

**Yukon Legislative Assembly  
Whitehorse, Yukon  
Monday, April 16, 2012 — 1:00 p.m.**

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

*Prayers*

**DAILY ROUTINE**

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

Tributes.

**TRIBUTES**

**In remembrance of Clifford Elmer Fisher**

**Hon. Mr. Kent:** I rise today on behalf of all members of the House to pay tribute to a long-time Yukoner, a constituent of mine in Riverdale North, Mr. Clifford Elmer — or Kip — Fisher, as he was known to many Yukoners.

Kip was born on January 12, 1927, in McKeesport, Pennsylvania. Due to the oncoming Depression, Kip's dad decided to head north to the Yukon, eventually settling in the Mayo area.

Kip often related to many the story of their journey from Whitehorse to Mayo. It was early in December and Kip's dad, Bud, put skis on the front of his truck and they drove the overland trail to Carmacks. From there, they took an open horse and sleigh to Mayo. The trip took two weeks.

Kip's father pioneered the transportation industry in the Yukon and started the first cat train. Kip was 12 years old when he started driving truck for his dad's company, Fisher Services.

In 1944, at 17 years of age, Kip lied about his age and flew to Shiloh, Manitoba to join the army. He went through all the training, but fortunately the war had ended just before he was deployed overseas.

In 1952, Kip married Jo Ewing of Dawson City. Jo was born in Dawson City on November 7, 1929. They were married on a very beautiful and sunny day in Mayo. Their daughters, Liz and Cathy, were born in Mayo. In 1958, the family moved to Whitehorse.

Kip hauled fuel for his dad, who had moved to Whitehorse in 1955. Their son, Mark, as well as two other daughters, Kristine and Nicole, were both born here in Whitehorse.

In 1965, Kip bought the Dairy Queen that he developed into a thriving business. In 1976, Kip bought into a partnership in the Taku Hotel. He was also a partner in the local Coca-Cola company in Whitehorse for several years, and in the early 1980s until — I believe — the mid-to-late 1990s, he was one of the partners at Whitehorse Esso.

In 2003, Kip received a lifetime achievement award from TIA Yukon for his immeasurable contribution of support and commitment to the growth and vitality of the Yukon's Tourism Industry Association.

Those who know Kip will know and remember that he was a very, very sensitive person. He was always willing to help

those in need. For 10 years he cared for Jo as she battled Alzheimer's disease, until she passed away in August of 2010.

Mr. Speaker, Kip passed away on February 18 of this year, and he will be sorely missed by his family and his many friends, some of whom have joined us here in the Legislature this afternoon.

**INTRODUCTION OF VISITORS**

**Hon. Mr. Kent:** I would like to take this opportunity to introduce Kip's daughter and my sister-in-law, Liz Kent. Kip's daughter Cathy Angel and her husband Jerry; Kip's other daughter, Kristine Newell, and family friend, Pat Hayden. Mark and Nicole, Kip's two other children are, unfortunately, unable to join us today. They live in British Columbia. So please welcome the guests and help me pay tribute to Kip Fisher.

*Applause*

**In recognition of Education Week**

**Hon. Mr. Kent:** I rise in this House today to pay tribute to Education Week that will be held this year from April 16 to 20. The theme this year is "Celebrating Innovation".

The significance of education has remained strong throughout the centuries and from an early time in civilization on has transcended into being one of the bases of our society. English writer G.K. Chesterson said, "Education is simply the soul of a society as it passes from one generation to another." Mr. Speaker, the Department of Education is not only recognizing this; it is embracing and celebrating education every year through Education Week.

I am proud to say that Yukoners today have an abundance of programs, courses and training opportunities available through public schools, Yukon College and through our other partners in education, all of which help prepare them for their future.

Education cannot be prescribed like medicine; it has to be offered, wanted and encouraged. Therefore, education is a joint effort of teaching staff, students and the community.

In this same context, the receipt of a certificate or diploma does not mark the end of an educational process, but simply shows that the tools have been acquired to continue on the chosen path. Education truly is lifelong learning.

Much has changed since the time of ancient Greece. If you will, Mr. Speaker, Prometheus, the forethinker out of Greek mythology, has morphed into Promethean boards. These interactive whiteboards are now being used in over 40 of our classrooms in almost every Yukon school.

We take time in this week to celebrate innovation. Mr. Speaker, three rural schools and one high school in Yukon are piloting the use of iPads in classrooms this year. Almost all schools, as I mentioned, have Promethean boards available. There are two students this year in Watson Lake who are using video conferencing to take physics along with grade 12 physics students at F.H. Collins.

While the context of education, and therefore its requirements, changed, the basic ideas remain the same. How do we pass on and increase the knowledge we have as a society? How do we enable future generations to contribute to our society in a

meaningful way and ensure they are digitally literate and ethical citizens; and in doing so, how do we help sustain our economy?

Each year, Education Week features a series of events to encourage our interest in learning at all ages and levels. We take the opportunity to convey the message that everyone can and should be involved in learning, and to reach out to those who don't know or who are afraid to ask about learning.

We will showcase not only the department's work this week, but that of some of our partners in education. Displays will include everything from experiential education to apprenticeship, to First Nations programs and partnerships and information from our partners.

Education Week informs people about options that are available to them as learners. It lets people know that education is an open door and that they are welcome to come in, observe, participate, ask questions and find out more.

This year the Department of Education will be hosting an open house on April 19 from 4:00 to 6:00 p.m. at the department premises in Whitehorse. The school councils conference will be held April 19 to 21 at the Westmark Hotel here in Whitehorse.

There are numerous events scheduled to take place over the course of the week. A few examples for me to name include the bridge-building contest that was held this past weekend at Porter Creek Secondary School; First Nation culture week at Selkirk Elementary; Promethean board information sessions at Christ the King Elementary School; a skills qualifier competition and alternative energy vehicle display, both at Yukon College; the Yukon Literacy Coalition presentations at the college and the Yukon Writers Festival will be hosted at several venues. I encourage all members of this House and as many members of the public as are able to participate in some way in the Education Week activities being held across our territory from April 16 to 20. Thank you.

**Mr. Tredger:** I am pleased to rise on behalf of the Official Opposition in this Yukon Education Week to pay tribute to the students, the parents, the teachers and the many other people in our territory who are involved in education.

We are most fortunate to have a very skilled, dedicated and dynamic group of educators. In this special week, we extend our gratitude to the professionals involved in the wide range of education: elementary and high school teachers, educational assistants, tutors, secretaries, bus drivers, college instructors, public servants, early childhood educators and non-governmental organizations such as Yukon Learn and Skills Canada. Their commitment to lifelong education and training has a lasting effect on the future of our children and our grandchildren. These professionals don't stand alone. The remarkable contributions of parents and volunteers who sit on school councils and boards, assist teachers in public schools with extracurricular activity, who work with children and adults with special needs through various non-governmental organizations is recognized this week. We extend our heartfelt thanks to those many volunteers.

Mr. Speaker, universal free education was not always a standard in our world. It is a priority now for all societies because of the struggles of many people in the past. They believed in the betterment of all by the empowerment through education and we reap the benefits of their foresight.

At any age, education plays a great part in all our lives and sometimes we take its principles and beliefs for granted. In my experience, all parents want the best for their children. I have yet to meet a parent who didn't think education was a priority. Education should embrace that commitment.

In the Yukon, the number of students achieving success is growing, but, so too are the number of students our system is failing: rural, First Nation students, at-risk children, and children with disabilities. How we react and meet these challenges is vital.

Like never before, it takes a whole community to work together. There are no simple answers. Education and learning are about working together; it's about taking risks and taking chances; it's about building relationships.

We have an opportunity in the Yukon. School communities, First Nation leadership, parents, teachers and principals have all made it clear they are willing to work together for our children's education. Many financial advisors talk about the value of compound interest and how money grows over time. It is the same with education — small things grow to be big things: every life changed; every lesson taught and learned; every moment in a child's life compounds over time. A successful child is productive and resilient and pays society benefits many times over. We take this moment to celebrate and acknowledge our successes. But continuing success will depend on all of us — each and every Yukoner — rolling up our sleeves, innovating and doing the work.

Let us celebrate the relationships, the partnerships, the dedication of all those who have made education their passion and vocation.

**Mr. Elias:** I rise today on behalf of the Liberal caucus to pay tribute to Education Week, from April 16 to 20. Education Week is an excellent time to focus on the importance of education and to raise the awareness of many educational opportunities available to Yukoners. This year's theme is "Celebrating Innovation". This week is an opportunity to highlight the important role education plays in shaping the future of our young people and, in turn, our territory. Throughout the week, there are many activities and events creating awareness of the education opportunities in each and every Yukon community. One of note is the skill qualifier competition being held at Yukon College in the trades wing, with students and apprentices competing in a variety of skills, trades and technology disciplines. They are vying for a spot on Team Yukon, which will represent the territory at the 18<sup>th</sup> Annual National Skills Competition in Edmonton in May. Victors from the Edmonton competition could qualify to represent Canada at the 42<sup>nd</sup> WorldSkills Competition in Leipzig, Germany in July 2013.

Also, at Yukon College, the students in the Skills Canada automotive skills club are working on an alternative energy vehicle created in the north. They are in the initial stages of the

transformation of a gasoline vehicle to an electric vehicle. It's also important to note that this year's Youth Parliament debate will take place on Friday, April 20 — and if I've mistaken myself, I will correct the record at a later date in the Yukon Legislative Assembly. You also may view the debate in the public gallery.

Education is a lifelong learning experience. Each child or youth is unique, and we must develop that uniqueness by giving them the essential tools, skills and 21<sup>st</sup> century technology to help them develop their full potential. Throughout the territory — in Pelly Crossing for instance — there's a celebration of Northern Tutchone culture. In Watson Lake, there's the Ukrainian egg decoration workshop and the Art Gallery & Fancy Pants Day. The Yukon Literacy Coalition innovative play and creative workshop is going to be happening every day from 10 a.m. to 3 p.m. In Carcross community school there is the Jeopardy-style trivia contest going on. There's the Yukon Writers Festival being held in Haines Junction. There's the science and art fair and a leadership day being held in the Robert Service School in Dawson City.

I would be remiss if I didn't mention what is happening in my home school, the Chief Zzeh Gittlit School in Old Crow. They are going to be having family fun nights each and every night during this week as well.

We encourage all Yukoners to get involved and attend one of the many open houses or participate in one of the many workshops being held throughout the Yukon.

Mr. Speaker, one of my passions is the development and implementation of sports academies in our public education system here in the territory. They have proven to be successful in many jurisdictions around the world and have the endorsement of dozens of universities, including Harvard.

From my own experience, Mr. Speaker, I used to live out on the Old Crow Flats from March until June, until approximately age 13. I was home-schooled in an 8x10 tent by my grandmother. When I couldn't go, she would say, "You got to go to school now. You can't come back here," because I was entering junior high. She said, "You tell those people you have a Crow Flats paper and that it has value." Those kinds of things, from my experience, are important, and that goes to land-based experiential learning. Those types of things are important.

During Education Week we celebrate teaching excellence and student achievement as they engage and embrace the new technologies of the 21st century. Our students of today will be our leaders of tomorrow, Mr. Speaker. They are our future. Thank you.

### Speaker's statement

**Speaker:** Just so you can keep your records straight — unfortunately, I didn't get the message out to everybody. We were unsuccessful in getting enough applicants for the Youth Parliament, as a result of all the other activities that are going on in Education Week and all the other things students were up to. We will be trying again.

### In recognition of Volunteer Week

**Hon. Ms. Taylor:** Mr. Speaker, I rise to pay tribute to volunteers as people across Canada come together to celebrate National Volunteer Week, April 15 to 21.

This year, the theme is "Volunteers: Passion, Action, Impact." Yukoners, me included, recently experienced the Arctic Winter Games and the huge impact volunteers had on the games in March. Games such as these could not have been hosted if it weren't for the 2,000 individuals plus who donated their time and tremendous efforts in so many, various ways.

Mr. Speaker, going into it, Yukon was confident that we could host the games because our volunteers have done it before and before that, and we know that they'll step forward to do it again. That's what makes volunteers one of Yukon's most important resources. Their work greatly extends what governments and non-profit organizations can accomplish in terms of assisting those in need, helping our children to read or beautifying our green spaces.

Volunteers support the cultural, recreational and sporting events we attend and participate in. They keep us safe by providing emergency services and support in times of crisis. With the help of volunteers, we have year-round access to music, dance, film and theatre festivals. We have bike relays, marathons, ski loppets, curling, hockey, softball, and the list goes on.

*[Member spoke in French. Text unavailable.]*

Volunteers play a critical role in Yukon's tourism and economic development. Organizations in the territory, such as Special Olympics, Northern Film and Video Industry Association, Yukon's First Nations Tourism Association, and the Klondike Visitors Association all rely on the leadership and dedication of many volunteers.

For the last 30 years, as an example, volunteers have worked tirelessly to build and develop the Yukon francophonie. Every year 300 volunteers give an estimated 7,500 hours of their time to the various francophone organizations and their activities.

*[Member spoke in French. Text unavailable.]*

Whether they are young, whether they have families, whether they are older, are workers or retired — no matter what their backgrounds, Yukon volunteers are at the heart of our many communities. Acting together, volunteers make our communities healthier, more active, more vibrant places to live for all of us.

*[Members spoke in French. Text unavailable.]*

Mr. Speaker, volunteers also make our communities safe. We all live better knowing that there are well-trained and equipped volunteers to provide emergency medical services, volunteer fire departments and search and rescue services. For all these reasons, it's very important to take the time during this week and all year-round to recognize Yukon volunteers for their incredible commitment, their tireless action and the phenomenal impact they have on our communities. A key organization is Volunteer Yukon and over the last decade, Volunteer Yukon has played an instrumental important role in matching volunteers to organizations, helping organizations recognize

their volunteers and providing resources for volunteer managers, including skill development.

The Yukon government is very pleased to have provided funding to Volunteer Yukon since 2004, and we continue to provide that operational funding, as seen in this year's budget. This year is Volunteer Yukon's 10<sup>th</sup> anniversary and our opportunity to thank all the volunteers, board members and staff who have worked and have been a part of Volunteer Yukon in the last decade. Volunteer Yukon's 10<sup>th</sup> anniversary open house is being held tomorrow in honour of the volunteers who have built this organization.

I'd encourage all members and the public at large to attend the event as an opportunity to thank the bureau for their work and to help them celebrate. I understand that there is Volunteer Yukon staff within the gallery today, and I invite all members of the House to join me in a round of applause for Volunteer Yukon and for Yukon's volunteers, who make such a very important, positive difference in our lives and in the well-being of our communities.

*Applause*

**Ms. Stick:** On behalf of the Official Opposition, I rise today to pay tribute to National Volunteer Week, April 15 to 21. The contribution of volunteers generates substantial benefits for organizations, individuals, communities and society. In Canada, it is estimated that we volunteer two billion hours — that, from 12.5 million persons, or 45 percent of the population. In the Yukon, we enjoy a very high number of volunteers of all ages and from all walks of life, as we saw with the recent Arctic Winter Games.

