



Yukon Legislative Assembly

Number 55

3rd Session

34th Legislature

HANSARD

Thursday, October 29, 2020 — 1:00 p.m.

Speaker: The Honourable Nils Clarke

YUKON LEGISLATIVE ASSEMBLY

2020 Fall Sitting

SPEAKER — Hon. Nils Clarke, MLA, Riverdale North
DEPUTY SPEAKER and CHAIR OF COMMITTEE OF THE WHOLE — Don Hutton, MLA, Mayo-Tatchun
DEPUTY CHAIR OF COMMITTEE OF THE WHOLE — Ted Adel, MLA, Copperbelt North

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Hon. Ranj Pillai	Porter Creek South	Deputy Premier Minister of Energy, Mines and Resources; Economic Development; Minister responsible for the Yukon Development Corporation and the Yukon Energy Corporation
Hon. Tracy-Anne McPhee	Riverdale South	Government House Leader Minister of Education; Justice
Hon. John Streicker	Mount Lorne-Southern Lakes	Minister of Community Services; Minister responsible for the French Language Services Directorate; Yukon Liquor Corporation and the Yukon Lottery Commission
Hon. Pauline Frost	Vuntut Gwitchin	Minister of Health and Social Services; Environment; Minister responsible for the Yukon Housing Corporation
Hon. Richard Mostyn	Whitehorse West	Minister of Highways and Public Works; the Public Service Commission
Hon. Jeanie McLean	Mountainview	Minister of Tourism and Culture; Minister responsible for the Workers' Compensation Health and Safety Board; Women's Directorate

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**Yukon Legislative Assembly
Whitehorse, Yukon
Thursday, October 29, 2020 — 1:00 p.m.**

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

Prayers

DAILY ROUTINE

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

Introduction of visitors.

INTRODUCTION OF VISITORS

Hon. Mr. Silver: I would ask the Members of the Legislative Assembly to help me in welcoming to the House someone who normally sits in a different seat, but who is now in the gallery for a tribute. We have with us Mr. Joe Mewett, the President of the Royal Canadian Legion Whitehorse Branch 254.

Applause

Hon. Ms. McLean: I would ask my colleagues to help welcome a number of really special guests who are here today for our tribute to Air North. We have Debra Ryan, Joe Sparling, Greg Charlie, Rick Nielsen, Garry Njootli, Benjamin Ryan, Kim Brown, Silken Cinq-Mars, and Iain Breckenridge. Due to COVID restrictions and limited space, we also have folks who are tuning in on the radio today to listen to this special tribute. There are many people, but I will specifically mention Neil Hartling, Deputy Minister Valerie Royle and the Tourism and Culture team, and Deputy Minister Justin Ferbey.

Thank you very much for being here today.

Applause

Hon. Mr. Streicker: I am tabling a couple of annual reports today, so could we please welcome Mr. Frank Curlew and Mr. Matt Ordish, the chair and general manager from the Yukon Lottery Corporation; and Ms. Eva Bidrman, the chair of the Yukon Liquor Board; and Manon Moreau, the president of the Yukon Liquor Corporation. As well, I notice — it is always tricky with the masks — but I notice Mr. Andrew Smith from the Executive Council Office, who has been working on Yukon time.

If we could welcome them all, please.

Applause

Speaker: Are there any further introductions of visitors? Tributes.

TRIBUTES

In recognition of Royal Canadian Legion's poppy campaign

Hon. Mr. Silver: Today I rise to pay tribute to the Royal Canadian Legion's annual national poppy campaign, which begins tomorrow at noon.

Before I speak, I do want to recognize Veteran Joe Mewett, who has joined us in the Legislative Assembly for the tribute. Mr. Mewett served in the Canadian Forces for 30 years, including time in western Syria, Bosnia, and Afghanistan as well.

Today he is the president, as I mentioned, of the Royal Canadian Legion Whitehorse Branch 254. He recently also took on the role of the Deputy Sergeant-at-Arms in the Yukon Legislative Assembly. We want to thank Mr. Mewett for his continuing service, his continuing dedication to our community, and also for being there for our local veterans.

We are very, very proud to have him, as well, bringing order to this House in his new role as the Deputy Sergeant-at-Arms.

Mr. Speaker, this year's poppy campaign coincides with the 75th anniversary of the end of the Second World War. Throughout that conflict, more than one million Canadians served and 45,090 died. Our losses include 24,525 members serving in the Canadian Army, 17,397 from the Royal Canadian Air Force, and 2,168 from the Royal Canadian Navy.

Today, there are at least four World War II veterans still living in Yukon. The poppy campaign ensures that we do not forget their sacrifice or the sacrifice made by many others who did not return. These fellow Canadians stepped forward to do their job, and they did their job extremely well — keeping the peace and standing up against tyranny. Their selflessness held the line and safeguarded our freedoms and our way of life. Their efforts epitomized what it means to give of yourself to the greater good. We must remember the horrible conditions that they endured, the untold losses of human life that they witnessed, and the lasting impact that the memories of the horrors of war bring.

We honour their efforts by wearing a poppy each November. We also honour them by donating to our local legions so that the financial support we give can be given to veterans and families, as well as our very own Rangers and RCMP members. Approximately \$30,000 is raised each year, with proceeds funding local initiatives here in the territory.

I want to thank everybody who donates to this annual campaign or to the legion in general during the regular year. I also want to thank businesses and organizations that continue to make poppies available to the public with added safety measures. As we reflect on our current pandemic, these poppies are a reminder about how we can come together during difficult times.

Tomorrow at noon, Angélique Bernard, Commissioner of Yukon, will receive the first poppy at the cenotaph at city hall. Once again, I will be proudly there at the ceremony, along with members of government and other members of the community. After the formal event, all Yukoners will be encouraged to wear their own poppy until Remembrance Day. I hope to see red poppies proudly worn with respect over the hearts of Yukoners across the territory — and, Mr. Speaker, I know that I will.

Once again, I want to thank all of our veterans for stepping forward to answer the call. We deeply appreciate your sacrifice and service to our country.

Applause

Mr. Istchenko: I would like to also recognize fellow veteran Joe Mewett, and I want to thank the Premier for his words and, a little bit later, the Member for Whitehorse Centre for her words.

The Royal Canadian Legion 2020 national poppy campaign will begin tomorrow, October 30, this year, following the tradition of launching on the last Friday of October. There will be changes implemented both in response to the global pandemic and to continue modernizing the ways in which donors can support the campaign. Traditional poppy boxes will still be accepting coins for poppies, but sites may be limited, as donation tables are being discouraged in some areas this year. Of course, individuals can also choose to donate through the legion's national website.

Monies donated go directly to supports for veterans to address issues such as homelessness, food security, operational stress injury, assistance applying for federal benefits, family assistance, and, of course, remembrance promotion.

Financial support to help the Royal Canadian Legion branches across our country is needed due to the pandemic to ensure that hundreds of Canadian legion branches can remain open. These branches are so important to local communities, as they provide a safe space for veterans and seniors to gather. They prepare and deliver meals, organize remembrance activities and services, provide affordable rental space, and, of course, a community hub.

Also — very important to mention — legions across Canada — including here in the Yukon — support our youth through scholarships and grants to post-secondary, as well as community programs such as the Canadian cadet organization, Boy Scouts Canada, and the Girl Guides of Canada.

Please, when you donate, keep in mind all that the legions do for our communities and the importance of your donation. Leaders in our country must realize the unique role that the legion plays in Canada and that its structure is unlike any other non-profit organization. While so much of the country has been at a standstill, our legion branches continue to support our communities. Our local Legion Branch 254 has been closed during the pandemic for renovations and will hopefully be open in time for Remembrance Day.

I would like to take a moment to thank all those volunteers who work tirelessly at our local Branch 254 and all branches throughout Canada. I would encourage everyone to go to the websites legion.ca or poppystore.ca to help support our legions. This year, masks designed by the legions and made in Canada are available for purchase in addition to regular merchandise. I have purchased one and I will wear it with pride. To date, over 40,000 masks have been sold, with more on order. These will remain available to order through poppystore.ca throughout the remembrance period.

Like I said earlier, tomorrow is the first poppy ceremony and — as the Premier spoke about — I understand that there will be a special presentation afterward. I won't say much about that; I just look forward to hearing more about it.

In closing, I really want to thank our legions. They are our largest veterans' organization and they are committed to

ensuring that Canadians honour and remember the service and sacrifice of the Canadian Armed Forces, our RCMP, and our veterans.

Please wear a poppy with pride. Lest we forget.

Applause

Ms. White: I rise on behalf of the Yukon NDP caucus to speak of the importance of the remembrance poppy. We're privileged to live in a country envied for our stability, safety, and security, but we didn't get to this place by chance. As time passes, our collective memory fades of the actions of the past and the present that got us to this place of stability, safety, and security.

This detachment separates us further from our veterans and those currently serving in Canada's military — the very people who have witnessed, experienced, and borne first-hand the true costs of conflict. It separates us from the tens of thousands of men and women who are currently serving in the Canadian military and all of those who came before them to support freedom, democracy, the rule of law, and human rights around the world. It separates us from the families of veterans who have paid and who continue to pay the price of sacrifice.

The two weeks leading up to Remembrance Day are about bridging that separation. The symbol and the legend of the poppy was born out of the lived experience of John McCrae. His beautiful poem *In Flanders Fields* has moved generations of Canadians and it still symbolizes for us today the loss, heartache, and cost of war.

Mr. Speaker, the poppy isn't a symbol that supports war; actually, it's the farthest thing from it. We can disagree with war; we don't have to like it or support it or even want to acknowledge it; but none of that should ever take away from the importance and the respect of the poppy. The poppy doesn't symbolize those who made the decision to engage in armed conflict; the poppy is a visual cue to remind us to not only acknowledge the sacrifice of those who lost their lives, but to acknowledge the sacrifice of those who answered the call of duty and walk among us today.

By wearing a poppy, we're saying that we remember. We see you. We honour you and your sacrifices, and we are thankful for everything that you've done and continue to do. The poppy symbolizes the men, the women, and their families who have personally borne the cost of freedom. It is to them that we owe a debt of gratitude and it is to them that we pledge to never forget.

It is for them that we pledge to remember the cost of the freedoms that we enjoy and the peace that we enjoy today. So, it is for them that we wear the poppy.

Lest we forget.

Applause

In recognition of Air North, Yukon's airline

Hon. Ms. McLean: It is my absolute pleasure to rise today on behalf of the Yukon Liberal government to pay tribute to Air North, Yukon's airline.

I'm not sure that any jurisdiction takes more pride in a local airline than Yukoners do in Air North. That pride was amplified

when, this past July, Air North was named the Travellers' Choice best airline in Canada by Tripadvisor, who recognized their exceptional service and quality.

Though it may come as no surprise to Yukoners that our beloved airline has been nationally recognized, I am sure that some in the Canadian aviation industry were not expecting such a small airline to garner such significant recognition.

The day I heard this wonderful news, I happened to be on a federal/provincial/territorial tourism ministers call — so, of course, as a true Yukoner, I took great pleasure in bragging to my colleagues about this distinction and Yukon's airline. Minister Joly, the federal Minister of Tourism, quickly spoke about her own exceptional experience when she flew with Air North.

Mr. Speaker, what a year to win such an award. As the Minister of Tourism and Culture, it is both my job and, of course, my honour to support Yukon's tourism industry, an industry that is integral to supporting a healthy economy and future for all Yukoners. Where would our tourism industry be without our local airline? In fact, where would Yukon be?

This year has been a devastating one for the tourism industry across our country. It has been devastating for airlines as well. It has been hard to watch as the numbers come in showing the realities on the ground. Until earlier this year, Yukon's numbers were continually increasing. Air arrivals had grown 27 percent in the past five years. Since the pandemic struck, air arrivals are down 74 percent and they are down 95 percent over the last five-year average.

Today, I want to speak directly to Yukoners about the importance of supporting local businesses. When you support a local business, there are so many ripple effects. The dollars that you spend here stay in our communities. The dollars you spend locally pay hard-working Yukoners who love their jobs and love where they live. The dollars you spend here go to support communities.

Yukon businesses give so much back to our territory. Air North is a great example of this. Think for a moment of just how many times you have seen Air North's logo on banners and posters as a recognized sponsor of countless events and fundraisers. Yukoners take great pride in the incredible service that Air North provides both to visitors and to residents. They fly across the north and help keep the connections across Yukon strong. Their friendly smiles, the warm cookies, of course, and the personal, friendly service — this is how Yukoners want to be seen by the rest of the world, and Air North is a great ambassador for us all.

Now, in the face of a global pandemic, we all need to support a business that has done so much for Yukon. Our government has helped redirect millions of dollars in federal funding to support Air North and that level of support will absolutely continue.

We believe that it is incredibly important to support Air North now because we need them now, and we will definitely need them in the future. Yukoners: When you do travel again, think for a moment about how important it is to support a local business. Your community will thank you.

Thank you, of course, to Air North for weathering the hard times and for always taking Yukoners where they need to go.

Applause

Mr. Hassard: I rise on behalf of the Yukon Party Official Opposition to recognize and thank Air North, Yukon's airline, for their continued service to Yukoners and to visitors alike.

Since Air North was founded in 1977, their service and smiles have grown alongside their fleet and customer base. The airline never ceases to amaze. Receiving the top honour in Canada from Tripadvisor is a testament to the vision that President Joe Sparling has for this airline. Not only was he able to put his airline on the map in Canada, but he has taken a top award for North America as well — Travellers' Choice best airline in Canada and Travellers' Choice specialty airline in North America. Of course, this is not their first award and it most certainly will not be their last.

To go from being known as "the best airline you never heard of" to the "best airline in Canada" in four years is a feat in itself. I'm proud not only because Air North has enjoyed so many successes and recognitions, but I am proud because the company has stayed true to so many of the valuable qualities and customer service characteristics that so many airlines have lost over the years. Air North is about people first — about the people, their needs, their wants, and their comforts. It's about the quality staff training and recognition and providing a safe and happy environment for all who work and fly with them.

I know that, despite the effects of the COVID-19 pandemic on Air North, on their industry, and on businesses and tourism across the Yukon, this airline will be back at 100 percent, with smiles on their faces and cookies in their hands. The House was able to come together last week in support of Motion No. 283 — as brought forward by the Member for Porter Creek North — which, in short, will ensure that government-funded air travel is booked with local aviation companies. This is excellent news for our local aviation industry, and I'm hoping that it will be extremely beneficial to Air North.

