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HANSARD

Wednesday, March 9, 2022 — 1:00 p.m.

Speaker: The Honourable Jeremy Harper

YUKON LEGISLATIVE ASSEMBLY

2022 Spring Sitting

SPEAKER — Hon. Jeremy Harper, MLA, Mayo-Tatchun
DEPUTY SPEAKER and CHAIR OF COMMITTEE OF THE WHOLE — Annie Blake, MLA, Vuntut Gwitchin
DEPUTY CHAIR OF COMMITTEE OF THE WHOLE — Emily Tredger, MLA, Whitehorse Centre

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

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Yukon Party

Currie Dixon	Leader of the Official Opposition Copperbelt North	Scott Kent	Official Opposition House Leader Copperbelt South
Brad Cathers	Lake Laberge	Patti McLeod	Watson Lake
Yvonne Clarke	Porter Creek Centre	Geraldine Van Bibber	Porter Creek North
Wade Istchenko	Kluane	Stacey Hassard	Pelly-Nisutlin

THIRD PARTY

New Democratic Party

Kate White	Leader of the Third Party Takhini-Kopper King
Emily Tredger	Third Party House Leader Whitehorse Centre
Annie Blake	Vuntut Gwitchin

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Yukon Legislative Assembly
Whitehorse, Yukon
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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

Speaker: Today, we have in the gallery Bengie Clethero, deputy advocate, Child and Youth Advocate office. Please join me in welcoming Bengie to the Assembly.

Applause

Hon. Mr. Pillai: It gives me great pleasure today to welcome to the Assembly the High Commissioner of India to Canada, Ajay Bisaria, and his wife, Bharati Chaturvedi. These are two extremely impressive individuals. The High Commissioner spent his career throughout the world working in diplomatic service. Ms. Chaturvedi runs one of the largest non-profits in the world that focuses on environmental issues. They have been here in the Yukon for the last number of days, sharing a message from the world's largest democracy, and they are looking for opportunities for Yukon companies to work in India or investment here, as well as continuing to help Yukon with issues around our labour market. Of course, we have a large, large number of students now at Yukon University from India.

It was a great pleasure, and I really want to thank them for spending time over the last number of days here — and what a great pleasure it has been to host them.

Applause

Hon. Ms. McPhee: I ask my colleagues to help me welcome to the gallery Laura Wilson, a dietician with the Yukon bariatric program who is here for our tribute.

From the Department of Health and Social Services, welcome Paula Mowat, Bobby Prematunga, and Leeann Kayseas.

From the Council of Yukon First Nations, we have Kayla Brinda and Shauna Strand. They are here for the introduction of Bill No. 11. Thank you so much for coming.

Applause

Speaker: Tributes.

TRIBUTES

In recognition of Nutrition Month

Hon. Ms. McPhee: I rise today on behalf of the Yukon Liberal government to speak about national Nutrition Month. This year marks 40 years of dieticians all over the country

raising awareness of the importance of food in our lives and our communities.

The theme for 2022 is “Ingredients for a Healthier Tomorrow”. This speaks to the ingredients or individual actions that we take to improve our health today and the broader systemic changes that can be made for the future.

Dieticians recognize the factors that influence what and how we eat, and they are complex. Dieticians are important members of multidisciplinary teams in long-term care facilities, in hospitals, in health centres, and in the community at large. They have the opportunity to share the science of nutrition and make sure that food traditions and cultures are respected.

In the Yukon, we have many examples of how dieticians and nutrition teams are leading the way forward to support sustainable food systems. Yukon Hospital Corporation's traditional food program has many nutritional leaders who recognize the importance of traditional food in First Nation cultures and its impact on healing. The program works with First Nations and resident hunters to donate wild game to the program. The food is then prepared using traditional methods and served to patients to help support their cultural needs and healing journey.

The food literacy grant program builds on existing and new community-driven food literacy initiatives. Building skills, confidence, and connection, these projects help Yukoners make sustainable food choices.

Another great example of a program that Yukoners have access to is the Yukon bariatric program. This Yukon-designed program has operated for 12 years and is led by a Yukon team of health professionals who work together to help Yukoners who are dealing with weight issues, and it focuses on preventing serious ailments such as diabetes, heart disease, and stroke. Thanks to the virtual platforms like Zoom, they are now able to help Yukoners in every community.

Dieticians recognize that food is important for us all. They also recognize that the meaning of food is that what is sustainable for one person may not look the same for every person.

I encourage all Yukoners to get involved in exploring what action they can take to learn more about the connection between food, public health, and our environment and how our choices influence the future health of ourselves, our communities, and our planet. Food is so much more than just energy. It is culture, it is family and community traditions and how we show love to our family and friends. I know, as we are able to come together again, that food and nutrition will play such a central role in our gatherings.

Applause

Mr. Cathers: I rise on behalf of the Yukon Party Official Opposition to recognize March as national Nutrition Month in Canada. Across the country, dieticians, health practitioners, organizations, governments, and others are spreading the word on raising awareness around the importance of healthy eating and physical activity. Of course, preferences, allergies, cultures, traditions, and dietary restrictions all impact the way people eat and the outcome of food on the body.

Dieticians work to help make food work for you in a healthy, balanced way. I would like to thank those in the gallery and listening for the work that they do. They can help create an eating plan that works for you and promote healthy eating and nutrition on a daily basis.

Healthy eating and balanced diets are not always easy for many to think about and are even harder for some to follow. Many people can't afford to make proper nutrition choices for themselves and their families, and the rising cost of everything from fuel to electricity and food is making this even more of a challenge today. Some children do not have an adequate breakfast or lunch to sustain them through their day at school, and I would like to acknowledge and thank Yukon Food for Learning and the Yukon First Nation Education Directorate for the work that they are doing to provide healthy meals in Yukon schools. At each of the participating schools, there are volunteers and staff who assist in ensuring that food is distributed to students.

I would also like to recognize and thank the Yukon's agricultural sector, farmers, market gardeners, producers, processors, and all those who contribute to the local production of vegetables, meats, eggs, and other food products. Thanks to your efforts, Yukoners have access to an increasing variety of healthy local foods that are available especially during the growing season, but also increasingly available year-round due to your efforts.

Before I close, I would like to recognize that March 16 this year is Dieticians Day. According to the Dieticians of Canada, it celebrates dieticians as regulated health professionals committed to using their specialized knowledge and skills to translate the science of nutrition into terms that everyone can understand to unlock food's potential and support healthy living for all Canadians. Again, thank you to all for the work that they do in promoting nutrition and a healthy, balanced lifestyle.