Volunteerism impacts every aspect of our lives, whether it is recreation, health, education, social services, or the arts. All of us have been or still are volunteers, whether it is for our favourite sport, assisting our churches, in our children's schools, working on a council or a committee, or in dedication to a cause.

Special mention and thanks should be made to our trained volunteer firefighters and ambulance attendants. They volunteer to save lives and property and are extremely important to those in Whitehorse and the rural communities in the Yukon.

There is economic value to the work of volunteers as it supports our economy. All of our non-government organizations need volunteers to help provide service. Many NGOs are managed and administered by volunteers. Established institutions such as schools and hospitals rely on volunteers as well. It is estimated that the economic value of volunteerism in Canada is as high as \$14 billion. While the need for volunteers is growing more and more, there seems to be fewer available because of our busier ways of life. We rely on these volunteer organizations to be creative and to use their volunteers efficiently, to develop innovative ways to recruit new volunteers and to retain and reward volunteers so they stay involved.

Organizations are responding well by offering shorter commitments, group sharing of work, references for career building and providing valuable training for future paid work. Efforts are being made to encourage more youth and young adults to volunteer. In the forefront of these challenges is our

own Yukon Volunteer Bureau. The Volunteer Bureau is the Yukon contact for other national volunteer organizations and support networks. In response to their goal of offering services to voluntary organizations throughout the Yukon, they list available volunteer opportunities, provide free advertising, space for meetings, and have a library of resources. They publish a community calendar of events. The Volunteer Bureau has offered training, which has been very productive in supporting volunteer organizations in covering a range of subjects such as budgeting, liability and evaluation techniques. These services are well received by local volunteer organizations, and we thank them for all of their efforts.

I am pleased to join all members in this House in recognizing the energy and commitment of our Yukon volunteers, without whom our quality of life would be so much less. Thank you.

**Mr. Silver:** I rise today on behalf of the Liberal caucus to pay tribute to National Volunteer Week, April 15 to the 21, and I extend our thanks and tribute our Yukon volunteers.

The 2012 National Volunteer Week theme is, as mentioned, "Volunteers: Passion, Action, Impact." This year's theme highlights the vital contributions that volunteers make to communities across Canada. Volunteerism is a central thread in the social fabric of Canadian life. In today's society, we depend on our volunteers now more than ever. These volunteers give of their time, their energy and skills to the benefit of the community services, to shelters, to hospitals, food banks, service clubs, sports teams, environment, political movements, disaster relief, international aid and development agencies and art and culture scenes, just to name a few from my community. These volunteers represent every walk of life — professionals, homemakers, students, retirees — as well as every age and cultural group. We celebrate and acknowledge these men and women and young adults who selflessly give of their time and talents with no expectations of monetary reward to the thousands of organizations across Canada, to help improve the well-being of their communities. As volunteers and as Yukoners, we have a strong tradition of volunteerism. Many of our vital programs and services in the Yukon rely on volunteering and their genuine compassion for the well-being of others. Throughout their volunteering, they connect with and support their fellow Yukoners on a daily basis by responding to the need that makes each of our communities unique.

The world of volunteerism is essential in maintaining healthy, dynamic communities at home and around the world. This week is about taking time to recognize the incredible contributions of Canada's volunteers. In Yukon, we recognize our volunteers for the contributions that they make to our way of life and, in doing so, making the Yukon a better place to live. It is the tie that binds in my community and I would just like to say thank you to the volunteers. We really appreciate all of the work that you do. Thank you.

*Applause*

**Speaker:** Introduction of visitors.

### Speaker's statement

**Speaker:** Prior to tabling returns and documents, the Chair would like to remind all members once again of the proper procedures regarding this item on the daily routine. On Thursday, April 12, the Minister of Highways and Public Works tabled draft regulations on government facility use, made pursuant to the *Financial Administration Act*. The minister prefaced the tabling of the document with certain comments. Such comments are not in order. As the Chair informed the House on April 5, 2012, with regard to documents tabled by the Leader of the Official Opposition, when members table documents, they are to restrict themselves to informing the House of the title of the document and, if applicable, the authority under which the document is being tabled. If the document has no title, the member may offer a brief, non-political description of its contents. I thank all members for their attention.

Are there any documents or returns for tabling?

Are there any reports of committees?

### REPORTS OF COMMITTEES

**Mr. Hassard:** I have for presentation the second report of the Standing Committee on Appointments to Major Government Boards and Committees.

**Speaker:** Any there any other committee reports for presentation?

Petitions.

### PETITIONS

#### Petition No. 3 — response

**Hon. Mr. Cathers:** I rise today to respond to Petition No. 3, which was presented to this House on March 29. The subject of Petition No. 3 was the oil and gas request for postings in the Whitehorse Trough, which was under review recently.

In responding to the petition, I would again note that, as I stated when the Yukon government received the request for postings, the request came as a surprise, and we had not decided whether or not any oil and gas rights for exploration be issued in the Whitehorse Trough area.

The process for review of a request for postings is set out by regulations under the Yukon *Oil and Gas Act* and it gives companies the ability to nominate areas, after which government does a technical review and a 60-day public consultation.

Following that technical review and public consultation, the government needs to decide whether to allow bids in all of the areas, some of the areas, or none of the areas. As I indicated at the beginning of February, all three options were being considered by the government and were out for both technical review and public feedback.

Public consultation is now complete. What we heard is that there are a lot of Yukoners who have concerns and questions about oil and gas exploration and development in the Whitehorse Trough at this time. The government is going to consider the many questions and issues that were raised. In the 2011 election campaign, the Yukon Party talked about oil and gas

development in north Yukon and southeast Yukon. We did not talk about the Whitehorse Trough or have a position on it, since we did not expect interest in the area. The possibility of oil and gas development in the Whitehorse Trough was not, and is not, part of our plans for meeting the energy needs of Yukoners during this mandate.

This public consultation was our first real opportunity to hear from Yukoners their views on the possibility of oil and gas rights being issued in the Whitehorse Trough.

Regulations under the Yukon's *Oil and Gas Act* allow companies to request the opportunity to bid for oil and gas rights and government then needs to decide what to do about it. We thank everyone who participated in the public consultation, including those who signed a petition that was tabled in the House. As I announced last Thursday, our decision on the oil and gas request for postings is that the Yukon government is not going to issue oil and gas rights in any of the 12 requested areas. The process has now concluded.

In concluding my response, I want to again thank staff of Oil and Gas Resources who led public consultation for all the work they did related to this request for postings. I want to thank other staff of Energy, Mines and Resources who participated and assisted in that process. I thank them all for their service, both to the government and the citizens of the Yukon.

**Speaker:** Are there any petitions to be presented?

Are there any bills to be introduced?

Are there any notices of motion?

### NOTICES OF MOTION

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

THAT this House urges the Government of Yukon to provide land in phases 1 and 2 of the development of Whistle Bend subdivision to Habitat for Humanity for the purpose of future construction with a commitment for land for similar developments in future stages of Whistle Bend.

I also give notice to the following motion:

THAT this House urges the Government of Yukon to establish a tax credit for parents or guardians of children involved in music, arts or tutoring.

**Ms. McLeod:** I rise to give notice of the following motion:

THAT this House urges the Government of Canada to ensure that Yukon citizens continue to have access to CBC AM Radio and CBC TV by requiring the Canadian Broadcasting Corporation to provide AM radio service by relocating its Whitehorse tower and continuing to broadcast CBC Radio One on the AM 570 band, and requiring the Canadian Broadcasting Corporation to continue to transmit CBC TV in both English and French in the Yukon.

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

THAT this House urges the Government of Yukon to fully implement all recommendations in the Auditor General's January 2009 report on Public Schools and Advanced Education by the end of this fiscal year.

**Ms. White:** I rise to give notice of the following motion:

THAT in this International Volunteer Week, this House urges the Government of Canada to recognize the many benefits to Canada and the Yukon realized through the volunteers in Katimavik by continuing to finance the organization at its current level into the future.

I also give notice of the following motion:

THAT this House urges the Yukon government to provide an update on the *Climate Change Action Plan* goal of producing an extensive study of the Yukon's transportation sector, responsible for two-thirds of Yukon's greenhouse gas emissions, and outline the specific measures it will take to reduce emissions in this sector.

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

THAT this House urges the Minister of Education to undertake an official review of the department's policy regarding the secondary school students' travel subsidy as it relates to the isolated community of Old Crow, Yukon.

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

THAT this House urges the Minister of Health and Social Services to work toward an expedient, thoughtful and enduring resolution to the labour issues at Many Rivers Counselling and Support Services Society so that the organization may return to its important work, particularly in light of limited mental health services currently available in rural Yukon communities.

**Speaker:** Is there a statement by a minister?  
This brings us to Question Period.

## QUESTION PERIOD

### Question re: Peel watershed land use plan

**Ms. Hanson:** Prior to and during the election, the Premier said that it would be irresponsible to express any opinion on the recommended Peel land use plan before community consultations began. After the election, the Minister of Energy, Mines and Resources repeatedly told this House that the Yukon Party government wants to take a different plan to the public for consultation and we all saw the government's ads.

In addition, the minister responsible has told this House on numerous occasions the *North Yukon Regional Land Use Plan* is the template that the Yukon Party is looking for — an approach that is completely at odds with the unique nature of the Yukon regions. The Yukon Party has had seven years to signal their preference for the Peel. Why have they waited until now to tell the public their real plan?

**Hon. Mr. Cathers:** It's very interesting to hear the statements made by the Leader of the Official Opposition. She is once again coming forward to the House with information that does not accurately reflect the facts. I would again remind the member what we in fact said in the election campaign. We criticized the proposed plan. The Premier was critical, the Yukon Party was critical of the Leader of the NDP and the Leader of the Liberal Party for supporting the plan and we talked about our commitment to seek a final plan that protects the environment and respects all sectors of the economy.

In fact, what I have indicated previously to the House — and will again indicate — is one of the suggestions that we are making is that we believe that some of the work contained within the *North Yukon Regional Land Use Plan* may be a better model.

We think that the North Yukon planning commission did an excellent job on the work that they did and while emphasizing the fact that we appreciate what the Peel Watershed Planning Commission did in their review and in their proposed plan, we also, in proceeding forward with the final stages, have to recognize that where there may be room for improvement, it is government's obligation to propose modifications it believes would be improvements and to seek public feedback on that. Again, we have, and will continue, to follow the final agreements and the process laid out under the *Umbrella Final Agreement* with First Nations.

**Ms. Hanson:** Mr. Speaker, last week, Yukoners were pleased to see the Yukon Party government respond in a positive way to their legitimate concerns about the oil and gas dispositions. Public consultations are meant to allow dialogue and the expression of options, not closed conversations stating one party's political line. Now, we've got the Premier admitting, and I quote: "What I'm saying is that we had a position on the Peel and we didn't have a position on oil and gas."

So first the Yukon Party didn't have a position; then they did; then they didn't; now they do. Mr. Speaker, Yukoners expect the government to be forthright. My question is therefore quite simple: Will this government guarantee that the final public consultation on the Peel plan will include the recommended Peel land use plan as written by the commission?

**Hon. Mr. Cathers:** Again, what we have once again before the House is not only the Leader of the NDP coming up with, at best, cherry-picking elements from history and, at times, coming forward with information that is simply not reflective of the facts, but the fact that I would point out the NDP spent most of the last couple of months telling Yukoners that the Yukon government was pushing for oil and gas exploration in the Whitehorse Trough when that was absolutely incorrect and not factual.

Again, as the Premier noted the other day, the Yukon Party did have a position on the Peel watershed plan, as I indicated both in my response to the petition and in announcing that we were not going to proceed with disposition of oil and gas rights in the Whitehorse Trough area at this point in time. We did not have a position on the Whitehorse Trough. We had talked about oil and gas development in north Yukon and oil and gas development in southeast Yukon. We entered into both the

technical review and the public review of that request for postings of oil and gas rights, wanting to hear what people's opinions were. During that opportunity for public feedback and based in large part on what we heard from the public, we did not proceed to the next stage and ask for bids for oil and gas rights in the Whitehorse Trough area.

So, again, Mr. Speaker, contrary to what the Leader of the NDP likes to say, we do follow the public consultation process, and we will continue to do so. We will also continue to reflect our election commitments and follow those and honour those.

**Ms. Hanson:** It is becoming abundantly clear that the Yukon Party government does not like the democratically developed recommended Peel land use plan. The land use commission established by the First Nation final agreements had people appointed by both First Nation governments and the Yukon government. The Yukon Party government had numerous opportunities over the past seven years to indicate that they wanted the plan to be fundamentally changed. They did not. Many Yukoners have said they like the plan and they want the final round of public consultation to reflect what was said. Again, this is a straightforward question about democracy and openness. Will the minister confirm that the recommended Peel land use plan, as written, will be included in the scenarios used for public consultation?

**Hon. Mr. Cathers:** Again, another example of the Leader of the NDP not reflecting the facts. The Leader of the NDP just stood here and said that the government did not make its views known earlier. I would point out to the member opposite that as early as 2006, the Yukon government encouraged the Peel Watershed Planning Commission to look at the plan developed by the North Yukon Planning Commission and identified that we believed some of the mechanisms and tools within that plan represented a better approach for managing the Peel area than what the commission came up with. So again, that was six years ago. The Yukon government has consistently indicated our belief that the plan should be balanced and that, again, as I indicated, we stated during the 2011 election campaign and will state again: It is our commitment to seek a final plan that protects the environment and respects all sectors of the economy.

Again, as I mentioned to the member opposite, one of the reasons that we believe that some lessons can be learned from the *North Yukon Regional Land Use Plan* is that that plan manages the environmental footprints from all users, from all industries in a fair and equitable manner, and we commend the commission for the work they did in that. We will again continue to follow our obligations under chapter 11 of the final agreements in concluding the remaining stages of the Peel planning process.

**Question re: Oil and Gas Act review**

**Mr. Tredger:** I would like to thank all Yukoners for their involvement in the recent oil and gas disposition review. This is an example of democracy in action where the importance of each voice was heard loud and clear, and I would like to thank the minister opposite for having the courage to listen to Yukoners. Now this government has an incredible opportunity.

The government has noted during the oil and gas public review that they wish there had been this level of interest when the *Oil and Gas Act* amendments were undertaken in the summer of 2009. The public is fully engaged, so now is the time for further public input and involvement.

Now that the opportunity is here, will the Minister of Energy, Mines and Resources begin a public dialogue and review of the *Oil and Gas Act*, its regulations and processes?

**Hon. Mr. Cathers:** Again, as I have indicated to the Member for Mayo-Tatchun before in past Question Periods in this Assembly, in fact, we are reviewing the regulations under the *Oil and Gas Act* and determining where there may be some improvements that can be made. That work is being done right now by officials. Of course, a significant amount of time and resources recently within that branch — due to its limited size — was spent on managing the recent review of the request for oil and gas postings in the Whitehorse Trough area. Now that that process is concluded and there are not going to be any dispositions in the Whitehorse Trough at this time, further review of the oil and gas regulations will take place.

