is clear why Yukoners don't trust this government. It denies everything. It is locked in denial. Here is a situation where the former board members did the right thing by resigning and bringing this matter to the attention of the Yukon public, yet the then minister is still in denial. What is left of his credibility is on the line here. Let's look at the facts as reported by those who did the right thing. First off, they said the Yukon Energy Corporation minister at the time said, "What's going on? I don't know anything about this. I've never been told about this." Is the former minister going to remain in denial or will he admit he said those words at that meeting?

Hon. Mr. Fentie: I think the minister has been very clear, as all ministers on this side of the House always are. Maybe the Member for Kluane might want to explain this: he's mentioning that some members who resigned from the Yukon Development Corporation Board and the Yukon Energy Corporation Board did the right thing. Is he suggesting that those who did not resign, who continued to do their job, who continued to contribute to the Development Corporation and the Energy Corporation, as they were appointed to do, did the wrong thing? Is that what the Member for Kluane is suggesting?

I guess with the progress we're making, the Member for Kluane probably wants to reconsider that.

Mr. McRobb: I'll say right now, for this government to not 'fess up to this information is the wrong thing. Let's return to the facts as reported by those who did the right thing. After the former minister expressed his shock and surprise at how the Premier was secretly negotiating the sale of this corporation behind his back, the witnesses said he decided to resign on the spot. This is the testimony from the departed board members who did the right thing by resigning to speak out in the public interest.

Will the former minister now admit he said he was going to resign, or is he still in denial?

Hon. Mr. Kenyon: Mr. Speaker, for the member opposite, again, the forum is wrong; the place is wrong; the people are wrong. There was no resignation; there was no discussion of that matter. Perhaps the member opposite should consider those who do resign and do the right thing — leaving a

party, joining another party. I rest my case. No resignation was ever offered.

Question re: Mayo B project

Mr. McRobb: Mr. Speaker, I have a question for the current minister responsible for Yukon Energy Corporation on the Mayo B project. Last week he denied approaching ATCO for Mayo B money, contrary to testimony from the departed board members. Also last week, the long-time consultant with the Energy Corporation said if the Mayo B hydro project didn't go ahead, the government and the corporation could be on the hook for \$12 million. But the following day the Premier corrected this expert and said, "We're not on the hook." Whom should Yukoners believe — the Energy Corporation's expert or this Premier?

Hon. Mr. Fentie: Well, Mr. Speaker, here we go again with the Member for Kluane trying to interpret factually what's been said in the public. And whom do Yukoners want to believe? I think they want to believe what's been going on, Mr. Speaker. The government has been clear, along with the corporation. We're going through the Yukon Utilities Board process, and we're going through YESAA. All matters that we must and are obligated to deal with are being dealt with, and we're running concurrent processes. The only thing we'd be on the hook for is that we have to burn those millions of dollars of diesel annually that the member opposite, the Member for Kluane, just simply can't grasp.

Mr. McRobb: Mr. Speaker, last week the former Minister of Energy, Mines and Resources said, "The Premier will again, as always, use his standard approach of repeating the message of how everyone else is wrong."

A long-time expert with the Energy Corporation said publicly last week if Mayo B doesn't go ahead, taxpayers could be on the hook for \$12 million. This individual is a leading expert on utility matters in western Canada. But the Premier simply says the consultant is wrong. The Premier remains in denial and his colleagues continue to back him up 100 percent. They're all in it together.

Last week, the official spokesperson for the Energy Corporation also confirmed the risk. She said on a \$120-million project, we wouldn't be surprised that 10 percent would be at risk. Whom should Yukoners believe — Yukon Energy Corporation or this Premier?

Hon. Mr. Fentie: There is always, in matters like these, a percentage contingency. That is pretty standard contractual process. Furthermore, Mr. Speaker, what the government doesn't do is speculate. There is no need to speculate. We are following the processes that we must. It is speculation that Mayo B would not go ahead, but here is what would happen if Mayo B for some unknown reason didn't go ahead — which the government is very confident it will: the Energy Corporation would be on the hook for an estimated \$27 million per year of diesel costs because of an at least 93-gigawatt-hour increase by the year 2011 of electrical supply demand. Mr. Speaker, of course we are following the processes we must, and to the good credit of the Energy Corporation, they have the common sense to also run concurrent processes to make sure that the timelines we must meet with the federal government's investment can be

met. Bravo to them. Unfortunately, the Member for Kluane thinks otherwise. We will let him speculate, and the Energy Corporation and the government will continue to do its work.

Mr. McRobb: Mr. Speaker, the Premier refuses to address the contradiction that is apparent here. Last week, he said we're not on the hook, period.

The officials from the corporation and the long-time consultant, the expert, said it could be \$12 million. Now, today he's still in denial, although I heard possibly a crack in his position when he says there's always a percentage of contingency. People want to trust their Premier. They want to believe what they're being told, and they're not getting it from this Premier or this government. Will he set the record straight? Who is right — these officials and consultants or this Premier?

Hon. Mr. Fentie: I think the Member from Kluane has attempted to make some sort of accusation but we'll ignore that. I think if the member looked at the documents that have been filed by the Energy Corporation, he would probably find a contingency factor or percentage in there. Furthermore, the member has continually made statements about things that obviously he's not right about. He's not right about what the Energy Corporation said about the diesel costs. He's not right about secret negotiations. The witnesses were right here in the House a few days ago confirming that very fact that there were no secret negotiations. The member is not right about selling off assets. His own evidence that he tabled here in this House states clearly that the government was not selling assets at all. I think the Member from Kluane has a problem with right and wrong.

The Member for Kluane is wrong and the question about him being right on the facts he presents to the House — very skeptical in that regard.

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

ORDERS OF THE DAY

GOVERNMENT BILLS

Bill No. 81: *Victims of Crime Act* — Second Reading

Clerk: Second reading, Bill No. 81, standing in the name of the Hon. Ms. Horne.

Hon. Ms. Horne: I move that Bill No. 81, entitled *Victims of Crime Act*, be now read a second time.

Speaker: It has been moved by the Minister of Justice that Bill No. 81, entitled *Victims of Crime Act*, be now read a second time.

Hon. Ms. Horne: I'm here today to present the second reading of Bill No. 81, *Victims of Crime Act*. This is an act that will codify the rights of victims in the justice system. During the consultation on corrections, we heard that the needs of victims should be addressed alongside those of offenders. We responded with the *Victims of Crime Strategy*, released in August 2009. One of the commitments in that strategy was to examine legislation to affirm victims' rights.

We followed through on that commitment. In June and July 2009, we met with the legislative advisory committee to design a draft act. That committee was comprised of representatives from the RCMP, federal Office of the Director of Public Prosecutions, Council of Yukon First Nations, Kaushee's Place, Fetal Alcohol Syndrome Society of Yukon, Yukon Aboriginal Women's Council, the Yukon Status of Women's Council, the Women's Directorate, Department of Justice Legal Services, Policy and Communications and Victims Services.

We drafted an act based on the committee's input and consulted on it from September 2009 to January 2010. Those consulted included representatives from women's groups, including groups specific to aboriginal women — women's shelters, Fetal Alcohol Syndrome Society of Yukon, Yukon First Nations, the Privacy Commissioner, the Office of the Director of Public Prosecutions and the RCMP. The suggestions and comments we received during the consultation were insightful and practical. Many practical suggestions we have noted for implementation at the operational level and are not included in the act, which is more general in nature.

Other more basic suggestions we have incorporated into the draft act and the resulting act is before you for debate today. In the original design of this act, we look to the *Canadian Statement of Basic Principles of Justice for Victims of Crime*, which was endorsed in 2003 by federal, provincial and territorial ministers responsible for justice. The statement notes that, "The following principles are intended to promote fair treatment of victims and should be reflected in federal/provincial/territorial laws, policies and procedures." The principles state that at all stages of the justice system, consideration should be given to the needs and concerns of victims of crime, that they should be treated with courtesy, compassion and respect and have access to appropriate protection.

Mr. Speaker, these principles already underlie practices in our courts and in associated programs and services for victims but are not supported by legislation as a right. Yukon is the only jurisdiction in Canada that does not have such legislation. This draft *Victims of Crime Act* lays out the rights of victims following the Canadian statement.

The associated regulations will be introduced later and will specify how those rights are to be implemented. The preamble to the act makes clear the reason why this act is introduced. It states that every person has the right to live without being harmed by another's criminal act and that whenever that right is infringed, society has a duty to treat the victim with courtesy, compassion and respect.

We also wish to be careful of the dignity of victims and recognize their diversity. Dignity was an important word that was added on the urging of women's groups in the consultation. Although dignity was inherent in the way victims are to be treated under this act, they felt that it was important enough to be emphasized, especially in the preamble.

The first part of the act deals with definitions, the most important being the definition of a victim. A victim is defined as one who has suffered harm resulting from an action or an

omission that forms the basis of an offence. All offences or alleged offences are covered by this act.

During the consultation, we heard overwhelming support for the act, and also that it should apply to all justice processes in Yukon, both mainstream and alternative measures such as youth justice and community justice. Accordingly, we added a definition of the justice system under this act to include any program, whether operated by government or otherwise, authorized by law that deals with offenders, alleged offenders or victims. The basic rights accorded to victims are detailed in the second part of the act, entitled "victims' bill of rights". The basic rights are: the right to information on the progress of the relevant offender through the justice system and how the victim may participate in proceedings; the right to consideration of the victim's needs, concerns and views; and the right to be consulted on the development of new programs and services for victims.

The justice system in the Yukon is comprised of territorial laws and federal laws. There is the possibility that the justice system in Yukon will also include First Nation laws. Because of our belief that this act should apply to all justice proceedings in Yukon, the act also provides for its implementation when proceedings result from federal or First Nation laws.

Accordingly, the draft act allows for the making of agreements with the Government of Canada and First Nations and specifies what such agreements may contain. These agreements are detailed in part 4 of the act. We believe that the affirmation of the rights of victims in the justice system will ease the experience of victims as they go through the justice process.

In spite of this, not all victims are prepared to speak out in such a public forum as the courts. Accordingly, we have made sure that programs and services can be offered to victims of alleged offences who do not report such offences to the police. These victims may be accommodated by the provision in the act for a director of victim services. This position is enshrined in part 3 of the act. The director of victim services is responsible for the design, implementation and monitoring of programs and services for victims, whether or not charges have been laid in the courts.

We also heard during the consultation that the unique diversity and consequent needs of the Yukon people should be reflected in the provision of programs and services under this act. Accordingly, the act specifies that consideration be given to: the differing needs and circumstances of women and men; gender-inclusive analysis relating to offences and victims; the cultural diversity of Yukon people and, in particular, the cultures of Yukon First Nations; and the specific needs of groups of individuals, such as those with cognitive impairments or mental illnesses — specifically including gender-inclusive analysis, which was very important to women's groups.

Gender-inclusive analysis is a method of analysis that assesses the impacts of policies, programs and legislation on both women and men, and takes into account systemic and social issues, as well as those differences resulting from other diversity factors.

The act before the House has been designed to fit the unique justice system in Yukon, to respond to the needs of victims as expressed to us during the consultation on the act.

I urge members of the House to pass the *Victims of Crime Act* to ensure that the rights of victims of crime are enshrined in legislation. Günilschish.