Applause

Ms. Blake: I rise on behalf of the Yukon NDP to acknowledge national Nutrition Month. In honour of this month, I would like to talk about the gaps that still exist in the territory when it comes to good nutrition, because for many Yukoners, good nutrition remains out of reach. While we can talk about how individuals can make healthy decisions, we also have to take a hard look at the systems in place to support these choices. Good nutrition starts with affordability.

Last fall, I brought forward the motion to review the Yukon social assistance rates. This review is long overdue. Many Yukoners who rely on social assistance feel trapped because the rates do not reflect the actual cost of living in the territory today. Since last fall, social assistance rates still have not been reviewed.

Many of the same Yukoners who rely on social assistance are also living in hotel rooms with no access to a stove, a fridge, or a microwave. Without a kitchen, good nutrition is almost impossible.

On my most recent visit to Old Crow, I listened to many citizens who are food insecure. Current supports do not reflect

the rising cost of food today in the communities, and it's not just Old Crow. If you want to understand food insecurity in the Yukon, all you have to do is look at the rising number of people accessing the Whitehorse Food Bank from across the territory.

Food banks are designed to be a last resort, but because of a lack of upstream support, more people are relying on emergency food hampers for basic nutrition. Until this poverty is addressed on a systemic level, like finally reviewing the social assistance rates, implementing a basic income, and treating housing like a human right, Yukoners will continue to struggle with nutrition.

I hope that the members of this House take this month to reflect on the ways that we, as leaders in our community, can make decisions to enable our youth, elders, and everyone in between to eat well and be healthy.

Applause

In recognition of National Engineering Month

Hon. Mr. Clarke: I rise today to pay tribute to Yukon's engineers on behalf of the Yukon Liberal government and on behalf of the Third Party. Engineers play an invaluable role in our society. Within the Yukon, we have engineers who focus on infrastructure, such as transportation and buildings, or natural resources, like mining and the environment. There are also computer and technology engineers who design, install, and maintain our computer systems. They all do one thing in common: They work hard to find meaningful solutions to problems.

Living in a remote territory, we face unique challenges. We are working toward modernizing our digital infrastructure, upgrading or replacing aging infrastructure, and mitigating the impacts of climate change. One project that stands out to me is the Dempster fibre line. This involves the installation of an 800-kilometre fibre optic line along the Klondike and Dempster highways. To do this, we needed geotechnical engineers, civil engineers, network engineers, electrical engineers, and environmental engineers. This project would not have been possible without them.

Mr. Speaker, another issue that we face as northerners is the rapid melt of permafrost. If any of you have driven between Haines Junction and Beaver Creek, you know the impact that melting permafrost can have on our highways. Thankfully, we have engineers stepping up to mitigate these impacts, for example, the thermosyphon project outside of Beaver Creek. Engineers designed a system that uses tubes to act as a refrigeration device that transfers heat using gravity and cold air. This should reduce the impacts of the freeze-thaw cycle, making our roads safer and reducing maintenance costs.

This month, we are celebrating National Engineering Month. Throughout the month, there will be events that highlight the opportunities that come from being an engineer. You can view these virtual sessions at exploreengineering.ca.

The overarching theme for this month is "There's A Place For You in Engineering". This theme celebrates and encourages diversity within the world of engineering. I think this is rather timely as yesterday was International Women's Day. While the number of women in the engineering profession

has risen over the past decade, there is still room for improvement. Engineers Yukon, the regulating body of engineers in the territory, is working with Engineers Canada on the 30 by 30 initiative. This initiative is a commitment made by Engineers Canada to raise the percentage of newly licensed engineers who are women to 30 percent by 2030. The Government of Yukon also encourages young people to start a career in engineering through our engineers in training program.

On behalf of the Government of Yukon, I would like to thank all engineers, as well as those in training. Through your dedication, innovation, and tireless work, you are helping to build safer, healthier, and more prosperous communities for all Yukoners.

Applause

Mr. Hassard: I rise on behalf of the Yukon Party Official Opposition to recognize March as National Engineering Month. Hosted by Engineers Canada, the national regulatory body, National Engineering Month is celebrating with the intention of recognizing and celebrating the achievement of engineers throughout Canada and providing information to those who have yet to decide on the path they wish to take in their career.

The Yukon is home to an incredible range of expertise and knowledge based on the collective experience of our locally based engineers. They use that knowledge and expertise to make things work throughout the territory. Our local infrastructure — roadworks, bridges, and neighbourhoods — are all planned and built on the work of engineers.

There are so many parts of our society for which we have engineers to thank. They contribute to everything that we do, use, and see around us — chemical, mechanical, civil, geotechnical, and electrical engineering are just a number of the types of engineering that you might be used to hearing about. Within each type is a number of other subcategories of engineering. In fact, if it exists, chances are there is a type of engineering associated with it. These important trades continue to be major contributors to our economy and to life within each of our communities.

I would like to thank Engineers Yukon for the continued work that they do to advance engineering within the territory and to all those involved with engineering in the Yukon. To all those involved in engineering across the Yukon, the solid foundation that you have built over the years across the territory continues to serve us well, and your continued contributions allow us to thrive.

Applause

Speaker: Are there any returns or documents for tabling?

TABLING RETURNS AND DOCUMENTS

Hon. Mr. Mostyn: I have for tabling the Yukon Party's carbon-pricing plan, which confirms their support for this important tool in the fight against global warming. I also have a copy of the Yukon Party's platform, which further confirms

their support for carbon pricing and support for this important tool in the fight against global climate change.

Speaker: Are there any reports of committees? Petitions.

PETITIONS

Petition No. 9 — not received

Clerk: Mr. Speaker and honourable members of the Assembly: I have had the honour to review a petition, being Petition No. 9 of the First Session of the 35th Legislative Assembly, as presented by the Leader of the Third Party on March 8, 2022.

The petition presented by the Leader of the Third Party does not meet the requirements as to the form of the Standing Orders of the Yukon Legislative Assembly.

Speaker: Accordingly, Petition No. 9 may not be received.

Are there any petitions to be presented?

Are there any bills to be introduced?

INTRODUCTION OF BILLS

Bill No. 11: *Act to Amend the Child and Family Services Act (2022)* — Introduction and First Reading

Hon. Ms. McPhee: Mr. Speaker, I move that Bill No. 11, entitled *Act to Amend the Child and Family Services Act (2022)*, be now introduced and read a first time.

Speaker: It has been moved by the Minister of Justice that Bill No. 11, entitled *Act to Amend the Child and Family Services Act (2022)*, be now introduced and read a first time.