**Mr. Tredger:** Mr. Speaker, the minister says he was surprised by a request to explore for oil and gas in the Whitehorse Trough. He's surprised? Now I am concerned. The Yukon Party government has spent thousands of public dollars over many years on trips to China, and hosting lavish parties in Vancouver, Calgary and Whitehorse. The message has been loud and clear: The Yukon is open for business. This government has been inviting the largest, most powerful industry into our backyard and when they come, they are surprised?

The Premier said they had no plan, so they listened to the public. We are flying by the seat of our pants. This is our backyard, our home, our wilderness and our life. Will the minister show leadership on this file, fully engage the public in an open process about the development of oil and gas in the Yukon and make land use planning an immediate priority?

**Hon. Mr. Cathers:** Out of that last little speech by the Member for Mayo-Tatchun, the only thing that I agree with is that the NDP is flying by the seat of their pants. I would point out in this that the member has made some fairly significant assertions about government's approach that really do not line up with the facts. The Government has not, certainly at a political level, to the best of my knowledge, at any point in time — I know that I certainly have never gone out and encouraged the oil and gas industry to consider the Whitehorse Trough, which the member seemed to be asserting was the case. We have talked about and the Yukon Party, as a party, committed to our support for responsible gas development in the belief that the Eagle Plains area and Southeast Yukon both provide significant opportunities. Again, if the member were to talk to the First Nations in those areas, I would think that it is fair to say that both the Vuntut Gwitchin First Nation in north Yukon and the Liard First Nation in southeast Yukon see there being significant opportunities for their citizens and for Yukoners from responsible development of those oil and gas resources.

Again, what we have talked about is responsible resource management, including responsible economic opportunities. I believe my time is running out in this response, so I look for-

ward to hearing what will come in the next question from the NDP.

**Mr. Tredger:** The minister says he was surprised by the request for disposition. Again, I say, “surprised”? That is not the response Yukoners were hoping for. Fortunately, Yukoners spoke and the Cathers-Pasloski government came to their senses. Where is the strategy? Really, all I am asking is something quite simple: let us engage with all concerned parties — First Nation governments, with all Yukoners — and begin an open and public process about how we as Yukoners will use and develop our territory’s oil and gas deposits — not behind closed doors, but open and public.

Now will the minister seize the opportunity presented to him, begin a very public engagement on oil and gas in the territory and move forward on land use planning?

**Hon. Mr. Cathers:** Mr. Speaker, I thought that you might be reminding the member not to refer to members by name, no matter how humorous that might be.

Again, what I would point out in response to the member’s comments — some of the level of rhetoric that the NDP has engaged in on this oil and gas request we’re posting, the assertions they’ve made, the claims they’ve made have really, to some extent, led to fears, concerns and misconceptions by members of the Yukon public that really are not helpful at this stage.

As I have mentioned to members, we took the input from Yukoners who had concerns, fears and, in some cases, simply a lack of support for oil and gas development in the Whitehorse Trough at this time. We provided the opportunity for them to give us their comments, and we did listen to those comments. We made a decision that is reflective of what we heard from Yukon citizens on that.

As far as the *Oil and Gas Act* goes, and what I have to remind the member of, is in fact, there was fully open consultation under the *Oil and Gas Act* related to potential changes in the past. If we make changes to regulations in the future, I anticipate that there will be further public consultation, and we do intend, as I have stated before in this House, to provide more information to citizens as oil and gas development in north Yukon and southeast Yukon proceeds forward in accordance with what rights are in place at this time.

I believe I’m out of time at this point, but we will continue to engage with the public.

#### **Question re: Hockey Canada Skills Academy**

**Mr. Elias:** It’s Education Week. Many Yukoners know what the power of sport does for their children and how sports contribute to a healthy community, building solid citizens and the direct relationship between academic achievement and the participation in the game of hockey and other sports. The Hockey Canada Skills Academy program is a program offered in over 120 schools across our country and it is available to any student, male or female, regardless of skill. The primary outcome of a hockey academy is to enhance a student’s confidence, individual playing skills and self-esteem and to provide opportunities in both academics and athletics beyond the primary and secondary school system and at the same time make efficient use of arena facilities during school hours.

Is the Minister of Education familiar with this type of program?

**Hon. Mr. Kent:** I thank the member opposite for the question. I’m very familiar with this type of programming. My nephew attended a sports high school in Calgary, and I believe the Minister of Economic Development completed his grade 11 studies at a sports high school in Montreal, as well. I’m very familiar with this type of programming, and I’m also very supportive of this type of programming moving forward.

**Mr. Elias:** Well, that’s a positive note, Mr. Speaker. The main premise of the idea is to get the student’s heart rate up to a certain level for a certain period of time in the morning. Then they go to school and learn mainly academics in the afternoon. The important aspect here is also to make efficient use of our arena facilities during school day hours throughout the Yukon communities that have those facilities. Here in the territory, we have a sports legacy fund, a kid’s recreation fund, the Aboriginal Sport Circle and of course, Sport Yukon, so we do have a solid base of support to work with.

Will the Minister of Education exercise his authority under section 6(1)(b) of the *Education Act* and give the green light for the implementation of a Hockey Canada Skills Academy here in our territory?

**Hon. Mr. Kent:** As I mentioned in my previous answer, this is something that I’m very supportive of. We have a number of elite athletes in our high school system and beyond that, as witnessed last week by a tribute to Mr. Zach Bell, who is going to the London Olympics. This past weekend, a number of us attended the Special Olympics Yukon banquet here in the Whitehorse, where we found out another young Yukoner, Michael Sumner, will be attending the World Special Olympics in South Korea this coming year as well.

There are a number of other programs. While I respect the fact the member opposite is referring specifically to hockey, I think we can look beyond just hockey, Mr. Speaker; I think we can look to cycling, to cross-country skiing, to figure skating, to swimming. I know the Premier’s daughters are — or one of his daughters, for sure — is attending university in the United States on a swimming scholarship. I think that while I respect that this question is specifically related to hockey, I think we can do even a little bit better than that as we come up with a solution that works for Yukoners. I am interested in hearing not only from the sports governing bodies, but also the parents of the students as we look to develop a program that works along these lines.

**Mr. Elias:** I will get to the reason I am advocating for the hockey academy, but it is also important to note that this is not for elite athletes. It is for kids with all skill levels. This type of sports program has been proven to work in many jurisdictions, and it doesn’t have to be just hockey. There is swimming, skiing, running, cycling, soccer and many other sports that are used in these programs, as the minister said; however, I am advocating for a hockey program as a beginning, because the academies and the curriculum are already set up and established elsewhere. I actually attended one of these sports programs in Victoria, B.C. recently and the parents spoke very highly of it. In our territory we have issues with attendance; we



have issues with graduation rates; we have issues with success in academics between rural Yukon and our capital city. I believe it was Manitoba that conducted a pilot project last year and the results were astounding.

Will the minister support the set up and the implementation of Hockey Canada Skills Academy pilot project within our public education system in our territory?

**Hon. Mr. Kent:** With respect to the fact that there are models out there regarding hockey and the hockey academy — as I mentioned in my first answer, my nephew also attended a sports high school where he was a downhill skier. So there are models beyond just hockey that exist in other jurisdictions. Of course some of the programs that we offer here in the Yukon currently, such as the CHAOS 9 program, the experiential learning programs of Wood Street Annex, also a fashion, arts and design program at Porter Creek — and I know that the Member for Vuntut Gwitchin asked my predecessor about this very matter — I believe it was in 2009. At that time the previous minister mentioned the experiential education program, the land-based learning in Old Crow which has been a tremendous success, one referenced by the Chief of the Vuntut Gwitchin First Nation at the Yukon Forum that I was able to attend last Friday.

While I cannot make that specific commitment to set up that pilot project right now, I will make that commitment to work with sports governing bodies, and parents and teachers to look for a model that will work here in the Yukon. Perhaps hockey is the model; perhaps not. As I said, there are similar programs set up in many other jurisdictions that work.

**Question re: Mental health services for youth**

**Mr. Silver:** Members of this House rose earlier to tribute Education Week. Students and educators will be taking part in activities this week to celebrate success in Yukon education. They will also be examining how teaching and learning initiatives can improve our public schools and other institutions. For our children to do well in school, they need to be ready to learn. For children with mental health issues, this is a great deal harder. This year's budget includes \$100,000 for mental health youth treatment centres. Could the Minister of Health and Social Services please tell us if that money includes programming to help children with mental health issues successfully navigate the school system?

**Hon. Mr. Kent:** Just to respond to that question, not only on the Minister of Health and Social Services' behalf, but as Minister of Education: As most members will know, when it comes to issues of learning and mental health, there are transition times from preschool to kindergarten and then throughout the elementary school and then, of course, graduating high school and beyond. So this will be something that I can bring up with the Minister of Health and Social Services to address the question from the Member for Klondike.

**Mr. Silver:** Last year, the Child and Youth Advocate brought to light that there is no legal framework for youth mental health services. Without governing legislation, he warned, children's needs are subject to being ignored, existing services are used improperly, and the system lacks accountability. The Health and Social Services minister at the time acknowledged

this gap, but said that there were many other areas which required the government's attention.

Has the new Minister of Health and Social Services reviewed the legal framework for youth mental health, and will he be following the advocate's recommendation to develop such legislation?

**Hon. Mr. Cathers:** I will have to defer some parts of that answer to the Minister of Health and Social Services to respond to the member and get back him at a later date with specifics.

What I would point out to the member is that in fact this government has taken significant steps to expand mental health, including specifically providing a youth clinician. We have expanded the services in rural Yukon with two positions that have been provided there. There has been an increase from one psychiatrist to three psychiatrists and an increase in the resources of mental health services. A number of steps have been taken. We certainly recognize the importance of this area.

As far as some of the specifics, in response to the Member for Klondike, we'll have to commit to getting back to him at a later date or rather I will ask the Minister of Health and Social Services to get back to the Member for Klondike.

**Mr. Silver:** Families with children with mental health issues face significant challenges. If their children don't receive the support and services they need, they are unlikely to do so well at school. They will miss out on opportunities to develop key skills for further education, for careers and for taking part in our communities. Parents tell us that they have to fight for services and that bureaucratic obstacles add greatly to the already significant challenges of raising a child with mental health issues. Moreover, disenfranchised families may lack knowledge and resources to advocate for their children within the mental health system.

What can the acting minister do to better help parents navigate the system and access services that these children need?

**Hon. Mr. Kent:** Again, some aspects of the Member for Klondike's question I can take up with the Minister of Health and Social Services and have him get back to him at a later date. When it comes to the paraprofessional resources in the schools, there are a number of paraprofessional resources in any school, specifically educational assistants, and they vary from year to year in response to changing needs and priorities. Something that I think all members on this side of the House are very proud of is, shortly after taking office, we were able to take the 22 educational assistants and paraprofessional positions and move them from term positions into indeterminate positions, which will help an awful lot in the year-to-year planning.

With respect to a guide that the member opposite spoke about, it's something that came up for me recently at the Whitehorse Elementary School Council meeting that I attended last week. I can let the Member for Klondike know that the Department of Education, through our special programs advisory committee, is working on setting up a resource to help parents navigate the school system — parents of children with special needs, whether it's mental health needs or otherwise. I

hope that that can be ready soon for presentation to parents to, again, help them navigate through the education system.

**Question re: Climate change**

**Ms. White:** Tackling climate change is arguably the biggest, most important challenge we face as a human species. Despite the growth of our knowledge of climate change, real action has been elusive. We know we can't continue our fossil fuel addiction. It's a suicidal path. But collectively, we're just not getting off the path quick enough. The Yukon government's *Climate Change Action Plan*, released in 2009, speaks of the need of a comprehensive response to climate change that is incorporated into all levels of government decision-making. How is a comprehensive response on climate change being reflected in all levels of government decision-making today?

**Hon. Mr. Dixon:** To answer the member opposite's question, the way that climate change is being instilled in the mind of government is through the development of the Climate Change Secretariat.

That secretariat was developed by the previous Yukon Party government and was really tasked with making sure the government, throughout the departments, is aware of its actions related to climate change and ensuring that government practices, both in terms of its own practices, as well as its procurement — procured services and products — all reflect Yukon's commitment to combating climate change.

**Ms. White:** In the north, we have been responsible for very few historic greenhouse gas emissions, but this could change. Scientists say that massive amounts of greenhouse gases trapped below thawing permafrost will likely seep into the air over the next several decades and will speed up climate change. Permafrost experts have said that the release of heat-trapping gases under the frozen ground may be a bigger factor in climate change than the cutting down of forests. This scenario is of global concern. It's also of local concern in terms of impacts on our infrastructure. We know the Department of Highways and Public Works has completed a three-year vulnerability assessment of government buildings in the areas where permafrost is thawing.

Can the Minister of Highways and Public Works share with this House some details about his department's assessment on the thawing permafrost and our infrastructure, and will he table the reports?

**Hon. Mr. Dixon:** In terms of the specific project conducted by the Department of Highways and Public Works, I don't have the details at hand. But I can say that the website [www.permafrost.gov.yk.ca](http://www.permafrost.gov.yk.ca) does have a significant amount of information about Yukon's work with regard to assessing our vulnerability to permafrost degradation throughout the territory.

Adapting to climate change is one of the goals of our *Climate Change Action Plan*. That is indeed being reflected in the number of actions that are being taken by a variety of departments of government. A number of those activities are available on-line, and I encourage the member opposite to review those.

**Ms. White:** The major global insurer, Lloyd's of London, recently weighed in on the risks and opportunities devel-

oping in a rapidly changing north. Lloyd's says development is expected to reach \$100 billion over the next decade but that "sustainable realisation of the economic opportunities that result from these developments depends on strong, regulatory frameworks and corporate environmental stewardship". Lloyd's says that there are a lot of uncertainties, knowledge gaps and infrastructure vulnerabilities in the north that add risk when undertaking significant industrial activity.

Can the government explain how risk management, in the context of climate change, is guiding the government's decision-making on industrial development?

**Hon. Mr. Dixon:** The first goal of the Yukon government's *Climate Change Action Plan* is enhancing our knowledge and understanding of climate change. That is why this government has invested significantly in the Yukon Research Centre and the Yukon Cold Climate Innovation Centre to better understand the realities of a changing permafrost regime in Yukon, as well as the overarching effects of climate change in the north.

Investments like that build our understanding of climate change and climate change science, which allows us to make decisions about development in the north.

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

**ORDERS OF THE DAY**

**Hon. Mr. Cathers:** 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 (Ms. McLeod):** Order please. Committee of the Whole will now come to order. The matter before the Committee is Bill No. 40, *Act to Amend the Financial Administration Act*. Do members wish to take a 15-minute recess?

**All Hon. Members:** Agreed.

**Chair:** Committee of the Whole is recessed for 15 minutes.

*Recess*

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

**Bill No. 40: Act to Amend the Financial Administration Act — continued**

**Chair:** The matter before the Committee is Bill No. 40, *Act to Amend the Financial Administration Act*. We are resuming general debate on Bill No. 40.

**Hon. Mr. Istchenko:** I'd like to thank our support from the departments for coming here today.

The *Act to Amend the Financial Administration Act* provision regarding public property — its purpose is to help the government balance two important responsibilities. These are the responsibility to support people's exercise of democratic rights and fundamental freedoms and the responsibility to keep public facilities safe and accessible to all.