Mr. Inverarity: Courtesy, compassion, respect — I think those three terms — and was added “dignity” — sum up this particular bill, Bill No. 81, *Victims of Crime Act*. I think that we should look at these particular attributes in this and weigh whether this bill meets those. Certainly, courtesy is something that we all expect and, in fact, demand from our everyday lives. Why should victims of crime not receive the courtesy when they are being confronted with generally an overwhelming act that has caused them such grief in life?

Compassion — when a person has been a victim of a crime, the people they deal with, whether it be law enforcement, whether it be the court system, or whether it be people individually throughout the community, need to look at these people and empathize with them and give them the compassion they deserve.

I know in my life I’ve seen a number of people who have been victims of crime. I have had a vehicle stolen, in fact. It was interesting, because when I phoned the RCMP and said, “My truck has been stolen,” their reply to me was, “Yes, we wanted to talk to you about that. We found your vehicle up there. Where were you last night?” It was as though I was perhaps the perpetrator of the crimes that my vehicle was used for. In fact, I was the victim.

It’s important to know that people need to have compassion when they’re dealing with people who are victims of crime. I think the minister has stood up here and has eloquently detailed that to a great extent, and I’m not going to go into it.

But they all come down to respect of the individuals — respect that we have for each other, the respect that we show people when we walk down the street. People demand respect, and they certainly deserve it. One of the comments made in the preamble here is that every person has a right to live without being harmed by another person’s criminal act. I think, as we go through the afternoon, that statement will be paramount in our thought process — that we should ensure that individuals are not harmed by another person’s criminal act.

So it’s important that we look at this legislation in a right mind. I think it’s important; it’s a long time coming; the minister has indicated we’re the last jurisdiction in Canada to actually bring this piece of legislation forward and I think that’s good. I think it’s about time we have brought this type of legislation forward, and I look forward to seeing us bring it into Committee of the Whole perhaps, to go through individual lines and look at each of them in detail. I’m not going to get into that at this particular point, in second reading debate. I would like to emphasize, though, the fundamental rights we have as victims, as mentioned by the minister — the right to be treated with the courtesy, compassion and respect. And I think the addition of dignity is important to add to this.

I think we need to look forward to seeing those things brought throughout the judicial system, certainly throughout the community. Quite frankly, a lot of the time, the emphasis is placed on the criminal and the victim is left trying to sort out what has happened with their life.

This legislation brings clarity to that and I think that’s important to identify. The right to the consideration of and respect for privacy — I think that it’s important. Frequently we hear where people’s things, for example, that have been taken as part of a criminal act have been seized. It takes a long time to get them back — sometimes maybe never, depending on the type of the crime that has been committed. This part of it deals with that respect for privacy so the individuals can actually protect the things that are around them.

We often see, Mr. Speaker, in legislation, an erosion of individual privacy. We had this debate I believe with the SCAN legislation and so far it has proved to be okay, but certainly it came up at that point where individual rights need to be looked at from a privacy point of view. Often we steal a little bit of an individual’s privacy away from them in the case of the greater good. We always need to keep an eye on that individual’s privacy, for as we erode it, we then erode the rights of the greater body too. We need to minimize the inconvenience to individuals who are victims of crime.

Frequently we see that they’re put out. Their property has maybe been stolen. Or maybe they have to appear as witnesses. They’re not always treated with the respect that they perhaps deserve, and then sometimes they are even attached to the crime, which may or may not be rightfully done.

I think without going into a lot of debate on this, I would like to thank the officials who have drafted this particular legislation. I know there has been a lot of consultation. The minister has mentioned the different bodies that have acted — the Women’s Directorate, any number of other bodies — in trying to identify the limits and liabilities — whatever you want to call it — that are due victims of crime. I think it’s important. Some of it, I have to say, I will be bringing up in Committee of Whole. I have some questions for the minister with regard to this, but in general, I think it’s about time we have brought this legislation forward. Assuming my questions in Committee of the Whole are answered to my satisfaction, I see no reason why we can’t support this.

Hon. Mr. Hart: Mr. Speaker, it is my pleasure to get up on the second reading of this very important bill. When the government went to consultation on corrections, concerns of victims of crime were, as my colleague indicated, something that many wanted addressed during that consultation period. In addressing those concerns, we have prepared this legislation following the *Canadian Statement of Basic Principles of Justice for Victims of Crime*, as the minister had indicated. One of the main objectives of this was to provide a balance of the needs of the offender with those of the victim. The member opposite also indicated that courtesy and dignity are two of the very important issues with regard to victims of crime.

Now, in many cases in the past, Mr. Speaker, the victims of crime really have been the forgotten ones. We have spent a

lot of time dealing with the offenders. We have concentrated on trying to rehabilitate them. We have concentrated on trying to put them into facilities that, for some who aren't guilty of huge dangerous crimes out there — in the wilderness, for example, so that we can try to alleviate their issues and try to make them good citizens of the community.

Mr. Speaker, in many cases, the victims of the crime, regardless of what it is, have been left to fend for themselves and in many cases — especially horrific crimes — they have been left to look after themselves, even though the crime in many of the cases had nothing to do with them or was not their fault at all.

So I believe this is good legislation and it is timely. It provides the victim with rights. It gives the victim the right to be informed on the progress of the offender through the justice system. It gives the victim the right to consult on new programs and services for victims and also consideration of their needs and concerns, and especially their views. The member opposite did indicate that it was a very important issue with regard to privacy. I, too, believe that this is a very important element with regard to victims of crime.

As I stated earlier, especially in cases where there is a violent crime involved, many of the victims require their privacy to be observed and respected to protect themselves and also to achieve some sort of justice for the offender in that process. I believe this legislation is very important and will provide a good process in providing the implementation of services for victims of crime, and I look forward to the process in the future. Thank you, Mr. Speaker.

Mr. Cardiff: I am pleased today to see a *Victims of Crime Act* presented before the Legislative Assembly. I'm sure that anyone who has interacted with the justice system, who has been a victim or a survivor of a criminal act, or an injustice can related to the need for a piece of legislation like this. I believe it's probably long overdue, especially given the fact that we are the last jurisdiction in Canada to bring forward a piece of legislation like this.

I think all people want to be treated with respect and dignity and have their dignity respected. I think we can all recognize the fact that, when people have been through a traumatic experience, they need to be treated with compassion.

The intent of the bill is good. I do have some questions when we get into Committee of the Whole, specifically around section 2: "An individual who has been found guilty of an offence is not a victim of that offence." I'm going to be looking for the minister to provide some clarification — I'm giving her notice in advance on this — with respect to dual arrests, where in instances of domestic violence specifically, where there has been a violent incident and the RCMP or the attending officers can't really — basically, it's a he-says, she-says situation and the fingers get pointed and the RCMP have the option of charging both individuals. But there's a lot of information about dual arrests and dual charges.

The way that is dealt with in some other jurisdictions is through the use of what's called "primary aggressor policies". I want the minister to look into this for me and on behalf of

Yukoners — specifically, Yukon women, because often they're the ones that this affects the most and there is quite a bit of information out there on this matter.

I want to ensure that through this piece of legislation we're not, in some way, revictimizing people who are already victims. In fact, I heard it said — it was a valuable piece of advice — it was offered to me the other day that in a lot of instances in cases of domestic violence, we're not talking about victims; we're talking about survivors. We need to ensure that in those instances it is about respect, it is about compassion and it is most definitely about dignity.

I would like the minister to — when we do get into Committee of the Whole — have some answers with regard to this, and I would also like to know what the department is doing about primary aggressor legislation or primary aggressor policies to deal with this.

It involves more than just dealing with it through this. It's about training for police; it's about training for the Crown; it's about investigative techniques. My concern is that through section 2, where it says, "An individual who has been found guilty of an offence is not a victim of that offence" — if through the use of dual charging, that by some — through the court system, a victim or a survivor is actually found guilty of an offence because of the circumstances, because of the investigative techniques that are used, and because we're not looking into this, the victims' bill of rights is not applying necessarily to the people or the persons — the survivors — who really are in need.

I'd like to also point out that there is a crossover between this piece of legislation and the piece of legislation that we'll be debating today, that being the *Civil Forfeiture Act*.

It's my understanding from my staff who attended the briefing with the officials that one of the rights of victims — the rights that are listed here are the right to information, the right to have views considered, and one of them is the right to the return of property. In section 6, it says, "Victims whose property is in the possession of a law enforcement agency" — which it could be, under the *Civil Forfeiture Act* — "a prosecuting authority or a court, have the right to the return of that property as soon as it is no longer required for evidence." If it has been seized under the *Civil Forfeiture Act*, then it's my understanding that the *Civil Forfeiture Act* supersedes this.

We had this conversation — we had a discussion, the second reading debate last week about this, and how it's possible for property or funds to be seized that may have been used in the commission of an act of crime or without the knowledge of the person to whom the property or funds belong. If the *Civil Forfeiture Act* supersedes this, if you were a victim whose property is in the possession of a law enforcement agency under the *Civil Forfeiture Act*, it won't be returned; it will be sold, more than likely — regardless of whether you're a victim or a criminal.

There's one other section I'd like to highlight for the minister, and I'd like her to come back — it's section 8, and it begins by saying, "The rights described in sections 3 to 7 are subject to the availability of resources ..." and it does go on to say "... and information, what is reasonable in the circumstances of

the particular case, what is consistent with the law and public interest, what is necessary to ensure that the resolution of justice proceedings is not delayed.”

We are talking about fundamental rights, the right to information, the rights to have views considered, the right to return of property and the rights to have needs, concerns and diversity considered. A lot of this is about providing assistance to victims to help them through the system, providing counselling. But then it says that those rights are, “Subject to the availability of resources.” I’ll go to last week when we were talking about the *Civil Forfeiture Act*. I am obviously not ready to say, yes, we need this *Civil Forfeiture Act*. I think we do need a mechanism, and I think that there are mechanisms in place to seize the proceeds of crime federally — and maybe we need something territorially, but we need to ensure that people’s rights are protected.

We also need to ensure that the property and the funds that are seized under the *Civil Forfeiture Act* are used for a purpose. Those funds or that property, when it’s disposed of, could be used in the delivery of victim services.

There are a few other things that I would like to highlight, but I’ll reserve that for when we get into Committee of the Whole. I look forward to voting for this piece of legislation. I look forward to discussing some of these issues that I brought forward with the minister in Committee of the Whole, and I look forward to hearing what other members in the Legislative Assembly’s thoughts are on this piece of legislation. Thank you.

Hon. Mr. Lang: I’d like to thank the members opposite for their review of this bill as we debate it here in the House. Bill No. 81, the *Victims of Crime Act*, is a very important bill that the Justice department has been working on for quite a period of time. I would like to compliment the Minister of Justice for her leadership in this, because I think, as a Yukoner, it is very appropriate that this bill move forward. I appreciate the questions that the members opposite have asked. I’m sure the minister and her capable staff will be able to address all the overlapping issues the member opposite has brought forward.

My comments this afternoon are going to be very short, Mr. Speaker. Again, I would like to compliment all involved in this. I think it is a timely bill. I think it is something that we as legislators here the Yukon should be proud of. I look forward to supporting it, and I certainly look forward to the questions from members opposite on issues surrounding this bill.

Again, I stand in support of the bill. I look forward to the debate we will have ongoing here, and I will look forward to the support of all of the House once we have the final vote on this bill. Thank you, Mr. Speaker.