So, thank you to Joe Sparling, Deb Ryan, and their management team for ensuring that Air North continues to be known for friendly service, amazing food, spacious and clean planes, and a love for their customers — and, of course, the cheesecake and cookies — but I'm not a cheesecake fan, so I'll take an extra cookie.

Thank you to each Air North employee who goes above and beyond to help make their customers happy — those who book travel, provide customer service on the phone, make meals for in-flight service and local grocery store shelves, handle the luggage and cargo, help people fly in comfort, and, of course, the pilots themselves — yes, even you, Bruce. Congratulations to you all on these latest awards. Thank you for your endless adaptation and perseverance in the face of adversity and for your dedication to Yukon.

Applause

Ms. Hanson: On behalf of the Yukon New Democratic Party, I am pleased to add our congratulations to Air North. You know, Mr. Speaker, there are occasions where we are surprised at an announcement of an award, but I have to say that when Tripadvisor named Air North, Yukon's airline, the Travellers' Choice best airline in Canada for 2020 as well as the Travellers' Choice for specialty airline in North America for 2020 for the second year in a row, I would wager that most Yukoners' response was "What took you so long?"

When the Tripadvisor awards were announced in July, in addition to thanking the Air North team and Yukoners for their support, Joe Sparling, President of Air North, said that he was pleased to see that, by making these awards to a northern air carrier, there is recognition of the role Air North as a northern airline plays, not only by providing essential air services, but also by strengthening the northern economy through indigenous and non-indigenous employment and investment.

As a Yukon employer of over 100 Yukoners and with almost one in 15 Yukoners holding an equity stake in the airline — including the Vuntut Gwitchin First Nation — Air North is truly our airline. The first thing most people think of when asked about Air North is the warm cookies. I would say that Yukoners know those cookies are a symbol of the care that Air North demonstrates each and every day for its passengers and, through that, our economy.

Over the years, Air North has adapted to massive changes in its operations in the aviation regulatory environment and the economy. Its resilience has been tested severely by COVID-19. In July, they announced the Air North Care First program, focused on putting their passengers, communities, and staff first. As the pandemic wears on, it is becoming more clear that it will take the collective efforts of Yukoners, along with our federal and territorial governments, to help Air North stay aloft. Like *The Little Engine That Could*, we think we can, we know we can, and we look forward to the 2021 Tripadvisor awards with Yukon's Air North at the top again.

Applause

Speaker: Are there any returns or documents for tabling?

TABLING RETURNS AND DOCUMENTS

Hon. Mr. Silver: Pursuant to section 8(2) of the *Financial Administration Act*, I have for tabling the Public Accounts for the 2019-20 fiscal year.

Hon. Mr. Streicker: I have for tabling today the Yukon Lottery Commission 2019-20 annual report and the annual report for the Yukon Liquor Corporation 2019-20.

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

- Are there any reports of committees?
- Are there any petitions to be presented?
- Are there any bills to be introduced?
- Are there any notices of motions?

NOTICES OF MOTIONS

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

THAT this House thanks the hard-working crews from ATCO Electric Yukon and Yukon Energy Corporation for working long hours and late at night to restore power to hundreds of people after the windstorm of October 26, 2020.

I also give notice of the following motion:

THAT this House thanks private sector tree-removal companies, staff of Highways and Public Works, and helpful neighbours for their hard work clearing fallen trees from homes, properties, and roads after the windstorm of October 26, 2020.

I also give notice of the following motion:

THAT this House urges the Yukon government to recognize the impacts to rural residents caused by the windstorm of October 26, 2020, including many fallen trees and some destroyed buildings, by waiving its solid-waste facility tipping fees for brush, clean wood, and demolition material resulting from the storm.

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

THAT this House urges the Members' Services Board to consult with the Chief Electoral Officer regarding changes to Yukon's *Elections Act* necessary to conduct an election safely during the COVID-19 pandemic.

Speaker: Are there any further notices of motions?
Is there a statement from a minister?

MINISTERIAL STATEMENT

Yukon Standard Time

Hon. Mr. Streicker: I am proud to speak today about our government's decision to end seasonal time changes in the Yukon.

Our new Yukon Standard Time takes effect this weekend, November 1. Yukoners will no longer need to change their clocks annually. There is no more springing forward or falling back. Earlier this year, we engaged Yukoners on this issue and had the largest response ever. At that time, we also specifically reached out to dozens of governments, organizations, and business representatives in the Yukon. The results of the engagement were very clear: Yukoners want to end seasonal time change. We heard that over 90 percent of Yukoners were opposed to the twice-annual time change. Yukoners spoke and we listened.

In March of this year, we announced that the Yukon will end the practice of seasonal time change. I for one am glad that, by not falling back this weekend, Yukoners won't spend an extra hour in 2020.

This will also move Yukon closer to the rest of Canada. Since our March announcement, we have been in touch with local, national, and international telecommunication businesses and organizations to make sure that global databases are

updated and to ensure that the transition will be as smooth as possible. Yukoners may already be seeing the new time zone reflected on phones and computers.

We have reached out to Yukon organizations and businesses in order to give them information on the change and advice on making sure their devices are accurate on November 1. I urge everyone to make sure that their phones, computers, and other devices have all their current updates installed. Old-school devices like microwaves and clocks, of course, don't need to be updated.

I also urge Yukoners to check their appointments and scheduling in the next few weeks to ensure that appointments booked under our old time zone are reflected accurately in digital calendars and scheduling systems. Each device or piece of software may be different.

Yukoners should contact their service provider for specific questions about devices or software. I also encourage everyone to visit yukon.ca/time for more information. While there will probably be some complications and confusion in the computer systems this weekend, Yukoners will feel the benefit of permanent time this coming March when we no longer lose that precious hour of spring sleep.

The Yukon is leading on the issue and we look forward to BC joining us on Yukon time before too long. In fact, BC has a mixture of time zones. After this weekend, we will be one hour ahead of Vancouver, but on the same time as the Fort St. John region. In the spring, we will once again be on the same time as Vancouver.

Yukoners can access the time zone map and further information on how to be prepared for the change to permanent time by visiting yukon.ca/time. The map has also been sent to all Yukon mailing addresses.

Yukon is showing leadership in North America and the world on this. I'm sure that we will be looked at to provide that guidance to other places undertaking a similar change in the future. Our experience will inform other jurisdictions that are hoping to end seasonal time change and show that it is possible with few complications.

I would like to thank the hard-working public servants who have been preparing us for the new Yukon time. Thank you for all of your efforts.

Again, a final reminder to Yukoners: Do not change your clocks this weekend. I am proud to say again that we are now on permanent Yukon time.

Ms. Van Bibber: Thank you for the opportunity to speak to this today. I have a few questions for the minister with respect to the planning and implementation of the time change which I hope he can answer.

As the minister points out, 90 percent of Yukoners were opposed to the twice-annual time change. When the consultation was undertaken, there were several options asked. Option A was for Yukon to stay on year-round daylight saving time, and option B was for Yukon to stay on year-round standard time. Ultimately, the government has chosen to go with option A.

Can the minister tell us: Of the 90 percent opposed to the time change, how many preferred option A? During the consultation, one theme that seemed to come out was that a lot of people were supportive of the elimination of time change to ensure continued alignment with BC.

One question that we have received from several businesses and Yukoners is: Once BC announced that they were pausing their time change, why did Yukon not do so as well so as to ensure that we would continue to align with them?

With respect to the time change and its impact on businesses, I am hoping that the minister can let us know what work he has done with the business community to prepare for the time change. For example, the Dawson airport can only operate during daylight hours, so these changes will potentially negatively impact Air North's routes through Dawson to Old Crow.

What work has been done with Air North to assist with preparations for the time change so as to ensure that those routes can continue with minimal problems? What work has the government done to ensure that flights from Whitehorse to Vancouver — especially with connections — will not be disrupted?

We have also heard concerns from Yukoners about how this will impact scheduling for such things as medical appointments, surgeries, and school appointments. What assurance is there and what work has been undertaken to ensure that no medical procedure or other appointments will be negatively impacted?

We ask these questions to ensure that due diligence was done before the policy was implemented. Thank you again for the opportunity to speak.

Ms. Hanson: I doubt that anyone will raise their hand to say that they will be missing changing their clocks twice a year. Folks with children or even pets will tell you that they won't miss the morning chaos brought about by the time change.

We acknowledge the efforts of the Association of Yukon Communities and others to champion this change. As the minister pointed out, Yukoners surveyed were massively in favour of the change. It should be noted, though, that the survey that this government ran did not ask if Yukoners supported the change even if BC didn't join in at the same time. This change is bringing up many questions from individuals and businesses concerned that having BC and Yukon out of sync for part of the year will result in confusion. BC has been clear that their transition to a permanent daylight saving time will only take place in coordination with its neighbour to the south, the western United States. That means that, for the time being, we will be the outlier.

I would appreciate it if the minister, in his response, could share what kind of follow-up will be done to evaluate the impact of this change, including the fact that we are no longer going to be in the same time zone as British Columbia — the impact on Yukoners and on Yukon businesses.

I also hope that the minister will spare no effort in trying to convince his BC counterpart to join Yukon in remaining on daylight saving time year-round.

Hon. Mr. Streicker: I would like to begin by acknowledging a comment that was made by the Member for Whitehorse Centre. This started with the Association of Yukon Communities — and, in fact, with many Yukoners when we were out talking with them. The Association of Yukon Communities brought forward a resolution in 2017, I think, and so I would like to share that thanks and acknowledgement.

I would also like to talk about some of those Yukoners who came up to us — I'm sure to all of us, as members of this Legislative Assembly — and spoke to us about this issue. I remember that Ms. Pat Wiens, on one of my first trips to Teslin, was really adamant about trying to see this change in place. Also, Mr. Walter Latour, from the Marsh Lake Local Advisory Council, has been a really strong advocate. The public has been pretty clear. I think it was 93 percent of respondents — and, by the way, we had nearly 5,000 respondents to the survey, both in writing and in the online survey.

The Member for Porter Creek North asked: How strong was the position that we go with this version of Yukon time — option A — which is Pacific daylight saving time? Seventy percent of the public requested that; 25 percent chose standard time; and five percent had no preference.

I think that British Columbians also want to get here. I'm hopeful that, by us moving to Yukon time, it will help them to get there a little quicker. They have actually made the legislative change but decided not to introduce it at this time. I know that the Premier works closely with them and I work with my counterparts. We will continue to support them in making that transition. I know that the public is interested in it down in BC, and I think pretty soon we will see that people will be following on Yukon time.

With respect to working with businesses — I don't have time within the couple of minutes that I have to outline all of the details around that engagement, but I know that we have been working very closely with airlines in particular about the scheduling issues. The number of daylight hours won't change, so the amount of time that flights are able to go north is still there. The question really is about syncing them up with other things here or when we travel Outside. That's the thing that we have to watch.

Of course, we want to make sure that all people travelling for medical reasons are still fine and supported. In the past, people have travelled to Alberta as well as to British Columbia. Well now, part of the year, they will be on the same time zone as Alberta. I think we work those things out nowadays, especially with our devices, phones, et cetera. We are more connected than ever.

I will just say that the response from Yukoners was clear about making the change. We are happy to be moving forward to support Yukoners in their request.

Speaker: This then brings us to Question Period.

QUESTION PERIOD

Question re: COVID-19 pandemic impact on economy

Mr. Istchenko: Mr. Speaker, there are 700 more Yukoners out of work compared to this time last year. Businesses, especially those in the accommodation sector, are looking for certainty from the government to make it through the winter.

Will the Minister of Tourism and Culture extend the accommodation recovery fund from December 31 to the end of March — yes or no?

Hon. Ms. McLean: I'm happy to rise today to speak to Yukoners about the support that our government has put forward to the tourism sector, including the accommodation sector specifically. We had an announcement last week that committed \$2.88 million toward the accommodation sector. We've been working very, very closely with them to ensure that we are responding in the appropriate way with the appropriate type of relief that's needed at this time.

Our announcement also included an indication and commitment of \$15 million over the next three years. That includes this fiscal year into the next and the next two following fiscal years. We will continue to work with our partners. We are meeting on a regular basis and continuing to analyze the results of our recent survey that we did with the Yukon Bureau of Statistics. We will be further defining those other relief programs as needed, continuing down the path of identifying and working out the details of the recovery plan going forward.

Relief and recovery are both very vital in terms of how we go forward with our tourism industry and I look forward to further questions.

Mr. Istchenko: According to the Yukon Bureau of Statistics, when unemployment is adjusted to reflect COVID-19, Yukon's unemployment rate is just under 12 percent. Restaurants and bars are looking for certainty from the government to make it through the winter, too. One temporary economic measure was to provide these businesses with liquor licences with a 25-percent discount for liquor. We have heard that this discount for liquor will expire soon, at the end of December.

Will the Minister responsible for the Yukon Liquor Corporation extend this until the end of March — yes or no?

Hon. Mr. Streicker: We have put in some support to try to shore up our hospitality sector — including restaurants — but we also recognize that alcohol consumption is a challenge for us, so there is a two-edged sword here. We have extended the support for our licensees; however, we are working to find other ways to support them that isn't as directly tied to this. We have been working closely with them. I have had several meetings with them and the Yukon Liquor Corporation has had several meetings with them. We will continue to work with them.

I am not going to give an answer on the floor of the House today, but what I will say is that we will continue to work with them.

Mr. Istchenko: As I indicated, there are 700 more Yukoners out of work compared to this time last year.

According to the Yukon Bureau of Statistics, when unemployment is adjusted to reflect COVID-19, Yukon's unemployment rate has skyrocketed to just under 12 percent.

It is the end of October. People are waiting for the government to come up with a plan to get these people back to work. What is the government's plan to get these 700 Yukoners back to work?

Hon. Mr. Pillai: Mr. Speaker, I would like to touch on a couple of points that were made in those first questions. First and foremost, we have heard time and time again here in the Legislative Assembly that we haven't had the right tools in place to make sure that we are supporting tourism as well as business in general.

Again, our business relief program — which now is predominantly helping the tourism sector — this program has reached across Yukon's economy. As of October 21, 2020, there have been 518 applications that we have successfully funded — \$5.65 million. What we are seeing now is a real decrease because lots of areas of the economy are starting to come back.