All Canadians and certainly all Yukoners treasure the rights and freedoms we enjoy. As part of that, Yukoners expect to be able to use public spaces when and how they choose. Among other things, they want to be able to make their views heard in a public forum. Peaceful demonstrations, protests, gatherings and marches are all part of our Canadian and Yukon traditions. They are a key way of individuals and groups to express themselves, not only on political questions, but on the whole range of topics that living as a community entails. People expect the right — and rightly so — to use public spaces in their communities to do these things. But most people also expect some other things from their public spaces. They expect them to be clean and safe; they expect them to be kept in good repair and reasonably good order; and they expect that no one person or group will be able to dominate an area or a building to the exclusion of others.

As a responsible government, we take both of these kinds of expectations seriously. We respect and indeed celebrate Yukon's tradition of robust public debate — we've seen it in this House many a time — and we fully support the use of public facilities and spaces by people of all persuasions and all opinions. We understand that democracy means diversity and that we're deeply committed to the rights and freedoms that Canada's Constitution guarantees to all people.

Even if we may not agree with someone's views, we will never use our disagreement as an excuse to keep discussion or debate out of our public spaces. We also accept, however, that there are limits on the exercise of any freedom. Nobody can be allowed to shout down other voices in the name of free expression, for example; nor does the freedom of association mean that some people have more rights than others to occupy and use the property that we all own together. We are committed, in short, to keeping Yukon's public property truly public.

Usually, maintaining these two commitments is easy. Day in and day out, Yukon Parks, public buildings, other facilities see all kinds of use by all kinds of people with no difficulty whatsoever.

Occasionally, though, the government needs to be able to ensure that limits are respected. Not everything that purports to be a peaceful demonstration really is. Sometimes actions of a small group, however well-intentioned, can impose disproportionate costs on the community. When health and safety is at stake, when serious property damage results, or when public spaces cease to be usable for their intended purpose, the government has a duty to act.

Last year, Yukoners were given a very direct insight into the difficulty balancing government responsibilities. A number of people set up camp in an area that included some government-owned land and some privately owned land. There seemed to have been a variety of reasons for the encampment

and I do not propose at this time to engage in a debate about its social or political significance.

What I want to emphasize is that the situation presented the government with a very real difficulty. I was just elected and this became quite evident to me. From the start, the government respected the full rights of the protestors to make their voices heard. More than that, the government officials worked hard to understand and, where possible, respond to the specific pressing needs that some of the protestors had.

Over time, it became apparent that the encampment was not only moving beyond its initial purpose as a form of expression, but was also creating some significant risks for the campers themselves, for other members of the community and, it must be said, for the government as the owner of the property. The ongoing occupation of a significant public space by this one group, of course, denied the use of space to everyone else.

For those reasons, it eventually became necessary for the government to ask the campers to move on. At that point, though, we confronted the fact that the Yukon does not have a well-developed legal tool for managing these public facilities. We have a common law of trespass which is cumbersome and slow and we have a *Lands Act* and *Territorial Lands (Yukon) Act* which serve a completely different purpose. There is currently no straightforward way for the government to deal with this risky, damaging or otherwise inappropriate use of public facilities.

Other jurisdictions do have more laws in this regard. In all of Canada's common-law provinces, trespass legislation allows property owners, including governments, to remove unauthorized users of their property with the assistance of the police, if necessary.

Yukon has an act to deal with trespass on school property, but that is all. So the best model we have found for putting a reasonable limit on the public use of its own public spaces is the regulation of Canada's *Department of Public Works and Government Services Act*.

The federal regulation applies to Government of Canada buildings and other properties, including such important public spaces as, of course, Parliament Hill. It does not in any way interfere with peaceful protests and demonstrations, but it does prohibit the kind of actions that I think most Canadians would agree are not appropriate use of public facilities, such as defacing buildings, interfering with traffic control signs and devices, and committing a nuisance. The federal regulation also prohibits erecting unauthorized structures on public works, camping where it is not permitted and occupying public works. It allows the federal minister to require someone who is doing these things to leave the property.

This is not some heavy-handed attempt by Canada to shut down legitimate protests. Anyone who has visited Parliament Hill in Ottawa knows that demonstrations of all kinds take place there all the time. Rather, it is how the Government of Canada has equipped itself to deal with the rare case — and I say again, "rare case" — where people choose to misuse public property. That does include, if necessary, dealing with protestors and other gatherings that deteriorate into hazardous or otherwise inappropriate behavior.

Doing so is being part of a responsible government, not some kind of conspiracy against free speech. The federal regulation is a tool that helps the Government of Canada manage public properties in a balanced way for all and for the good of all the public. Having received the options, this government has concluded that Yukon needs to have an equivalent tool.

The bill we introduced last week is a first step forward. Actually, we introduced it at the beginning of the sitting. The legislation amends the *Financial Administration Act* to allow the Commissioner in Executive Council to make regulations governing the management, maintenance, proper use and protection of public property. The legislation goes on to allow such a regulation to assist powers and duties to any minister. This is because although the Minister of Finance is responsible for the FAA, the *Financial Administration Act*, most of the day-to-day management of public facilities is done under my portfolio, the Minister of Highways and Public Works. The legislation allows the regulations to provide for the sub-delegation of those powers and duties.

To ensure that there are appropriate sanctions for the misuse of public properties, the legislation allows offences to be created in a regulation. Of course, we tabled the regulations. Merely providing for making the regulations does not by itself put any substantive rules into the law. Those rules will be in the regulation. Before agreeing to these amendments to the act, people will naturally want to know what the government intends for the regulation. To answer that question, we tabled the regulations last week to ensure there's a transparency in this process. I look forward to a debate on this important amendment today.

**Ms. Hanson:** I thank the minister opposite for his comments. They expand a little bit on where we left off last week, and I'll come back to that in a moment. I want to be clear that the Official Opposition doesn't want to see Yukoners — the homeless and job-seekers who can't afford the high cost of rent — sleeping on the grounds of the Legislative Assembly. I said that last week and I repeat it again today because it's important. That's not the reason why we do not support this legislation. What we've seen is that having done nothing to address the housing crisis, these amendments to the *Financial Administration Act* are really a cruel response. To suggest as the minister did on Thursday that tent city residents were just interested in free camping is insulting and really out of touch. It was a Marie Antoinette moment for the minister. We are all concerned that the measures —

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

#### Point of order

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

**Hon. Mr. Cathers:** It seems to me that both the Leader of the NDP's use of the term "cruel" in response to actions taken by government and reference to a member of this House — characterizing response by any member of this House as a "Marie Antoinette moment" in reference, presumably, to her infamous quote, is contrary to the practices of this Assembly and is likely to lead to discord. I would ask you to have the member refrain from using that type of language.

**Chair:** Ms. Hanson, on the point of order.

**Ms. Hanson:** There is no point of order. It is just simply a dispute between, obviously, this member and me.

#### Chair's ruling

**Chair:** There is no point of order. This is a dispute between members.

**Ms. Hanson:** Thank you, Madam Chair. We are also concerned that the measures don't merely apply to the homeless, but to all Yukoners in how they could restrict our democratic rights. We are concerned that there could be *Charter* challenges to this legislation and the regulations that flow from it. We wonder also why the Yukon Party government is in such a rush to pass this. Our efforts to meet with the minister were rebuffed. We wanted to talk to him about slowing down and going out for public consultation on this. We wanted to remind him about how Yukoners have not liked and have reacted to similar kinds of legislation proposed by the Yukon Party in the past — legislation that would limit civic liberties of Yukoners. As I had said, we will not be supporting ramming through this legislation, and not without public consultation.

I'd like to go back to last week. We've said quite clearly that there should be a full public consultation on these amendments. Our position is that, until there is such a consultation, the bill should not be passed.

On Thursday — and I'll quote — the minister said, "Providing these draft regulations — in the spirit and intent of good comradeship here in the House — itself is debate and public consultation." That's not true. Public consultation is much more and I simply refer the members opposite and the minister to the definition of "consult" or "consultation". It's a definition that we've all agreed to in the context of working with First Nation governments and it's a generally applied definition.

Consult, or consultation, means to provide: (a) to the party to be consulted, notice of a matter to be decided in sufficient form and detail to allow that party to prepare its views on the matter; (b) a reasonable period of time in which the party to be consulted may prepare its views on the matter and an opportunity to present such views to the party obliged to consult — in this case the government; and (c) full and fair consideration by the party obliged to consult on any views presented.

When I say that simply bringing forward the regulations on the day that the legislation is brought forward for debate isn't full and adequate consultation, I mean it. It's not full and adequate consultation. It has not engaged the public and that's what we're talking about when we talk about consultation.

We are talking about respecting the rights of Yukoners to be involved in the conversation about proposed legislation and regulations that will clearly have an impact on them.

I'm not sure if we're going to be going back and forth — and I prefer to do that, rather than stand for 20 minutes at a time; I realize that's a possibility — but it would be more productive, in my mind, to raise a number of substantive questions. If we could do that, that would be great.

In that vein, I would like to ask the minister a few questions with respect to the various elements of the draft regulation. In terms of the actual amendment itself, this amendment enables the government to expand the power of the ministers to

make regulations respecting: “(a) the management, maintenance...” and then it says the “...proper use and protection of public property.”

I don’t see anywhere a definition of “proper use”, and how is “proper use” defined? I would most appreciate it if the minister could explain that.

**Hon. Mr. Istchenko:** The use in keeping with the purpose of the facility — it is from the federal regulations and mimics it. They did a lot of looking into it and that is why we used that — we mimicked the federal legislation.

**Ms. Hanson:** I can respect that. I can understand that. Since we are not talking about a piece of federal legislation, but about an amendment to a territorial *Financial Administration Act*, I am still asking for a definition of “proper use”.

**Hon. Mr. Istchenko:** The words “proper use” are in keeping with the purpose of the facility. “Proper use”: in keeping with the purpose of the facility.

**Ms. Hanson:** I think we’ll find, and I think the government will find, that other jurisdictions have found that to be quite a tricky one to actually put into effect, but we’ll go on.

In the Q and As that were provided, again, sort of mid-afternoon when this was tabled — the Q and As on the draft regulations — there is a question about what the purpose of this regulation is. I’ll just state what the minister did last week — that the purpose of this regulation is to balance two responsibilities — the responsibility to safeguard the exercise of citizens’ democratic rights and fundamental freedoms and the responsibility to keep public facilities safe.

Now, my question for the minister: If the key purpose of this regulation and the amendment to this act is to ensure the safeguarding of the exercise of citizens’ democratic rights and fundamental freedoms, why is the public not part of the discussion on their democratic rights, and when is the public consultation to occur?

**Hon. Mr. Istchenko:** The regulation respects the *Charter* and ensures that we consider several factors when deciding whether to deal with this particular situation.

These provisions do not require an action. They allow for action only if we determine there is a risk to the public safety and to our institutions. These amendments and this regulation are designed to ensure thoughtful review of the factors on a case-by-case basis before we act. These measures provide us with the tools to act if action is required. We tabled in the Legislative Assembly — during the first five days of this sitting, I spoke to public consultation being debate in here with elected officials. Most of the time, we don’t even table the regulations. We just pass legislation. So, the opposition party did not read the legislation until last week. It has been publicly available since the beginning of the sitting. I believe, and this government believes, public consultation is being done as we speak today.

**Ms. Hanson:** I would suggest that the minister may want to carefully reconsider his last words there. The Official Opposition did, in fact, repeatedly request briefings on all of the pieces of legislation and the amendments to that legislation. We repeatedly asked to have those briefings to ensure that we

had understood in a comprehensive way the intention of these amendments and, in this case, the regulations.

So it is untrue — and I am saying this advisedly — to suggest otherwise. And secondly, he has not addressed the issue of public consultation. When will the public be able to be consulted on proposed legislation? And the second part of that: What will be the test of fairness that he describes in terms of — we are asking people to accept that some unnamed entities, perhaps it is the minister, will be making the ultimate judgment test as to whether the decisions taken with respect to the implementation of any aspect of these regulations is fair. Could he explain that, please?

**Hon. Mr. Istchenko:** We did table the legislation within the first five days of sitting. We did not take the draft regulations out until they were complete. Most of the time, we did not even put the regulations out. That is why they are here today.

Yukoners expect the government to maintain the integrity of our public institutions. That is to ensure that our government facilities are well-managed and accessible to everyone, and to take our responsibilities for the safety and security of our citizens very seriously. These minor amendments allow us to manage what happens at our public facility when something comes up that might need to be managed and to ensure the health and safety of everyone at these facilities. Yukoners gave us a very clear mandate just a few months ago, and we take these responsibilities very seriously.

**Ms. Hanson:** So, all right; we didn’t get an answer. The minister opposite is speaking to the issue of the regulations that he tabled last week. The issue really is, as he said, the tabling of the amendments within the first five days, the proposed amendments to legislation. That is what the Official Opposition asked for a briefing on, not as-yet-at-that-time unknown regulations. So let’s be clear about what we are talking about when we are having a discussion or a debate. Let’s talk about the same thing; it would be very helpful.

Last week the minister went on at great length with sort of, I would suggest, the most extreme language with respect to why the regulations are necessary. Without repeating all that he went through last week, it struck me that there are other laws that address the problems that he was identifying — suggesting perhaps the *Criminal Code* and the *Public Health and Safety Act*. Is the issue really the need for new regulations or is the issue the enforcement of existing legislation? You know, it is kind of ironic because Conservatives usually talk about cutting red tape and here they are talking about making a new enforcement layer. I would be interested in knowing what is the issue here.

Does the government have a difficulty in terms of working with existing laws and the *Criminal Code* — if they are criminal acts that they see occurring on government facilities or *Public Health and Safety Act* enforcement? It’s unclear from what the minister has said to date.

**Hon. Mr. Istchenko:** Our government has the clear responsibility to manage our public facilities. In fact, every other government in Canada has the tools to just do that — except the Yukon. That’s why we’re here. These measures are

specific with respect to the rights of our citizens and to ensure public safety. Our mandate from Yukoners is very clear.

**Ms. Hanson:** The stated intent of the government is to see these regulations come into effect, according to the Q and As in spring of 2012. So my question then is: Why is the government so intent on ramming through the amendments to the legislation and passing the regulations? We have raised a number of questions about how these changes could infringe on Yukoners' rights to public space, so what is the motivation for ramming this through?

Is this about preventing tent city? About removing from public view the clearest symbol of this government's failure to address the housing crisis? Is this about cleaning up the downtown for the tourist season? We're curious.

**Hon. Mr. Istchenko:** Like I said before, Yukoners expect the government to maintain the integrity of our public institutions and to ensure that our government facilities are well-managed and accessible to everyone and to take our responsibilities for the safety and security of our citizens very seriously. There were issues last year. These minor amendments allow us to manage serious issues that I alluded to and spoke to last week — what happens at our public facilities and to ensure that the health and safety of everyone at these facilities, so all Yukoners can enjoy our public spaces.