Hon. Mr. Rouble: Mr. Speaker, it is my honour and pleasure today to rise in support of the *Victims of Crime Act*. I would like to thank the Minister of Justice and her department for the work they have put into this very important issue. Mr. Speaker, this is an important piece of legislation that the Yukon Party government is proud to bring forward. We certainly rec-

ognize the rights of victims. We appreciate the situation — the very uncomfortable and, in many cases, painful situation they find themselves in through no fault of their own. We recognize that we as a society have a responsibility to provide assistance and to help facilitate their involvement in our justice system.

Mr. Speaker, this is an important piece of legislation that has come about from a variety of different venues. Through the work on the corrections consultation and correction reform, we recognized that an important part of this situation is of course the victim who is affected by the crime. While we have in place many programs to change the ways, shall we say, of the aggressor or the transgressor, in order that they do not perpetrate additional crimes, that we decrease the amount of recidivism in our society, we also have a responsibility to provide assistance to the victim.

This assistance can range from the provision of information about other support services that are available, the provision of those supports, assistance with the court hearing process, assistance with how they can be involved in that — for example, in the placing of a victim impact statement — those are important, not only for the court to hear, but are important processes for the victim to go through. We have to encourage and help to facilitate a healing process for those individuals affected. I would again like to thank the Minister of Justice for her hard work and leadership in this area. I know this has been a very important issue to her and she has worked tirelessly to improve the levels of what we are able to provide to victims. This legislation will then entrench many of those factors, and in fact, entrench a bill of rights for all victims.

I commend this piece of legislation to the Assembly and hope we’ll see unanimous support for it.

Speaker: Member for Klondike.

Some Hon. Member: (Inaudible)

Point of order

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

Mr. Inverarity: Is the member allowed to speak at this point, or under what authority is he speaking? My understanding is that the Member for Klondike is not a commissioner for the Department of Justice — okay.

Speaker’s ruling

Speaker: He is the Member for Klondike and has the right to speak at any point in time so from the Chair’s perspective, there’s no point of order.

Mr. Nordick: It gives me great pleasure to speak to this bill in second reading. It’s quite appropriate that we’re speaking about this bill during this week, National Victims of Crime Awareness Week. It’s quite fitting.

I support this legislation. I believe victims of crime should be treated with courtesy, compassion and respect. The privacy of victims should be considered and respected to the greatest extent possible.

The safety and security of victims should be considered at all stages of the criminal justice process, and appropriate meas-

ures should be taken when necessary to protect victims from intimidation and retaliation. Information should be provided to victims about the criminal justice system, the victim's role and opportunities to participate in the criminal justice process. As well, Mr. Speaker, the views, concerns and representations of victims are important consideration in the justice process. The needs, concerns and diversity, including cultural diversity of victims, should be considered in the development and delivery of programs and services and in related education and training programs.

Mr. Speaker, this is legislation that will give victims a higher degree of certainty. The rights set out in the act state that, at all stages of the justice system, consideration should be given to the needs and concerns of victims of crime. They should be treated with courtesy, compassion, respect and have access to appropriate protection. These rights already underlie much of the current practices in our courts and associated programs and services for victims but are not supported by legislation as a right. This act will make programs and services more client focused as they are to take into account gender-inclusive analysis, cultural diversity of Yukon people, specific needs of groups or individuals such as those with cognitive impairments or mental illnesses.

This legislation will give victims a higher degree of certainty. The basic rights are: the right of information on the progress of relevant offenders through the justice system and how the victim may participate in proceedings; the right to considerations of victims' needs, concerns and views; and the right to be consulted on the development of new programs and services for victims.

Mr. Speaker, to summarize, this act provides basic rights for victims. It gives the victims the right to information on the process of the relevant offender through the justice system and how the victim may participate in the proceedings. It gives the right to consideration of victims' needs, concerns and views. It gives the victim the right to be consulted on the development of new programs and services for victims. Mr. Speaker, with this legislation we will give victims a higher degree of certainty.

Once again, I do support this legislation. This bill may be a small bill in paper, but it's large in effect. Thank you, Mr. Speaker, and I'd like to thank the Minister of Justice for bringing this bill forward.

Hon. Ms. Taylor: Mr. Speaker, I, too, would like to add my voice, on behalf of my constituents, in support of this legislation. I would like to thank the Minister of Justice for bringing it forward, and I would really like to thank the committee that was struck to oversee this legislation and critique it and bring forward suggestions on how to strengthen it and provide their respective perspectives, including the RCMP, representatives of the federal Office of the Director of Public Prosecutions, the Council of Yukon First Nations, Kaushee's Women's Transition Home, Fetal Alcohol Syndrome Society of Yukon, Yukon Aboriginal Women's Council, Yukon Status of Women's Council, Women's Directorate, Department of Justice and others.

I have to say that I was somewhat taken aback when I heard that Yukon was in fact the last jurisdiction to adopt a piece of legislation such as this; however, that is not all for naught. I am very pleased that it has come forward for discussion and debate.

I very much support this legislation, which speaks to victims of crime. There has been a fair amount of discussion already put on the record when it comes to affording, providing and ensuring that all victims of crime are treated with courtesy, compassion, respect and dignity and, of course, that they all have access to appropriate protection, which is in fact very important.

What has to be said is that this act really puts the onus on the victim. It makes programs and services more client driven, more focused. I'm very pleased to see that it does incorporate gender-inclusive analysis because how men and women are treated and if they are victims of crime, their gender does make a difference and that has to be taken into account at all stages. This legislation also takes into account the cultural diversity of this territory, which continues to evolve and grow.

It also takes into account specific needs of specific groups of individuals, such as those with mental illnesses or who have cognitive impairments. The act very much, through the respective provisions housed within the statute, does afford to ease the experience of the victim throughout the court system, so that their fears of the system are diminished, that their input into those hearings are also maximized at all times. I have to say that, for the Yukon, particularly when it comes to victims of crime, I think we have to make reference to those who are given the responsibility for addressing the needs and concerns of those victims of crime. There have been a lot of examples of various victims of crime.

I have served as minister responsible for the Women's Directorate and the Department of Justice, as well. There are a lot of important, essential, effective services and programs provided by the Women's Directorate, Department of Justice, by self-governing First Nations, by many community organizations. I jotted down a few, but there are so many more than I have time to list. Each of these services is to be commended. When you think of women's organizations, women's equality organizations, it is thanks to their support and their advocacy role and work in all our communities that they have also been able to be a driving force behind legislation such as this.

The services provided by Victoria Faulkner Women's Centre, the women's advocate, have been absolutely integral and continues to grow. Services are provided by, as I mentioned, the Yukon Status of Women Council, the Liard Aboriginal Women's Society — there are many and I'm really proud to be part of a government that has seen the important work of the women's organizations throughout Yukon.

We've been able to offer long-term, three-year funding arrangements to provide that long-term stability, in addition to that provided by the women's advocate through Victoria Faulkner Women's Centre.

Look at the downstream effect of women and children fleeing abusive relationships. Services are provided by Kaushee's women's transition society, and Watson Lake Help

and Hope for Families Society and also the Dawson women's shelter. Those are some of the examples of very important, essential services being provided when it comes to providing services for victims of crime and in particular when it comes to sexual abuse, spousal assault and so forth.

VictimLINK crisis line — we have been providing services in partnership with the Government of British Columbia — has been able to make services more accessible to Yukoners — not only women, but individuals throughout the territory.

Successes have been provided through the Department of Justice. They provide programs for the victims program and women's programs, which offer short- and long-term individual or group counselling, particularly to victims of domestic violence/sexual assault.

It wasn't long ago that we were able to make amendments to the *Family Violence Prevention Act*, which toughened up the penalties for perpetrators of crime. We were also able to enhance the fines associated with perpetrators of crime. Examples such as these incremental steps show we are making a difference in terms of providing support to victims of crime.

Mr. Speaker, I think it was said earlier this morning on one of the radio outlets that, when it comes to effecting change, it's all about public education — raising awareness — about effecting change. That's why I'm also very pleased to see, in this year's budget, dollars made available for a public education campaign focusing on violence against women. That falls directly out of our *Victims of Crime Strategy*.

Out of that strategy, we have just over \$900,000 being allocated over the next three years, of which a large portion of that will be going toward a public education social marketing campaign to educate individuals of all ages. That's where, in fact, you are able to make changes.

We were also very pleased, through the minister responsible for the Women's Directorate, to see changes being made to the violence against aboriginal women initiative. This is something we introduced a few short years ago, and we've been able to double that funding allotted to women's organizations for programs and services that are designed and developed by aboriginal women within their communities to develop those in-house programs that are made for those communities and delivered by women in those communities.

The reason I bring up all these initiatives is that it is to be put on the public record that a tremendous amount of work has been done to support victims of crime in this regard.

Of course, there's always much, much more work than resources available. Again, when it comes to making incremental changes — bringing in legislation that not only recognizes that providing assistance to victims of crime is about respect; it's about providing compassion and courtesy. It's also recognizing victims of crime. It's about providing that recognition as a right. This is the very first time it's being made available through this statute.

So, we are very much committed to addressing the needs of victims of crime. This commitment was first made through the corrections redevelopment strategic plan. From those discussions and consultations with the residents of Yukon, we were able to develop the *Victims of Crime Strategy*. It has al-

ready been said that out of the strategy came the need for the recognition of this particular statute. I'm very pleased to be able see that there are a lot of initiatives being made available through the strategy. I've noted some of them. There are many more initiatives.

The one initiative that I haven't made reference to as of yet is the sexual assault response team. That was an initiative that was developed not long ago, probably about three or four years ago, perhaps longer than that. It was all about respecting the rights, needs and concerns of victims of sexual assault. It was about bringing together community services, whether provided through the RCMP or Victim Services or by volunteers. It's an example of an interagency team of professionals, whose primary objective is to promote coordination between the member agencies — and there are a lot of agencies — in order to successfully prosecute cases of sexual assault.

Domestic Violence Treatment Option Court has also been a successful program. It's a process that recognizes that family violence is a serious criminal act and it happens all too often in our homes. It provides a really innovative creative process — a response to the issue of domestic violence by combining, again, court proceedings with proven benefits of treatment for the offender.

The community court is another example that has also been initiated by this government, which provides therapeutic services to those who have been afflicted with addictions or mental illnesses.

I would just like to, again, thank all the various individuals — the representatives of the different agencies who have been involved in making this statute. I think it is very important. It is timely. We just recognized with tributes, but we also recognize throughout the year, the importance of eradicating the scourge of crime in our communities. Through incremental changes, we're able to help further effect change for the positive. So again, I would just like to thank the Department of Justice, the Minister of Justice and the Women's Directorate as well, for providing the general analysis for the inclusive nature of this statute and for providing the input provided through women's organizations and many others.

We look forward to additional debate in Committee of the Whole, and of course to the eventual passing of this much-needed legislation. Thank you.

Mr. Cathers: It is a pleasure to rise here today in support of Bill No. 81, the *Victims of Crime Act*, and I would like to begin by giving credit to the minister and officials from Justice for their good work in developing this. As the previous speaker, the Member for Whitehorse West, noted, this is an addition to good work that has been done in trying to make the justice system work more effectively and provide a number of steps to assist victims in resolving those issues and having their interests respected within that system.