Motion for introduction and first reading of Bill No. 11 agreed to

Speaker: Are there any further bills to be introduced? Are there any notices of motions?

NOTICES OF MOTIONS

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

THAT this House urges the Government of Canada to admit all refugees who are fleeing Russian aggression in Ukraine to the Canada-Ukraine Authorization for Emergency Travel program, regardless of the refugee's citizenship.

I also give notice of the following motion:

THAT this House urges the Government of Yukon to make professional development opportunities in the areas of special and inclusive education available to educational assistants.

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

THAT this House urges the Government of Yukon to continue funding a full-time home support aid worker at the Whitehorse Emergency Shelter.

Speaker: Is there a statement by a minister?

MINISTERIAL STATEMENT**Tank farm site development**

Hon. Mr. Pillai: I rise today to applaud the City of Whitehorse on their commitment and partnership with the Government of Yukon and the private sector to create the master plan for the development of the tank farm property and surrounding areas.

The tank farm site is centrally located in Whitehorse, and it is 116 hectares, a piece of vacant land that has the potential to provide about 400 new homes. This commitment marks a major step forward in transforming what is currently unused vacant land into a residential community. The master plan process will provide direction on future engineering, zoning, subdivision, and development permits that are required to help turn this project into a community.

I would like to recognize that our commitment to the development of a master plan for the tank farm property is a testament to what we can achieve when we work together. After all, the development of a new community in our city does not just require planning for bricks and mortar; it requires, first and foremost, that we build strong partnerships.

It is only through these partnerships between the municipal and territorial governments, private sector landowners and developers, First Nation partners, and many others that we can address housing gaps in the territory.

The Yukon has the fastest-growing population of all provinces and territories in Canada, and in the past five years alone, the population has increased by 12.1 percent. This rapid rate of population growth is putting pressure on the availability of homes in the Yukon despite historic levels of new housing construction over the past years.

During the same period, from 2016 to 2021, the number of private dwellings in the Yukon increased by 12.9 percent, outpacing the population growth.

Residential investment has reached record levels in the territory — \$267 million worth of residential construction in 2021 — shattering the 2020 record of nearly \$200 million. Despite these promising trends, we are still playing catch-up. We know that a key part of the solution of housing availability and affordability is to bring more housing supply online. We also know that to accomplish this, we need to work together. That is precisely why the collective commitment to the tank farm master plan is so important. While the agreement to begin the process of procuring planning services is an important first step, we need to keep the momentum going.

The ongoing collaboration between key partners, as well as engaging with the public throughout the process, will be a major component of this residential planning and the development's success. Thank you to the City of Whitehorse, the Yukon Housing Corporation, and the private sector partners that are helping to get this site planned and these homes built. This is just one of the ongoing projects in the Yukon that will lead to more homes for Yukoners. I look forward to seeing the tank farm property become Whitehorse's newest residential community.

Mr. Dixon: It is a pleasure to rise and respond to this ministerial statement on behalf of the Official Opposition. We are certainly pleased to see this development as well. We would like to add our congratulations to the City of Whitehorse for this important step. I know that a lot of Yukoners have been following the tank farm development in Whitehorse closely. It has been an issue for a number of years as remediation work to clean up the old fuel tanks has taken place, and questions have been raised over the years about what would eventually happen with that land.

With housing a continuing issue in our growing city and territory, I know that any effort to get more land developed and more housing on the market is very much appreciated. I am particularly appreciative of the fact that this particular development is being driven by and involves the private sector.

According to the City of Whitehorse, which has taken the lead in recent years, the tank farm area is actually far bigger than most Whitehorse residents realize. The land being discussed today encompasses a much larger swath of central Whitehorse. This area runs pretty much from Elijah Smith Elementary School to the Alaska Highway-Two Mile Hill intersection. Media reports peg the estimates at the number of lots that could be potentially created at 1,400. That is certainly a lot of lots and a lot of development, and it will certainly be welcome in our housing market.

In our current housing crisis with a growing territory, any room for error is small and will have a profound impact on getting these lots to market. Of course, we know that a number of Yukon government departments are involved — Community Services being one — but we also understand that the Yukon Housing Corporation is taking an active role in this, as evidenced by the fact that the Minister responsible for the Yukon Housing Corporation is doing this ministerial statement. We are wondering if the minister can tell us about this new role that Yukon Housing will take in the development of land and if there are any changes to the department's mandate as a result of that.

We would also like to note that there is ongoing remediation with the tank farm area itself. We would ask that the minister provide an update as to the contamination status of the site and whether or not Environment Yukon will be involved with the liability on an ongoing basis and whether or not that liability will be transferred to the property owners should that sale occur.

We also understand that there are some questions around the payment for the underground utilities in this new development. I'm wondering if the minister can confirm if it has been determined which level of government will cover the costs of the underground utilities associated with this. We would like to know when that will be ironed out and whether or not it will be before major construction begins.

I also note that a number of residents in the area have raised concerns, particularly those in Valleyview and Hillcrest, so I would like it if the minister could offer his thoughts on how the input of residents in Valleyview and Hillcrest will be considered in this process.

In closing, Mr. Speaker, I would like to congratulate the City of Whitehorse for this important step, and I look forward to seeing these lots developed in our community.

Ms. Tredger: It's welcome news that planning for the tank farm is moving ahead, and we look forward to more residential lots being released. Congratulations to the City of Whitehorse and the developer on their work to get the tank farm developed into more housing for Yukoners.

It does beg the question: What about the lots that the Yukon government owns that are still sitting empty? 5th and Rogers comes to mind. I understand that it has gone out to tender again and I'm looking forward to the day it becomes housing instead of just a talking point.

The tank farm lots will be great news for Yukoners who have a down payment ready to go for a new house and lot. That's great because houses are in short supply, but what about the Yukoners who can't afford to buy a house? Where are the creative ideas for making the housing market accessible to all Yukoners?

For example, has there been any consideration of zoning lots to allow for modular homes? This seems like an ideal option given our current shortage of contractors and our need for housing fast. It would make buying some of the new lots coming online more affordable for many Yukoners.

What about renters? Where are the creative ideas for making rent affordable and stable — ideas like housing co-ops?

What I saw in the budget for housing this year was money for more lots, but not much that was creative or exciting to make housing more accessible for people who need a home, not just an investment.

We're happy to see the tank farm going ahead with planning, but we need more than new lots to change the way housing is done in this territory. We need creative, innovative approaches, and that's something that Yukoners are missing out on.