**Ms. Hanson:** With respect to the question of whether or not this amendment to the legislation and the regulations will affect people's freedom to assemble on government property, the language in the Q and As is fairly anodyne, so it sort of sounds like it won't. But that doesn't seem to jibe with — and if it is, again, we wonder why they haven't consulted with Yukoners. They clearly haven't consulted with those working with the homeless or hard-to-house or job seekers who can't afford the high rents. But, I guess, since they don't want to consult with ordinary Yukoners, perhaps they could tell this House the extent to which they have done at least a scan of the civil liberties interpretations or analysis of this legislation or similar legislation and regulations similar to it.

**Hon. Mr. Istchenko:** That was considered during the drafting of this by our very competent staff we have within the Government of Yukon.

**Ms. Hanson:** Could the minister elaborate on the extent of the civil liberties scan of this legislation and regulation?

**Hon. Mr. Istchenko:** From my team: This is based on thorough analysis of the relevant case law within Canada and other jurisdictions. This is our best judgment and it is compliant with the *Charter of Rights and Freedoms*.

**Ms. Hanson:** Last week I mentioned to the minister that I — not having access to a field of lawyers or support — did my own sort of review of several seem-to-be relevant court decisions. I thought I would share with you a little bit of my findings, because they do cause me some concern when I look at the proposed regulations and the amendments to the legislation. I think that it's worthwhile raising them in the debate here today, because I think we need to be having an open mind to what's being proposed here and also perhaps the unintentional consequences of ramming this through without broader discussion.

The first one that came when we were doing some research, and then followed up a little bit more this weekend, is the B.C. Court of Appeal. This decision was a City of Victoria one that I think I mentioned a little bit of last week. When I was talking last week, I was talking about what I considered just from my quick scan were the relevant sections of the *Charter*.

This decision dealt with section 7 of the *Charter*, which as you'll recall, says that everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice. So, in a nutshell, what the verdict in this case said was that the city's bans on shelter in public parks were unconstitutional as they violated section 7 of the *Charter*, "insofar and only insofar as they apply to prevent homeless people from erecting temporary, overnight shelter in parks when the number of homeless people exceeds the number of available shelter beds in the City of Victoria".

So we have no available homeless shelters beyond the Salvation Army. We often know that there are people sleeping on mats and in chairs. My question for the minister is: How will the law and regulation reflect the legal precedent in the *City of Victoria v. Adams*.

**Hon. Mr. Istchenko:** Although we are in the preliminary stage, operational policies are being drafted.

We are working on the implementation component on this regulation. The regulation respects the *Charter*. Hypothetical from across the floor — there is hypothetical out there every day, okay. It ensures we consider several factors when deciding whether to deal with a particular situation. These provisions do not require an action. They allow for action only if we determine that there is a risk to public safety and to our institutions. This amendment to the act is not about housing or homelessness. Like I just said, it's about risk to public safety and to our institutions.

**Ms. Hanson:** We're not talking hypothetical here, we are talking case law and the minister may be taking his advice from his colleague below him there, but it's not hypothetical and I would like to clarify that.

In fact, the courts have found — to simply say, "Trust us, we won't do it unless there's something bad going on" — well, earlier I asked him to define what "proper use" was. I asked him if he could define for us how and who would make this decision. We didn't get that information, so "trust us" isn't going to carry that much weight.

My question: when there is no room at the Sally Ann — I use the common reference to the Salvation Army and by no means am I intending to diminish the importance of the good work by the folks we have all worked with over the years — but when there is no room at the Salvation Army — and we have heard this is often the case with people forced to sleep in chairs and on the floor — will the minister permit temporary shelter on public property, like on the grounds of the Legislative Assembly? This goes back to the proper use or use question that I was trying to get at earlier.

**Hon. Mr. Istchenko:** Last summer, a number of departments within the government worked with those requiring

assistance to find alternative places to stay. They were offered alternative places to stay; they would not accept them. It is not accurate that they had no options. We offered assisted-living apartments, social housing. We offered to pay for campsites; we paid for campsites — and you heard me talk about that — at Robert Service Way.

**Ms. Hanson:** The minister falls into the trap too easily of extrapolating from individual examples to the larger representative group there and I know that it is an easy one to fall into. I will not fault him for it. It is factually incorrect.

You know, by prohibiting tent city and doing nothing to address the housing crisis, the government is pushing the homeless into spaces that might be more dangerous and less safe. If the minister has spent any time during the Anti-Poverty Week, as some of us in this Legislative Assembly have done — taking the rough route at the invitation of the anti-poverty organizations here — you know that there are some very unsafe places where people are forced to sleep at night and under very unsafe conditions. We're talking about the back alleys, we're talking about the riverbanks, and we're talking about the clay cliffs.

So is this the desired outcome of the law, essentially, to punish the homeless or to say, "There is no place for you. We're just going to push you so you can't be seen, so we're not offended?"

**Hon. Mr. Istchenko:** There's nothing safe about the riverbank. There is nothing safe about the clay cliffs. There's nothing safe about the camping situation at the main administration building — drugs, alcohol, fights, assaults and other forms of violence, used needles littering the campground and the playground area, lack of proper sanitation, the showering in the children's playground, vandalism — there's nothing safe about that. Therein lies why we're here today.

**Ms. Hanson:** The minister cites that it's the same citation he used last week, and I say to him again, as I said earlier this afternoon, why not use the provisions of the *Criminal Code*, if you think there are criminal actions occurring? Why not use the *Public Health and Safety Act* if you think that that is applicable? Why is it necessary to go to this extreme?

One of the provisions in this regulation is section 4(2)(b), where it talks about "erect, use, occupy or maintain any structure in or on any government facility". I mentioned earlier that there is another piece of case law that I thought was kind of interesting. This is in *City of Vancouver (City) v. Zhang*. In that case, the court threw out a city law prohibiting political expression on sidewalks. I'm sure that most people here over the last number of years have driven in from the airport going in from Vancouver, going down Granville Street. For years and years and years, as you go along and you come down the hill, on the right-hand side, there was this little structure erected, and every day you went by, members of the Falun Gong were sitting there meditating — simply meditating. It was a form of peaceful protest — very peaceful protest.

These Falun Gong practitioners had erected this structure on the sidewalk as a political display near the Chinese consulate. In this case, it was a city law that provided in section 71 that "A person must not build, construct, place, maintain, oc-

cupy, or cause to be built, constructed ..." — and I see language similar here — "... placed, maintained or occupied in any street, any structure, object, substance or thing which is an obstruction to the free use of such street, or which may encroach thereon ..." or lay or construct or reconstruct any sidewalk on any street without first obtaining the written permission — which we don't even have. I'll come back to the written permission portion here.

The group, the Falun Dafa, appealed and the Court of Appeal struck down that section of the law as unconstitutional. The Court of Appeal found that section 71 of the law infringed the Falun Gong practitioners' right to freedom of expression because: a) the section created an absolute prohibition on the structures; and b) no bylaw or policy existed to grant exceptions for a political structure.

As the draft regulations define "facility" as the buildings and areas "ordinarily used in connection with", including paths and sidewalks, I'm wondering if the minister could explain to us if he had instructed drafters to look at this case law. The second part of that: Is he confident the minister's position will suffice, given the precedent that has been set in *Vancouver (City) v. Zhang*?

**Hon. Mr. Istchenko:** As clearly laid out in the regulation, this provision respects the *Charter* and ensures that we consider several factors when deciding whether to deal with a particular situation. As I have already mentioned, we have to take into account people's rights under the *Charter*. We have to consider Yukon's unique character. We do have a very diverse and unique character. We have to consider the impact the actions of these people will have on others around them and we have to consider any other relevant factors.

These provisions do not require any action. They allow for action only if we determine that there is a risk to public safety and to our institutions. This amendment and regulations are designed to ensure thoughtful review of the factors on a case-by-case basis before we act. These measures provide us with the tools to act if action and only if action is required.

**Ms. Hanson:** That is another large leap of faith that Yukoners are being to asked to take here, that assuming — and perhaps the minister opposite is that Solomon-like minister who will be able to make those wise decisions, but it is off the cuff, I would suggest, without any sort of clarification as to how he is going to make those decisions.

But let's go back a bit, before we get into section 5 that he was just referencing there. The minister responsible for Highways and Public Works has the responsibility, as he has said, for this regulation flowing from the amended act. So my question is this: How will the act amendments and then the regulation that the government is planning to round through be enforced? I mean, I really don't envy the public servants who will be tasked with telling folks — the homeless, peaceful protesters, et cetera — to move along.

So I'm asking how will it be enforced, and secondly, what are the projected costs associated with enforcement of these regulations?

**Hon. Mr. Istchenko:** I said this earlier. We're in the preliminary stages. The operational policies are being drafted

and we are working on the implementation component of this regulation. When it comes to costs, if there is a set of regulations, and the public knows that the right to peaceful protest is there, they will have no issue with that. But when it turns into some things like those we discussed earlier, we'll have to look at it on a case-by-case basis.

**Ms. Hanson:** Again, without any clarification of how he's going — what determinative tests he will use to make those assessments — we're putting an awful lot of faith in this minister and future ministers without having anything back in return in terms of a quid pro quo, here. The minister spoke of limits on the exercise of freedom. He said that no one has more rights than others to use property. I'm wondering — and I'll try to come at this another way — how he squares this with the *Charter of Rights and Freedoms*. The Canadian Civil Liberties Association says that, in order to survive constitutional scrutiny, laws must, at minimum, make reasonable and clear exceptions for the exercise of expression and peaceful assembly. I question whether the amendment and draft regulations meet the constitutional test. Is the requirement for minister's permission contained in the draft regulation enough to satisfy sections 1 and 7 of the *Charter*?

**Hon. Mr. Istchenko:** As clearly laid out in the regulation, this provision respects the *Charter* and ensures that we consider several factors when deciding whether to deal with this particular situation. As I've already mentioned, we have to take into account people's rights under the *Charter*.

We have to consider Yukon's unique character. We have to consider how the actions of these people will impact on others around them and we have to consider any other relevant factors. These provisions do not require an action. They allow for action, as I said — a case-by-case determination.

**Ms. Hanson:** Section 3, loitering or nuisance, says "No person shall loiter or commit any nuisance in or on any government facility". This is the classic power to move folks along. Other jurisdictions are complaint-driven. This seems to be a pretty blunt instrument. How does this treat youth? How will it treat youth who are lounging around in the sun? How about youth in communities where there is nothing to do? My question for the minister is whether there is a question as to the constitutionality of loitering laws.

**Hon. Mr. Istchenko:** Like I alluded to earlier, it's at the discretion of the minister. To serve someone will be at the discretion of the minister. It won't be the staff who works in here, telling people to "Beep, beep, beep, off the property, off the property." It's at the discretion of the minister. When it comes to the minister, like it did last year when we had a health and safety issue, as a government we discussed this and we looked at best practices on what to do. I might add, we put a lot of thought into it, taking into consideration everyone.

**Ms. Hanson:** I seek clarification from the minister. The section just says, "No person shall loiter." Is the minister going to be going around to every government facility determining who is loitering and who is not loitering? What is he talking about here, really?

**Hon. Mr. Istchenko:** This is considered the best legal advice available to us with thorough review of all available case law.

**Ms. Hanson:** So I take that as a non-answer to my question. Basically, the question is about the constitutionality of loitering laws, and he tells me that he is going to be the one who determines who is loitering or committing any nuisance on any public or government facilities. It seems to me that he is going to have a thousand eyes. That is what he just told me, that he is the one who is going to be doing it. Why would we be going backwards in terms of using a blunt instrument in saying that, when really you are looking for the exception rather than assuming that people who are hanging about or out wandering, relaxing on or near a government facility are loitering? Is that the message that we want to be giving to our young people?

**Hon. Mr. Istchenko:** This would be for rare cases, very rare cases, if there was an extreme problem.

**Ms. Hanson:** If it is a rare case, then why do we use the blunt instrument in saying, "No person shall loiter"? Why? Why not just say — why have it there are all?

**Hon. Mr. Istchenko:** A variety of legislation across Canada makes some form of loitering an offence. Usually the offence is described just as loitering at some particular place. Examples include in school buildings, near churches and in the vicinity of stored explosives. The federal public works nuisance regulations are an example of this with their prohibition of loitering in, on, or about a public work. Those are the regulations that the proposed draft regulations here are modelled on.

I trust my staff. That's why we're here today to talk about this and this is the reason that we have this.

**Ms. Hanson:** It's unfortunate to have to remind the minister that we're talking about ministerial responsibility and ministerial accountability for any piece of legislation or regulations thereof that he brings into this Legislative Assembly. It has nothing, nothing to do with the confidence, the skill and the professionalism of public servants. That is taken as a given. It has never been under question by the Official Opposition. The minister needs to understand that he alone is responsible and accountable for everything done in his department.

There is no question at all ever about the professionalism of public servants. Let us be very clear about that. It's inappropriate for the minister to be making those kinds of remarks.

I'd like to turn to section 4, if I may. Section 4 speaks to the fact that no one, except under the authority of the minister, may — and I'll speak to 4(1)(b) — enter a government facility into which the public is not permitted entry. Can the minister explain what the implications of this are? Does this mean that Yukoners can expect less access to government facilities? Could the minister explain 4(1)(b)?

**Hon. Mr. Istchenko:** It has to do with barging into public spaces — breaking and entering at night. It has nothing to do with regular day-to-day use of government facilities.

**Ms. Hanson:** Okay. Then, in that case, would the minister please explain why he wouldn't use the appropriate criminal enactments to deal with those kinds of things? If somebody is committing a criminal act, you use the *Criminal Code*.



You don't use his authority, really. While he is thinking about that, perhaps he could also give consideration to section 4(1)(c) which states that, "No person shall, except under the authority of the Minister place or post anything, any material or any object ..." Again, the question I have is, what are the implications in this, for example, during elections, on citizens placing signs advocating for something? For example, we have seen a number of campaigns in this territory, in this municipality, in Whitehorse in particular, where there are issues that come up and we see sandwich board signs go up — pro this, anti that, or whatever. What are the implications with respect to that restriction on citizens' freedom of expression with section 4(1)(c)?

**Hon. Mr. Istchenko:** We are talking about extreme cases. These provisions do not require an action; they allow for action only if we determine that there is a risk to public safety and to our institutions.

**Ms. Hanson:** Section 4(2) says that, "No person shall, except as permitted under subsection (3) — without minister's permission, they cannot occupy or reside in a camp in or on any government facility. So my question is looking to get clarification about this — except with the minister's permission, subject to conditions or limitations. What conditions are we talking about here? Is it the length of stay? Is there a requirement for some form of liability insurance? We have seen this as the federal government has privatized its interest in federal buildings across the country. Whereas you would have simple public displays, now people are required to have significant liability insurance before they can even gather on the foreground of the Elijah Smith Building.

You know, I raise this for the minister opposite because Canadian Civil Liberties Association has raised the issue that unreasonable conditions, like insurance requirements, do infringe on democratic rights. I am really asking the minister if he could explain to us what those conditions or limitations are going to be in order to get the minister's permission. For example, I don't know, XYZ organization comes and says they would like to hold a demonstration. What will be the limitations that the minister will give immediately upon having passed or rammed through this legislation and these regulations?