When it comes to the unemployment rate, one thing that is really important — the member opposite, when going through those numbers, probably would see that we have the best ratio in the entire country when we look at available job openings versus individuals who are unemployed. Number one — very favourable — and the opportunity for the many, many jobs here in the Yukon is number one.

We are also excited to see projects like the Alexco Mine opening, which is going to be somewhere near about 300 really good-paying jobs. We are going to continue to support the tourism sector, as we have done through these programs — and again, really favourable when looking at good-paying jobs that are available here in the Yukon, which we have seen over the last number of years.

Question re: COVID-19 pandemic — public servants working from home

Mr. Hassard: On March 18, the government issued a working-at-home directive to the public service. Earlier this month, during our briefing with officials from the Department of Energy, Mines and Resources, they indicated to us that, at the height of the pandemic, 70 percent of their employees were working from home. At the time of the briefing, they stated that the number was still at around 40 percent, with many others still doing part-time work from home. So, we currently only have the statistics from that one department.

Can the Minister responsible for the Public Service Commission tell us how many public servants across government were working from home at the height of the pandemic?

Hon. Mr. Mostyn: I really appreciate the question from the member opposite this afternoon. The Public Service Commission — once we were in the grips of the pandemic — issued a directive to employees to mitigate the spread of COVID-19 within our society and asked that civil servants work from home.

The government continues to prioritize the health and safety of employees throughout these challenging times while continuing to deliver the services that Yukoners depend on. The shift to many employees working from home is an important step to support increased physical distancing and to help prevent the spread of COVID-19. That is why we put those measures in place during the height of the pandemic.

We are adhering to the required health and safety measures and making continuous improvements to support the ongoing well-being of employees who are working from home.

Mr. Speaker, at the height of the pandemic, we had — I don't have those stats at my fingertips, but I will endeavour to get the member opposite the numbers for the number of people working from home at the height of the pandemic.

Mr. Hassard: I certainly look forward to getting that information from the minister.

When he's on his feet next, could he possibly tell the House how many public servants across government are currently working from home?

Hon. Mr. Mostyn: Because of the swift action that this government took in dealing with the pandemic back in March in making sure that our civil servants started working from home — and the sacrifices, Mr. Speaker, frankly that all Yukoners are making in behalf of society in dealing with this pandemic — this global health crisis that we find ourselves immersed in — and Mr. Speaker, we can see across the world that this is not going anywhere quickly. We're seeing outbreaks in Belgium, in France, in Germany, in Ontario, in Québec, and in Alberta. This is a sickness that is persistent and it is not getting better; in many places, it's getting worse. Because of the measures we took so quickly, we were able to have the territory in sort of a sandbox situation which has allowed us to have the economic support or the economic activity and the relative freedoms that we have today.

At the moment, we have in the neighbourhood of 15 percent of our civil service working from home and we hope we can continue in that vein with the diligence of our society to allow us to maintain a measure of normalcy in the midst of this global pandemic. It's only through the sacrifices of Yukoners that we can do that.

Mr. Hassard: So, could the minister please provide this House with the government's plan and timeline to get public servants back to the workplace? To support this back-to-work plan, how much has been spent to date on physical improvements to office spaces, such as the installation of plexiglass or the purchase of masks and hand sanitizer?

Hon. Mr. Mostyn: I'm absolutely shocked, Mr. Speaker, on the floor of this Legislature today that the member opposite — the Leader of the Official Opposition — is suggesting that civil servants who are working from home are not working. I will tell you that in the grips of this pandemic — when we had the issue arising, we sent our civil servants home to protect society and their families and the well-being of Yukoners.

At that time, Mr. Speaker, we put programs in place that are cutting edge in the country — and we did it in a matter of a month, with civil servants working night and day and weekends

under extraordinary circumstances — working with their kids at home, working with all of their management structures being disrupted, and having to learn new technological initiatives for actually working from home. They did all of this, and, in the process of that, they still managed to get cutting-edge programs to Yukoners that helped to sustain them through this pandemic. I applaud the efforts of this civil service, under absolutely extraordinary circumstances, to do their jobs.

Mr. Speaker, right now, we have 15 percent of the civil servants at home, and they are continuing to work from home. I know that this is, again, part of our measures to keep society safe in the midst of this global health crisis.

Question re: Whitehorse Emergency Shelter services

Ms. White: Since the beginning of the pandemic, the Whitehorse Emergency Shelter and NGOs had partnered together to distribute two meals a day, seven days a week through the Whitehorse Food Bank. The government announced that this arrangement will end on October 31 and that all meals will once again be served at the shelter starting on November 1.

Contrary to what the minister said on Monday, we learned today that only guests registered to stay overnight at the shelter will have access to dinner. Can the minister confirm that only guests staying overnight at the emergency shelter will be able to access dinner as of November 1?

Hon. Ms. Frost: Through creating stronger and respectful partnerships, we are working to improve the health and well-being of Yukoners in all aspects of society. We know that Yukon's most vulnerable people have been underserved for years, which is why we expanded the services at the Whitehorse Emergency Shelter and opened the territory's first Housing First project. These important projects have been successful because we are working with all levels of government and stakeholders, recognizing that supporting vulnerable Yukoners is an issue and a concern that our whole society and all levels of decision-makers need to participate in.

We are working hard to support all Yukoners through the Whitehorse Emergency Shelter, and all who come for a meal or other services will be provided the support. We have made that commitment, and we will continue to support our vulnerable population.

Ms. White: The minister appeared to have been lost in my question. My question was: Can the minister confirm that only guests staying overnight at the shelter will be able to access dinner as of November 1?

Hon. Ms. Frost: Let's remind the member opposite that, just a few short days ago, the member opposite voted against the supplementary request that was presented here in the House for the Whitehorse Emergency Shelter to resolve and address the pressures that we have seen. Mr. Speaker, the contrast to what is being said — certainly is not the case. We have indicated that we would provide services to the guests who present themselves at the shelter and the vulnerable population that we have seen.

To note, Mr. Speaker, historically, we have seen 13 individuals who presented as vulnerable members of our society at the Whitehorse Emergency Shelter. We provided, prior to the pandemic, up to 300 meals a day, plus we provided shelter for upwards of 70 individuals. We continue to provide supports to that sector of our society. We do that with partnerships. We do that with our NGO communities. I want to acknowledge the great work of the staff to be innovative and creative during times of crises and to look at alternative measures to ensure that a community plan is in effect.

Let us note that we do have a plan.

Ms. White: Food bank volunteers distribute an average of 160 bagged meals each and every day. Anyone was able to access this program seven days a week. On November 1, individuals not staying overnight at the shelter will no longer have access to dinner. Many of these folks live in hotel rooms with no cooking facilities. On Monday, the minister said — and I quote: “We do not want to ever turn anyone away...” With drop-in hours closing at 4:30 p.m., the food bank estimates that 40 to 50 people in need of a meal will be turned away.

Why does the minister now think that it is a good time to turn away people from the shelter who are seeking a meal?

Hon. Ms. Frost: Let's just bring ourselves back in time a little way. The responsibility that we have to provide services for citizens of the city — we have an obligation to provide services across the Yukon for all citizens. Right now, we are in the height of a pandemic. We must ensure that every Yukoner has shelter, has food, and is well-supported. A few short months ago, the Member for Whitehorse Centre advocated that we must deal with the vulnerable population and, of course, address the closures, address a safety plan, and support the businesses.

We have to balance, of course, equity. We have to balance the services that are required.

Part of the plan, Mr. Speaker, was to follow the recommendations of the chief medical officer of health and that was to ensure that we had a safety plan to support the guests who present at the shelter. The definition of “guests” — well, the individuals who show up at the shelter asking for services are provided the services — if not at the shelter, then they are provided services elsewhere. We do have a list of services available, and we will continue to ensure that the individuals have the social supports that they require to be successful.

Question re: Whitehorse Emergency Shelter services

Ms. White: We learned today that the shelter will no longer provide meals to the Sally and Sisters lunch program that is served out of the Whitehorse Food Bank. For 10 years, twice a week, this program has provided women and their children a safe place to share a meal. Before the program was suspended due to the pandemic, the Sally and Sisters program hosted, on average, 30 women and their children per meal, twice a week. This was a safe place to share food and an opportunity to socialize with other women and children.

Why is the minister cutting the government's contribution to the Sally and Sisters program? Can she explain why she

thinks women and children no longer need a safe place to share a meal?

Hon. Ms. Frost: That is absolutely not true. The member opposite has information because she sits on the board of the food bank, so she's bringing this forward as an issue. It is not an issue.

We are providing services. We are working with the Victoria Faulkner Women's Centre, we're working with the women's shelter, and we are working with my colleague, the Minister responsible for the Women's Directorate, to find an alternative. We are working with the department to ensure that families, children, and mothers — all who present to Health and Social Services, our income support clients — are supported. We are doing that successfully and I'm very proud of the great work of the department.

I want to assure Yukoners who are out there and who are being misled that we are certainly providing the services. If there are any questions, I encourage them to please reach out to Health and Social Services — reach out to us — and we will ensure that no one is ever left without shelter or food. We will do our best to endeavour to provide the supports that are necessary, much like we are doing right now. We have done an exceptional job, I would say — the department and the staff — from where we were four short years ago when we had a shell of a system that didn't provide services to the vulnerable population.

Ms. White: There appears to be a disconnect between the minister and what is actually going on at the shelter.

During a meeting with government officials earlier today, NGOs involved in the food distribution program were told repeatedly that food security was not in the Whitehorse Emergency Shelter's mandate. The people who use the shelter and the meal distribution program at the food bank would, without a doubt, say otherwise.

Let me tell you that folks who struggle to put a meal on their table every day know more about food security than anyone in this House ever will.

Does the minister stand by the statement that food security for the most vulnerable in our community is not part of the mandate of the Whitehorse Emergency Shelter?

Hon. Ms. Frost: As I indicated, at the current moment, we provide shelter for 37 people a night. The shelter accommodates 25 individuals, as it was built previously. We have taken an approach to ensure that individuals are provided shelter and provided the means to feed themselves and their families.

With respect to the guidance that is provided by the Health and Social Services staff within the shelter — and, of course, in the department — we are working continuously, and that is to ensure that we have supports. We are working with our NGO partners. We are working with the Women's Directorate. We are certainly looking, during some trying times — and we encourage Yukoners to please work with us. We encourage our partners, of course, to look at the services that we are providing right now through the shelter and through other avenues in our communities, and that is to ensure that we provide services.

With respect to the Sally and Sisters, we are certainly not cutting anything. We are providing the services, and we will continue to ensure that those individuals who utilize the program are supported.

Ms. White: This government likes to talk about food security, yet a decision that they have made, as of November 1, will prevent 50 people who need it from getting a meal in the middle of a pandemic, in the middle of winter. So, this will affect our friends, this will affect our neighbours, and this will affect people who need it the most. This action is nothing short of shameful.

The government needs to reverse this heartless decision immediately. Drop-in hours at the Whitehorse Emergency Shelter must be extended beyond 4:30 p.m. so that anyone who needs a meal can get it whether or not they are staying overnight at the shelter.

When will the minister do the right thing and ensure that everyone has access to dinner at the emergency shelter whether or not they are overnight guests?

Hon. Ms. Frost: The focus of the Whitehorse Emergency Shelter is to provide low-barrier shelter to homeless and street-involved individuals. This involves providing meals to the shelter guests. As part of the COVID-19 response and an increase to physical distancing at the shelter, we are prepared to provide meals at the shelter kitchen.

Now, as distributed previously through the summer through the food bank, we have ensured that our guests were supported. This was a temporary measure. Now that winter is approaching, we are reassessing the best way to serve our guests as determined by the protocols of the chief medical officer of health. Of course, that involves making sure that the guests who come to the shelter are well-supported and safe.

We certainly want to ensure that we resume indoor services beginning on November 1. I indicated that we have the mealtimes established and set up within the guidelines as presented by the chief medical officer of health. We will ensure that any individual who presents themselves at the Whitehorse Emergency Shelter will be provided with a meal.

I want to just put that out there again: Any individual who presents at the shelter who requires a meal will receive a meal.

Question re: Francophone high school

Mr. Kent: Yesterday, the Minister of Education incorrectly claimed that the francophone school came in on time; however, in October 2017, the minister told this Legislature that the project would be completed at the end of 2019.

This was confirmed in a *Yukon News* article from February 2018 that stated that the French school was — and I quote: "... originally supposed to be completed by the end of 2019."

Well, it's the end of October 2020, and the school is still not done.

So, can the Minister of Education tell us why she made an incorrect statement yesterday, claiming that the project was on time when all the facts show it is over 300 days late?

Hon. Mr. Mostyn: I'm happy to talk about this project — this successful project — the building of the French language school in Riverdale.

I can say right off the bat that the school's original contract was for \$29.4 million in a negotiated request for proposals, which was used to select the winning proponent. In the end, the current construction contract with Ketz Construction is \$30 million. So, the cost of the school in the original contract was \$29.4 million and Ketz Construction has a contract for \$30 million. That is the price of the school, including change orders.

Mr. Speaker, the construction is not only well underway, but we have managed this contract through a global pandemic. Right now, the keys to the structure are being transferred. If that hasn't happened already, it will be happening in the next few days. I know that the students are preparing to enter this brand new marvellous facility that the construction company itself has told us is one of the best projects that they have ever worked on in the history of their company. I really am proud of the work that they've done. I am proud of the work of the departments of Education and Highways and Public Works on this project.

Mr. Kent: The question was for the Minister of Education about the incorrect claim that she made yesterday that the project was on time when it is 300 days late. She also claimed yesterday that the francophone school came in on budget as well. A *Yukon News* article from February 2018 states — and I quote: “The territory originally earmarked \$20 million for the project. The federal government also contributed \$7.5 million from its minority language education program.”

In April 2019, an article from the *Whitehorse Star* states that the Liberal government went massively overbudget. The project came in at \$35.3 million, which is just shy of an \$8-million increase in under a year. Claiming that going \$8 million over what you budgeted means that you are on budget is pretty bad, even for Liberal math.

Can the Minister of Education tell us why she made an incorrect statement yesterday claiming that the project was on budget when all the facts show that the Liberal government is actually \$8 million over?

Hon. Mr. Mostyn: I really appreciate the member opposite bringing this issue forward this afternoon because I'm happy to talk about our record on building schools and the previous record, Mr. Speaker. I remember — it is one of the reasons why I am in politics, Mr. Speaker — I watched the members opposite go to court. First of all, there were millions of dollars wasted in court. I watched them hold a sod-turning ceremony without the proper permits or anything else and then not build the school. They then squandered \$6 million in architectural plans to start over again. Then they built a school that is 30-percent smaller and actually cost about the same, if not more.