Hon. Mr. Pillai: As noted, the tank farm project has the potential to create hundreds of new homes for Yukoners and to address some of the housing demand that we're seeing in Whitehorse. I would just like to quickly respond to some of these questions that were tabled. Firstly — and I will just quickly go through them — there was a question about consultation with the community members. Of course, that's part of the master plan work. Who is going to pay for the horizontal or some of the ground services work and infrastructure? That will be defined after the master plan is completed, and we'll have a scope of exactly what's needed within that, and there will be conversations between the government and the City of Whitehorse.

Of course, what you have seen in our budget this year is a very innovative way to work with First Nations, such as Kwanlin Dün, on helping to make sure that it can be procured. If you look at my mandate letter, you will see that, yes, Yukon Housing Corporation is now taking a lead role on housing development, so please, you can refer to that, but we're

working in concert with Community Services and Energy, Mines and Resources.

I'm sad to see that the critic roles have changed, but we'll see when we get into budget debate concerning that. When we talk about innovative ideas, we actually have \$60 million in the budget this year that goes to affordable housing, and we're also working on land trusts. Yesterday we spoke about the fact that we were putting in a supplement between \$200, \$400, \$600, and \$800 toward folks to offset part of the high cost of rent. There are about 200 people using that right now, and there is no wait-list, which is good to see.

I would like to take the rest of the time and just — I want to thank the individuals at Yukon Housing Corporation and government. What we didn't hear in the response — there weren't a lot of accolades for the Yukon government, and that goes to the public servants who have driven this work. As well, we have two First Nations that have land within this area, so we'll be working closely with Kwanlin Dün and Ta'an Kwäch'än Council.

We all owe a big thank you to Mr. Sidhu, who has taken this forward. He has wanted to see this developed. He is a well-recognized, successful entrepreneur in our city, and I want to thank him for coming to the table with us.

Just a little bit of a timeline for the House today on how this has come to be — it really goes back to the fact that I had an opportunity to sit with Mayor Cabott shortly after the election of our new mayor, in November, and we really aligned on our thoughts concerning the tank farm and the work that could be done.

We then set up a meeting with the City of Whitehorse officials and the property owner, Mr. Sidhu, where we began to lay out the groundwork and really walked in leadership with the city. They have taken a lead role and so have we.

Last week, I met with the Mayor of the City of Whitehorse again, and with city officials, to really discuss the work that we are doing and how we can support them on the master plan — again, on 5th and Rogers, which we will get a chance to talk about. We are working closely with them. We will have an RFP going out, but we want to share it with them first so that it meets the downtown zoning plans and the vision that they have for the city. It's very important that we are in lockstep and aligned with them.

With that, I think it's important — and some in the House will remember — that a good old friend of mine — his name was Brad Taylor. He knocked on the government's door for many, many years, trying to move this forward. I can't help but think of Brad today, because he didn't get to see this work done. He was successful in some other smaller developments, but this was something that Brad always wanted to see. Today, that is who I think about, because we now have a chance to see the private sector, the municipality, and the Government of Yukon move this project forward finally.

Speaker: This then brings us to Question Period.

QUESTION PERIOD

Question re: Flooding preparedness

Mr. Cathers: Yukoners who were affected by the 2021 floods were concerned to see the most recent snow survey released by the government's Water Resources branch. It confirms that snowpack levels are above to well above average in most Yukon watersheds. The government release on this concludes: "Above average spring breakup and snowmelt flood potential is anticipated in most of the territory."

When we raised this with the minister a few weeks ago, he was dismissive of public concerns and told the *Whitehorse Star* that the nature and the location of snowpack was much different from last year and therefore not much cause for concern. The snow survey indicates otherwise.

Many Yukoners are looking for more action showing that the government will be better prepared for flooding than it was last year. What steps is the government taking to ensure that they are ready for the possibility of flooding in 2022?

Hon. Mr. Clarke: The Government of Yukon created a multi-departmental flood recovery working group to coordinate a variety of flood recovery initiatives for communities impacted by the 2021 floods. Efforts are focused on the cleanup from the 2021 flood event, supporting community and individual flood preparedness, increasing response efficiencies, and establishing long-term mitigation options.

Yukoners, of course, know that there is a lot of snow out there this year. Weather observations, snow pillow data, and the March snow survey indicate that most regions of the territory have above-average snowpack, but it is still too early to provide an accurate flood forecast, but an above-average flood potential is anticipated.

The flood potential will become much clearer following the next territory-wide snow surveys in April and May, and I can advise that, for the first time in recent memory, there were February snow and water surveys and we have more resources being brought to bear so as to provide accurate information to all departments to provide that data for their coordinated response to any potential floods this season.

Mr. Cathers: I appreciate the partial answer from the minister and have noticed, of course, that while multiple factors influence whether it actually does flood, the potential is higher than normal.

While the Southern Lakes and Lake Laberge areas were certainly hit hardest last year, there were impacts in other regions throughout the Yukon. The Village of Carmacks, for instance, would like to see a number of measures taken in that area. They would like to see an engineering study of flood mitigation in Carmacks and for the government to support the construction of a berm or dike similar to that of Dawson City.

What steps is the government taking to address the flooding concerns of the residents of Carmacks?

Hon. Mr. Mostyn: The Government of Yukon created a multi-departmental flood recovery working group to coordinate a variety of flood-recovery initiatives for communities impacted by the 2021 floods. Efforts are focused on cleanup from the 2021 flood event, supporting community and

individual flood preparedness, increasing response efficiencies, and establishing long-term mitigation options.

We are working very, very hard to address and identify where potential flooding will be happening in the coming year. We have lots of sandbags, and we have certainly learned an awful lot and have a lot of measures and experts we can pull on in this coming flood season.

I will say that we recognize the urgent need to tackle climate change, and we are taking bold action, as well, to meet the Yukon's climate change goals. Last year, we mounted the largest flood-mitigation effort in Yukon history. The Yukon Party has actually commended us for that effort. The Yukon Party is concerned about not being prepared, and I understand that. They provided no preparation in 2007 and, in the wake of that flood in 2007 — 2008, nothing done; 2009, nothing done; 2010, nothing done; 2011, nothing done; 2013, nothing done; 2014, 2015, 2016, nothing done.

In 2021, we launched the largest flood mitigation in Yukon history. We protected the homes and we are now prepared for floods into the future.

Mr. Cathers: That was quite the imaginative response by the Minister of Community Services. We appreciate the hard work done by government staff, contractors, and people who volunteered to help fellow Yukoners throughout the flooding last summer. The effort was commendable, but there are also lessons that can be learned in areas that government can do better.

There were gaps in communication and coordination, and many people in affected areas have raised this as an issue. We appreciate that the government listened to citizens and us by starting earlier this year with preparations and meetings, but there have been gaps in communications again with some people who were forced to evacuate their homes not being invited to two online meetings about flood preparedness for this year.