**Hon. Mr. Istchenko:** Like I alluded to earlier, although it's in its preliminary stage, operational policies are being drafted and we are working on the implementation component of this regulation.

**Ms. Hanson:** Then we're being asked again to take a pig in a poke and believe that he's going to come forward with something in the future. Why are we ramming these regulations forward if we have not thought through the implications and cannot answer these simple questions?

People need to know. This is another reason why this should be going out to public consultation, so that they can get the full context from all Yukoners and not simply say, "Trust us. We're going to think about it in the future." No. If you're going to do it and it's going to have an impact and restrict the rights and freedoms of Yukoners now, then it's better to have the regulations ready now.

I'd like to move on to 5(2). This section really has a lot of power. I mean, if we look at this, we're basically again expanding the basis of faith and hope and trust in some minister — not necessarily simply this one, but future ministers as well. It's a lot of power for a minister to possess.

Section 5(2) says, "In determining whether notice under subsection (1) will be given to a person in respect of the person's practice or activity at a government facility, the Minister is to take into consideration ..." The first one is the *Charter of Rights and Freedoms*. Well, I would hope that the minister would take the *Charter* into account. He had better; it's the law of the land. It's a given. Why would — anyways, it's there. So, the *Charter of Rights and Freedoms*, we're assuming, and because it is the law of the land that he would be doing that — but 5(2)(b) says, "Yukon's experience of diverse forms of peaceful expression."

Could the minister expand on his thoughts on our experience of diverse forms of peaceful expression? What exactly does that mean in the minister opposite's mind?

**Hon. Mr. Istchenko:** Road rallies, snowmobile races, nighttime vigils. Thank you, Madam Chair.

**Ms. Hanson:** I can certainly understand the last one. Nighttime vigils are a traditional, respectful use of peaceful demonstration. Road rallies — I'm not quite so sure how you get possibly those on the limited space of public lands adjacent to the Yukon administration building, but maybe he knows something I don't know of what's being planned for this poor city.

This brings me to section 5(2)(c)(ii), because that speaks to the ability of other persons to use the government facility or any nearby facility for its intended use. So I guess, speaking to that, it would be useful to have the minister explain to this Legislative Assembly what the intended use is of the Yukon administration building. Are there any locations where the intended use is for protest or peaceful assembly when we talk about the ability of other persons to use the government facility or any nearby facility for its intended use? Are there any places or government facilities or nearby — I presume government facilities — where the intended use could be for protest or peaceful assembly?

**Hon. Mr. Istchenko:** Of course. This isn't about peaceful assembly — the right to protest under the *Charter of Rights*. This requires the minister to consider a number of relevant factors in determining whether a notice should be given under the subsection. We've talked about the *Charter of Rights*. We've talked about the right to freedom of speech and freedom to protest. That's not what it's about.

**Ms. Hanson:** That's a rather perplexing answer. I was asking if there are any places where the intended use — any places, when I'm looking at section 5(2)(c)(ii), speaks to the ability of other persons to use the government facility or any nearby facility for its intended purpose. My question was simply this: Are there any places — in the context of how it is being used in this subsection — where the intended use is for protest or peaceful assembly?

**Hon. Mr. Istchenko:** We don't place limits on people's rights to peacefully assemble on public property. Thank you.

**Ms. Hanson:** I would argue — and I don't think it's much of an argument, it's actually a statement of fact that every aspect of this regulation is intended to place limits on peaceful use and assembly. That's what the whole issue is about — the minister's discretion to determine how much of a limitation can be placed on these *Charter* rights and freedoms that we treasure so much in this country. He's incorrect, I would suggest, to be saying that this is not about that. It is, in fact, all about that. That's the basis of these regulations. Section 5(2)(c)(iv) speaks about the dignity of any court or other public institution — so he's to take into consideration the dignity of any court or other public institution that is located at or near the government facility. My question to the minister is how "dignity", in this context, is defined? Is the dignity of the Legislative Assembly, for example, diminished by tent city or the Occupy Whitehorse camper van? Was it diminished last year by the peaceful use of those facilities by those people? So I'm asking for the minister to define, in this context, "dignity".

**Hon. Mr. Istchenko:** There was nothing safe about the camping situation at the administration building last year. I alluded to the drugs, the alcohol, the fights, the assaults and other forms of violence. This is what these regulations and this amendment is about. Day-to-day operations of the Legislature are day-to-day operations. Thank you.

**Ms. Moorcroft:** I would just like to follow up with the minister on this particular amendment that refers to the dignity of the court or other public institutions located at or near the government facility. In the line of questions being pursued by my colleague, the Leader of the Official Opposition, with the minister, the minister has made the assertion that this proposed amendment to the *Financial Administration Act* and the regulations of government facilities will not place limits on peaceful use and assembly on public property.

At the section 4 of the government facilities use regulation about unauthorized activity, it says that "No person shall, except under the authority of the Minister ... enter any government facility into which the public is not permitted entry" — that is item (b) — and item (c) is: "place or post any thing, any material or any object in or on any government facility other than in a location that is specifically designated for that purpose". Now, I'm really interested in knowing what this government's interpretation of legitimate, peaceful use and assembly is. There have been many rallies held over the years in this building and in other Yukon government buildings. For example, a number of years ago, five or six women's organizations, including both aboriginal and non-aboriginal women's groups, gathered to protest a suspended sentence that was given to a man who was convicted of a particularly horrific and violent assault on his estranged common-law wife. There were 100 people there. There were many men there, as well as women. It was intended as, and resulted in, a peaceful display and a protest.

But I'm concerned about the ability of this minister to then say, "I will not grant permission for people to rally and speak

out in protest. I will not allow people to have billboards and signs that address the matter of public comment," whether it's something like the rally I just referred to, or whether it's a peaceful vigil being held, for example, on the International Day for the Elimination of Racial Discrimination.

I would like to know whether the minister would define the "dignity of the court" and whether, in his assessment, it would violate the dignity of the court for events such as a pots-and-pans rally that was held by people to argue that certain actions were not appropriate and to bring forward their peaceful expression of protest.

**Hon. Mr. Istchenko:** I thank the member opposite for alluding to some great examples of peaceful protest in the Assembly or at government facilities. This regulation respects the *Charter* and ensures that we allow for this. This is not what it's about. It's about safety to our institutions, and I alluded to it, and I can go through it many times — knife fights, drugs, alcohol, feces — that is what it's about. The right to protest, peaceful protest.

**Ms. Moorcroft:** The minister is saying that this will not diminish the public's right to engage in activities that are permitted by the *Charter of Rights and Freedoms*. However, the regulation allows the minister to give permission, through the use of his authority, to enter government facilities and to post materials. And if they don't have permission, the regulations also provide for offences and penalties. I would like the minister to stand and give this Assembly today his absolute assurance that peaceful expressions of protest will be allowed without the minister giving his permission in advance.

I'll pause while the Government House Leader tells him how he should answer that question.

**Hon. Mr. Istchenko:** I was listening. Like I alluded to, absolutely — to the member opposite — only, only, only if there is a risk to public safety and to our institutions. I've said it on numerous occasions in this House: the regulation respects the *Charter* and ensures that we consider several factors when deciding whether to deal with a particular situation. They allow for actions only if we determine that there is a risk to public safety and to our institutions.

**Ms. Moorcroft:** That's very broad. How will the minister determine whether there is a risk to public safety in the actions of citizens of the Yukon? For example, there was a day in this Legislative Assembly when the gallery was full and there were people outside the gallery in the public spaces of the building, and indeed, outside the Assembly and in the front driveway. Is that something that the minister might determine was a risk to public safety and that he might then prohibit and would they require the minister's permission to be there?

**Hon. Mr. Istchenko:** No, Madam Chair. That's the right to peaceful protest.

**Ms. Moorcroft:** I thank the minister for his response. Could he now also reply as to how he would assess whether there is a risk to public safety?

**Hon. Mr. Istchenko:** As I alluded to earlier, it will be case by case. It's about public safety and safety of our facilities.

**Ms. Moorcroft:** Could the minister provide one or two examples of the kind of criteria that the minister or the minister's office would use in determining on a case-by-case basis?

**Hon. Mr. Istchenko:** Public and underaged drinking, needle and drug use, lack of proper sanitation, public nudity, theft, violence, fighting, vandalism, risk of injury, fire due to unsafe heating methods and unsafe conditions for staff coming to work are just a few.

**Mr. Barr:** I do have a couple of questions for the minister opposite. I guess it just goes along with what we've been talking about and getting some clarification as to what's allowed and what's not allowed. I was in the coffee shop just last week and I was speaking with another fellow there who was just concerned about his rent increase. It was up 22.5 percent in his building. As we were having a short conversation about that, there was another young fellow — he was about 27 or 28 — overhearing the conversation. The rent-increase guy took my card and the other young lad started speaking to me and said, "Well, I'm going to be setting up with this year's tent city." I said, "Oh, well, there are just some things going on in the House and maybe you won't be able to do that, actually." He said, "Well, I was there right at the beginning of the tent city." He was one of the first folks. He mentioned the name of the first woman who actually set up there for reasons of safety and so on and so forth. Now this young guy — he's a young dad — he has no family here, he went on to explain. He had a job. He also had a young son who is living here. He is not together with his common-law wife any more and wanted to remain here to be able to visit with his son. He couldn't find any place to live, so he moved in on the lawn. He said, "There was a bunch of us kind of in the same situation. We didn't have a place to go to. We couldn't afford camping space." He said for the first while there it was great. I can't exactly say how long. He said probably the first month and half. He said, "There was a bunch of us there. We were having communal corn roasts. We were helping each other out." He said it was like a little community. He said, "Things were very nice there for that amount of time. Then there were a few occasions when some other folks moved in there." And he talked about drugs, and he talked about drinking, and he talked about some fights and things. He said he wished that wouldn't have happened. He said he didn't know why that was going on there. He said it ruined a good thing for the people who had no place to go. They were there because they had no place to go. Then he said, "The snow is almost gone. I'm going to be setting up my tent there. I've already figured it out." He's living in his car, by the way.

He said, "If it weren't for the young couple who actually took me in over the winter for a nominal rent, I don't know what I would have done, because there is just no place for me." He then went on to say they are selling their house, otherwise he would stay there." He said, "With the market prices the way they are, they are going to sell their house and cash in. So now I have no place, but that is my plan. I actually developed this nice shelter that I am going to pitch outside the doors out here. I made some stakes, and I am going to be able to do this for

under \$20 or \$25. I am going down to the local store, and I have a plan of how I am going to set up accommodation there."

I said, "I cannot give you permission and you might want to look into this further" — because of what we are discussing here today. And he certainly did not want to be breaking any law, and he certainly was not talking about knife fights of his own. He was not talking about anything, other than he has no other place to go. So further on in the conversation: If they cannot be there then, where can they go — the people who don't have housing?

We're not talking about the people who ruin it for others. Those are always there in society. Is the minister hearing what I'm saying as to this person's plight — as to what we're talking about here today — and not the dangerous situations where there are criminal laws in effect, where people can address these situations — to have a place where somebody can live? And there are people waiting. There have been other conversations since then, I've heard. So will the minister respond to this story?

**Hon. Mr. Istchenko:** Like I alluded to earlier, and the member opposite alluded to the knife fight, this is a property management issue, and it's about providing the Yukon government — our government — with the tools to manage, maintain, protect and ensure proper access to government facilities. That's what this is about.

**Mr. Barr:** Will the minister then protect the people who are there peacefully, who choose to set up a living space?

**Hon. Mr. Istchenko:** I'm not sure what question the member is getting at, but this amendment is to provide us tools to protect health and safety around our government buildings.

**Mr. Barr:** Where I am going is, as I said, as things went on in the summer, yes, there were situations when even the people who were there peacefully were concerned. As the peaceful folks set up a home for themselves, will the minister commit to them being there and protect those who are peacefully living there who have no other place to be?

**Hon. Mr. Istchenko:** The Yukon government fully respects the rights of protestors to make their voices heard. We have many officials in many departments who work hard to understand the pressing needs of the protestors.

**Ms. Hanson:** So, basically we are down to — clearly the intention is as section 6 of this act — because that is the real intention — which is the removal of persons and removal of property. The process as outlined in the regulations is pretty simple because the minister has made it really clear that he has no intention of protecting the rights of people to simple accommodation or abode safety — a safe place to be. If you will recall, as I said last Thursday, the reason why people chose to put themselves on the legislative lawn was because it was in the public view. It was safe; it was not on the riverbank; it was not on the islands; it was not in the trees along the clay cliffs. The minister has made it clear that this government has no intention, it has no mandate and no policy to deal with homelessness and it will simply evict anybody who is found anywhere near these premises. The process, it sounds to me, is simple: Notice is given and then a person or property is removed by a peace officer. I will just point out to the minister opposite that

the Canadian Civil Liberties Association wrote to mayors, and we spoke last week about the Occupy movement, around the evictions of people who were involved in some of those Occupy camps. As was borne out — during the course of the next few months — but at that time the Canadian Civil Liberties Association said, “Unilateral enforcement action by police is unacceptable and dangerous. Where there are specific concerns, good faith negotiations should take place and accommodations found.”

My question for the minister is — and it’s a two-part question, so he may want to pay attention to that — Section 6 doesn’t seem to reflect the kind of approach that those who work on the frontlines utilize to diffuse situations. My question is why not? It seems rather draconian. The second part of the question is this: How will the removal of people be conducted? Whose job is it? Again, what are the budgetary implications associated with implementing this legislation?

**Hon. Mr. Istchenko:** I don’t agree with the member opposite in her first question. But her second question — although they’re in the preliminary stages, the operational policies are being drafted, and we’re working on implementation components on this regulation. Last week, I alluded to the cost to the taxpayer for last year — \$75,000. That doesn’t take into consideration the many, many members of different government departments who were there, talking, trying to help. Everything comes with a cost, Madam Chair.

**Ms. Hanson:** There are a number of costs —

**Chair:** Ms. Hanson.

**Ms. Hanson:** Thank you, Madam Chair. I apologize for speaking before you acknowledged me.

There are costs associated and that’s another issue that was raised by the Canadian Civil Liberties Association, again, in numerous exchanges of correspondence with municipalities and other levels of government across the country as the Occupy movement was taking place. As I said earlier, they commented that unilateral enforcement action through the police is unacceptable. They also suggested that any process aimed at resolving what could be valid concerns from a level of government must be conducted with sufficient transparency, participation and impartiality, that it can be seen to be a legitimate process by all those involved, not waiting, as we’ve heard today, for some as yet undefined process to fold out. In the event that reasonable and pressing concerns truly cannot be addressed through dialogue and an injunction — in this case, this is where the reference is because we don’t see provisions for injunctions here. Maybe they are and we just haven’t heard about them yet.

A legitimate legal process would require that protesters — or people who are occupying the space — be given sufficient notice that they can retain and instruct counsel. If those individuals cannot afford to pay legal counsel, this cost should be borne by the government since this is the party seeking clarification and direction from the court.

My question for the minister is — as he’s assessing the future costs of implementing this amendment to the *Financial Administration Act* and as he’s assessing the cost of implementing these as yet not completely fleshed-out regulations — is he

anticipating the costs of legal counsel for those who he will be forcing into the courts?