I think it's particularly important that within the proposed legislation, the victims' bill of rights would spell out fundamental rights for victims in interaction with the justice system: the right to be treated with courtesy, compassion and respect; the right in consideration of and respect for privacy; and the

right to expect reasonable measures consistent with the law will be taken to minimize inconvenience and protect them from intimidation, retaliation and so on.

I think that, again, this legislation is a valuable enhancement to the system. It is important to emphasize and protect the rights of victims in a system that so often focuses on the rights of the accused rather than focusing on the rights of the victim. With that being said, much has already been said about this piece of proposed legislation. I, again, will be supporting Bill No. 81, the *Victims of Crime Act*, and commend it to this Assembly.

Hon. Mr. Edzerza: I rise today to give support to Bill No. 81, the *Victims of Crime Act*. This is not something new. It has been discussed for many, many years.

I'd like to start by talking about a report called, *A Time To Listen, A Time To Act*, by Hon. Rob Nicholson, Minister of Justice and Auditor General of Canada, during the launch of National Victims of Crime Awareness Week in 2007. Mr. Nicholson goes on to say that the effects of crime are significant on society and tremendous effort goes into investigating, prosecuting and punishing criminals, resulting in individuals and taxpayers paying hundreds of millions of dollars. For far too long, however, very little attention has been paid to our victims of crime. Victims have long felt that they don't have a voice and cannot be heard in our criminal justice system. They don't believe they have the necessary support and assistance as they follow their journey for justice. Victims and victims' families are often devastated by the criminal acts they have experienced, yet they can feel further victimized by elements of a justice system that seems to focus almost entirely on the criminal.

I would like to also bring attention to another news release from the ombudsman for victims of crime, urging government to refocus Justice spending on the most vulnerable. This goes back to April 19, 2010. This is a more recent statement with regard to victims.

Canada's first-ever ombudsman for victims of crime, Steve Sullivan, marked National Victims of Crime Awareness Week by urging the government to consider the importance of balancing funding for victims' programs and services with other government Justice priorities. For decades, victims have fought to receive at least equal treatment in the Canadian justice system. Though we've made some significant progress in this area, victims are still being shortchanged, when you compare the amount we spend on offenders and victims. The difference is staggering. Obviously, expenditures for offenders will always be higher, but the proportions, to me, speak volumes on what victims have been telling us for years, that they feel marginalized by the current Canadian justice system.

It goes on to say that, since its inception, the Office of the Federal Ombudsman for Victims of Crime has pushed for the government to amend legislation to better respect and provide for the needs of victims of crime.

Mr. Speaker, those are just some statements from other parts of Canada, from Ottawa, demonstrating that this is not

only a Yukon initiative, but it's something that has been promoted right across Canada.

This government has taken the recommendations and the concerns of Yukoners very seriously, and this is clear demonstration that there is action being taken in this particular area. Again, when the government embarked upon a consultation on corrections, there was a strong call for equal support for offenders and victims. The *Victims of Crime Strategy* released sometime in early 2009 provided a framework for addressing the needs of victims in this territory.

One of the initiatives in the *Victims of Crime Strategy* is to explore the legislation, and that has been done. What is being presented today is the legislation that was promised. At the time, the Yukon was the only jurisdiction that did not have a *Victims of Crime Act*. Having said that, Mr. Speaker, today there is legislation being proposed in this area and this legislation will give victims a higher degree of certainty. The rights set out in the act state that, at all stages of the justice system, consideration should be given to the needs and concerns of victims of crime, that they should be treated with courtesy, compassion and respect and have access to appropriate protection. These rights already underline much of the current practices in our courts and in associated programs and services for victims but are not supported by legislation as a right.

The regulations set out in detail which agency is responsible for observing the rights laid out in the act, allowing for some flexibility and coordination. This will ensure that victims are offered the services to which they are entitled.

I'd now like to just talk a little bit about more about the victims of crime and the strategy that was taken. I know that victims of crime, for many years, have felt that they had very limited support within the systems in the Yukon. Talking from the traditional perspective, I know that one method used by First Nations to approach a lot of this was through circle sentencing. I know that there was some criticism over the years about the success of circle sentencing; however, I was involved in many circle-sentencing procedures and I have to say that there's a real cultural clash here when it comes to addressing victims and offenders in the conventional system and within the traditional circle sentencing.

In the conventional system, everything is held in a courtroom where, basically, the offender and the victim don't necessarily have to interact with each other. In my opinion, the conventional system is a much easier route for an offender to take, because in that system they are not really held accountable to the victim. They can see them in court; they can plead guilty and leave is basically where it's at.

In the conventional system, the financial compensation, if there is any being awarded, goes to the court system. If there's a \$2,000 fine, it goes to the Crown. In the traditional system, many years ago, any kind of financial compensation for, say, a spousal abuse case where the man has assaulted his wife — if there was a large amount of money that was going to be paid for compensation, it went to the victim.

It was always the offender's family that had to pay. At one time, my mother told me that, in a case like this, the offender's family could be held accountable to pay what they used to refer

to as “very big money”. Very big money back in those days could have meant \$50 or \$100, because it was very big money to have to pay — but it always went to the victim.

I think some of the traditional ways could have a lot of value here as lessons of how to deal with victims. I know I could probably talk quite extensively in this area, but I’m going to give someone else a chance to get up and voice their opinions in this discussion. I’m very pleased that this act is coming forward.

I think it has been a long time coming, but it’s always better late than never.

Thank you, Mr. Speaker.

Hon. Mr. Kenyon: It gives me great pleasure to say a few words on this bill. Victim rights and status of victims of crime has certainly been one of the hottest topics I hear about, pre-politics and post-politics. People lose thousands of dollars and watch someone convicted of the crime get community service or a very short incarceration or whatever, and the victim of crime is left with nothing.

Really, the whole role of the victims in the criminal justice system has evolved from one of total involvement and responsibility for seeking justice in the feudal times to one of minimal involvement in modern times. This is a big part of this. People just don’t see where anything is happening in that regard.

In feudal times, the disputes, of course, were between individual members. If your animal was stolen or your brother murdered, then the victim — or you — was responsible for avenging the wrong.

The notion of a “king’s peace” emerged in the 12th century, whereby the king or state took responsibility for enforcing breaches of the king’s peace, while the victim was relieved of the responsibility for meting out their own justice. Some would argue that this was evolution, but the victim really lost any role in the system.

In Canada, the emergence of the victim’s voice in recognition of the concerns of victims dates back to the early 1970s. Criminal injuries, compensation programs — which provided financial awards to victims of crime — originated in some jurisdictions as compensation to police officers injured in the course of their duties, and grew to provide limited compensation from the state or province to other eligible victims of violent crime.

The federal government, in efforts to encourage the development of such programs in all provinces, provided financial contributions to the provinces and established minimal criteria for compensation programs. The federal support for these programs, which benefited some victims, coincided with government funding for legal aid programs, which benefited some of the accused persons. By the early 1980s, all Canadian provinces and territories had some sort of criminal injury compensation programs established by statute.

Between 1986 and 1996, provinces and territories enacted enhanced victim legislation and many jurisdictions reformed their compensation and compensation programs. The programs varied in terms of eligibility and the scope of financial awards and, by the early 1990s, many provinces and territories were

exploring the effectiveness in criminal injuries compensation programs and meeting the needs of victims in general.

While financial assistance is, without question, beneficial — it helps — many victims of crime were really ineligible and many other needs of crime victims requiring attention, such as information services, support, counselling — they just simply weren’t addressed. Many jurisdictions appointed a director of victim services and/or established a victim services division. Court-based, police-based and community-based victim services were developed, revised or adapted to meet emerging issues and changing demands.

A number of victim advocacy organizations emerged in the 1980s, such as Citizens United for Safety, one of the first grassroots victim advocacy groups in Canada that effectively focused attention on the needs and concerns of the victims. One of the first groups to gain national prominence was Victims of Violence, a national non-profit organization established in 1984.

The victim advocacy groups gained greater prominence in the early 1990s, focusing the public’s attention on the perceived imbalance between the rights of offenders and the rights of victims and on the victim’s role in the criminal justice system. A group called CAVEAT, Canadians Against Violence Everywhere Advocating its Termination — you have to wonder, Mr. Speaker, where they come up with some these — this group hosted, in cooperation with the Canadian Police Association, two safety-net conferences. One was in 1994 and the other in 1995 — resulting in recommendations to all levels of government for legislative reforms, including increased punishment for offenders, truth in sentencing, victims’ rights and increased services.

In 1997, this group commissioned a report by Professor Alan Young, which recommended inter alia, in the longer term a constitutional amendment to enshrine victim rights and, in the shorter term, a federal victim bill of rights should be enacted.

The Canadian Police Association’s Resource Centre for Victims of Crime lobbied extensively for victim rights, most recently also in a 1997 report including amendments to the *Criminal Code* and *Corrections and Conditional Release Act* and for federal victim rights legislation.

The establishment of a victim ombudsman and enhanced services and improvements to provincial legislation, and also Mothers Against Drunk Driving, or MADD, advocated for a federal victim rights bill. It came to the forefront in the media in 1997, with the introduction of Bill C-294 by then Member of Parliament Chuck Cadman, who had a very personal involvement and personal interest in the whole issue.

In developing future policy, legislation, services and assistance for victims of crime, a number of challenges have been identified in consultation with stakeholders. Provincial and territorial directors of victim services remain to be addressed. Just to mention a few, some victims continue to highlight the disparity and rights of accused versus the rights of victims — and that’s what I hear about all the time. The accused person — criminal, for want of a better term — seems to always have more rights than the victim of the crime.

The crime rates, even decreasing, have little relationship to concerns of victims. In other words, the victims' concerns are based on their experience, on the media accounts and experiences of other victims — none of which are obviously very positive.

Victim services are in demand and under-resourced and they are unknown to many victims who could benefit. It's always quite interesting to talk to people who have been the victim of crime of one sort or another and when you mention the services that are available, people are unaware of them. They're not up to speed at all that they exist. Hopefully, this debate on this act will bring that more to the attention of the general population.

Despite the growth in services and assistance to victims, many victims still want financial compensation for the victimization and costs for participating in the justice system. It's easy to say that there are certain remedies available to victims of crime, but many are not willing to put out more money to try to recover what money was stolen or the equivalent situation.

The delivery of victim services in rural, remote and northern communities is a challenge that involves capacity, access, and cost implications. What works in downtown Vancouver may have very limited capability in a small, remote northern community. It's interesting and easy to try to address some of the shortfalls within the system and then try to look at that from a remote northern community and realize how difficult that can be.

The non-governmental organizations — victim organizations — require dependable funding to build capacity and be sustained. This is, of course, something we hear about all the time. Greatly depending on the type of crime and the victim's own situation, victims need to have other factors and other basic and specialized services. Everyone is different. It's not a question of one size fits all. Other factors will have an influence on the next steps, such as changing demographics of Canadian society and the primary need the victims have for information. There are a lot of obstacles still to overcome and a lot of factors to consider and a continued passion and will to continue to seek improvements to those policies, laws and services. But I think that this is at least a good step in the right direction. Thank you.

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

Hon. Ms. Horne: I thank the members in the House for their comments on the *Victims of Crime Act*, and I wish to emphasize that this legislation will give victims a higher degree of certainty and will further ensure the effectiveness of our justice system in Yukon. The rights set out in the act state that in all stages of the justice system, consideration should be given to the needs and concerns of victims of crime, that they should be treated with courtesy, compassion and respect and have access to appropriate protection.