Will the minister agree to make improving communications and coordination a priority, and will he commit to advertising flood meetings in the newspapers and online, as well as ensuring, specifically, that people who were seriously impacted by the flooding last year are informed of these public flood preparation meetings?

Hon. Mr. Mostyn: In preparation for the flood response this year, we conducted an early season February assessment of snowpack conditions in the upper Yukon River Basin. We sent a letter to Southern Lakes residents and held a community meeting to provide an update on recovery work and flood preparedness. That community meeting was for residents of the Southern Lakes. We plan for future meetings for Lake Laberge and other areas. We are going to advertise all of the meetings we have. We have also consolidated our mailing list to make sure that the response to the community is much more robust. We are currently looking at all the ways that we are responding to these floods and trying to refine our systems as is necessary to make sure that we are prepared for the coming season. We hope that there will be as little flooding as possible, but we are preparing for the worst and we will certainly deal with it.

I just met with Brigadier-General Godbout last week to have conversations about that and keep the communication lines open in case we have to pull on other tools like the Canadian military again. We are hoping that it won't be the case, but we are in communication all the time and we are taking those actions earlier so that we actually have those communication channels open.

Question re: Whistle Bend development

Ms. Clarke: The territory is facing an affordability crisis. The recently tabled Liberal budget states — and I quote: “The demand for new housing outstripped new building for several years prior to 2020 resulting in the current housing shortage.” The reason supply has not kept up with demand is because of delays in releasing land for development. For example, on May 18, 2021, the Minister of Community Services said — and I quote: “... we have work underway on phase 6 of Whistle Bend for completion this summer. It will create some 171 lots for a planned release later this fall.” Despite this commitment, it was not until two days ago that the government finally released phase 6 lots and, instead of 171, they only released 70.

Can the minister clarify why he delayed the release —

Speaker: Order, please.

Hon. Mr. Pillai: I think my colleague can rise and we can go back to 2018, but really, what we're focused on at this particular point is making sure that we get as many lots built as possible. I commend the Premier's vision for us in our mandate letters. We're looking at building over 1,000 lots in the next five years, and it has been a complete pleasure to work with Energy, Mines and Resources and Community Services through the Yukon Housing Corporation to look at even more — hundreds more lots.

What we announced today, that work with the City of Whitehorse, is over and above that commitment of 1,000 lots. If we really want to go back and start to dig through some of the challenges that had happened previously, it really was the ball being passed back and forth at one time between the municipal level of government and the Yukon level of government. I think there were probably challenges with budgets and capacity and there were different things, and probably in the end, good decisions were made by both levels of government.

But I think, if we go back, that was our biggest challenge. From my knowledge, you need about 200-plus lots per year — that is what we had seen — and we're always striving to do that, either with the private sector or with government. In some years, you end up having maybe 300, so it makes up if there are not enough on an ongoing basis. But that's what we've seen over the last number of years, and that's what we're committed to doing.

Ms. Clarke: As I pointed out, the budget highlights that the affordability crisis we are facing is, in part, due to the fact that the government has not kept pace with demand for new land development, so that has us wondering why the government continues to delay and reduce the number of lots

that are released. It is clear that these decisions are contributing to skyrocketing housing prices.

I would like to go back to May 18 of last year, when the minister stated — and I quote: “The phase 7 construction tender just closed. It will supply another 90 residential lots targeted for release in the fall of 2022.” That is another timeline and commitment that the minister did not live up to. It has now been revealed that phase 7 has been split in half, and it might take until 2024 for both halves to be released.

Can the minister explain why he delayed the release of the 90 lots from phase 7?

Hon. Mr. Streicker: We just last week released 78 residential lots, and a month or so before, we released 26 commercial lots. Those are all part of the release that was being referred to previously. We're working on the next round. Those lots include: 32 townhouse lots in Whistle Bend, which range in price from \$75,000 to \$90,000; 38 residential lots, single-family residential lots, which range from \$100,000 to \$157,000; there are infill lots in the city; there are lots in Mayo, which are much less expensive.

Overall, this is a release of lots that just went out the door last week and we're happy to see that. We are working, as always, to continue the supply of lot development.

Ms. Clarke: Last spring, the minister committed to get a combined 261 lots out for development by the fall of 2021 as part of phases 6 and 7 of Whistle Bend. Unfortunately, the minister delayed the release of these lots in Whistle Bend. As the budget states, these decisions are contributing to the housing affordability crisis.

Last spring, the minister also committed to have the tendering out for phases 8 and 9 of Whistle Bend. However, we know that these two phases have also now been delayed.

Can the minister tell us when phases 8 and 9 will be released? How many lots will be contained in both of those phases?

Hon. Mr. Mostyn: I want to start the answer to the member opposite by attempting to correct some of the statements that were made. We know that the housing situation in the territory is really a national issue; it's not only a local issue. This is something that we're seeing in jurisdictions across the country.

We're working very, very hard — my colleagues and I — to address this national housing issue. We continue to advance Whistle Bend as quickly as possible in phases, and we work closely with local contractors who carry out construction and supply the materials where possible. We ensure progress every year, releasing lots by way of lottery for private citizens and contractors in advance of the spring start to the construction season. My colleague has just talked about all of the lots that we put out for tender already just last week.

Once Whistle Bend is completed, it will include 16 phases — 2,173 lots, with 20 of those being commercial lots — and \$300 million worth of investment and economic benefit for Yukon contractors and businesses, alongside much-needed homes for our growing population.

Last year, we retooled the phases of Whistle Bend to accommodate the contractor. We are now going ahead with it.

We will continue to work on Whistle Bend, and we hope to get about 200 lots out in the coming year.

Question re: Wetlands protection

Ms. White: The government likes to describe itself as a climate champion, but they still put corporate interests ahead of those interests of Yukoners and the environment. A blatant example is how this government is handling wetlands. Wetlands are an essential asset that nature provides us with in the fight against climate change. Wetlands absorb and store carbon, and when they already contain thousands of years' worth of carbon, they continue absorbing more, yet wetlands in the Yukon currently have no protection, and the government seems happy to let them be destroyed for profit.

Will the minister immediately pause all development, exploration, and extraction in any undisturbed wetland until an updated wetlands policy is in place?

Hon. Mr. Streicker: I think I started talking about this just yesterday, when I was discussing all of the work that we are doing to modernize mining activity here in the territory, but of course, it is not just mining that is in wetlands. We have a wetlands policy that is currently out there being worked on right now by us, First Nation governments, the public, environmental groups, and industry. We released that last year — a draft of that wetlands strategy — and there was within it a way in which we were going to work to respect existing wetlands, so it is actually in development right now.