**Hon. Mr. Istchenko:** I might add to the member opposite: that’s why we have the legal aid system.

**Ms. Hanson:** I hope that people can take some comfort from the minister’s comment there. Section 10 speaks to the offence — this is all offensive, but — it says the person is guilty of an offence if he contravenes section 4, and then it goes on to elaborate a bunch of other things you can do to be offensive under this regulation. The bottom line is that the government is now finding new ways to fill up the jail. Persons who are guilty of an offence under subsection (1) are liable on summary conviction to a fine of not more than \$1,000 or imprisonment for not more than six months, or to both fine and imprisonment. So my question for the minister, or perhaps the government as a whole: How does this government expect the victims of the housing crisis — I mean, we’re not making this up in terms of a housing crisis. Every one of those members opposite have accepted the fact and stated publicly that they now acknowledge that they created a housing crisis in this territory, and now we’re saying that those people who are forced to camp will be forced — camping as their only source of accommodation; the only place they can find — they could be forced to fork out \$1,000?

They are not going to be able to do that, so they will be imprisoned for six months for camping on the grounds of the Legislative Assembly. Can the minister explain how this is fair to Yukoners and how that fits with the *Charter of Rights and Freedoms*?

**Hon. Mr. Istchenko:** Like I alluded to earlier, this is a property management issue. It is about government having the ability to deal with extreme issues on a case-by-case basis. The maximum penalty gives courts flexibility. The maximum is for the worst possible offence. You read under the act that a person “... is liable on summary conviction to a fine of not more than \$1,000 or imprisonment for not more than six months, or to both fine and imprisonment.” The member opposite alluded to challenges to some of the things that happened across the country.

This is — all legislation — you have to have something in there. We’ve piggybacked on our federal counterparts on this.

**Ms. Hanson:** As I said last week, it’s clear there are many, many unanswered questions and it’s unfortunate that the government is choosing to ram this legislation and the regulations forward. They’re clearly — based on the responses or non-responses to the considered questions that we’ve placed here today and last week — this has not been thought out thoroughly. There are implications that need to be considered. There is a need for public consultation.

As I said earlier, the Official Opposition finds the proposed regulations and the amendment to the *Financial Administration Act* wanting in terms of any responsible test of meeting what is good policy or good law. I’m not going to go on any longer. It’s clear that there is an intention to ram this through.

We will peacefully protest that, but I want to leave with a last comment from general counsel for the Canadian Civil Liberties Association who, in commenting on similar matters, last

November, just a few short months ago, said, “Although the right to peaceful assembly is not absolute, it must be protected and can only be limited by measures specifically tailored to meet serious and urgent objectives” — serious and urgent objectives. “Law enforcement and government officials have a duty to facilitate peaceful protest and assembly and to protect those participating in such activities. Health and safety concerns should be addressed, as well as the need to ensure that the broader public can reasonably access public spaces”. But concerns — and this, Madam Chair, is the key part here: “Concerns about aesthetics or simple assertions that individuals have been exercising their constitutionally protected democratic rights for ‘long enough’ are insufficient reasons to ‘evict’ protestors from public spaces.”

With that, I will end my questions for the minister.

**Mr. Elias:** I have been listening to the tantalizing debate over the last couple of hours and it seems like we are all very well versed in constitutional law. Basically, this is fairly clear to me.

Over the last couple of hours, I have listened to the minister responsible provide explanations to the multitude of questions that have been put on the floor of the House. In this instance, in this instance, in this instance — I said it three times for *Hansard* — I accept the minister’s justification of this legislation on the floor of the House today. In saying that, the Yukon Party, in the past, has brought forward pieces of legislation that were questionable, and we did challenge them on it — the civil forfeiture law comes to mind, Madam Chair.

With regard to the housing issue, the Yukon Party should get to work and deal with the hard-to-house, the homeless and people with special needs. That’s obviously a need in this territory that perpetuated some of the problems that we dealt with last summer, that were dealt with at great length here, but it is clear to me that this amendment specifically empowers government to manage all public properties for the overall benefit of all citizens of our territory.

I will make a couple of points with regard to public consultation. I’ll go to what I understand and what I know. Under 16.4.2 of the *Vuntut Gwitchin First Nation Final Agreement*, it says that the Vuntut Gwitchin citizens can harvest wildlife in any number, and any sex, at any time of the year and can only be limited by a couple of things — public safety, public health and conservation.

That document is protected by the highest law in this country. So, case law is already there. When I hear the minister say that he has looked at case law, it’s compliant with the *Charter of Rights and Freedoms*, he has looked at other jurisdictions that already have this law — and if memory serves me correctly, we already have laws in this territory that deal with making empowering regulations and proposing amendments that make contravention an offence and empower seizures. I believe it’s under the *Fisheries Act*. It’s under the *Parks Act*. It’s under the *Wildlife Act*. It’s under the *Environment Act* and regulations of protected areas. You’re allowed to remove someone from a protected area when they’re in contravention of that act. That case law is already there. That’s not my constitutional law background coming through, because I don’t have

one. Anyway, I’m just speaking of what I know. So, I think that this law is in compliance.

But I do have a question that is important to me. In developing this law, before it came to the floor of this House — can the minister reiterate that there has been a forensic-like examination of case law throughout our country and that it has gone through the test of being compliant with the *Charter of Rights and Freedoms* and that they looked at other jurisdictions who have this law that have not been challenged in court as of yet in our country.

**Hon. Mr. Istchenko:** There are no absolute guarantees with case law, but we did our due diligence and the questions the member opposite asked — our great staff worked hard on this. Yes, we looked into everything, thoroughly, so I thank the member opposite for his comments.

**Mr. Elias:** Just with the indulgence of the House, I believe it was the present Minister of Community Services and I who got into a debate about the lands and their usefulness. I think it was maybe four years ago. The society that exists under the clay cliffs north of here — they have raised beds and they grow food and so I did some research. I talked with several Yukoners who thought about what the land south of the Legislative Assembly near Rotary Park could be used for and they suggested, “You know what? That’s a lot of land there. Maybe we can use that land as well to raise food and give it to the food bank and make donations.” They do this at the White House. Legislative assemblies throughout this country do this. A suggestion that I brought forward to the Yukon Party government was to use that land to grow food and give it to the food bank. Now that we see the statistics on the food bank rising in these prosperous economic times, maybe it’s time for the government to rethink those kinds of grassroots, productive types of ideas. I think the title was “How Does Your Garden Grow?” Anyway, I appreciate the discussion today. I think this is fairly clear. I support this piece of legislation going forward and let’s move on.

**Ms. Hanson:** I just wanted to clarify a comment that the MLA for Vuntut Gwitchin made that yes, in fact, there was significant debate in this Legislative Assembly on the proposed Yukon Party civil forfeiture legislation. If he’ll recall, it was — statements made by the members of the Yukon Party — “look, civil forfeiture legislation exists everywhere else in Canada, so why wouldn’t we do it here?” You know what? Yukoners objected and they said no, and they said no loudly repeatedly, many, many times in this Legislative Assembly and outside this Legislative Assembly. Just because there is legislation of some nature similar in other jurisdictions, it does not make it right, and when it infringes upon Yukoners’ civil rights, their freedoms, then I think that we have a serious question to be asking ourselves: Why are we pushing this through now?

**Chair:** Is there any further debate?

Would the members like a recess?

**All Hon. Members:** Agreed.

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

*Recess*

**Chair:** Committee of the Whole will now come to order. We begin clause-by-clause debate on Bill No. 40, *Act to Amend the Financial Administration Act*.

*On Clause 1*

*Clause 1 agreed to*

*On Clause 2*

*Clause 2 agreed to*

*On Clause 3*

*Clause 3 agreed to*

*On Title*

*Title agreed to*

**Hon. Mr. Istchenko:** I move that Bill No. 40, entitled *Act to Amend the Financial Administration Act*, be reported without amendment.

**Chair:** Before we get to Mr. Istchenko's request, I would like it noted that all clauses have carried.

It has been moved by Mr. Istchenko that Bill No. 40, entitled *Act to Amend the Financial Administration Act*, be reported without amendment.

*Motion agreed to*

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

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

*Motion agreed to*

*Speaker resumes the Chair*

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

## INTRODUCTION OF VISITORS

**Ms. Hanson:** I would like to ask the House to join me in welcoming Mary Amerongen to the Legislative Assembly today. Mary is a long-time social activist working with poor people and others throughout the territory. But she's also a unique citizen in the sense that her commitment to the social justice issues extended to gifting each one of us as members of this Legislative Assembly a book called *Eearth* by Bill McKibben, which talks about the serious challenges of climate change. I both thank Mary and welcome her to this Legislative Assembly.

*Applause*

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

### Chair's report

**Ms. McLeod:** Mr. Speaker, Committee of the Whole has considered Bill No. 40, entitled *Act to Amend the Financial Administration Act*, and directed me to report the bill without amendment.

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

**Some Hon. Members:** Agreed.

**Speaker:** I declare the report carried.

## GOVERNMENT BILLS

### Bill No. 40: *Act to Amend the Financial Administration Act* — Third Reading

**Clerk:** Third reading, Bill No. 40, standing in the name of the Hon. Mr. Istchenko.

**Hon. Mr. Istchenko:** I move that Bill No. 40, entitled *Act to Amend the Financial Administration Act*, be now read a third time and do pass.

**Speaker:** It has been moved by the Minister of Highways and Public Works that Bill No. 40, entitled *Act to Amend the Financial Administration Act*, be now read a third time and do pass.

**Hon. Mr. Istchenko:** Yukoners expect the government to maintain the integrity of our public institutions, to ensure our government facilities are well-managed and accessible to everyone, and to take our responsibilities for the safety and security of our citizens very seriously. These minor amendments allow us to manage what happens at our public facilities and to ensure the health and safety of everyone at these facilities. Yukoners gave us a very clear mandate just a few months ago. We take these responsibilities very seriously, and for that I thank the House.

**Ms. Hanson:** I won't repeat the comments made during the course of the discussion and the debate on the amendments to the *Financial Administration Act* and of more importance, in terms of consequences for Yukon citizens, the regulations. I would simply say that the Yukon Party government was not elected to further infringe upon Yukoners' civil liberties and rights. We have grave concerns that the regulations and the as-yet un-discussed or unknown policies implementing them may have the potential to do that. It is for that reason that I will be voting against this.

**Mr. Elias:** With regard to Bill No. 40, the *Act to Amend the Financial Administration Act*, the amendment explicitly empowers regulations for the management, maintenance, proper use and protection of public property. The intention of this piece of legislation seems fairly clear to me. We will be supporting it today. Basically, that's all I have to say.

**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. Pasloski:** Agree.

**Hon. Mr. Cathers:** Agree.

**Hon. Ms. Taylor:** Agree.

**Hon. Mr. Kent:** Agree.

**Hon. Mr. Nixon:** Agree.

**Ms. McLeod:** Agree.

**Hon. Mr. Istchenko:** Agree.

**Hon. Mr. Dixon:** Agree.

**Mr. Hassard:** Agree.

**Ms. Hanson:** Disagree.

**Mr. Tredger:** Disagree.

**Ms. Moorcroft:** Disagree.

**Ms. White:** Disagree.

**Mr. Barr:** Disagree.

**Mr. Elias:** Agree.

**Mr. Silver:** Agree.

**Clerk:** Mr. Speaker, the results are 11 yeas, five nays.

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

*Motion for third reading of Bill No. 40 agreed to*

**Speaker:** I declare that Bill No. 40 has passed this House.

### **Bill No. 36: Act to Amend the Liquor Act — Third Reading**

**Clerk:** Third reading, Bill No. 36, standing in the name of the Hon. Mr. Kent.

**Hon. Mr. Kent:** I move that Bill No. 36, entitled *Act to Amend the Liquor Act*, be now read a third time and do pass.

**Speaker:** It has been moved by the minister responsible for the Yukon Liquor Corporation that Bill No. 36, entitled *Act to Amend the Liquor Act*, be now read a third time and do pass.

**Hon. Mr. Kent:** I'll be brief in my remarks. I know that we spent a considerable amount of time on these amendments last week during debate. Again, this bill speaks to the public drinking ban, specifically in unoccupied Commissioner's land that's adjacent to communities. Again, I do have to thank and recognize the people of Mayo, the village council and the First Nation of Na Cho Nyäk Dun for bringing forward their concerns with respect to Galena Park in Mayo, which really precipitated this amendment to the act.

The second part deals with personal importation limits. As we rapidly approach summer and Yukoners begin their travels to southern jurisdictions, of course, enjoying the annual wine tour that is organized by Air North, Yukon's airline, I'm hopeful that these increases will help them to be in compliance and be able to bring back an amount of liquor that is more in line with what we see as a national amount.

Again, I thank the members opposite for the debate on these particular amendments last week. As we near the end of today and approach the last 15 days of debate, of course, four of those days are allotted to private members' business.

I note that we have only really cleared approximately \$40 million of our \$1.156-billion budget. I am hopeful that we can continue the good work on behalf of Yukoners and continue in that debate so that at the end of this current sitting we are able to give full and fair consideration to all departments, including the number of bills that are still before this House.

**Mr. Barr:** We did have much debate last week in the House regarding these amendments. Just to reiterate, we didn't really have a problem with what the amendments are, but what

was not in the amendments. We duly note that, in regard to the language, we look forward to seeing those changes made in the various acts around language names such as "band" and those kinds of things to reflect the current times. Otherwise, we will be moving forward to accept the amendments as written.

*Motion for third reading of Bill No. 36 agreed to*

**Speaker:** I declare that Bill No. 36 has passed this House.

### **Bill No. 37: Act to Amend the Territorial Court Act — Second Reading**

**Clerk:** Second reading, Bill No. 37, standing in the name of the Hon. Mr. Nixon.

**Hon. Mr. Nixon:** I move that Bill No. 37, entitled *Act to Amend the Territorial Court Act*, be now read a second time.

**Speaker:** It has been moved by the Minister of Justice that Bill No. 37, entitled *Act to Amend the Territorial Court Act*, be now read a second time.

**Hon. Mr. Nixon:** I'm pleased to be able to speak to this House about these short amendments to the *Territorial Court Act*. Our government has a strong commitment to the objectives of practising good government and, to that end, I'm bringing forward these amendments to the *Territorial Court Act* that will support a shortened and simplified process for the appointment of deputy judges of the Territorial Court.

There are three permanent judges in the Yukon Territorial Court and the Department of Justice also maintains a list of appointed deputy judges who are qualified to sit in the Territorial Court on an on-call basis.

Permanent judges are appointed from recommendations brought forward by senior members of the Yukon Bar Association. There is a lengthy process for selecting the best possible candidates to sit on our Territorial Court. On the other hand, deputy judges have been selected from sitting or former provincial or territorial court judges who have gone through a thorough review of their credentials when first appointed as judges.