So, here we are, Mr. Speaker — and I will say it again: We are here now with this French language school that is, by all accounts, one of the most successful projects that the local company has ever worked on. The contract for the building was let for \$29.4 million. The cost of the building that is going out to the successful contractor — Ketz Construction, a local

company — is \$30 million. That is with change orders. Construction is not only well underway, but it is completed. I don't know if the members opposite have seen the interior of the school. It is absolutely beautiful. I am looking forward to seeing the kids in that school very shortly.

Mr. Kent: I think we need to focus on the facts of the matter. The facts are that this project is 300 days late, and it is \$8 million over that original budget. That is what we wanted to address, given that the Minister of Education provided this Legislature with incorrect information yesterday.

With respect to the francophone school, we have heard that additional paving in that area has meant that the City of Whitehorse storm sewers need to be upgraded to account for additional water runoff.

Can the minister confirm that this is the case? If so, how much has that added to the overall cost of the school project?

Hon. Mr. Mostyn: Again, I appreciate the member opposite continuing on this tack. I am more than happy to talk about schools. This government is building some of the first elementary schools that we have seen in decades. We have completed the French language project on budget — roughly on budget; we are a few hundred thousand dollars more with change orders. I am really happy with that record, Mr. Speaker, given the global pandemic that we found ourselves in and all of the work and consultation that we did with the French association and the French community.

As I have said, this project is a success story for the territory. It is a success story for the way that we procure and build schools in the territory. We have found new ways of working with contractors in a successful manner. We have delivered a project with some federal money. The member opposite is right — there is \$7.5 million in federal money, and I thank the federal government for that contribution to this project.

The bottom line, Mr. Speaker, is that this is a successful project for Yukoners, it is a successful project for the French community, and I am very pleased with the way that it has turned out.

I thank the member opposite for his question.

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

ORDERS OF THE DAY

GOVERNMENT BILLS

Bill No. 17: *Enduring Powers of Attorney and Related Amendments Act (2020)* — Second Reading

Clerk: Second reading, Bill No. 17, standing in the name of the Hon. Ms. McPhee.

Hon. Ms. McPhee: I move that Bill No. 17, entitled *Enduring Powers of Attorney and Related Amendments Act (2020)*, be now read a second time.

Speaker: It has been moved by the Minister of Justice that Bill No. 17, entitled *Enduring Powers of Attorney and Related Amendments Act (2020)*, be now read a second time.

Hon. Ms. McPhee: I'm pleased today to bring forward the *Enduring Powers of Attorney and Related Amendments Act (2020)* for second reading. The Government of Yukon has committed to modernizing Yukon's legislation, working to represent the interests and respond to the needs of today's Yukon.

I'm pleased that we're continuing to honour this commitment to Yukoners through updates to the enduring powers of attorney legislation, which has not been updated since it was first enacted back in 1995.

The amendments that we are proposing to the enduring powers of attorney legislation take into consideration results that we received from respondents in an engagement completed in May 2020. We heard what respondents want from the *Enduring Powers of Attorney and Related Amendments Act (2020)*; we heard their concerns and their questions.

I would like to take a few moments to now highlight the major components from the proposed amendments. The amendments that are being proposed include: notice requirements and eligibility requirements for attorneys; reporting requirements and a process for misuse to be reported and investigated; provisions to enhance ease of use by allowing non-lawyers to create valid enduring powers of attorney and provide forms for their use; and provisions that will clearly set out the roles and responsibilities of attorneys in plain language.

It is important to note that the provisions being considered today are recommended by the Uniform Law Conference of Canada and reflect best practices in other jurisdictions. These proposed amendments will legislate protections against financial abuse of elders and vulnerable people while creating the provision to take action if abuse does occur.

The updates that we are proposing will improve the act by making enduring powers of attorney more accessible, while enhancing protections against their misuse by introducing a reporting mechanism, if abuse is suspected.

Further, these provisions will provide financial institutions with the authority to take action if they detect fraudulent actions of an attorney.

Our government is proud to bring forward these proposed updates to the *Enduring Power of Attorney Act* and the related amendments act in 2020.

Not unlike the *Act to Amend the Wills Act (2020)*, Bill No. 17 will bring modern changes to the *Enduring Power of Attorney Act* so that it can be used as a tool for individuals and families for their estate and financial future care planning. It is important to respond and to bring forward these amendments in the current community and society that we have here in the territory, which includes an aging population.

Mr. Speaker, I have notified the other House Leaders of my intention to bring forward a technical amendment when we enter into Committee regarding some wording in the bill that is before the Legislative Assembly. Our government is very pleased to be bringing forward these updates to prevent misuse and increase oversight of the enduring powers of attorney for individuals here in the territory, to modernize this legislation, and to make it relevant for individuals who need to use it.

I look forward to further discussion with respect to Bill No. 17.

Mr. Cathers: As the Official Opposition critic for Justice, I rise to speak to this legislation.

Generally speaking, we don't have concerns with it. It is, as the minister noted, modernizing legislation based on more of the national standard. To that end, while we have gone through it with officials and appreciate the information provided, my one concern that I would flag is that, if government is providing an amendment to the legislation, it does mean two things: first, that they didn't quite get it right when they tabled it; and second, because of the Standing Order in this House that all government bills have to be tabled within the first five days of the Sitting, it does create a situation where members of the opposition and the Third Party are not provided with the full picture of what the legislation will say within those first five days when an amendment is made on a subsequent day.

I have not seen the amendment. We'll have to evaluate how broad or small that amendment may be, but I would just note to the minister for their future reference that it is, in my view, a departure from the principle of that Standing Order that all members in the House be provided with the full picture of the government's legislative agenda by the fifth Sitting day if government introduces amendments to legislation after that time because they changed their mind or they made a mistake in the original package.

With that being said, generally speaking, what we have currently seen in the legislation looks fairly reasonable to us.

Ms. Hanson: I thank the Minister of Justice for her explanatory comments with respect to Bill No. 17, *Enduring Powers of Attorney and Related Amendments Act (2020)*. Those other amendments, as I understand it, are to the *Public Guardian and Trustee Act*.

Mr. Speaker, we believe that it is really important to have a good understanding of what an enduring power of attorney is and that some of the changes, as I understand them, are to provide clarity. I will be asking the minister a number of questions as we go through these proposed amendments to make sure that, to the extent possible, they are understood by a layperson because most people who enter into an enduring power of attorney arrangement are lay people. It is families and it is people needing to make arrangements for a future time or maybe right now in terms of the conducting of one's affairs.

It's very important that the legislation that envelops that is clear to all who may be covered by it. We look forward to the discussion as we move through debate of Bill No. 17 in Committee of the Whole.

Speaker: If the member now speaks, she will close debate.

Does any other member wish to be heard on second reading of Bill No. 17?

Hon. Ms. McPhee: I appreciate the comments from the members on the other side. I look forward to answering further questions about this. While I always enjoy the opportunity to

be criticized by the Member for Lake Laberge, I also note that there certainly are provisions in the Standing Orders that allow amendments on the floor and in Committee that are appropriately the opportunity to discuss any changes that might come as a result either from further review or as a technical amendment, as I have noted that this one will be, or that other members might suggest. I look forward to providing that. It is a specific technical amendment — we will provide it in just a moment — and I don't think it changes in any way the substance of the bill that was introduced properly under the Standing Orders. We look forward to discussing Bill No. 17.

Speaker: Are you prepared for the question? Are you agreed?

Some Hon. Members: Division.

Division

Speaker: Division has been called.

Bells

Speaker: Mr. Clerk, please poll the House.

Hon. Mr. Silver: Agree.

Hon. Ms. McPhee: Agree.

Hon. Ms. Frost: Agree.

Hon. Mr. Pillai: Agree.

Mr. Adel: Agree.

Hon. Mr. Mostyn: Agree.

Hon. Mr. Streicker: Agree.

Hon. Ms. McLean: Agree.

Mr. Gallina: Agree.

Mr. Hassard: Agree.

Mr. Kent: Agree.

Mr. Cathers: Agree.

Mr. Istchenko: Agree.

Ms. Van Bibber: Agree.

Ms. McLeod: Agree.

Ms. Hanson: Agree.

Clerk: Mr. Speaker, the results are 16 yea, nil nay.

Speaker: The yeas have it. I declare the motion carried.
Motion for second reading of Bill No. 17 agreed to

Hon. Ms. McPhee: 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

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

The matter before the Committee is general debate on Bill No. 17, entitled *Enduring Powers of Attorney and Related Amendments Act (2020)*.

Do members wish to take a brief recess?

All Hon. Members: Agreed.

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

Recess

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

Bill No. 17: *Enduring Powers of Attorney and Related Amendments Act (2020)*

Deputy Chair: The matter before the Committee is general debate on Bill No. 17, entitled *Enduring Powers of Attorney and Related Amendments Act (2020)*.

Is there any general debate?

Hon. Ms. McPhee: I am happy to welcome back Sheri Hogeboom and Will Steinburg, who are the officials from the Department of Justice and who provided the expertise and drafting with respect to the *Enduring Powers of Attorney and Related Amendments Act (2020)* that is before the House today.

I would like to make some opening remarks and then proceed to answer questions that might come from any Members of the Legislative Assembly. In my earlier remarks during second reading, I reviewed the changes that we have made to the *Enduring Powers of Attorney and Related Amendments Act (2020)* and highlighted its key provisions. I would like to now spend some time discussing this bill in a bit more detail, now that we are here in Committee.

The tabled amendments, as mentioned in previous remarks, will work to enhance protections for Yukoners with enduring power of attorney documents, clarify requirements, define roles and responsibilities of attorneys, and create mechanisms for identifying and reporting financial abuse.

The proposed amendments will enable the Government of Yukon to align Yukon legislation with that of other jurisdictions, and it is based on recommendations from the Uniform Law Conference of Canada.

Before I go into some further detail, the proposed amendments may be divided into the following main components: They are designed to create a mechanism to report neglect, abuse, and fraud or coercion involving enduring powers of attorney; outline specific attorney duties, responsibilities, and liabilities; increase oversight of attorneys with enhanced accountability measures; provide for the creation of a standardized enduring power of attorney form and other forms in the regulations; and allow an alternative option for enduring powers of attorney to be made without requiring a certificate of legal advice that needs to be obtained from a lawyer.

The context behind this bill — and what it means for Yukon — is very important toward understanding the provisions that are proposed. As mentioned previously, the

Government of Yukon completed engagement in 2020 that ended in May, following a review of the act that indicated that Yukon's enduring power of attorney legislation did not reflect similar legislation across Canada. As a result of the responses received during that engagement, we now know that Yukoners would like to see this legislation updated to enhance safeguards and to increase accessibility for Yukoners who have enduring powers of attorney.

Members of the Legislative Assembly may recall from previous remarks that an enduring power of attorney is a legal document entrusting one or more people with the authority to manage an individual's money and property if they were to become unable to manage their own affairs. One of my roles and priorities as Minister of Justice is to protect Yukoners. One of the ways by which we are meeting that goal is by ensuring that our legislation is modern and proactive in its approach. Although we have no reported cases of financial abuse or fraud involving an enduring power of attorney here in the territory, we know that these cases have arisen in other jurisdictions.

The proposed amendments have been designed with the goal of protecting vulnerable Yukoners from financial abuse and improving both the ease of use and accessibility of enduring powers of attorney. The Government of Yukon is taking proactive steps with these amendments to ensure that no Yukoner who entrusts another person with the power over their affairs is taken advantage of, stolen from, or suffers financial abuse or loss.

The Government of Yukon would be pleased to move forward with these amendments as they align with our commitment to a people-centred approach to wellness and as modernization of this legislation ensures that the needs of current and future Yukoners are met and their rights and property are protected.

I would like to now turn our attention to the specific provisions of Bill No. 17, beginning with the changes to formal requirements. The proposed amendments pertaining to formal requirements serve as both the mechanism to remove barriers of Yukoners without access to legal counsel and to improve ease of use for enduring powers of attorney. These amendments will allow for the creation of basic standardized forms for Yukoners who do not have access to legal counsel when they want to create an enduring power of attorney.

The intent of enabling this mechanism is to prevent enduring power of attorney documents from being found to be invalid or from errors which might have been preventable.

This serves as an alternative option to the previously required legal counsel in the current legislation and it makes allowances for cases where there is limited time to put together an enduring power of attorney. We are pleased with this provision and we know that it will allow Yukoners to access enduring powers of attorney — sometimes called EPAs — in a more inclusive manner.

Next, I would like to spend just a bit of time discussing the enhanced safeguards we have created with the amendments being proposed. As demonstrated in other jurisdictions, the potential for financial abuse is a real threat once a donor — defined in the legislation as a person giving the enduring power

of attorney — the potential for financial abuse is a real threat once a donor is no longer able to dismiss an attorney. So, they have made an attorney — named one under the enduring power of attorney but they are unable to dismiss that person, and the private nature of these relationships makes it very difficult to identify abuse.

As such, we have included within the amendments here in Bill No. 17 a mechanism for financial institutions to report cases where there is suspected abuse or fraud and those can be reported to the public guardian and trustee. This provision will grant the financial institution the authority to temporarily deny the attorney's request if fraudulent activity is suspected. In addition, reporting to the public guardian and trustee will enable the public guardian and trustee to investigate the matter and to take appropriate action to stop abuse if it is discovered.

Further, these amendments clarify eligibility requirements for attorneys — precluding attorneys with a conflict of interest, such as someone providing personal care to the person who is making the enduring power of attorney or — as I have said, as defined in the act — the donor, and someone providing personal care to them for compensation is prohibited from being appointed in the position of attorney under the enduring power of attorney.

An individual will also be precluded from acting as an attorney if they are mentally incompetent, have a recent criminal conviction involving theft, fraud, or breach of trust, or have any undischarged bankruptcies — again, more protections.

Finally, during engagement, we heard that it was important for these amendments to clarify the duties of an attorney and the recourse if these duties are not met. An attorney is required to act in a manner that is representative of the donor's known wishes. They are required to keep their personal property separate from that of the donor. They are required to keep records of financial transactions and provide details of transactions upon request. These amendments, proposed today, clarify the minimum appropriate standards which attorneys must uphold in completing their duties.