These rights already underline much of the current practices in our courts and in associated programs and services for

victims, but are not supported by legislation as their right, a right of the victims.

The director of victim services is given new duties, which now include monitoring how rights are being observed, considering victims' concerns and new and existing programs, and conducting research into victims' issues. This act will make programs and services more client-focused, as they are to take into account gender-inclusive analysis, the cultural diversity of Yukon people, and the specific needs of groups of individuals such as those with cognitive impairments or mental illnesses. The offence does not have to be reported to the police and charges do not have to be laid. The victim merely has to go to Victim Services and make the allegation, and they can be offered programs and services. I encourage all members of this House to support this very positive *Victims of Crime Act*. Thank you, Mr. Speaker.

Speaker: Are you prepared for the question?

Some Hon. Members: Division.

Division

Speaker: Division has been called.

Bells

Speaker: Mr. Clerk, please poll the House.

Hon. Mr. Fentie: Agree.

Hon. Ms. Taylor: Agree.

Hon. Mr. Hart: Agree.

Hon. Mr. Kenyon: Agree.

Hon. Mr. Rouble: Agree.

Hon. Mr. Lang: Agree.

Hon. Ms. Horne: Agree.

Hon. Mr. Edzerza: Agree.

Mr. Nordick: Agree.

Mr. Mitchell: Agree.

Mr. McRobb: Agree.

Mr. Fairclough: Agree.

Mr. Inverarity: Agree.

Mr. Cardiff: Agree.

Mr. Cathers: Agree.

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

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

Motion for second reading of Bill No. 81 agreed to

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

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

Motion agreed to

Speaker leaves the Chair

COMMITTEE OF THE WHOLE

Chair (Mr. Nordick): Order please. Committee of the Whole will now come to order. The matter before the Committee is Bill No. 82, *Civil Forfeiture Act*. Do members wish a brief recess?

All Hon. Members: Agreed.

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

Recess

Chair: Order please. Committee of the Whole will now come to order.

Bill No. 82 — *Civil Forfeiture Act*

Chair: The matter before the Committee is Bill No. 82, *Civil Forfeiture Act*. We will now proceed with general debate.

Hon. Ms. Horne: As members will recall, civil forfeiture deals with property rather than individuals. It is this principle that we must keep in mind while debating here today. Proceedings undertaken in court, under this act, are on a different proof threshold for a good reason, in that we are not dealing with the possible loss of freedom of an individual, but rather whether a property is the proceeds of, or the instrument for, unlawful activity. Investigations that have proceeded to their conclusion under the criminal system may be forwarded to the Crown for civil forfeiture. Examples could be the grow-op house that lies abandoned after a police raid; money confiscated during a police investigation that has no clear owner, but was part of a larger criminal investigation; or perhaps cases where there is obvious evidence of criminal activity, but the ties to the person are not sufficient to continue with criminal proceedings, or the person had fled the territory.

In each of these examples, a common thread is that there is evidence of criminal activity and usually that is not in dispute. It is simply whether there is a case that can be made to an individual.

This bill is designed to give law enforcement one more tool to combat crime when there is evidence to show there is unlawful activity. Many cases are rejected in other jurisdictions because there is not enough evidence. This will be the same here in Yukon.

Mr. Inverarity: I guess, first of all, Mr. Chair, I'd like to welcome those officials here this afternoon. It's always a pleasure to have them here to share the afternoon with us. I know there has been a lot of hard work put into this Bill No. 82, the *Civil Forfeiture Act*, and I'm pleased to be able to address it here in Committee of the Whole.

A note on the minister's opening statement that this act deals with property and not individuals — I think that's an important issue to bring to the table here; however, I'd like to also point out that all property is owned by individuals. So there is a relationship there, whether it's expressed or not. I understand that this legislation that has been brought before us here is actually modelled after a couple of other jurisdictions, specifi-

cally British Columbia and Nova Scotia. They have been dealing with it for some time in the past and they have some issues around it that have cropped up over time. I believe that some of the legislation has even been challenged at the Supreme Court level.

I think it's important that when we look at the *Civil Forfeiture Act*, we recognize it for what its intent is, and that is to be punitive against criminals so they don't make a profit from their criminal activities and that it is a deterrent to those criminals to get into that illegal endeavour.

While I support that endeavour fully, it's also wise, specifically today when we've been talking about the *Victims of Crime Act* just prior to this, that we also keep in mind the other individuals out there who may or may not be affected by this particular piece of legislation. I'll get into that a little bit later as we go along.

I think that there isn't any question that any Yukoner would stand here and say, "Yes, if we have a grow op that is being busted, then let's take them for what it's worth. Let's seize the house; let's seize everything and we'll put the money into perhaps victims of crime programs that could certainly support that."

I know this particular legislation is going to put all of the money coming back into the general revenue account and then maybe down the road they might look at it. I suppose that's worthwhile talking about. I think at this point in time it would be worthwhile acknowledging that if we're receiving monies from proceeds of crime, perhaps it should go back to those who actually need it — the victims.

I think one of the biggest concerns that I have with regard to this legislation — and I'm going to bring it up so I may as well bring it up now. As my opening question, I am wondering if the minister has made any effort to inform Yukoners of the potential impacts of this bill at all.

Hon. Ms. Horne: In response to the member opposite's question, the Department of Justice worked with the Crown and the RCMP to bring this legislation forward to our government for tabling in this House, in this sitting. The legislation is modelled on the best practices from the eight other jurisdictions from across Canada, and in particular, the B.C. legislation. We believe that the legislation that is drafted is well-thought-out and fairly balances individual property rights against the removal of the profitability of crime in our territory. This legislation, after all, targets the proceeds of unlawful activities. Evidence must be presented in a court and in each case there must be evidence to proceed.

This is not to be confused with criminal process, which is against an individual, but rather targets the proceeds of crime or the instruments of unlawful activity. The act details the processes, under which civil forfeiture can take place and puts into place adequate notice and protections for persons who are not involved in unlawful activity. This legislation will be another tool in the tool chest to make Yukon a place where crime is not profitable and will hopefully be part of a series of activities that our government has undertaken to get these people to move on or stop their unlawful activities.

The Department of Justice will work on implementing this act through the summer and fall of this year. They inform me that the drafting of the regulations will be completed in late fall and the office ready to operate sometime in mid-winter. There are a number of issues to be finalized, including staffing the office where they will be located, practices and procedures for sharing files with the RCMP, and the contents of the regulations. The regulations will, for the most part, look a lot like the regulations that are attached to the B.C. *Civil Forfeiture Act*, upon which this act is based.

As part of our implementation, our government will be informing Yukoners as a matter of our standard practice — advertising the Yukon website and so on to inform all Yukoners of this new act. As to the special fund to be established for the proceeds of the unlawful activity, the regulations do allow for the development of a special civil forfeiture account at a later date, if the amount of activity under this act warrants a separate account from the consolidated revenue account, but only time will tell on that. But this is not meant to be a money-making procedure. It is to curtail the acts that are unlawful in Yukon.

Mr. Inverarity: The question that I asked was: has the minister made any effort to inform Yukoners of the potential impacts of this bill? Am I to hear that, no, the minister has not gone forward and talked to anybody other than law enforcement agencies and Crown prosecutors? Has there been any attempt by the minister to go out and talk to the public regarding this legislation?

Hon. Ms. Horne: As I just stated, as part of reimplementation, our government will be going out and informing Yukoners, and that is a matter of our standard practice. We will not be going out and consulting on an individual basis throughout Yukon, as we did with the *Corrections Act*.

Mr. Inverarity: Obviously, the minister is doing everything after the fact here. I know when the minister and I went out and did the Yukon *Human Rights Act*, we went and visited 18 or 20 communities in the Yukon and sought the public's input on this. This particular bill has come forward and it has already drawn significant criticism within the media and within the parties here. There was some debate last week on it, I believe. So, I think that it's interesting that the government's prepared to go out and spend \$80,000 on websites to inform people about what has already been done with the Yukon Hospital Corporation and what they're doing, but they're not prepared to talk at all or bring forward any information prior to this act becoming law.

I think that the issues around this are significant enough that it's worth going out to the public and seeking their input so that they can understand the implications of this particular act on individuals who may be affected by it.

So I will ask the minister one more time: will the minister tell us to what extent the public was consulted during the formation of this particular legislation? Did the minister last fall, when we talked about it then, go out for public consultation? We stood in the House here and I know the Member for Vuntut Gwitchin said that he was interested in seeing what was going to come out of the public consultation. What public consultation has been done?

Hon. Ms. Horne: I can say it's a misunderstanding of this act. After all, this targets the proceeds of unlawful activities. The individuals in the Yukon are well aware of what is against the law in the Yukon and what constitutes something that is against the law.

We have already consulted on the new *Corrections Act*; we've heard from Yukoners that they want to be protected from crime in Yukon; we want safer communities to raise our families in. This is one more tool to reach that end.

Mr. Inverarity: It's true that this targets illegal activity and I think the minister should be commended on trying to get this legislation brought forward; however, as a by-product of this particular legislation, it's also possible to target individuals indirectly. So we're quite concerned about the fact that individuals who are totally innocent may be brought forward and have their property seized without any real due recourse they may be able to afford.

For example, I can think of a number of instances where an individual — well, let's take a mother and a son. The mother is renting a room or a house or part of a house, it may even be the whole house, to a son. It may be a revenue stream for the mother to have this particular home and she may, in fact, live in it. It may be her only source of income and the son is paying her quite well for it. Maybe a little bit, because he recognizes that she has very little source of income yet he is doing really quite well. Then lo and behold, yes, the son has turned out to be an Internet fraudster. The mother doesn't even know how to turn on a computer and yet her house may be seized. What is even worse is that the individual or the mother may not even have the ability to defend herself. We need to address this particular issue around the legislation to ensure the individuals whose property is being seized are also protected.

I have another question, and I'll move on. We've obviously had no public consultation on this at all. So let's move on to another aspect as we go along. When I read this bill, I noticed that this was not a paramount piece of legislation. Can the minister just confirm that for me?

Hon. Ms. Horne: This piece of legislation works with other acts; it is not paramount over any other act in Yukon and, again, I remind the member opposite that this is a result of criminal activity. There are strong protections and processes for proof in the legislation, and innocent property owners, or of property, are adequately protected. Anyone who claims to have an interest in forfeited property is given the opportunity to respond to the lawsuit, but there is no criminal penalty or sanction against them, whether or not they choose to participate, and there are sufficient remedies available for persons whose property is in question to show that their property was not being used for unlawful activity with their knowledge.

As to the individual at the issue of cost, the court has the authority to order that a party to civil proceedings pays the cost of the proceedings, including legal costs incurred by another party in accordance with the rules of court. This would apply equally in proceedings under the *Civil Forfeiture Act*. The court has the authority to award costs as it considers appropriate in the circumstances. This would mean that the court could require the government to pay the costs of an uninvolved interest

holder — for example, out of the forfeited proceeds — or it could mean that the court could require the government to pay the costs of a person if their property is wrongfully forfeited. In addition, if a person's property is wrongfully forfeited, they can sue the government for damages.

In some jurisdictions, such as Alberta, the forfeiture legislation actually puts limits on the costs that can be awarded against the Crown. Bill No. 82 contains no such limit. Any person with an interest in the property that is subject to a court application must be notified of the application to court for the forfeiture order. If a matter is settled out of court, the parties can agree as part of the settlement as to how, and if, legal or other costs of an uninvolved interest holder or another party will be paid for.