Deputy judges have the same powers as permanent judges. They are called upon to sit when permanent judges are not available due to caseload or when no permanent judge can sit due to conflicts. Because Yukon is a small jurisdiction, it does happen regularly that all permanent judges, as former practising lawyers here, have represented one or another of the parties in a current case before the court. When that happens, the judge is not able to hear the case. It is important that we have available an excellent roster of deputy judges to call upon who can step in to hear those cases in a timely manner. The objective of these amendments to the *Territorial Court Act* is to ensure that there are sufficient sitting judges to meet the demands of the justice system and ensure the integrity and timeliness of administration of justice in Yukon. The amendment will validate the process Justice uses for appointing sitting or former provincial or territorial court judges as deputy judges of the Yukon Territorial Court. It reflects the current requirement for the appointment of deputy judges of the Supreme Court of Yukon.

Mr. Speaker, I am confident that these amendments that are before you will have the effect of ensuring the highest stan-

dards for the administration of justice in Yukon by requiring that deputy judges be retired judges of the Territorial Court itself or sitting or retired judges of another Canadian provincial or territorial court. The amendments will also ensure that there is an expedited process for the identification of qualified persons to be deputy judges. So I am very pleased to be bringing these amendments forward today.

**Ms. Moorcroft:** I thank the minister for his opening comments on the *Act to Amend the Territorial Court Act* which, as he indicated, are fairly straightforward amendments to reflect the current practices for appointments of deputy judges. I do have some comments and some questions regarding this amendment. The appointment process, as indicated on the court website, states that not less than three and not more than eight qualified candidates are submitted to the Minister of Justice. I find it very interesting to note that —

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

**Ms. Moorcroft:** Oh, I'll wait until the Government House Leader is finished.

There is a section 4 in the amending act that adds a provision regarding the selection of deputy judges. In section 2 of that amendment, it says that, if the council considers that the appointment of a deputy judge is required or if the minister advises the council that a deputy judge is to be appointed, the council shall submit to the minister the name of at least one person who qualifies for the appointment. If I can explain why I have a question regarding that new provision in the act — it goes to whether the minister will have the ability to select a deputy judge from a list of qualified candidates or if the minister has only one name, then the minister must appoint that one deputy judge.

I note that in the websites of the courts — the Territorial Court of Yukon, to which this act applies — there are three judges. One of the judges is scheduled to retire in July of this year, having reached the mandatory retirement age of 65. The Supreme Court of Yukon has the mandatory retirement age of 70, and I would be interested to know why there has not been an extension of the age limit to 70 for mandatory retirement for judges of the Territorial Court.

I would also ask this: If deputy judges are retired, is there an age limit for them? I'll be looking to hear from the minister during debate in Committee about how the choice is made for which deputy judge is called. We have at present one woman on the bench in the Yukon. The matter of gender equality in the justice system and in the courts has been the subject of a significant body of literature, including the eminent jurist, Hon. Madam Justice Bertha Wilson, which has talked about the failures of our legal system to fully protect and respect and fulfill the right to equality for women found in the *Charter*. So it may occur that the — I'll pause again so the minister can hear my remarks.

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

## INTRODUCTION OF VISITORS

**Hon. Mr. Nixon:** I'd like to have my colleagues' indulgence in introducing my wife, Danielle.

*Applause*

**Speaker:** Member for Copperbelt South, please continue.

**Ms. Moorcroft:** I would like to welcome the minister's wife to the Assembly as well. I'll refrain from making a comment about how welcome it is to know that there are strong women in support of men in the Assembly.

As I was saying, in looking to the appointment process for deputy judges, I would like to be assured that the minister — when they're considering recommendations of the Judicial Council in making appointments of deputy judges — has the ability to appoint qualified First Nation candidates, to appoint qualified candidates who are women, so that we can, in fact, move toward a more representative bench here in the Yukon, as elsewhere.

I am also interested in the annual budget of travel expenses for deputy judges. I am interested in knowing how long it may take for the replacement of a retiring judge, or if a recruitment process will be started shortly, or whether the government anticipates there may be a need to appoint a deputy judge for a year or longer until a recruitment process for a retiring judge can be completed. With that, I look forward to further debate in Committee.

**Mr. Silver:** Thank you. I rise to offer comments from the Liberal caucus on Bill No. 37, *Act to Amend the Territorial Court Act*.

This amendment acknowledges the role deputy judges play in our territorial court system, which is that of judges, but on an impermanent basis. The existing act empowers deputy judges and includes some provisions for the accreditation and practices. It does not, however, explicitly delineate a process for their recruitment, qualification or appointment. The *Territorial Court Act* does include some provisions for permanent judges and the proposed amendments outline a new process for deputy judges that is similar to those established for permanent judges. We support published transparent and consistent processes for appointments of deputy judges. This encourages public confidence in our deputy judges and, through them, in the judicial system as a whole.

These amendments prove such transparencies and promote such confidences. On an aside, public confidence also comes when people feel that the judicial system encourages their meaningful participation. Our circuit courts are meant to deliver judicial proceedings throughout the Yukon's communities. Unfortunately, community circuit court proceedings are not always attended in person by the judges and legal counsel. Instead they are phoned-in from Whitehorse. The technology is unreliable.

This means that defendants often cannot make out what the lawyers are saying and this is not an adequate access to legal counsel. We are hearing this from the citizens in Old Crow, Ross River, Dawson City and other communities.

There have been regular cancellations of circuit court and if justice delayed is justice denied, then this must also be reme-



died. In conclusion, the amendments put forward today redress outstanding issues related to the qualification and the appointment of deputy judges. Access to these deputy judges and to all judges and legal counsel must extend fully to all Yukon communities through effective, on-site circuit courts. I encourage the minister to reassert that circuit courts should take place regularly with all parties in person in the affected communities. That would do a lot for encouraging faith in our judicial process which is part of what I think these amendments are meant to accomplish. We will be supporting Bill No. 37 today. Thank you, Mr. Speaker.

*Motion for second reading of Bill No. 37 agreed to*

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

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

*Motion agreed to*

*Speaker leaves the Chair*

## COMMITTEE OF THE WHOLE

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

The matter before the Committee is general debate on Bill No. 37, *Act to Amend the Territorial Court Act*. We are going to take a 10-minute recess while the officials settle in.

*Recess*

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

### Bill No. 37: *Act to Amend the Territorial Court Act*

**Chair:** The matter before the Committee is general debate on Bill No. 37, *Act to Amend the Territorial Court Act*.

**Hon. Mr. Nixon:** I'd just like to reiterate a few points here that I already made in my earlier speech, one being that our government has a very strong commitment to the objectives of practising good government. That's why I'm bringing these amendments to the *Territorial Court Act* forward. It's also important to me as minister and to the department that we have available an excellent roster of deputy judges to call upon who can step in to hear those cases in a timely manner.

To reiterate, the objective of these amendments to the *Territorial Court Act* is to ensure that there are sufficient judges sitting to meet the demands of the justice system. I'm confident that these amendments that are before you will have the effect of ensuring the highest standards for the administration of justice in Yukon and that there is an expedited process for the identification of qualified persons to be deputy judges. Thank you.

**Ms. Moorcroft:** In the second reading debate on Bill No. 37, I spoke to the minister about the issue of retirement age. I understand that one of the reasons for these amendments is that at the present time one of the sitting Territorial Court

judges is on pre-retirement leave. He will be retiring in July officially and is not accepting any new cases. So I would like to ask the minister whether there are a number of different deputy judges coming in for a week or two at a time, or whether a deputy judge has been appointed for a period of time, such as three months or six months, during the recruitment process for the position on the bench that is becoming vacant.

**Hon. Mr. Nixon:** To answer the member opposite's question, it is indeed up to the Chief Judge to make those recommendations and bring deputy judges in. It is on a case-by-case basis, so if they're needed we bring them in.

**Ms. Moorcroft:** Could the minister then provide us with some information regarding the process for the replacement of the position that will become vacant following Judge Faulkner's retirement? Has a recruitment process been initiated? How long does he anticipate that it will take?

**Hon. Mr. Nixon:** The government recently received notice by the judiciary that Judge Faulkner would be retiring effective this July, and we thank the judge for his time on the bench. He made many considered rulings while serving his fellow Yukoners as a Territorial Court Judge. The replacement of a judge is a lengthy process that can take up to a year and I am told that the judiciary will manage this by using deputy judges to fill any gaps in the capacity that there are as a result of any vacancies.

**Ms. Moorcroft:** Is the minister able to provide any information regarding the annual budget for travel and other expenses for deputy judges?

**Hon. Mr. Nixon:** In fact, I do not have that information on me at this present time. I can look into providing that for the member opposite.

**Ms. Moorcroft:** I had also spoken to the minister about the retirement age for Territorial Court judges and the fact that the age of 65 is retirement age in the Territorial Court and the age of 70 is the retirement age for the Yukon Supreme Court.

Why has the minister not considered extending the retirement age for the Territorial Court?

**Hon. Mr. Nixon:** About the age limit, for deputy judges the age limit is 75 years old. Experience tells us that our most recent judicial retirees have not requested an extension to the age limit; rather, they have retired on or prior to their 65<sup>th</sup> birthday.

A future government could consider upping the limit, but since the two remaining judges are too young to retire at this time, this will need to be a consideration at a later time if that need arises.

**Ms. Moorcroft:** I thank the minister for correcting that information. Is the minister aware whether the current list of deputy judges includes people who are mostly nearing retiring age, or whether there is a balance of younger and older judges in the list of deputy judges we currently have on the roster?

**Hon. Mr. Nixon:** Typically, with the deputy judges, they have retired elsewhere, so in a larger case than not, they are already over the age of 65, but they can practise as a deputy judge until they're 75 years old.

**Ms. Moorcroft:** During the break, I took the opportunity to speak briefly with the minister regarding a proposed amendment that I will be moving to this bill. The government is often commenting that they welcome positive suggestions from the opposition and from others. As I indicated in my second reading speeches, I would like to suggest that the minister not be limited in the appointment of deputy judges to accepting the name of one proposed candidate when there is a need to fill vacancies or to add more deputy judges to the list. I will be bringing forward an amendment to remove the phrase “the name of at least one person who qualifies for the appointment” and substitute “a list of the names of at least four persons who qualify for an appointment, at least two of whom shall be women”. I notice and I’m pleased to see that there is a gender balance in the list of names of current qualified deputy judges.

It has taken some time to get to that point. I’m wondering if the minister has had some time to consider whether he will in fact be supportive of my proposal to expand the list of names that are submitted to the minister for consideration when he is appointing deputy judges.

**Hon. Mr. Nixon:** In answering the member opposite’s question, the minimum number of deputy judges’ names is one under the amendment. There is nothing to prevent me as minister to call for more names for a deputy judge list from the Judicial Council. So, therefore, Madam Chair, I don’t believe the amendment would be necessary.

**Ms. Moorcroft:** That’s an interesting argument against what I thought would be a proposal that might be welcomed by the government. If the minister is appointing one judge at a time — if the minister is appointing one deputy judge and if the minister receives a list of one name and it’s one woman’s name, and the next time he received only one woman’s name, and the next time he received only one woman’s name, you might find that there were too many women on the bench for the public to consider that the court had a gender balance.

If I substituted the phrase, “at least two of whom shall be men,” would the minister then be in support of it or why does he think that this would be an unreasonable approach?

**Hon. Mr. Nixon:** I want to thank the member opposite for her question, but I am just going to restate my final answer. The amendment that she is bringing forward really is not necessary. If more than one deputy judge needs to be appointed, then I can do that at that time. So the amendment, really, is not necessary.

**Chair:** Is there any further debate?

We’re going to proceed with a clause-by-clause review of Bill No. 37, *Act to Amend the Territorial Court Act*.

*On Clause 1*

*Clause 1 agreed to*

*On Clause 2*

*Clause 2 agreed to*

*On Clause 3*

**Ms. Moorcroft:** Could the minister please provide an explanation of what this amendment will do? What will be the result of replacing the expression “judge” with the expression “judge other than a deputy judge”?

**Hon. Mr. Nixon:** To put it in plain language, it streamlines the process for appointing a deputy judge by enabling us to find someone and appointing them if they are already currently a judge somewhere else.

**Chair:** Is there any further debate on Clause 3?

*Clause 3 agreed to*

*On Clause 4*

**Ms. Moorcroft:** This section does not clear, actually. As I indicated, I do have an amendment to propose.

*Amendment proposed*

**Ms. Moorcroft:** I move

THAT Bill No. 37, entitled *Act to Amend the Territorial Court Act*, be amended in clause (4), at page 2, by amending section 9(2), removing the phrase “the name of at least one person who qualifies for the appointment” and substituting for it “a list of the names of at least four persons who qualify for an appointment, at least two of whom shall be women.”

While the page is making copies of the amendment for the members — I believe she is distributing them to all members now — the reasons for this amendment are fairly straightforward. As I indicated, I believe that it would be prudent for the minister to have the ability, when he or she is appointing a deputy judge, to select from a list of names at least one person who qualifies for the appointment.

I also believe that it is reasonable and, in keeping with the equality provisions of the *Canadian Charter of Rights and Freedoms*, that at least half of the names that are considered be women. We see throughout the justice system that, by and large, it is male-dominated. I believe that the laws and the functioning of the criminal justice system would improve if there were gender equality throughout the system. It pains me to report that, in fact, many Yukon women do not have full trust and confidence in the criminal justice system, and that confidence would be improved by ensuring that there are equal numbers of men and women appointed to the bench.

**Chair:** Is there any debate on the amendment?

It has been moved by Ms. Moorcroft that Bill No. 37, entitled *Act to Amend the Territorial Court Act*, be amended in clause (4), at page 2, by amending section 9(2), by removing the phrase “the name of at least one person who qualifies for the appointment”, and substituting for it “a list of the names of at least four persons who qualify for an appointment, at least two of whom shall be women.”

Are you prepared for the question? Are you agreed?

**Some Hon. Member:** Division.

**Count**

**Chair:** Count has been called.

*Bells*

**Chair:** Would all those in favour please rise?

*Members rise*

**Chair:** Would all those opposed please rise?

*Members rise*

**Chair:** The results are five yea, nine nay.

*Amendment to Bill No. 37 negatived*

**Chair:** Is there any further debate on clause 4?

*Clause 4 agreed to*

*On Clause 5*

*Clause 5 agreed to*

*On Title*

*Title agreed to*

**Hon. Mr. Nixon:** I move that Bill No. 37, entitled *Act to Amend the Territorial Court Act*, be reported without amendment.

**Chair:** It has been moved by Hon. Mr. Nixon that Bill No. 37, entitled *Act to Amend the Territorial Court Act*, be reported without amendment.

*Motion agreed to*

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

**Chair:** It has been moved by the Government House Leader 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**

**Ms. McLeod:** Committee of the Whole has considered Bill No. 37, *Act to Amend the Territorial Court Act*, and directed me to report the bill without amendment.

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

**Some Hon. Members:** Agreed.

**Speaker:** I declare the report carried.

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

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

*Motion agreed to*

**Speaker:** This House stands adjourned until 1:00 p.m. tomorrow.

*The House adjourned at 5:22 p.m.*

**The following Sessional Paper was tabled April 16, 2012:**

33-1-37

Appointments to Major Government Boards and Committees, Standing Committee on: 33<sup>rd</sup> Legislative Assembly, Second Report (dated April 10, 2012) (Hassard)