I'm going to turn, just for a moment, to the amendment that I've spoken about — which I think is appropriately discussed during line-by-line debate. The amendment will be presented then.

I can indicate that the amendment coming forward — which I am happy to introduce for clarity's sake — will deal with section 9 of the current — I should say that section 9 of the current act is entitled "Duty to act" and it states that an attorney has the duty to act when the enduring power of attorney is in effect. Section 9 of this bill will amend section 9 of the current act by adding the clarification that section 9 is subject to subsection 6(6) of the amended act.

That sounds terribly confusing, but what it will do is — subsection 6(6) will state that if an attorney is required to provide notice that they are acting to certain people — so to a bank or to a business of some kind — that this notice, as directed by the donor — their authority to act will not come into force or they will not be able to do it until that notice is provided. The words that are missing from the version before

the House at the moment is to include “Subject to subsection 6(6)”. It’s just to clarify that is the reference. We can speak more about that as we go forward.

I’m pleased to present these changes to the *Enduring Powers of Attorney and Related Amendments Act (2020)* as one component to meeting the needs of Yukoners.

Again, as I noted earlier in my comments, particularly with an aging population and particularly with more Yukoners retiring here in the territory determined to spend their golden years or retirement years here in our beautiful territory, this is an important set of amendments that will provide protection for Yukoners.

I am very pleased that the Department of Justice and our government have taken proactive steps toward ensuring that Yukoners who access enduring powers of attorney are able to do so with the utmost confidence that their wishes will be respected. I certainly look forward to further discussions on the proposed amendments and to questions.

Mr. Cathers: To begin with, this is now October 29. We are 24 days — calendar days, not sitting days — into the Fall Sitting — so 24 days after it began, over three weeks — and the government introduces an amendment to a piece of their legislation. As you know, Mr. Deputy Chair, the Standing Orders require all government legislation to be tabled within the first five sitting days so that the opposition and the Third Party have the information to consider the bills. We were first advised at 1:10 p.m. today that the minister intended to introduce an amendment. Her executive assistant sent an e-mail to our chief of staff and to our House Leader indicating that the minister “... will introduce a small technical amendment to the Enduring Powers of Attorney bill today. This amendment does not substantially change the bill. There will be copies provided to all members.”

Our chief of staff, a minute later, sent a reply to the minister’s assistant, saying “Thank you for the update. Are you able to provide copies or details on the nature of the amendment in advance, please? Thank you — Ted.”

We have one copy of the amendment. We have not had a copy provided to every member, as the minister’s staff said that there would be. We received one copy signed by the minister that wasn’t even procedurally in order until it was revised by the Clerk. This is not really a very good way to run a railroad. It shows disorganization on the part of the government and disrespect for members to be not only effectively table-dropping an amendment, but not providing all MLAs a copy of it beforehand and then waiting until the last possible moment to provide us with information about this amendment instead of providing it three weeks ago when we should have been given that information.

Overall, the bill itself is rather housekeeping in nature in modernizing the legislation, but it is disappointing to see this government — now four years in office and over three weeks into the Fall Sitting — introducing an amendment at the last minute to their legislation, and not even providing all members with a copy of it prior to that happening. It does not make it any easier for members of the Official Opposition or the Third Party

to be fully informed and to consider whether we support legislation, what questions we may have, and what changes we may propose — for the Government House Leader to act in such a secretive and uncollaborative manner.

It is rather disappointing to see, and I would ask the minister to follow through on the commitment to provide every member of the Assembly with a copy of this proposed amendment, because that still has not happened.

Hon. Ms. McPhee: I am not sure if that was a question. The member opposite should know that he has made note of the fact that the Clerk has adjusted the amendment, which is not substantial. If he is objecting to the matter proceeding to Committee of the Whole, I would like to know that. The amendment is being properly typed and translated because the changes that the Clerk suggested, or required, need to be properly translated and then provided. As soon as I have that document, we will distribute it. It is not, I understand, to be introduced until the time that we reach section 9 in the line-by-line debate. Presumably, there would another procedure if we proceed and get to that point without the document being in my hand, but I am expecting it any moment. I am happy to do that. I think that is what he is commenting on, although I am not sure. If there is another question there, I am happy to answer that, too.

Mr. Cathers: If the minister is offering to stand aside on this legislation and move right into the budget, that would make it move smoother. I was pointing out the fact that the minister should be very well aware of the fact that, in four years in her role, it is simply not proper procedure, or fair to all MLAs, for the government to introduce last-minute amendments to legislation. The fact that they couldn’t even get it right when they were amending their legislation and it has to be further adjusted by the Clerks to be in order is both sloppy and disorganized, and it’s certainly disrespectful to members of this Assembly to do it in this way when we simply are not able to see the information that government is proposing — how they are actually proposing to amend this legislation.

I would certainly have expected better from government by this point. We’ve seen a summer where they’ve set new records in terms of operating secretly and making sweeping decisions autocratically, but this is just one more blemish on the Liberal pattern of showing disrespect for democracy —

Some Hon. Member: (Inaudible)

Point of order

Deputy Chair: Ms. McPhee, on a point of order.

Hon. Ms. McPhee: Does the member opposite have a point to make? I think he has breached Standing Order 19(g) by calling us “autocratic”, by calling us “unprepared”, by calling me — and I think, more importantly, Mr. Deputy Chair, he is truly insulting and disrespecting the officials from the Department of Justice who are here to support this debate in Committee of the Whole.

Can we move on to Committee of the Whole? He has breached a point of order in the Standing Orders. I appreciate

— if he wants to insult me, go ahead, but please do not disrespect the individuals who are here and who have worked hard on this matter.

Deputy Chair: Mr. Cathers, on the point of order.

Mr. Cathers: On the point of order, Mr. Deputy Chair, it does not appear to be a point of order to me. I would clarify that I did not refer to the minister's actions personally. I was characterizing the government collectively — their action — as being autocratic and contemptuous toward the Legislative Assembly. I don't believe that's a point of order. I did not direct that comment directly at the minister.

Deputy Chair's ruling

Deputy Chair: This appears to be more of a dispute among members although I would caution the Member for Lake Laberge regarding plowing the same ground.

Could we please move on under Committee of the Whole and ask questions, please?

Mr. Cathers: Thank you, Mr. Deputy Chair.

It's interesting that the minister is choosing to object to the language being used instead of recognizing the fact that the government — the Liberal government collectively — has failed to follow the proper process in terms of making members informed of the legislation. They have table-dropped a last-minute change to this bill, and they haven't even, as I'm speaking, provided copies to all members of this Legislative Assembly.

We're talking about a legislative amendment; we're not talking about amending a motion. The fact that the minister chooses to object to me objecting to their approach, instead of recognizing that they have not handled this in the proper way, is quite telling of this Liberal government's collective lack of respect for the Legislative Assembly.

We are in a situation where I have seen the single copy we were provided of the amended amendment, but not all of my colleagues have had an opportunity to review it, let alone discuss it. Certainly, I think that it's likely that the Third Party and government backbenchers have also not seen this information.

We certainly believe that Yukoners have every right to expect better from this Liberal government and it's unfortunate that the minister has insisted on proceeding with Committee today instead of providing us an advance copy of the amendment and giving us the opportunity to debate this legislation on a different sitting day.

Hon. Ms. McPhee: Again, not a question. I'm happy to have copies here. My understanding of the proper procedure is that they don't get passed out to every Member of the Legislative Assembly until the motion or the amendment is moved. That is a decision of Mr. Clerk, of our Standing Orders, and of the proper process. I will certainly abide by that.

I can clarify that I have provided a copy of both the original amendment and the handwritten version of the amendment — amended by Mr. Clerk — and I now have copies of the other documents. They have been provided to the members of the opposition. I still don't know whether or not he's objecting to

ask questions on the *Enduring Power of Attorney Act* in today's Committee of the Whole or not. I certainly don't expect to know whether or not the member opposite is objecting to the amendment itself until we get to section 9 in the line-by-line debate.

I think I've been chastised quite enough, Mr. Deputy Chair. I understand the point. I'm happy to answer questions about the bill.

Mr. Cathers: The minister may not like it — her colleagues may not like it — but part of being government is being accountable for your actions. When you choose to act in a way that you are not providing information to all Members of the Legislative Assembly, you have to expect that you're going to be criticized for not providing that information.

The proper procedure is when the government realized that they were going to have to amend this legislation, they should have shared that amendment at the earliest possible opportunity —

Deputy Chair's statement

Deputy Chair: Order. Mr. Cathers, we covered this ground. Please move on. Either ask questions — we're in general debate. We've gone over this same point more than enough times, I think, so let's move on.

Mr. Cathers: That is a very puzzling ruling, Mr. Deputy Chair, and certainly not in keeping with the standards of debate in this Assembly.

Deputy Chair: I am not going to debate my ruling with you at this point. I just asked you to please move on. We have covered that ground. Thank you.

Mr. Cathers: Thank you, Mr. Deputy Chair. Well, when we ask questions, if we don't get a response, if we don't receive the information that we have requested from the government, it is very disappointing if the Chair chooses to insert themselves and protect the minister, but I will move on, Mr. Deputy Chair, as you have instructed.

Mr. Deputy Chair, when we are just provided information about amendments at the very last minute, it makes it hard to do our job as parliamentarians, and it makes it very difficult to hold this government to account — but, apparently, we're not even being allowed to talk about that, so I will cede the floor, and the government is going to ram through this legislation like it does everything else.

Ms. Hanson: I have just a couple of general questions before we move into detailed questions about specific provisions of the legislation.

We have heard several times — as amendments to legislation have been introduced — that we are doing this on the recommendations of the Uniform Law Conference of Canada. My question is: Are these recommendations with regard to style or content?

Hon. Ms. McPhee: The Uniform Law Conference of Canada turns its mind and collective expertise to a number of topics throughout Canadian law, as the member opposite is probably well aware. Their recommendations cover content, but more of the substance rather than form — I think that is the

question. They often recommend best practices after having studied the issue. They sometimes provide information about definitions that could be used across the country. They provide information and recommendations with respect to the processes — like the substance of a process — not how to amend a bill, but what should be in it — and safeguards for the protection of individuals who might be affected by the legislation. I would say, in short, that it is substance rather than form.

Ms. Hanson: Perhaps I owe an apology to the officials because I do think that they tried to explain that to me — and so it is good to have it twice, and now it is in my head.

I just wanted to confirm that — notwithstanding the fact that when you read this — and hearing the minister speak earlier — when we are talking about situations where somebody is basically giving over powers to somebody else because of current or anticipated physical or mental incapacity — physical disability — that this is not health-care related. I am looking for confirmation from the minister that there is no — the powers that are given have nothing to do with health care, but it is everything to do with — it's only to deal with money and property matters?

I ask that question because oftentimes people may confuse the powers granted under an enduring power of attorney — given the fact that it has got that notion of “enduring” — with powers that come to end-of-life care, or MAID. I would like to have for the record the distinction, so that when somebody is looking at this, or listening to this, they will know very clearly that this is not intended to cover those matters.

Hon. Ms. McPhee: Thank you for the excellent question from the member opposite. An enduring power of attorney is sometimes confused — not in its details, but in the idea of it — with what is known as an “advance directive”, which is about health care.

So, to be clear, an enduring power of attorney deals with property and legal matters only — so, finances and property issues — and cannot be used to make health care decisions on behalf of another person.

For health care matters, an advance directive — a different document — can be made. This document allows a person to make health-care and/or personal-care decisions on someone's behalf if they are not able to make these decisions themselves. Advance directives are governed by the *Care Consent Act* here in the territory and must be made according to the rules that are set out in that act. These are two distinct separate documents — separate powers, separate granting of wishes by an individual. One is with respect to property in legal matters, and one is with respect to health care and related matters of personal care.

Ms. Hanson: I thank the minister for that. I do think it is important that people understand the importance of having both documents completed — particularly advance directives for anybody — and secondly, the need for enduring powers of attorney in certain circumstances.

The minister made reference to the fact that this act provides for a standardized form of forms. I guess the question I have is that, in the act as it is now, there is a form at the back of the act — a schedule that somebody is supposed to read before signing an enduring power of attorney. I guess my

question is: When might one see what would be contained in a standardized form? Is it something to be developed or is that something that is standard and will be provided as we discuss this legislation?

Hon. Ms. McPhee: I should note that the forms are not in this Bill No. 17. They will be developed, as I noted earlier, in the process of the regulations. They will be based on the cross-jurisdictional discovery and investigation about that. The Uniform Law Conference of Canada — I just checked with our officials here — doesn't recommend a particular form, but we would certainly be keen to see that if they did. We will look at other jurisdictions.

The importance of the form being attached in regulation is that it is the manner in which — the ability for someone to make an enduring power of attorney without legal counsel. If a person does not choose to hire legal counsel or a lawyer, they will be required to use the forms provided in the regulations. The mandatory use of these forms, which is part of this bill, will ensure that the enduring power of attorney that they make includes strong protections against financial abuse and will minimize the possibility of errors.

Unlike the *Wills Act*, for instance, that we recently debated here, and changes to that act — where people will still be able to make a holographic or handwritten will and have it signed and those kinds of things, because it expresses their wishes — we're looking here for the standardized form to be used to make sure that it includes all of the protections for individual Yukoners in relation to how they can — and the authority that they grant — when they're signing an enduring power of attorney.

Ms. Hanson: I thank the minister for that. I guess the devil will be in the details when this all comes out.

The overview that the minister provided indicated that the powers or the ability for financial institutions to freeze funds or to refuse instructions where there are reasons to believe that there might be misappropriation of funds — with respect to those additional powers or responsibilities of the financial institutions, my question is: What consultation was undertaken with financial institutions?

I don't question the importance of this at all. I just want to know what the response of financial institutions has been to this — so what consultation and what response?

Hon. Ms. McPhee: I appreciate the question. Engagement was held and it invited comments from both the public and stakeholders. Several responses were received, including a response from a financial institution, which expressed strong support for the provision — again, based on other jurisdictions in Canada, their modern legislation, and the Uniform Law Conference of Canada.

The use of these provisions is, of course, optional — so the idea that a financial institution could act under the *Enduring Power of Attorney and Related Amendments Act (2020)*, Bill No. 17, if they pass, would be in the entirety of the law at that time. The financial institution's ability to use those provisions — if they suspected issues with an application of an enduring power of attorney — are optional. The new provisions would give financial institutions complete discretion to take action or

not, and they are designed to support institutions that choose to act by providing clear authority and reduced risks — so set out in the legislation is the opportunity for them to do that. It is in no way mandatory — not requiring them to do so — but certainly providing them guidance in the event that they suspect a problem.