We do have very stringent regulations or steps that have to be taken by the courts. This is not done by the government or the Minister of Justice; it is done by the courts and/or judge.

Mr. Inverarity: Well, the operative word in that debate is “could,” that they “could” do this. It doesn't mean that they “shall” do this. We all know that, in a lot of cases, bystanders to criminal activity are not necessarily as wealthy as the criminals, that there are circumstances where individuals may have had their property seized and have no ability in which to pay to sue the government. What was the saying that I remember as a kid? “You can't fight city hall.”

You need to be able to make sure that the — in fact, perhaps it might be an adequate time for me to read in something a little earlier today. “Every person has the right to live without being harmed by another person's criminal act;” — that was the *Victims of Crime Act* that we went into second reading on a little earlier today, so it's important that we make sure that those rights are protected.

Now a minute ago I asked the member about the issue around the paramouncy of this particular act. I was wondering if the member is familiar with the Yukon *Human Rights Act* — specifically I would say the bill of rights, that would be section 6 in the act that deals specifically with this and how it might be in conflict with this particular act.

Hon. Ms. Horne: I don't have the *Human Rights Act* in front of me here and I do not know which section the member opposite is speaking of. The concept of forfeiture of proceeds of crime is not new. It's already part of the Criminal Code and can be used when a person is convicted of a criminal offence. This *Civil Forfeiture Act* is simply another way to obtain the proceeds of crime.

Mr. Inverarity: I'll read the portion. It says, the right to enjoyment and disposition of property. This is from section 6 of the Yukon *Human Rights Act* bill of rights. Every individual has the right to the peaceful enjoyment and free disposition of their property, except to the extent of the law provided, and no one shall be deprived of that right except with just compensation.

My argument here, Mr. Chair, is that the Yukon *Human Rights Act* has paramouncy over this particular act. Clearly, I think there is room here to debate the issue. If I had my property seized under Bill No. 82, I would be entitled to compensation. I think that, as a minimum, this issue should be debated a

little bit more and should be taken back to the department for their consideration with regard to — certainly it wasn't identified in the act itself. I will ask the minister again: has the minister given consideration to ensuring that this conflict between the Yukon *Human Rights Act* and the *Civil Forfeiture Act* has been addressed?

Hon. Ms. Horne: I was not aware. I don't have the act memorized but we have discussed this in detail — that section of the *Human Rights Act* — and it is, as you read, in accordance with law. There is no right to property that is a proceed of crime. Protection for the uninvolved interest holder — court is not required to make an order if it is not just in the circumstances. Court has maximum flexibility in structuring an order to account for the factor of any given situation.

Mr. Inverarity: I think there might be individuals out there who might debate that particular issue. Unfortunately, they would have their day in court, which might be very, very expensive. It would worthwhile going out to the public and hearing about whether or not they think that this is an issue or not. I understand this legislation has been acted in other jurisdictions and it has resulted in various legal challenges. One challenge that has been settled has been the validity of the information-sharing agreement between the government and the RCMP. Can the minister address any of the other challenges that are currently out there and whether or not this legislation will be affected by that?

Hon. Ms. Horne: As to the consultation, I reported in this House earlier that Justice worked diligently to draft this act and carry out its targeted consultation with the operational stakeholders before presenting it to Cabinet. Civil forfeiture represents an attempt to balance two competing interests: (a) reducing the incentive for unlawful activity, and (b) preserving property rights for individuals who have not been found guilty of an offence. Civil forfeiture legislation across Canada, similar to the proposed legislation here in Yukon, has been found to be constitutional by the Supreme Court of Canada and is effectively enforced in seven jurisdictions across Canada already.

Mr. Inverarity: We understand from briefings that we've had that under this act it's supposed to be managed by the Investigations branch of the Department of Justice and the actions taken by the government will be based on information provided by the RCMP through, I gather, an existing information-sharing agreement. I'm not quite sure on that, whether it's an existing one or that agreement still has to come forward.

Could the minister just explain a little bit about how that process works?

Hon. Ms. Horne: As to the challenges in other jurisdictions, the court cases did not challenge the validity of the legislation. There were a couple of challenges that were particular to individual seizures, which would be dealt with in an appeal, and it is being dealt with.

In the information sharing, the director of civil forfeiture may enter into information-sharing agreements with Canada, a province or another jurisdiction in or outside of Canada, a public body, as defined under the *Access to Information and Protection of Privacy Act*, or a law enforcement agency, to deter-

mine if civil forfeiture should proceed. Locally, this would mean the RCMP or SCAN investigators.

Mr. Inverarity: I have to say that the minister keeps citing proceeds of crime with regard to this particular legislation; however, it is important to note that the legislation does not require anyone to be actually convicted of a crime for this act to kick in and the proceeds can be taken. To follow up on my previous line of questioning when I was asking if the minister could explain to us the process around the information coming from the RCMP to the Investigations branch and the Department of Justice — as a follow-up to that question: can the minister see any circumstances where the government will initiate its own proceedings under the act?

Hon. Ms. Horne: The existing sharing agreement with the RCMP has been in place for many years already and is authorized under both federal and territorial privacy legislation for the purposes of law enforcement. If we initiated any action under this act, it would be from our SCAN office, which would recommend it.

Mr. Inverarity: I asked if the minister could see of any way that the government would initiate proceedings against an individual in this area. The minister, if I understand correctly, has indicated that could possibly come from SCAN, which is a government agency. Would that — let me get this right — will the minister confirm that, yes, in fact the government will initiate proceedings under this act without input from the RCMP, on behalf of the government — whether it be through SCAN, through the sheriff's office or through any jurisdiction or any department under the government without RCMP approval?

Hon. Ms. Horne: In response to the member opposite, it would be — we would initiate action from the RCMP or our SCAN office and we could initiate it only with SCAN — from SCAN as our source.

Mr. Inverarity: That brings up some concerns, I'd have to say. Concerns have been raised in other jurisdictions that the government, for example, will rely upon this legislation as a form of revenue generation — I understand that the minister addressed this earlier on — mostly because we don't know what revenue is going to be coming, and that's fine.

Other concerns have also been raised that there may be punitive prosecution. I can think of a couple of instances where this might arise. We're concerned that this legislation will give the government the authority to seize someone's wealth and effectively take away their ability to prove their innocence. We talked about this a little bit earlier. What has the government done, specifically in this legislation, to ensure that punitive prosecution against individuals will not happen?

Hon. Ms. Horne: On the process, we receive a file from the RCMP. We review the file for its evidence.

A file that is suitable for proceeding with will have evidence and the government will proceed on that basis. In other jurisdictions about one-third of the files are rejected, and we would expect the same here. Again, the concept of forfeiture of proceeds of crime is not new. It is already in the Criminal Code and can be used when a person is convicted of a criminal offence. This civil forfeiture is simply another way for us to deter

crime in Yukon. Yukon government will initiate the court proceedings if it has sufficient evidence to do so. That evidence will most likely come from the RCMP but may come from other sources, like SCAN.

Mr. Inverarity: Again, while the minister talks about criminal charges being brought, and criminal charges being carried forward, and people convicted under criminal charges, this deals with civil legislation, it deals with civil forfeiture, and, as a result, it is important that we keep that in mind when we're talking about this particular legislation and that the burden of proof is less with this legislation than it is with criminal legislation. And while I think that it's important that we get the criminals, we need to ensure — and it's up to us on this side of the Legislature — that we have reasonable legislation in here to ensure that individuals' property is protected and it isn't unduly seized or taken.

My questions for the minister this afternoon have been directed at ensuring Yukoners that we are aware of what this government is planning. The *Civil Forfeiture Act* represents significant change in government policy, and public consultation has not been performed for this legislation. My questions to the minister are meant to make sure that Yukoners don't get saddled with years of legal challenges in order to find out whether or not the proposed legislation is in fact legal or not.

The answers to my questions are supposed to reassure Yukoners that they will be protected from punitive action by the government. I'm asking if there will be safeguards in place to protect Yukoners who are falsely accused under this act.

I believe, Mr. Chair, that the minister has failed to provide the assurances that I was hoping for. I strongly believe in this legislation; however, I do not believe it's ready to be turned into law. Therefore, I move that debate on Bill No. 82 be adjourned until adequate public consultation can be performed.

Chair's statement

Chair: Order please. The motion that the member put on the floor of this Assembly today is not in order. The only motion that you could put on the floor in this kind of regard at present would be a motion to report progress.

Is there any further general debate?

Hon. Ms. Horne: I would suggest — I don't think the member opposite has read section 24 of the act, which covers the punitive — where is section 24? The Yukon government will initiate the court proceedings if it has sufficient evidence to do so, and that evidence will most likely come from the RCMP or SCAN. Section 24 deals with personal liability protection. Perhaps the member opposite — if we go line by line, we can discuss this — the questions the member is asking.

Mr. Cardiff: As I said in my second reading speech, I do have some major concerns about this piece of legislation. Just so we are all on the same page, the scenario that was cited by the Member for Porter Creek South about a mother and a son and the Internet fraud scam actually happened in Calgary. It was just recently, I believe, when the woman actually got back control of her home. It was just in February when she actually got back in control of her home, but she had to go through this whole process where the home was removed from

her control. If it can happen in Alberta, then it can happen here in the Yukon, Mr. Chair.

There are a number of concerns but the biggest concern is the fact that, if you want to go back to just a few short hours ago, when we were debating the victims of crime legislation, the minister stood there and cited numerous organizations that had been consulted about the *Victims of Crime Act*. The minister chose to consult with the Crown and the RCMP on the civil forfeiture legislation. So that's the biggest flaw. The Premier likes to talk about process and using the appropriate process. Well, the appropriate process for legislation like this is to take it to the people, to allow them to have a say. Now I'm not suggesting that we necessarily need another select committee to go out touring the territory, but the government did extensive consultation processes on things like the *Corrections Act*. There were a lot of people and community groups involved. Believe me, there are already remedies in place to restrain or seize the proceeds of crime under the Criminal Code, but this legislation applies to all acts in the territory.

It says so in the definition of unlawful activity. It says, "unlawful activity" means an act or omission described in one of the following paragraphs (a) if an act or omission occurs in Yukon, the act or omission, at the time of occurrence, is an offence under an Act of Canada or Yukon, ..." so that means that it could be the *Motor Vehicles Act*. It means it could be any act or any law — it could be the *Land Titles Act* or if an offence occurs under the *Land Titles Act*, or if it occurs under the *Wildlife Act*.

Some of these are in place already, but the concept of this piece of legislation is to seize or restrain the proceeds of criminal activity. The way that act is written, the definition of "unlawful activity" is so broad that I believe it needs to be better defined. So that is one place that I'd like to start. What I think the minister needs to consider is withdrawing the piece of legislation at this time, consulting with Yukoners — I'll wait; the minister is listening to somebody else instead of me.

Will the minister consider withdrawing the piece of legislation at this time, consulting with Yukoners and bringing it back in the fall? Will she do that?

Hon. Ms. Horne: We have in the past conducted targeted and short consultations and the member opposite has supported that. SCAN is an example of that. I believe the member opposite wholeheartedly supported the act. SCAN is very effective. It absolutely works for Yukoners.