Also, I will note that we currently have a draft Dawson regional land use plan in place, and the planning commission is working to get us their finalized plan by this coming summer. In that plan, what we did differently from what the Yukon Party did with the Peel plan was, when the commission provided us with draft suggestions about areas to withdraw, we withdrew them — areas of conservation. We did the withdrawal on those lands as per the suggestion of the Dawson Regional Planning Commission.

Ms. White: What I was asking for was an immediate pause on all wetland exploitation. So, wetlands are critical to the environment. They protect us from drought, they reduce greenhouse gas emissions in our atmosphere, and they're home for a wide variety of flora and fauna, but they are more than that.

Wetlands are essentially both a huge carbon storage and also a ticking carbon bomb if they're disturbed. If all the carbon that wetlands have been absorbing for thousands of years is released, it will take thousands of more years to be reabsorbed, and that's only if the wetlands can be successfully reclaimed.

So, not only has the government taken no steps to protect wetlands, they have also excluded them from greenhouse gas emissions calculations and targets. This means that all the carbon released in the atmosphere when a wetland is disturbed magically doesn't affect climate change in the eyes of this government.

When will the destruction of wetlands be included in the government's greenhouse gas emissions calculations and targets?

Hon. Mr. Clarke: We are committed to completing a Yukon wetlands stewardship policy in 2022 — in this year. The policy will help the Government of Yukon make decisions that respect the importance of wetlands and the benefits that they provide and support for a diverse, growing economy.

Together, we can build a solid and consistent approach to wetlands stewardship that reflects the values and interests of Yukoners. This policy was drafted with input from First Nations, transboundary indigenous groups, federal and municipal governments, industry, and other key organizations through roundtable-facilitated discussions that go back a number of years.

We heard from Yukoners through a public survey in the fall of 2021. A report on what we heard will be provided on engageyukon.ca as soon as it is available.

Our next step is to conclude consultation with our First Nation and indigenous partners. As the member opposite indicated, of course we know that wetlands are important in the Yukon, because they are essential to maintaining waterflows, flood protection, purifying water, recharging and discharging groundwater, storing carbon, and providing habitat for fish and wildlife.

In addition, certain wetlands support traditional subsistence and cultural activities, such as harvesting and recreation. We know that the protection of wetlands is first and foremost for Yukoners.

Ms. White: That time around, I was asking when we were going to include the destruction of wetlands in greenhouse gas calculations and targets.

We know that the government has been working on a draft wetlands policy, and this draft has been highly criticized by First Nation governments and Yukon conservation groups. During the 2020 Yukon Water Board hearing on wetlands, the Yukon Conservation Society said — and I quote: This policy has been "... designed primarily to facilitate development and does not prioritize wetland conservation..."

As an example, one policy in the draft strategy would require a wetland to be nominated for protection. It essentially puts the burden of protection on the public. Instead, the burden should be on the developer to justify its use.

Will the minister listen to experts and finally start protecting wetlands from further destruction?

Hon. Mr. Streicker: I actually have also sat down with the Yukon Conservation Society, with the Canadian Parks and Wilderness Society, and Ducks Unlimited. We have had a very healthy conversation about wetlands and their importance. I thank the member opposite for her question.

The Minister of Environment and I have asked our departments to do more work on wetlands to try to understand their role as carbon stores and what happens when we have activity in and around wetlands. We are looking at the ways in which that activity will be appropriate and measured. It's not a simple thing to do, to try to measure the emissions of the environment. I have seen this before in past decades, when we tried to look at carbon sequestration in our forests. It is challenging, but I think it is important. We are doing detailed mapping. We are doing analysis, and we have asked for that

research work to be done so that it can help inform us so that we understand what the situation is with wetlands.

I thank the member opposite for her question.

Question re: Wildland firefighters workers' compensation coverage

Ms. McLeod: In last year's Fall Sitting of the Legislature, there was considerable debate about the inclusion of wildland firefighters in the cancer presumption portion of the *Workers' Safety and Compensation Act*. The issue came about as a result of strong advocacy from the Third Party, and it met fairly strong resistance from the Liberal government.

At the time, the minister said that more work was needed to understand the implications of the impact of such an inclusion on rates that affect other businesses in the same rate category, such as aviation and adventure tourism.

Has the minister begun this work? If so, what is the status of the assessment of rate impact on the inclusion of wildland fire on other businesses in this rate category?

Hon. Mr. Mostyn: I really am happy to be talking about the Yukon *Workers' Safety and Compensation Act*. This piece of legislation did pass the Legislature last year. It is one of the most comprehensive and progressive pieces of legislation in the country, and I am looking forward to seeing it come into effect later this year.

This government recognizes the invaluable contribution of every Yukoner who fights fires, whether full time or part time, professionally or as a volunteer. On December 2, the act was amended to add nine cancers to the list of cancers eligible under this presumption. There are now 19 cancers, including pancreatic and thyroid, alongside three cancers that primarily affect women. This latter addition recognizes the increasing role that women are taking in fighting fires. These additional cancers are effective as of December 2, 2021.

We know that there has been some conversation about adding wildland fire. We did talk about that a little bit last session. It is an extremely expensive proposition for a number of businesses. Currently, the role of wildland fire is not the same as those who fight fires in urban environments, so we are going to continue to look and identify the threats to wildland fire. If there are changes that we have to do to the presumption list, we will certainly do that.

Ms. McLeod: Beyond doing the work to determine the cost implications for other businesses in the same rate category, there was also work needed to consult the business community.

Can the minister tell us if consultation with the business community about the inclusion of wildland firefighters in the cancer presumption has begun, and if not, when will that consultation take place?

Hon. Mr. Mostyn: We are certainly constantly looking to improve the workplace safety of all Yukoners. We will continue to do that work. I have asked the department to continue to monitor for cancers that might affect wildland fire. You have to understand that, when it comes to workplace safety, if there are cancers identified, such as some of the cancers that some of the urban firefighters are exposed to — if those cancers are prevalent in wildland fire, they have to wear

the proper PPE as well. That would mean requiring, perhaps, face masks or other type of PPE, so there are lots of implications for these decisions going forward.

I know that we have had these conversations with Wildland Fire, and I will continue to have these and look to identify the threats and then work to mitigate those threats. It is not just about the presumption; it's also about mitigation. I will say that every single firefighter, and every single individual in the territory, is covered by workers' compensation benefits. If they are exposed, or suffer a workplace incident, or are exposed to carcinogens that may provoke an occupational illness sometime in the future, they will be covered by workplace safety, by compensation benefits. We don't want to create a two-tiered system. That is very important to keep in mind, but you are covered if you are injured at work.