Ms. Hanson: I thank the minister for that explanation. The act also is going to provide, through amendments to the *Public Guardian and Trustee Act*, additional powers to investigate people who are attorneys on the accord of the public guardian or when reports are made to them respecting matters such as abuse or neglect by attorneys — is this amendment triggered by experience? Is it triggered by experience, to date, of such abuse? Secondly, what constraints are the public guardian and trustee under with respect to taking actions when there are reports made to them such as abuse or neglect by attorneys?

Hon. Ms. McPhee: I think there are two parts to that question, and I just want to note that under the current legislation — the *Public Guardian and Trustee Act* — the public guardian and trustee does have some powers to intervene or investigate but the triggering mechanism at the present time is a notification or contact by the adult protection unit here in the territory. So, it's quite narrow with respect to their abilities.

The amendments here in Bill No. 17 will give the public guardian and trustee greater authority to investigate financial abuse or suspected financial abuse and to respond when needed. Currently, as I've noted, the public guardian and trustee must receive a request from the adult protection unit before it can investigate financial abuse. The amendments here in Bill No. 17 will allow the public guardian and trustee to receive reports directly and to begin an investigation of financial abuse involving an enduring power of attorney once a report is received — and presumably that could come from a financial institution or even from another individual.

The public guardian and trustee will also be able to investigate without a report if there is reason to believe that an attorney is using fraud or coercion or is abusing or neglecting the donor — not carrying out their required duties, but also going above and beyond that to cause harm.

Currently, the public guardian and trustee has the power to freeze a person's accounts if they are being abused or neglected and if they are in need of urgent financial protection. This power will be extended from 60 days, as it is currently, if it was to be used by the amendments — sorry, to 60 days from the current limit which is 21 days — so giving a greater opportunity for the investigation to continue and for no financial activity — or for that activity to be halted to protect the donor, if there was a suspected issue.

I can continue — I think it was also part of this question, Mr. Deputy Chair, to clarify maybe what investigative powers the public guardian and trustee will have. Maybe that is me anticipating the next question again.

In order to investigate allegations of financial abuse by an attorney, the public guardian and trustee could require — or may require — an attorney to provide an accounting or financial records — so, an opportunity for them to request those

and require those to be provided so that they can determine if someone is being harmed or abused in some way. The public guardian and trustee may require, in order to investigate, a financial institution to provide records, or they could require an attorney to provide any report, information, or explanation needed. So, it is quite far reaching, and deliberately so, to protect Yukoners from abuse.

As I have noted before — and I am happy to say so again in case individuals are listening — there have been no cases in the Yukon Territory that have been brought to our attention — certainly not that have been prosecuted or otherwise — of abuse under an enduring power of attorney, but, of course, other jurisdictions have seen such things. We think these expanded authorities in Bill No. 17 will provide more protections in the event that someone tries to do that. I will go further to say — not only more protections — more abilities to unearth such an abuse, if it were to be happening — an opportunity to look into an individual's matters, either by report to the public guardian and trustee or by other safeguards like financial institutions becoming aware of those — not only for the purposes of protecting Yukoners, but expanded opportunities to see or to investigate if such a thing became known.

Deputy Chair: Is there any further general debate on Bill No. 17, entitled *Enduring Powers of Attorney and Related Amendments Act (2020)*?

Seeing none, we will now proceed to clause-by-clause debate.

On Clause 1

Clause 1 agreed to

On Clause 2

Ms. Hanson: I just had a delay there because clause 2 is dealing with section 1 of the act. There is a raft of new definitions that are introduced to the legislation where there are four, and now we have quite a number of them.

I just want to confirm that the inclusion of the definitions — is that part of the Uniform Law Conference of Canada's structuring?

I find the definitions useful. I do have a question about one of them, which is the “alternate attorney”. There are two parts of my question: Is the addition of these definitions part of the kind of substantive changes in terms of providing uniformity that this Uniform Law Conference of Canada is a proponent of? Secondly, can the minister explain in what circumstances — the explanation of “alternate attorney” — like, somebody who doesn't have the authority yet — are they in succession?

Hon. Ms. McPhee: The definitions included in section 1, clause 2 are not directly from the Uniform Law Conference of Canada recommendations.

They have been designed — much like a question we had, I think, only yesterday about the *Wills Act* — I guess that is the only other piece of legislation that I've been discussing where the definition was put in place to align with other pieces of Yukon legislation. So, these won't be directly from there, but they are certainly not in conflict with any of the recommended definitions from the Uniform Law Conference of Canada. They have been developed with respect to the Yukon context.

With respect to an “alternative attorney” — that means an attorney or a person who is designated to act under an enduring power of attorney who does not yet have the authority to act and who is appointed to act alternately in succession following another attorney. If my official next to me here was to be named as an attorney under an enduring power of attorney, the alternate could be that person’s brother, for instance — or cousin, another relative, or some other person. Of course, the first named attorney has the authority to act and then there would be triggering requirements so that the documents would survive perhaps if a second person was named, just so that they wouldn’t need to be changed.

The alternative attorney is named, but they don’t properly have the authority to act until there is some reason that the first attorney cannot act.

Ms. Hanson: I thank the minister for that explanation. “Personal care services” mean services that have a significant impact on the health or well-being of an individual or for an individual to complete ordinary daily tasks. It then talks about daily living. Is that limited, in terms of context? Is that personal care service regardless of institutional — does it apply equally whether a person is in institutional care or is living at home?

Hon. Ms. McPhee: “Personal care services”, as defined in that section of the bill, are not limited. They are defined generally for the purposes of somebody who is providing that care to an individual. There are details in that section about the kinds of care — assisting an individual with dressing, hygiene, diet, medication, et cetera. It is not required to be institutional. It could be a private service. It could be a private individual who is assisting someone with care for themselves or another.

Deputy Chair: Is there any further debate on clause 2?

Clause 2 agreed to

On Clause 3

Clause 3 agreed to

On Clause 4

Ms. Hanson: So, this is where we have to talk about the enduring power of attorney. The statement here indicates — I guess my question still remains. In (a) it says: “(a) it is to continue despite any mental incapacity or infirmity of the donor that occurs after the execution...” and “(b) it is to take effect on the mental incapacity or infirmity of the donor.”

At the outset — if the minister could confirm this — you have to say that it’s going to continue or it’s just not going to happen until I’m mentally incompetent and/or physically infirm. My question is: What’s the test for mental incompetency?

Hon. Ms. McPhee: Thank you for the question. I think this is the crux of how the enduring power of attorney will work — or can work — and certainly, it’s a question that is wondered about by many an individual considering such a document.

The law defining “mental capacity” to make legal documents, including enduring powers of attorney, is found in case law here in Canada. It is directed by decisions of the courts.

So, the general rule is that a person must understand the nature of the document and its effect — what the effect is — and there can be no disorder of a person’s mind. If the donor —

the person making the enduring power of attorney — if their mental capacity is in dispute, the current act includes provisions that allow two medical practitioners to make a declaration of that person’s capacity and provisions to allow for medical records to be disclosed — so if there is some question about mental capacity — which is quite often an issue if an enduring power of attorney is not signed until someone is showing difficulties or problems with their mental capacity.

Of course, a plug here — this is why we always recommend enduring powers of attorney be thought out — like a will — ahead of time as part of your estate planning. They are important documents.

There are currently no jurisdictions in Canada that either make the attempt or do define “mental capacity” in their legislation. It is not recommended to do so. This is because the meaning of “mental capacity”, in legal terms, is decided by courts or a court. It is a concept that changes as new decisions are made — and certainly probably changes in individual cases because that’s a difficulty.

Across Canada, legal experts agree that “mental capacity” should continue to be defined by the courts. One example is that in 2013, the British Columbia Law Institute reviewed the common law test — or the law that comes from the courts — the common law test of mental capacity, and concluded that it should not be codified in legislation so that the law of mental capacity could be flexible and able to evolve. It is difficult because it is a case-by-case basis. It is determined by individuals’ circumstances moving forward.

In relation to clause 4, the choice is to the individual when they are making an enduring power of attorney as to when it comes into effect. I know that was the original part of the question. The second was about how we define that and how it is determined.

Ms. Hanson: Thanks to the minister for that.

Continuing on this issue of — I understand what the minister is referring to with respect to having the court decide, but this act is saying that — as I understand it — are we on section 5 or section 4? I’ll come back. Keep going.

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

Clause 4 agreed to

On Clause 5

Ms. Hanson: On one hand, we are suggesting to people that an enduring power of attorney could be valid if somebody — normally, I think most of us are used to the experience that we have an enduring power of attorney, and I would say that the onus is on the lawyer at the time to make sure that the person is mentally capable of entering into that enduring power of attorney. But, as I understand it, in section 5 — section 3(1) is replaced with language that says that the power of attorney is witnessed and signed in the presence of the lawyer, and by witnesses who are not required to be donors. So, you can either have a lawyer do it, or you can have non-lawyers do it.

The question then reverts back to: Who makes this assessment if you don’t need a lawyer? I am just thinking that professional ethics or responsibility — liability, perhaps, on a lawyer — but non-lawyers — where does that fit? I mean, I’m not saying that I want everybody to have to deal with lawyers

and pay the costs, but I am concerned about how this is congruent with the notion that we're trying to protect people from possible manipulation.

Hon. Ms. McPhee: There is a presumption of mental capacity throughout the legislation, or as a presumption with respect to the legislation, and that means that donors will not have to prove their mental capacity at the time that they make an enduring power of attorney, so there is that presumption.

They do not have to do that through a doctor's assessment or something similar. This provision follows many other jurisdictions in Canada and ensures that making an enduring power of attorney is simple and accessible.

The references in section 5 indicate that, in order to be valid, an enduring power of attorney must meet certain requirements. They are listed there. The donor must be an adult when a document is signed, and they must be able to understand the nature and effect of the enduring power of attorney. The power of attorney must be in writing. It must be dated, and it must be signed by the donor in the presence of one or more witnesses, unless subsection 3 applies, which is also contained in that section and allows the document to be signed by another person if the donor is physically incapable of signing. This is similar to what we discussed with the *Wills Act*. If there is only one witness in that circumstance, that person must be a lawyer. If witnesses are not lawyers, there must be two witnesses. I think that is what is being asked. The presumption of mental capacity allows that to be the case.

I certainly appreciate, as intended in the question, this idea of collusion — where two people could collude — with respect to having someone sign an enduring power of attorney, but I also note that if there are disputes, ultimately, or concerns — and we spoke a little bit about some of them earlier — there are certainly mechanisms to challenge that or to fix errors if there were any. The last piece of that should be that there will be protections built into the form required if individuals are using the form without legal counsel. The intention is to have some of those protections built in there as well.

Ms. Hanson: I just want to confirm that the new subsection is replaced with the following — so b(iii), "... incorporates the explanatory notes set out in the Schedule to this Act..." Will the schedule notes on the enduring power of attorney — which say to read these notes before signing this document — be tracked into this new legislation as they are? First that — and then I will come back to the next question.

Hon. Ms. McPhee: The explanatory notes in the schedule of the act must be included in the enduring power of attorney document. I think that's what's being asked. Yes, they must.

Ms. Hanson: Actually, my question is — are the existing — the schedule says "Notes on the Enduring Power of Attorney" that are part of the *Enduring Power of Attorney Act* prior to amendment — are they going to stay the way they are in the new legislation?

Hon. Ms. McPhee: Yes. They will be the same.

Ms. Hanson: Thank you and I thank the minister for that.

So, then the next item is 5(b)(iv) — the minister referred to the prescribed form which is to be developed — if the minister could scope out what matters or subjects — what are going to be the key elements or the key components of the prescribed form that will provide those protections that she referred to for an enduring power of attorney that's not witnessed by a lawyer?

Hon. Ms. McPhee: I think one of the ways that we could address this question — which is another excellent one — is: How will enduring powers of attorneys made without a lawyer be reliable? What are the protections there?

In order to facilitate the making of an EPA, or an enduring power of attorney, without legal counsel, there will be forms — as we've discussed — available in the regulations that must be used to make a legally valid document. There won't be any option there.

The forms will include specific instructions and information to ensure that donors and others involved in that process — the attorneys and others — family members perhaps — understand their role and the meaning of the document. The use of the forms will ensure that the EPA includes strong protections against financial abuse and will minimize the possibility of errors.

So, the consistent form being used will minimize errors. It will make explanations with respect to the roles of the parties. It will indicate the requirements of the parties — in particular, the attorneys — and will also provide protections of reporting an individual's opportunity to report and have investigated indications of abuse or concern.

Deputy Chair: Is there any further debate on Clause 5?

Ms. Hanson: Clause 5(b) — so subsection (2) is replaced with a whole new section. I have a quick note to myself — so I just need to decipher it, Mr. Deputy Chair; you went too fast for me there.

I'm hoping this goes without saying — but again, it goes back to the test. We're saying here — this is the criteria for somebody who wants to be an attorney or an EPA and we say that they should be "... mentally capable of understanding the nature and effect of the enduring power of attorney".

Again, my question is: How do you confirm that if they're not a lawyer?

Hon. Ms. McPhee: As I noted earlier in relation to the question about the mental capacity of the donor — this is the section that refers to who could be acting as an attorney under the *Enduring Power of Attorney Act* — the presumption of capacity relates to a donor, but not necessarily to the attorney. An individual must be an adult who is mentally capable of understanding the nature and the effect of the enduring power of attorney. I daresay that most issues would not arise necessarily about the capacity of somebody acting as a donor, but more so that they completely understand their roles and responsibilities. I think that is key.

It goes on, but I am happy to — for the purposes of this debate — just be clear that a person cannot act as an attorney if they have an undischarged bankruptcy, and they cannot have been convicted of certain criminal offences in the past 10 years that involve fraud, theft, or breach of trust. I think that those are

important factors because individuals might have a criminal record for something else and could, of course, act as an attorney.

The attorney has to have not been pardoned or have a record suspension that has not been ordered, and the donor must also acknowledge if they are aware of a specific conviction — that the acknowledgement is included in the enduring power of attorney document. So, there will be clarity there if it is not one that would affect them acting as an attorney.

A person who is not a family member of a donor is not eligible to act as an attorney if they provide personal care — I think we talked a little bit about this — to the attorney for compensation in the place where the donor lives at the time the attorney signs the acknowledgement of the attorney.