We heard from Yukoners. They want to see a reduction in crime, and any act that creates an offence and the offence results in proceeds of an unlawful activity, is under this act. There is a section in the act that clarifies that if there is a punitive prosecution, as with any court proceeding, the government can be sued for damages. I'm sure in the case opposite, the mother in the case cited would be reimbursed for costs from Alberta. I understand that she has been reimbursed for all costs.

Remember, the court has to make the order in the first place. There is always judicial oversight. It's not the government, it's not the minister; it's the courts and a judge and they will have judicial oversight.

Mr. Cardiff: The minister did not answer the question.

Chair: Any further general debate?

Hon. Ms. Horne: To answer the member opposite, no, I believe this is a good act. It's what Yukoners have been asking for. We have taken it out for a targeted consultation. It's a good act.

We are getting the best from across Canada by drawing the information together. This is an act that will work. We were criticized for SCAN, and it is working, isn't it? Yes, it is, indeed. This act will also work in Yukon to deter crime — another tool for us to use. I encourage all members to support this act.

Mr. Cardiff: Well, the minister is not cooperative here — and believe me, we want to do what we can to deter crime as well. For the minister's information, there are some members of the community who are a little uncomfortable with SCAN legislation and how it works. There have been a few people — it's pretty dicey, because you can get into the same situation where people who aren't engaged in a criminal activity are removed from their homes. I find it kind of curious that, at House leaders this morning, the House leader indicated that the government would be open to listening to amendments.

Well, the reality is that we don't have the same resources that the minister has at her disposal. When you get into amending a piece of legislation like this, it has consequential effects. So if you amend a definition, you have to go through the entire piece of legislation and make sure if there are any consequential amendments, so it's kind of difficult to bring forward all of the amendments that may be needed.

So despite the assurance from the Government House Leader that the government would be amenable to listening to proposed amendments, it's a little unrealistic because it sounds like the minister has got her mind made up that this is the best thing since sliced bread.

The other thing I point out is that the minister said they held "targeted" consultations. I believe this has the potential to affect more people than the minister really understands.

All we are asking the minister to do — it is my understanding that this piece of legislation, from the briefing, I believe — I don't have the note handy — it is going to be enacted over the course of the next year. I fail to see — it is not going to be proclaimed immediately, more than likely. So there is time to talk to the public, to talk to people in community groups, civil liberties organizations and to make — the minister wants this to be the best possible piece of legislation.

We want to deter criminal activity. At the same time, we need to protect the rights of individuals and make sure they don't become victims of this piece of legislation. The minister said earlier that they could sue the government. Well, they can't sue the government if they can't hire a lawyer because the government restrained or seized their bank account. Can the minister tell me how someone who, under this act, has had their funds and bank account seized, can hire a lawyer to defend themselves or sue the government? Can she explain that?

Hon. Ms. Horne: This act will only affect persons who conduct unlawful activity in the Yukon. As I said before, we have conducted targeted and short consultations in the past,

and I give you SCAN as an example, and that was agreed to by the members opposite.

As I said earlier, this legislation incorporates the best practices found in the legislation of eight other provinces. It builds in protection for innocent bystanders. It gives the court flexibility to make orders that are just. Costs can be awarded if the court thinks it appropriate. If there is a punitive prosecution, the government can be sued, and it will assist in deterring crime. This is a good act and it will work. It will work in Yukon, as SCAN has proved. We agreed to reasonable amendments, not to withdraw the *Civil Forfeiture Act*. Again, this legislation targets the proceeds of unlawful activities. Evidence must be presented in accord, and in each case, there must be evidence to proceed. This is decided by a judge in the courts — not by the minister, not by the government. It is not a means to enrich our coffers.

Mr. Cardiff: The minister, once again, didn't answer the question. The fact that the bill — can the minister explain to me — I mean, I understand what it's targeted at.

It says it applies to any act or omission of any act of Canada or the Yukon. I mean, if you want, we can start reading through all of the acts in the Yukon, all of the pieces of legislation. It could be a motor vehicle violation. That's the way the legislation is written. The minister — that's the way the legislation is written. Read it. Section 6 — it says "any act" — "if an act or omission occurs in Yukon, the act or omission, at the time of occurrence, is an offence under an Act of Canada or Yukon."

So the definition of "unlawful activity" is under any act, any piece of legislation. It could be the *Tartan Act*. Look out; they might take your kilt.

I'm not trying to make light of it. I'm just trying to point out that the definition of "unlawful activity" is really broad. It covers all pieces of legislation, not just criminal activity. The potential for misuse or abuse of the act is there — or maybe just misinterpretation. I think that is cause for concern. All we are asking the minister to do is take it back, have a look, let's sit down and talk about it in a forum other than this and let people who have concerns about it have those concerns addressed, as opposed to having it foisted on them by the government.

Hon. Ms. Horne: I thank the member opposite for his comments and again I reiterate that this legislation incorporates the best practices found in eight other provinces across Canada. This act has to create an offence and there must be proceeds. So it would depend how the kilt was being used. If there were proceeds relating to an unlawful activity, this act would come into effect.

I would suggest that we go through the act line by line because it's not really clear what the members opposite object to.

Chair: Any further general debate?

Mr. Cardiff: Well, the minister is beginning to sound like a broken record.

Chair's statement

Chair: Order please. The debate was going quite well today, and I would hope that we don't start personalizing the

debate, like just happened. Mr. Cardiff, you have the floor, and please let's focus on the bill.

Mr. Cardiff: My apologies. I just seem to keep hearing the same thing over and over again.

I'd like to talk a little bit — I'll just find the appropriate spot here — about section 18, "Proof of unlawful activity".

It's my understanding "that a 'finding of guilt' includes a finding of guilt by a court of competent jurisdiction whether or not the court orders an absolute or conditional discharge under section 730 of the Criminal Code, but does not include a finding of guilt if (a) the finding is subject to appeal or further appeal, or (b) an appeal is being taken in respect of the finding of guilt; 'found guilty' has a corresponding meaning to the definition of 'finding of guilt'. (2) In proceedings under this Act, proof that a person was convicted, found guilty, or found not criminally responsible on account of a mental disorder in respect of an offence that constitutes an unlawful activity is proof that the person engaged in an unlawful activity." The last part that I read is 18(2).

So, in proceedings under this, if you're not criminally responsible on account of a mental disorder in respect of an offence that constitutes an unlawful activity, that is proof that the person engaged in that unlawful activity. That's the way that it reads.

Regardless of whether or not you're found guilty in a criminal court of law, you can still be guilty according to this piece of legislation. That's the way I read it. It can be as a result of a mental disorder. You are not criminally responsible but we're going to take your money and your property. Now, there may be a case to take it from someone who is taken advantage of or who was taking advantage of a person with a mental disorder — to take that property away — but how do you define which property gets taken and which doesn't? It seems to me that we're actually discriminating against people with mental disorders in this instance. Can the minister explain? And the minister's assertion that we should go through this line by line would basically, in my mind, mean that we're agreeing to proceed with the bill. At this time, until the minister will agree to pull it back and go out for public consultation, I have no intention of voting for the bill. If she wants our support, she needs to go back and talk to the people.

Hon. Ms. Horne: If there is a criminal conviction, then, for the purposes of this act, that is proof of the unlawful activity. If you are found not responsible because of a mental disability, it still means there has been unlawful activity, and if there are proceeds related to the unlawful activity, they can be forfeited.

Mr. Cardiff: How do you determine which of the property, the funds, that are in possession of that person are proceeds of crime? How do you define that? Do they stand up and say, "I'm a proceed of crime" and "I'm not"? Are they marked somehow? How do you know which \$10 bills are proceeds of crime and which are the \$10 bills that the person got from shovelling snow off the sidewalk on Main Street or packing groceries?

How does a judge tell that? How does the Minister of Justice determine or the judge determine which pieces of property and which \$10 bills are proceeds of crime and which aren't? How do you determine that?

Hon. Ms. Horne: I do have faith in the court system and I do have faith in our judges for their compassion in this case and their integrity in determining — but there must be evidence on a balance of probabilities that it is a proceed of crime. If the court cannot determine that, then there would be no forfeiture. I do have faith in our court system and our judges that will be done fairly.

Mr. Cardiff: The minister just said, “on a balance of probabilities.” Will the minister agree with me that the balance of probabilities is 50 percent plus one?

Hon. Ms. Horne: I will not determine what the judges use in their balance of probabilities.

Mr. Cardiff: My understanding is that in civil matters, based on the balance of probabilities, it is that it probably happened. It is not necessarily that we're not sure if it happened but it probably — it could have happened. It is not a criminal court. I cited some of these statistics, but even the criminal courts have erred on the wrong side and there are numerous cases of people who have been served lengthy sentences for murders they never committed. So based on the balance of probabilities that an offence probably occurred and these probably are the proceeds of crime, doesn't seem good enough to me. The minister has faith in the judicial system and I have faith in the judicial system most times too. But what I have more faith in is — I have more faith in the people.

I have faith in the people who are walking on the streets outside this Legislative Assembly who have concerns about their rights under the Charter and under the *Human Rights Act*. I don't believe that the minister has done her due diligence on this matter. We need to have a broader discussion with the general public, with persons who have concerns about this particular piece of legislation. I do believe that there are concerns that — I'm going to go back to the definition of “unlawful activity” for a few minutes and maybe we can get the minister to move on this. I'm not going to propose any amendments because we've tried to propose amendments to pieces of legislation before and, regardless of how welcoming the government is to it, we have never, ever successfully been able to amend any piece of legislation that this government has brought forward.

I'd like to know why, in this piece of legislation, we can't limit the definition of “unlawful activity” to basically — what we're looking at is “criminal or violent behaviour”. Why is it not possible? What we're looking at are the proceeds of basically organized crime. We're not out to get people who are speeding or committing other offences necessarily. We're talking about criminal activity. We don't want people's cars being impounded for parking tickets.

Well, it's about criminal activity. You're using the vehicle to commit the offence. So why can't we define “unlawful activity” to criminal or violent activity? Why can't we — if it's a violent crime that's committed — a violent robbery — I can see the minister shaking her head. Well, I'm going to let her answer.

Hon. Ms. Horne: What we're talking about here — that would fall under the criminal act. That would be forfeited to the federal government. Violence may not necessarily result in any proceeds — for example, a violent assault.

As for speeding, as I said earlier, the act has to create an offence and there must be proceeds from the criminal activity. We passed the smoke-free places legislation because the NDP brought it forward through the Leader of the Third Party, Todd Hardy. This was an excellent idea and accepted by Yukoners.

We have done consultation. We've done targeted consultation. The person on the street should not be concerned because it is for their protection. If they are not committing an offence that is creating proceeds from criminal activity, they will not be touched by this legislation.

The evidence must be presented. If there is an explanation that, on a balance of probabilities, it is not the proceeds of unlawful activities, there will be no forfeiture. This knife cuts both ways. Both sides are protected in this act.

A reasonable judge will look at reasonable explanations and each case would be on an individual basis. I can't give examples. You know, a famous example would be the O.J. Simpson case. He was not found guilty of the criminal act but he was found guilty on the civil act and that was just on the probabilities, and that is how our law works. Our law works in Canada in the same way.

Chair's statement

Chair: Order please. Before we continue the debate, I'm just going to remind members not to refer to members by their names. Mr. Cardiff, you have the floor.