Ms. McLeod: I am a little shocked at the lack of information coming from this minister on this important file.

In a November 22 letter last year, the BC General Employees' Union wrote to the minister to express their support for the inclusion of wildland firefighters to fall under cancer presumption in the legislation. In that letter, they explained how wildland firefighters were added to the BC presumption in a way that was — and I quote: "... simple and low-cost..."

In response, the minister wrote to the BCGEU and committed to seek a list of possible carcinogens that wildland firefighters may be exposed to and to monitor the science and carcinogens that wildland firefighters are exposed to. Can the minister provide an update on the progress of that work?

Hon. Mr. Mostyn: I'm very gratified to hear that the Member for Watson Lake has been listening to the debate. I did commit to those things; that work is continuing. We're constantly monitoring it at Yukon Workers' Compensation Health and Safety Board for potential workplace vectors of disease, vectors of illness, vectors of injury, and we will seek to prevent those. Once we identify those occupational diseases, the workplace perils, we then take mitigative steps to prevent them.

I will note that, in my discussions with the BC union, the firefighters here in the territory provide very different roles than they do in BC. They have very different exposures; they do different jobs than they do in BC. They have different training than they do in BC, so we have to compare apples to apples. That's not being done, so we have to make sure that we're actually comparing the same perils and the same workplace exposures that you have in BC as you do in Yukon, and quite frankly, those same exposures do not exist. So, we are looking to see which potential carcinogens Yukon wildland firefighters are exposed to, and we will take action once we determine that.

Question re: Rural fire protection services

Mr. Istchenko: Last December, the Department of Community Services released a report on the Fire Marshal's Office fire suppression and rescue resource distribution in rural Yukon. The review was launched last spring after two separate fires in Keno in the past 15 months. Since then, we have had fires in other communities that have brought territory-wide

attention to the shared concerns surrounding the lack of fire protection in rural Yukon.

The report recommends changes to the Yukon fire service training curriculum and standard, including either revisions to the current three-level training or shifting to the two-level training model. The report further suggests that the elimination of the intermediate level and a reallocation of skills between two levels would appear to be more efficient and way better utilized.

So, has the minister directed his department to adopt either of these recommended models, and will the new program be available to Yukoners this season?

Hon. Mr. Mostyn: The delivery of fire services in the Yukon's unincorporated communities is challenging, given our remote and small population base. To ensure that our fire service model remains sustainable, we commissioned the independent review of fire services in rural Yukon that the member opposite was just referencing. The review contains 104 recommendations in the areas of governance, operations, strategy, risk management, and compliance. These present an exciting opportunity to shape the future of the Yukon fire service, and we are pleased to see a number of recommendations that will ensure safe and sustainable fire services across the Yukon. Since the release of the review in December 2021, the Fire Marshal's Office presented the report to communities and fire service stakeholders. Throughout March, April, May, and June, the Fire Marshal's Office will meet with key communities, Yukon fire chiefs, Yukon First Nations, municipal governments, and fire service stakeholders to receive their feedback on the report and to develop priorities for improvements that will shape the future of the fire services in rural Yukon for years to come.

Mr. Istchenko: So, most firefighters in rural Yukon are volunteers and they are required to meet an adequate level of training to protect their communities. The rural fire services review highlights that the basic firefighter training classification is a minimum standard required to be a firefighter in the Yukon. It also notes that there remain a number of impediments to volunteerism that may be possible to overcome, including — it says in the report — adopting the NWT model of optional self-contained breathing apparatuses at the fire department's lowest operational level. The report recommends that the Fire Marshal's Office should constitute a working group, including — and the minister spoke a little bit about it — Yukon's Occupational Health and Safety to research criteria and discussion options of a similar program for the Yukon.

So, has the minister directed his department to begin this work to reduce barriers for volunteer firefighters in rural Yukon?

Hon. Mr. Mostyn: I will say that we continue to work in partnership with Yukon communities on the recruitment and retention of fire service volunteers and to ensure effective and sustainable fire service delivery to Yukon communities.

Mr. Istchenko: So, the lack of fire protection in Keno drew territorial attention to the barriers for firefighting services in rural Yukon. In a briefing from officials — and I thank the officials for the briefing — they noted that the legislation

related to fire services in the Yukon is not consistent with current practices. The report identifies a number of conflicting policies and notes that there is currently no reference to level of service in any legislation respecting fire protection.

It also says that the fire marshal appears to be risk-managing operations of volunteer fire departments that cannot come close to meeting the realistic operational capabilities. The report questions why the policies have not been modified when the department has determined that they will risk-manage the issue of non-compliance.

Has the minister directed the department to address this inconsistency in the legislation and the question of the risk management operation as revealed in the report? Will he direct the department to meet with affected communities and gather information?

Hon. Mr. Mostyn: Well, I did say that we continue to work in partnership with Yukon communities on the recruitment and retention of fire service volunteers to ensure effective and sustainable fire service delivery in the Yukon communities. I also went through the list of months and the meetings that will be happening over the coming months.

With 104 recommendations included in the review, there is significant work to be done to devise a path forward. Our government has taken immediate action on a few of the short-term recommendations identified in the review, particularly as they pertain to firefighter safety and Occupational Health and Safety compliance.

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

ORDERS OF THE DAY

OPPOSITION PRIVATE MEMBERS' BUSINESS

BILLS OTHER THAN GOVERNMENT BILLS

Bill No. 302: *Act to Amend the Civil Emergency Measures Act (2022)* — Second Reading

Clerk: Second reading, Bill No. 302, standing in the name of Mr. Cathers.

Mr. Cathers: I move that Bill No. 302, entitled *Act to Amend the Civil Emergency Measures Act (2022)*, be now read a second time.

Speaker: It has been moved by the Member for Lake Laberge that Bill No. 302, entitled *Act to Amend the Civil Emergency Measures Act (2022)*, be now read a second time.

Mr. Cathers: I am pleased to rise today in speaking to this private members' legislation. I would note, as I begin my remarks here today, that we proposed amendments to the *Civil Emergency Measures Act*. These measures are aimed at increasing the democratic safeguards and checks and balances under the legislation over the use of emergency powers and providing for the possibility of public consultation. Many of these changes are based directly on the federal government's *Emergencies Act* and the safeguards contained in there.

I would note as well that previously I tabled proposed amendments to Bill No. 300. All of those amendments are

contained in the bill here today, but we have also expanded it, largely based on safeguards that are in the federal legislation.