To avoid the — maybe they are urban myths — stories we hear of someone being asked to come in and quickly witness a document but who works in a facility perhaps where an older person is living or being cared for — that sort of thing. While there is no presumption, there is an opportunity to challenge an attorney for a variety of reasons. They might not be acting properly or they might not be acting on the wishes of the donor, and if those are to be known — or they might be mentally incapable of doing so — that would be through a court process. That is also not a simple one, but that is a management tool here for making sure that donors are protected.

Ms. Hanson: I thank the minister because she did address the questions and the method — for the questions I had with respect to going up to (c)(2.01), so the various exclusions in terms of people with criminal records in the past 10 years, unless somebody acknowledges it, so it has to be included in the document itself, as I understand it.

My understanding is that (2.02) says, in the paragraph above (2)(d), that, in fact, a family member can be compensated, so there is an exception there. I'll just leave that one there.

Hon. Ms. McPhee: I am going to make reference to section (2.01), despite what we have talked about earlier in paragraph (2)(c), which does not permit a person giving personal care to be an attorney: "... an individual is eligible to be an attorney if the donor acknowledges within the enduring power of attorney that the donor is aware that the attorney has been convicted of the specific criminal offence." Paragraph (2.02) indicates that it "... does not apply to a family member of the donor."

I think that (2.03) might be the other one that is being asked about, where "An individual is eligible to be a witness to the signing of the enduring power of attorney by the donor..." if the person is an adult who is competent, except for the following people who are not eligible: the donor's spouse, the attorney, the attorney's spouse, a person signing on behalf of the donor, or that person's spouse.

Lastly, I think what is being noted here is that a person who is a family member and a caregiver for a donor can act as an attorney, even if they are being compensated financially for that care. An example might be somebody who is a nurse or a caregiver in another way who happens to also be a family member. It doesn't prohibit that opportunity for someone to act

as an attorney. They may be, in fact, quite close to the individual. It's just a prohibition that didn't seem necessary, again, with certain precautions built in.

Ms. Hanson: I thank the minister for that confirmation.

In (2.03)(f), I would appreciate it if the minister would confirm — here it says: "An individual is eligible to be a witness to the signing of the enduring power of attorney by the donor or by a person signing on the behalf of the donor under subsection (3) if the individual... is not the person signing on behalf of the donor." That's (f), which sounds like mental gymnastics. I'm just looking for confirmation that this would arise only in a situation where they are signing at the direction of somebody who is not physically capable of signing.

Hon. Ms. McPhee: Yes, that's correct. Like we discussed recently with the *Wills Act*, there are provisions both in this bill and legislation and in that case that another person could sign a document on behalf of the donor, but they cannot both be that person and be acting as the attorney. They can't both be the witness and the person who will be acting as the attorney. That's the distinction.

Clause 5 agreed to

Deputy Chair: Would members like to take a short break?

All Hon. Members: Agreed.

Deputy Chair: We will break for 15 minutes.

Recess

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

On Clause 6

Ms. Hanson: Clause 6 is replacing a whole — it has new language for the old section. It is changing it from a negative description to a positive, so it's gone from incapacity at execution — which, taken as a random headline could be quite interesting — to talk about "presumed capability". My question is — in (4) it says, "Unless the contrary is demonstrated, an adult is presumed to be mentally capable of understanding the nature and effect of an enduring power of attorney."

Again, it's a whole test kind of question. I am presuming that we are not asking this to be a test in court. So, what is the meaning of that language — "Unless the contrary is demonstrated..." — and how is that determined or assessed?

Hon. Ms. McPhee: Again, this is a section of the amendments that makes the presumption of capacity for an adult — any adult — acting under this legislation — or, let's say, the legislation once it is amended — if the mental capacity of either an attorney or a donor — I may have said earlier that the presumption didn't apply to a donor, but this clearly says to an adult — so I want to clarify that.

If the mental capacity of an attorney or a donor is in question, certain people in the realm could apply to the court to terminate their authority to act — and that would be a court application pursuant to this. But it may not have to be — I don't want to speculate too much, but it may not have to be in the event that a report made to the public guardian and trustee or an investigation or there is some activity that is noticed by a

financial institution, et cetera and it comes to attention and allows an investigation to happen — but if an attorney was insisting, for instance, that they continue to act, there may need to be a court application for determination.

Deputy Chair: Is there any further debate on clause 6?

Clause 6 agreed to

On Clause 7

Ms. Hanson: Clause 7 adds some — where there was a whole section 4 before, now we have a whole bunch of subsections in the new section 4 — which this section here is dealing with multiple attorneys. The minister has explained that there may be more than one attorney named by the donor. So, with respect to section 4.01(2), can the minister explain the implication of this section: “If more than one attorney is appointed and the enduring power of attorney does not specify how the attorneys are to act, the attorneys are considered to have been appointed to act alternately in succession in the order in which they are named...”? Does this just simply mean that they are in alphabetical order or could it be by time?

Hon. Ms. McPhee: A donor can appoint more than one attorney to act. The attorneys can act either jointly, separately, or alternately — one after the other — depending on what the document specifies. If the enduring power of attorney does not specify how the attorneys will act in relation to each other — so it names two or three people, but it doesn’t indicate how they will act in relation to one another — they will be deemed to act as alternates, who will act one after the other. So, the member opposite has this correct — in the order that the names appear — so not alphabetically — whatever name is listed first — Bob, Cathy, and then Lisa — Bob would act first, then Cathy, then Lisa — just by virtue of the way the names appear.

Attorneys who are appointed to act jointly must make decisions together and be unanimous unless the power of attorney provides other direction. It could be more specific. If an attorney becomes ineligible to act, or their authority ends for some reason, then, unless the enduring power of attorney states otherwise, the attorney who shares the joint or separate authority with them will continue to have that authority to act. It won’t end just because one person can’t act. An attorney who is an alternate attorney and is next in line will have the authority to act. That section sets all of that out for clarity.

Ms. Hanson: I thank the minister for that. The next section is 4.02. My note says “please explain”. It says: “Despite an attorney not being eligible to act under subsection 3(2)...” — so, in section 3(2), we had all sorts of things that would disqualify somebody, everything from having a criminal conviction unless it was acknowledged, an undischarged bankruptcy, et cetera. “Despite an attorney not being eligible to act under subsection 3(2), the attorney may, if they otherwise have the authority to act, act as an attorney...” Then it goes on to list three, or possibly five, qualifiers.

Could the minister explain this in plain language? Reading it through, it just seems to be quite complicated.

Hon. Ms. McPhee: Thank you for the question. It can be a little complicated because that section lists a lot of options or alternative opportunities, but I think it’s important to note that this provision is in the bill to avoid cancelling an enduring

power of attorney simply because the last remaining attorney would become unable to act for some reason.

Terminating the enduring power of attorney might well be against the donor’s intentions and should not be done without direction from the court.

An attorney who is not eligible to act because of section 3(2), which has been noted by the member opposite, or for no other reasons, may act as an attorney — if there are no other attorneys who can act and no alternate attorneys, the attorney is the last remaining person. In the case of attorneys appointed to act together or separately or successively — so in the section that we just talked about, there could be a number of people named, but if the attorney has been appointed to act jointly with one of the other attorneys and in no other manner, according to the enduring power of attorney, and there are no other attorneys remaining or alternates, then a person who might otherwise be ineligible to act could act. Of course, they would need to be named to act as well. This would come about in relation to a situation where someone is named to act and has been appointed, pursuant to an enduring power of attorney, but might be disqualified from doing so because of the operation of the legislation. That would not make the enduring power of attorney fatal or not able to be used in the event that this was the only prohibition — if that helps.

Clause 7 agreed to

On Clause 8

Ms. Hanson: This is just a question of clarification. It is just a different use of language. The current legislation talks about it “coming into force”. This says “coming into effect”. What is the difference between a law “coming into force” and a law “coming into effect”?

Hon. Ms. McPhee: That reference is to the enduring power of attorney “coming into effect”, and the normal term that is used with respect to legislation is often “coming into force”. The words were chosen for the purposes of making a distinction between those two things. For plain-language purposes, the enduring power of attorney “comes into effect” in certain circumstances, and that’s the choice of words there.

Ms. Hanson: I thank the minister. The next section says: “The following subsections are added immediately after subsection 6(4)...” The new section talks about a “specified contingency”. The specified contingency — there are two questions that I have. We’ve talked about how normally EPAs are going to come into effect through a mental incapacity or physical infirmity. What other specified contingency might be contemplated in here? I’m just not sure what the implications of this provision are. After subsection 6(4), we’re going to have a new subsection 6(5).

Hon. Ms. McPhee: This section, by virtue of passing this bill, will be added after subsection 6(4). There are certain triggering situations or triggering factors that could be added into enduring power of attorney as to when it would come into effect.

This one is really about a notice provision. If the power of attorney states that notice must be given at a certain time, or to bring the document into effect, then the attorney must provide notice in accordance with the regulations to each person named

in the document as someone who must receive notice, and they don't have any authority to act until that notice provision is abided by. So, for instance, a couple of things would have to happen in this circumstance. The enduring power of attorney would have to require notice provisions for certain things to come into effect, and then the attorney would have no authority unless they abided by that notice in accordance with the regulations. They might have to notify a bank or a business or something to that effect. A great example provided by one of the officials is that, for instance, an enduring power of attorney might be set up by an individual to come into effect upon leaving the country or taking a particular action of some kind — or for a particular period of time, if they were to have surgery or something. There could be specific circumstances in which they say that their attorney can act under these circumstances, but this section is specifically about if the enduring power of attorney requires some sort of a notice provision and how that triggers, or acts as a trigger, for the EPA to be used.

Deputy Chair: Is there any debate on clause 8?
Clause 8 agreed to
On Clause 9

Amendment proposed

Hon. Ms. McPhee: I move:

THAT Bill No. 17, entitled *Enduring Powers of Attorney and Related Amendments Act (2020)*, be amended by deleting clause 9 on page 10 and replacing it with the following:

Section 9 amended

9 In section 9, the expression “Subject to subsection 6(6),” is added immediately before the expression “If”.

Deputy Chair: The amendment to clause 9 of Bill No. 17 is in order.

It has been moved by Ms. McPhee:

THAT Bill No. 17, entitled *Enduring Powers of Attorney and Related Amendments Act (2020)*, be amended by deleting clause 9 on page 10 and replacing it with the following:

Section 9 amended

9 In section 9, the expression “Subject to subsection 6(6),” is added immediately before the expression “If”.

Is there any further debate on the amendment to clause 9?

Hon. Ms. McPhee: Mr. Deputy Chair, I guess the practice has been over the last 15 or 16 days, in the event that an amendment comes to the floor, that there have been a few moments for the parties to discuss that. I don't know if that is being sought by either of the opposition parties. I have no issue with that.

Otherwise, I am certainly prepared to explain the change here.

Deputy Chair: Do members need any time to discuss the amendment?

We are seeing no indication, Ms. McPhee.

Hon. Ms. McPhee: The only change that is being made in this amendment is the addition of the words “In section 9”. The amendment is being made so that it is clear that the amendment that is set out in Bill No. 17, under the section 9

heading of Bill No. 17, is being made to section 9 of the *Enduring Power of Attorney Act*.

I know that it seems to be quite minor, but the words in section 9 were inadvertently omitted. The application to the amendment is to insert them after the number 9 under the heading “Section 9 amended”. Section 9 being amended seems to be pretty clear, but the words in section 9 must also be included — once the amendment and, hopefully, the bill pass — for it to be clear that the enduring power of attorney section 9 is being amended by the addition of these words. To be clear, it is not substantive in any way. It is an inadvertent error that omits the words to be completely clear about what is being changed.

This amendment suggests that we add the words in section 9 immediately after the number 9 under the heading “Section 9 amended”. It might otherwise not be clear that the amendment suggested here in Bill No. 17 is to actually amend section 9 of the *Enduring Power of Attorney Act* as it currently exists.

Certainly, my submission to my colleagues here in the Legislative Assembly is that it does not change the amendment that is before you in any way and that it is for clarity purposes and will allow us to properly amend the *Enduring Power of Attorney Act* when, and should, Bill No. 17 pass.

Deputy Chair: Is there any further debate on the amendment to clause 9?

Ms. Hanson: I don't think any debate is necessary. I appreciate that one could intuit it, but it's much better to have it clarified. I had actually written “Where is it?” It's good to have that clarified, but as the minister said, it's not substantive. I think we can move on.

Deputy Chair: Is there any further debate on the amendment to clause 9?

Amendment to Clause 9 agreed to

Clause 9, as amended, agreed to

On Clause 10

Clause 10 agreed to

On Clause 11

Ms. Hanson: In clause 11, there are changes made to section 10, which talks about applications to court for advice. Just give me a moment, Mr. Deputy Chair. I'm just trying to read my notes. My caucus colleagues will tell you that my writing is dreadful, and I can attest to that now.

It's a question, not a statement. Can the court order deem something that the power of attorney granted to somebody to mean something else that is distinct from what has been described by the individual?

Hon. Ms. McPhee: I have an answer, but I want to be clear that I am answering the question. Let me answer the provisions about section 11 and, if that is not the answer, then I am happy to do so. The court can't put new language into an enduring power of attorney. They can't sort of speculate about what the intentions were. In this section, it tries to make clear that an enduring power of attorney won't fail because of an error. This is an application where you might go to a court to maintain the concept of the enduring power of attorney.

So, the donor, the attorney, or the public guardian and trustee could ask a court to declare that a document is a valid

enduring power of attorney even though it does not meet all of the requirements.

Maybe the date was incorrect or perhaps there wasn't a witness certificate properly done or something to that effect, but the application and any order granted must be provided to the donor and to the attorney — unless the court decides otherwise, but that would generally always be the practice. The court can grant the order if it is satisfied — so the test is also set out in this section — based on clear and convincing evidence that doing so would fulfill the intentions of the donor. If everything else is clear and there is some sort of technical error or some sort of provision of this piece of legislation, for instance, that isn't satisfied exactly, the application could be made to have the court say that this EPA is good, it is valid, and it should be acted upon. The test that the court would look at is whether or not it fulfils the intentions of the donor as described in the document or any other evidence that they might have that indicates the intentions of the donor.