Mr. Cardiff: The minister keeps talking about the balance of probabilities. What we're talking about is — in a criminal proceeding, it's beyond a reasonable doubt. In this piece of legislation, it's on the balance of probabilities. The balance of probabilities — I'll wait until the minister and the officials get all the advice.

Hon. Ms. Horne: I'd like to bring up that there were more concerns brought to the government over the *Smoke-free Places Act* than this *Civil Forfeiture Act*.

Mr. Cardiff: The minister has lots of coaches.

What I was saying before the minister was receiving advice is that, in criminal proceedings, my understanding is that it's based on beyond a reasonable doubt, so that you're innocent and the court has to prove you're guilty. You go to court and the Crown has to prove that you're guilty. You don't have to prove that you're innocent. You're innocent until proven guilty.

But based on the balance of probabilities, you're presumed guilty and it is you — the person in this act who is having their property or their funds restrained — who has to prove their innocence. That's the way the piece of legislation works. The government doesn't have to prove that you're guilty. Based on the balance of probabilities, you have to prove that you're innocent.

Hon. Ms. Horne: Again, in criminal proceedings, the fine is against a person. The director must convince the court of

the balance of probabilities and prove the balance of probabilities to the judge, to the court.

Mr. Cardiff: It has been suggested that we take a 10-minute break.

Chair: Do members wish a brief recess?

All Hon. Members: Agreed.

Chair: Committee of the Whole recess for 10 minutes.

Recess

Chair: Order please. Committee of the Whole will now come to order. The matter before the Committee is Bill No. 82, *Civil Forfeiture Act*. We will now proceed with general debate.

Mr. Cardiff: I appreciate the extended offer to propose amendments; however, it isn't really going to be possible to do that today.

I would like to talk a little bit about this whole concept, I guess, of seizing property and who the property belongs to, and the chances for this to be misused or misinterpreted. The thing about property, I guess, is it can serve many functions and it can serve many persons. There's something improper about allowing that property to be seizable simply because one of the persons could be an offender.

If the other isn't an offender, then it may be property that's owned by more than one person, and it's used in the commission of the offence, as in the case that was cited earlier. It could include cars, and it could include homes, in the case of a grow op or an illegal fraud scheme that's being run out of somebody's home. It could include vehicles being used in the commission of drug trafficking, for instance. They could be seized. They can seize your vehicle and your rifle for shooting a game animal out of season. It makes sense to me that they would go after your vehicle if it were used in the commission of an offence. That's the way that we understand the law. We believe it's not right to go after property in this way.

We don't think that it's fair to Yukoners and I don't believe that it provides the necessary protections that Yukoners deserve. I'm going to ask one more time: will the minister consider holding back on this bill one more time so that Yukoners can have their say about this piece of legislation?

Hon. Ms. Horne: I say this again: the property must be a direct result of an unlawful activity by a person. The act clearly contemplates that an uninvolved interest holder in the property will not be adversely affected. The court must make an order necessary to protect the interest in the property held by an uninvolved interest holder.

A civil forfeiture lawsuit targets property and the owners of the unlawfully obtained or unlawfully used property will not be personally charged. Persons who acquire property as a result of, or use property in, an unlawful activity, may have title to that property judicially transferred to the government.

The director may ask the court to issue an interim preservation order that freezes property to make sure that property will be available at the end of litigation, should a court order its forfeiture. In a proceeding commenced under an application for a forfeiture order, the director must name persons as the party if

they are the registered owner, or if the director believes they are the owner of property, whole or in part interest, that is proceeds of unlawful activity.

As I said earlier, we are certainly open to amendments to this act, but we will not withdraw the act in its entirety. This government does not stand for unlawful activity in Yukon and we will find deterrents for that. We want our communities safe, our families safe and our children raised in a safe environment, and that's what this act is intended to do.

Mr. Cardiff: Well, I can agree with what the minister says. We all want to live in safe communities, we want our children to be safe and we want them to grow up with all the rights that they are entitled to. All we are saying is that we don't believe. But I don't have a team of lawyers ready to draft amendments to this piece of legislation that may change the intent of the legislation and necessitate consequential amendments as well. That is why we're asking the minister to use the resources that she has at her disposal or beck and call, or whatever you want to call it, to ensure that this legislation not only deters criminal activity and that the ability to seize the proceeds of crime is there, but that it protects people's rights, because the minister hasn't convinced me yet that the people's rights are going to be protected.

If you look at what has happened in other jurisdictions in the United States and Canada, this has been turned into a cash cow in some jurisdictions. I'm not suggesting that's the minister's intent at all, and I'm not suggesting that's necessarily the government's intent. But the potential is there and, unless we build in all the safeguards that are necessary, the potential to have this used in a punitive way or to have it misused, is there.

It may not be this government and it may not be the next government, but it could be future governments. All I'm asking is to — I want to make sure all the safeguards are there to ensure all the objectives and the purpose of this legislation.

The other thing I'd like to say is that I would be a lot more comfortable if the property — because it's my understanding — so if they seize an actual physical piece of property, it can be disposed of. I don't know exactly whether it goes to the government auction or, if it's a home, it gets sold. If it's cash, it goes into the consolidated general revenue fund.

One of the things that this piece of legislation could fulfill is restitution to victims of crime. We just talked about the *Victims of Crime Act* recently.

The other thing that we could definitely use more of, I believe, in the territory, is crime prevention. There are NGOs around the territory — here in Whitehorse and around the territory — that are engaging youth at risk, so that they don't become involved in criminal activity, and so that they are engaged in other pursuits, other than criminal activity — keeping them out of trouble, encouraging them to go back to school, showing them that there are other things to do besides getting involved in criminal activity.

I think those are worthwhile pursuits and we should be pursuing them more actively. I would have a little more comfort if I knew that the proceeds, that the revenues from a program such as this, would be directed toward assisting young people in some of those pursuits and crime-prevention activi-

ties — like I said, directed toward providing restitution or providing programs for victims or survivors of crime, because as we read in the *Victims of Crime Act*, it is dependent on resources.

Would the minister be amenable to some form of an amendment that would direct the funds, collected under the *Civil Forfeiture Act*, toward crime-prevention activities and victim services?

Hon. Ms. Horne: I must say that most of the questions that are being asked are now repetitious and they have been answered prior. We have used the resources at our disposal to draft this act, which is based on best practices across Canada. I would like to emphasize, Mr. Chair, that these are the best practices across Canada. We have used the best practices across Canada. The legislation before us is the most recent example of a tested type of legislation, including adequate safeguards, Mr. Chair. Right now, the property becomes the property of the government as a result of the court order. Government can then sell the property as the owner and deposit the proceeds in the consolidated revenue fund. Right now, we don't know how much money would be involved or the funds that would be involved in this. We can — and that's allowed for in the act, at a later date — establish a special fund where the proceeds go. If you read the act, and this is why I suggested we go line by line — the act contemplates the setting up of a special account when the proceeds warrant setting up that special account. I would suggest we go line by line.

Mr. Mitchell: I have listened with great interest today to the debate on the *Civil Forfeiture Act* and I think that there were many good questions asked by the Member for Porter Creek South and the Member for Mount Lorne. I haven't heard answers to these questions. Rather, the minister seems to be concerned that we would ask these questions, trying to reassure that the act is good and it has good purpose. I would point out that it's our job in this Assembly, when dealing with legislation, to do our best to make sure that the legislation we pass is the best legislation that we can pass in this Assembly, and that it will look after Yukoners' interests as intended, and that we have minimized or mitigated unintended consequences.

The members on this side of the House take that responsibility very seriously. We try to bring that to the debate in this House. In the past, we have brought forward amendments and they have been universally rejected. I believe it was the Member for Mount Lorne who said we don't have the resources, we don't have teams of lawyers. For us to even contemplate amendments, we have to go out and contract with a lawyer to make sure, or try to make sure, that we have properly drafted an amendment and that it doesn't have unintended consequences elsewhere in the act.

It's a special kind of law; it's not like you can just hire any lawyer to do that. It's legislative law and the people who have that expertise largely work for the government. There are not a lot of them in private practice here to call upon. I speak from experience because, in the past, we've sought to do that and we have found it's very difficult.

From the perspective of the Official Opposition, as has been pointed out, we supported the concept of this type of leg-

islation when it came forward previously last fall in a motion debate, because we agree with the concept of trying to do everything we can to fight crime and minimize crime in Yukon. One of the obvious things is to make crime less worthwhile for criminals — to make it pay less well, because obviously people engage in criminal activities for profit. So, we agreed with the idea. But, as I said in second motion debate, that didn't mean we were signing a blank cheque because the devil was in the details.

When we received this legislation, and we went through it, when I read the explanatory note — “provides for the appointment of a public servant as the director of civil forfeiture; establishes a mechanism for the director to apply to court for an order transferring the title to proceeds and instruments of unlawful activity to the government; sets out that forfeiture cases are conducted in the Supreme Court of Yukon and are decided on the civil standard of proof; provides that the proceedings are not directed at people; rather they are directed at property that is proceeds of or an instrument of unlawful activity; includes protections for people who may have an interest in the property but who are uninvolved in the unlawful activity; provides mechanisms for the director to obtain information reasonably necessary to perform their functions.” I feel I can support this.

I support the objectives of the act as laid out in the explanatory note. So the concerns of our caucus and my concerns as a legislator are not in the objectives, but rather in some of the clauses and wording within the act itself. When we get into line-by-line debate, we can try to bring those things forward and maybe the government will assist us with amendments.

But I think it's important that the minister understand that the reason we rose to object to this and that we suggested that debate be adjourned so that there would be more time and public consultation be done is that the public is not well-informed about this legislation. Stakeholders, being the RCMP and the Crown attorneys, were consulted, but not the general public.

The general public does want for Yukon to fight against crime, and this is a potential tool, but there are a lot of things the public doesn't understand. Members of the public — since this has been in the media — have approached most of us as MLAs and expressed concerns. One concern, which the Member for Mount Lorne focused on, and which I have also been prepared to speak to, is that someone can be found criminally responsible on account of a mental disorder and that will then be seen as proof that the person engaged in the unlawful activity.

Mr. Chair, I see everybody getting ready for the end of the day. I would move that we report progress.

Chair: It has been moved by Mr. Mitchell that Committee of the Whole report progress.

Motion agreed to

Hon. Ms. Taylor: I move that the Speaker do now resume the Chair.

Chair: It has been moved by Ms. Taylor that the Speaker do now resume the Chair.

Motion agreed to

Speaker resumes the Chair

Speaker: I will now call the House to order. May the House have a report from the Chair of Committee of the Whole?

Chair's report

Mr. Nordick: Committee of the Whole has considered Bill No. 82, *Civil Forfeiture Act*, and directed me to report progress.

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

Some Hon. Members: Agreed.

Speaker: I declare the report carried.

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

The House adjourned at 5:30 p.m.

The following Sessional Paper was tabled April 19, 2010:

10-1-154

Appointments to Major Government Boards and Committees, Standing Committee on: Thirteenth Report (dated April 19, 2010) (Taylor)

The following document was filed April 19, 2010:

10-1-145

RCMP, Yukon citizens' concerns regarding: Letter (dated April 19, 2010) to Mr. Ian McPhail, Interim Chair, Commission for Public Complaints Against the RCMP from Hon. Marian Horne, Minister of Justice and Superintendent Peter Clark, Acting Commanding Officer, RCMP "M" Division (Horne)