Clause 11 agreed to

On Clause 12

Clause 12 agreed to

On Clause 13

Ms. Hanson: Clause 13 talks about the order to terminate authority of attorney, so I'm looking to understand how this works in conjunction with section 12 of the act, which talks about termination orders. In 11.01(1), it says: "An application may be made to the Court by way of originating notice for an order terminating the authority of an attorney..." and then in 12.1, it talks about how any interested person may apply to the court by way of — so, I am trying to figure out how 11.01(1) works with 12.1. Maybe the minister could explain what the intentions of those two clauses are.

Hon. Ms. McPhee: I'm just looking for section 12. I think this is what's being asked. Section 12 in the current *Enduring Power of Attorney Act* makes reference to a termination order, and that would be an application process to terminate the EPA in its entirety. The reference being made to the addition of the language in Bill No. 17 in clause 13 deals with an application to have a particular attorney declared invalid or unable to act in that role.

Of course, if only one attorney was named in an EPA, then that might also make the document invalid, but certainly if there were alternates or other individuals, then they could remain. Not only that, the document would remain valid and the others could be permitted to act.

Clause 13 agreed to

On Clause 14

Clause 14 agreed to

On Clause 15

Ms. Hanson: In section 15, we see a replacement of the existing section 15 of the act, which says that attorneys may receive an allowance — a reasonable and fair allowance from the donor's property for the care, pains, trouble, and time that they spend on administering the donor's property.

I'm seeking an explanation. The language is quite dated — or kind of benevolent.

This language that is now being proposed in sections 15(1) and 15(2) is quite different. Is this part of the uniform language bit? Secondly, what prevents, in 15(2) — how is the determination of "reasonable" determined? What prevents abuse of an attorney to exact, to seek, or to reimburse themselves from the property of the donor for expenses?

Hon. Ms. McPhee: The member opposite is correct. The provisions in clause 15 will replace the current section 15 in the legislation as being slightly outdated. I also want to make sure that it is clear and that the distinction here is that the new section 15, if I can call it that, is more specific. It doesn't contemplate an allowance, which could really have a broad definition and not really be very specific, if I could say it that way. In the new legislation, an attorney may not receive payment from the donor for services provided in their role of acting as the attorney unless the payment is authorized by the donor in the enduring power of attorney — so they have to contemplate that and put it in writing — or it is paid at the direction of the donor while the donor still has capacity. If it was a situation where the donor was still directing the attorney to act in a certain way, without issue of mental capacity, then they could indicate that they wanted to pay, and that would clearly be their choice.

That is more specific than is in the current act, which is an improvement, and attorneys are entitled to receive reimbursements from the donor's property for reasonable expenses incurred while acting as an attorney. So, again, it's not an allowance, not a payment for service rendered — but I had to fly to this place and there is my plane ticket reimbursement with respect to particular expenses.

The language is in alignment with similar language in the *Trustee Act*, for instance, and the idea being that: (1) they would have to be classified as expenses; (2) they would have to be classified as expenses that relate to the activity of carrying out their business as an attorney; and (3) they would need to be reasonable. Again, a check and balance could be brought by a court if there was something wildly unreasonable being done. The new section 15 is to, I'm going to say, "clarify" the concept of an allowance before, but really make it quite more specific. This amendment to the legislation is in line with the Uniform Law Conference of Canada's recommendations.

Clause 15 agreed to

On Clause 16

Clause 16 agreed to

On Clause 17

Ms. Hanson: This whole section here deals with financial institutions. In section 21, the heading there is "Report to Public Guardian and Trustee" — a person may, in accordance with the regulations — yet to be determined — report to the public guardian and trustee. What action will the public guardian and trustee take when a report is made pursuant to regulations yet to be determined?

Hon. Ms. McPhee: Following an investigation or during an investigation by the public guardian and trustee, they may take several actions that are set out in section 11 of the *Public Guardian and Trustee Act* — another great example of

how these pieces of legislation work together and support Yukoners.

These actions include reporting the matter to the Adult Protection Unit. They could report the matter, after they do their own investigation, to the RCMP. They could provide information to the court regarding any matter before it. They might be involved in a court application or as a party to a court application, and they are permitted to do that.

They can take any action that they consider appropriate. This includes applying for certain court orders, as I've said, under the amended *Enduring Power of Attorney Act*. So, the changes to the *Enduring Power of Attorney Act* will expand the provisions of the public guardian and trustee in relation to enduring power of attorney matters.

If the public guardian and trustee has reason to believe that an adult is being abused or neglected and has reason to believe that their financial affairs are in need of urgent protection, they can take the action to freeze the donor's accounts for up to 60 days once the provisions of this Bill No. 17 come into effect. That would be a change from, as I said earlier, 21 days, which is an authority at this point, which will be expanded.

Ms. Hanson: It's a bit of a trick here because clause 17 adds about 10 new sections to the legislation, so it's not as simple as saying that it correlates; it does not.

Section 26 says: "The Minister may, if the regulations permit the Minister to do so, implement a registry for the registration of... original or certified copies of..." EPAs and other enumerated matters.

But then when we look down to clause 27, it says that the Commissioner may make regulations considered necessary, so it's a catch-22. We've made numerous references to regulations — I think the question of a registry is quite distinct from the regulations, but having it wholly permissible — the minister "may" as opposed to the minister "shall" make regulations.

Does it mean the whole act is — or those provisions of the legislation — for example, we just talked about section 21 where it says that a person may, in accordance with the regulations, report to the public guardian and trustee, but if there are no regulations — why wouldn't this legislation be more declarative and say that the minister "shall" make any regulations considered necessary for carrying out the purposes and provisions of this act and then — section 27(a) to (e)? I don't understand why it's worded that way.

Basically, this exercise and the last three hours — and the maybe hundreds of hours that the officials have put into this — could just sit there because some minister one day may decide that they don't want to put regulations in place.

Hon. Ms. McPhee: This is another good question and an opportunity to clarify. I am going to speak first about regulations under section 27. This is very similar to many — if not every — piece of legislation, but certainly the vast majority of pieces of legislation that give authority for regulations to be made under the act. That is what section 27 is about.

In this case, as in most cases in the Yukon, with legislation, the Commissioner in Executive Council or Cabinet may make regulations under the act. We know that one of those

regulations will be the forms that are required for people to do an enduring power of attorney without a lawyer.

Section 26 deals with — if the regulations provide for an enduring power of attorney registry, then the minister may make a registry of enduring power of attorney documents. It mirrors the language in the *Wills Act* and the changes that are being brought before this Legislative Assembly for the purposes of enabling — and someday having — a wills registry. This is enabling legislation for how that registry could come about, so the two bills have mirrored language to support the concept of a registry. It's not about the minister making regulations or the act not coming into force. It's about — if one of the regulations that comes under this piece of legislation is to enable or to set up an enduring power of attorney registry, then the minister would have the authority under section 26 to make or set up that registry.

Ms. Hanson: I thank the minister for that explanation with respect to the registry in section 26, but I guess the bigger question is: What is compelling Cabinet — government — to make regulations, unless the legislation says "you shall make regulations"? The concern here is that, absent something that says that "there are going to be regulations" or "there will be regulations" or "there shall be regulations", they could sit there in the ether, without ever having some of these provisions that we have just debated come into effect because they say that regulations aren't required.

Hon. Ms. McPhee: All of the pieces of legislation that I have had the honour to bring to this Legislative Assembly for debate are designed to improve the current state of the law in the Yukon Territory and real Yukoners' lives in relation to things, activities, and authorities that exist under that legislation.

I will be clear that this is a standard drafting process where this is an enabling section for regulations to be made under this act. I don't think — I stand corrected, and I can confirm it — but I don't think there are ever — "ever" is a long time — there are usually provisions of a piece of legislation that say "regulations shall be made" about these things, because the provisions for regulations are generally enabling.

So, the topics are listed in a piece of legislation to indicate that regulations might be made about forms, regulations might be made about — not in this case — but fees, or regulations might be made about the authority of a board or an activity. That is in section 27 — the authority for regulations to be made in these areas — and generally they are listed; they are not endless and they are not wide open. There are areas upon which regulations can be made and that are anticipated in the amendments to the legislation. I guess my shorter answer than the longer one is that we want regulations made so that this act can come into force and effect and protect Yukoners and give them the tools that they need to estate plan, to plan for their future, and to protect themselves with these changes that are positive for the lives of Yukoners.

Ms. Hanson: I thank the minister, but that is precisely why we want to see those changes made — so that those things can happen. I appreciate that the minister is saying that there have been numerous pieces of legislation that have been passed

ostensibly to create better situations. But the challenge — absent any compelling directive in the legislation — I would ask the minister — actually maybe by way of legislative return — to provide the House with a list of the legislation that we've passed and the status of regulations because I will wager — at the end of a Thursday afternoon — that we've passed a number of bills, but we haven't seen the regulations for most of them over the course of four years. I'm not going to say what I'll wager, but I will wager that. That's why I expressed this hesitancy — this concern — this afternoon.

Hon. Ms. McPhee: I do appreciate the theme and the question from the member opposite. It's certainly something that I think she's heard me speak about before — that, in some cases, the regulations under a piece of legislation, or through a piece of legislation, are required to give life to the legislation in a way that makes it meaningful for Yukoners, and the delay in that is something that concerns me to a great extent as well.

I must say that the extremely talented team of individuals we have working at Justice working on drafting new legislation, orders-in-council, and regulations is small but mighty. The same individuals who draft the pieces of legislation are those who work on the regulations to a great extent. On occasion, there are individuals from other departments, as well, who work on those.

The drafting and completion of regulations often require extensive consultation, even after a bill has been passed or changes have been made to an act.

We have been working very diligently in the four years that we've been here to also catch up on changing a number of pieces of legislation that have not had eyes or pens on them for many, many years. You will recall that recently we debated the *Wills Act* here — Bill No. 12, I think it was. It hasn't been looked at since 1954. That's just not acceptable in a world with modern legislation and in a world of legislation that affects individuals' lives every day. Certainly, the *Wills Act* affects Yukoners every day — or some of them.

So, as a result of that, other pieces of legislation can come into force and effect without the regulations or with very minor regulations. Others will have extensive regulations. Something like the *Societies Act* — the changes that were made a couple of years ago here — or the *Access to Information and Protection of Privacy Act* — the regulations under an act like that are extensive, because they are really — sometimes, depending on the act — the meat on the bones.

So, I take the point of the member opposite. It is something that I share — with respect to the timing of these pieces of important law and regulations under legislation coming into force and effect. I take this opportunity to thank the people in the Department of Justice and in the other departments and policy shops — and others — who work so diligently on having these regulations come to life. They are a top priority for us.

I appreciate that members and Yukoners have been waiting on it longer than maybe we always wanted them to — depending on the situation — but I can also assure them that appropriate and extensive engagement and work is being done to get these documents right.

Ms. Hanson: I don't quarrel with the minister's statements, nor do I raise the issue to impugn the integrity or the work of public servants, but my caution is that we're at the fourth year without something that says that Cabinet shall — we have a suite of legislation, but next year, this government could be voted out of office — possibly — and those pieces of legislation could languish. So, all the good work that has been done could vanish because a government of a different ilk or whatever decides "Oh geez, we didn't like that." God knows — they could just say they're not going to bring it into force and effect or whatever.

So, that's why I raise it. It's not because I'm disparaging either the minister's sincerity or the work done by public servants. I am very concerned that we have, as I said, a whole bunch of legislation — look at the *Coroners Act*; look at any piece of legislation that we have done and debated in this Legislative Assembly — it could make substantively positive changes, but if it's not in effect, it's just really hot air — a lot of words are exchanged and talked about in this Legislative Assembly and there's a very thick Hansard, and that's about it.

For the record, it is there — but it doesn't compel a future Cabinet, six or 12 months from now, to do anything. That is all I will say on that, Mr. Deputy Chair.

Hon. Ms. McPhee: I will respond to the comment by saying that I am taking this comment in the spirit in which it is intended. I don't disagree. We have been working extremely diligently. We are making absolute best efforts. I know that there is a schedule that I check on a very frequent basis to determine where these matters are. I know that my colleagues do as well — because pieces of regulations under pieces of legislation that they are responsible for are key priorities.

I can also say that a number of pieces of legislation — that may well have happened in a former government, where there were pieces of legislation brought forward and we are trying to catch up a bit on the regulations as well. Nonetheless, we have also passed — and I don't want to get the number wrong, so I could stand corrected — I think, without the budget bills — somewhere near more than 30 pieces of legislation in our time here. I think that, with the budgets, the number is 37 or 38. This is not an excuse, but simply a way of explaining the sheer volume of the pieces of legislation that have been tackled by this team and the team at Justice, for which I thank them.

I won't say more. I appreciate the comment.

Clause 17 agreed to

On Clause 18

Clause 18 agreed to

On Clause 19

Clause 19 agreed to

On Clause 20

Clause 20 agreed to

On Clause 21

Clause 21 agreed to

On Clause 22

Clause 22 agreed to

On Clause 23

Clause 23 agreed to

On Title

Title agreed to

Hon. Ms. McPhee: Mr. Deputy Chair, I move that you report Bill No. 17, entitled *Enduring Powers of Attorney and Related Amendments Act (2020)*, with amendment.

Deputy Chair: It has been moved by Ms. McPhee that the Chair report Bill No. 17, entitled *Enduring Powers of Attorney and Related Amendments Act (2020)*, with amendment.

Motion agreed to

Hon. Ms. McPhee: I am noting the time. I can't speak to the other House Leaders at the moment, but I move that the Speaker do now resume the Chair.

Deputy Chair: It has been moved by Ms. McPhee 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 Deputy Chair of Committee of the Whole?

Chair's report

Mr. Adel: Mr. Speaker, Committee of the Whole has considered Bill No. 17, entitled *Enduring Powers of Attorney and Related Amendments Act (2020)*, and directed me to report the bill with amendment.

Speaker: You have heard the report from the Deputy Chair of Committee of the Whole.

Are you agreed?

Some Hon. Members: Agreed.

Speaker: I declare the report carried.

Hon. Ms. McPhee: Seeing the time, I move that this 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 now stands adjourned until 1:00 p.m. on Monday.

The House adjourned at 5:19 p.m.

The following sessional papers were tabled October 29, 2020:

34-3-54

Yukon Public Accounts 2019-20 (Silver)

34-3-55

Yukon Liquor Corporation Annual Report April 1, 2019 to March 31, 2020 (Streicker)

The following document was filed October 29, 2020:

34-3-36

Yukon Lottery Commission Annual Report 2019-20 (Streicker)