Mr. Speaker, the recent debate nationally has prompted increased interest in this topic. It is something that the federal government's decision to invoke the *Emergencies Act* triggered a national discussion around the responsible use of emergency legislation. As you will recall, multiple experts and organizations spoke about the importance of democratic oversight of governments using emergency powers. Politicians who were debating the invocation of the act spoke to the checks and balances that exist in the federal *Emergencies Act*. The Premier himself spoke of the checks and balances in that federal legislation.

A large part of the national debate recently surrounded the importance of not normalizing the use of emergency powers. That is something consistent with what we believe in and have been saying since May 2020. We agree that the use of emergency powers should not be normalized. In bringing forward this legislation, we are trying to propose a construction solution that includes democratic safeguards that we believe should be included, but also preserve the ability for the government to act quickly in a real emergency.

I want to emphasize that we are open to considering amendments to this legislation and input from other parties. I would like to acknowledge that the Third Party attended the briefing that we offered on this and thank them for their questions regarding this legislation and the thoughts they shared with us. The legislation reflects concerns that we have heard from Yukoners and safeguards that are rooted in federal legislation, as well as in the previous legislation that we tabled, Bill No. 300, which is being expanded on here today. We were trying to reflect what we believe are best practices in provincial legislation, such as requiring the Legislative Assembly to vote on the extension of a state of emergency. I would note that much larger jurisdictions, such as Ontario, have that provision in place.

As I noted in my introduction, previously, we proposed legislation to improve the *Civil Emergency Measures Act* to require democratic oversight of government during an extended emergency. This new version of our proposed legislative amendments includes everything that was contained in the previous private members' bills that I tabled, both before the election and then afterwards — most recently, Bill No. 300, *Act to Amend the Civil Emergency Measures Act (2022)* — but there are some very important additions made to the bill which are aimed at putting in new democratic oversights and safeguards, largely and directly inspired by oversights and safeguards contained in the federal *Emergencies Act*. The language in the bill is very similar to the democratic safeguards found in the federal legislation, and in fact, in many cases, it mirrors the clauses in that legislation, with minor adjustments to reflect differences such as the fact that, at the federal level, both the House of Commons and the Senate are required to review and debate a declaration of an emergency, whereas, of course, here in the Yukon, we do not have two houses. We just have the Yukon Legislative Assembly.

Here are the highlights of what we are proposing in this bill. It includes a requirement that any declaration of a state of emergency be debated by the Legislative Assembly within seven days and be subject to a vote. That is a requirement contained in the federal legislation, which requires both houses of Parliament to have a such a vote. Additionally, this would provide the Yukon Legislative Assembly with control over the extension of a state of emergency. It would require that any regulations and ministerial orders issued under a state of emergency be subject to a mandatory review by either the Legislative Assembly or one of its committees within 45 days of being issued. That would also provide, as laid out in the legislation, the opportunity that the committee could choose to seek public input on those changes. It's clear from the intent of the legislation that we believe that should be something that typically occurs with such matters.

The legislation also seeks to empower committees of the Legislative Assembly, as I mentioned, to conduct public hearings on regulations and ministerial orders under the *Civil Emergency Measures Act*. If the Speaker receives a request from three MLAs, it would require that the Legislative Assembly consider a request to revoke a declaration of a state of emergency. I would just note on the side that this is, again, a provision found in the federal *Emergencies Act*. As it is worded in that legislation, either 10 senators or 20 Members of Parliament can write to the Speaker of the respective Chamber and request that the matter be revisited. We, in trying to import that provision into Yukon legislation, are suggesting that the number would be perhaps three MLAs, but again, this is an area that we are open to hearing thoughts from others on — what the appropriate number of MLAs would be.

For example, as was suggested by another member, it should potentially have to be from more than one caucus that those MLAs would come from. We are open to hearing thoughts on all matters and considering potential amendments.

Moving back to what the bill contains, there is a requirement that a public inquiry be held after the declaration of a state of emergency with the ability to waive that requirement with the agreement of three-quarters of MLAs. Again, in the federal legislation, there is a requirement that, after the declaration of a state of emergency, there be a public inquiry into why it was called, whether it was necessary, and how it was handled after it occurred. What we are proposing here is that, while we agree that the federal provision of requiring a public inquiry as a norm makes some sense, we do think that there are some cases — such as if a state of emergency is declared related to a wildfire or a flood — where it might not actually warrant a public inquiry. We believe that a modified version of what is in the federal bill that actually allows the Assembly to choose to waive the normal public inquiry with the agreement of three-quarters of the members of the Assembly, based on a request from Cabinet, is what we have proposed.

In proposing this, we are trying to propose constructive solutions and realistic options that allow government to act quickly in a true emergency, but provide for more democratic oversight and the opportunity for public input even after the fact

to review what is in place. We are certainly open to hearing ideas and to considering amendments from other Members of the Legislative Assembly.

I would just emphasize as well that one of the things that we heard from the Government House Leader was a question about what public consultation had occurred. I would note that, as the member will be aware, we don't have the same resources that the government has to do public consultation, but if other members are supportive of seeing public consultation on this legislation, we would be more than happy to see that occur. I would note that while it is not what typically occurs with private members' bills, it actually has happened on several occasions, including during our time in government with proposals brought forward by a member of the Liberal caucus at the time regarding changes to the *Human Rights Act*. There was an all-party committee that took the bill and sought other input from Yukoners regarding what was, at the time, Bill No. 102. That has also occurred with the proposal from the former leader of the New Democratic Party, the late Todd Hardy, who had proposed anti-smoking legislation, which was referred to a select committee created for that purpose, which I was on, as was one member of each of the other caucuses. Again, we heard from Yukoners on those matters.

We are open to hearing thoughts from others on possible options for proceeding with this legislation, if they are supportive of that at second reading, but I would note that one possibility is to also refer it to the Standing Committee on Statutory Instruments. As members will be aware, we have discussed at SCREP the possibility of doing that with more legislation, including government bills, to provide the opportunity for public consultation directly with Members of the Legislative Assembly on some pieces of legislation that may be of more interest to the public. A perfect example of that, in my view, is the *Workers' Safety and Compensation Act* last fall. I think it's fair to say that there would have been an interest from both us and the Third Party in seeing public consultation on that and the possibility for, potentially, amendments to be made to that legislation following public consultation.

So, as members will be aware, we've suggested at SCREP, the Standing Committee on Rules, Elections and Privileges, that for some pieces of legislation, rather than trying to deal with it all in the short time available during a legislative Sitting, that perhaps some legislation should be referred to the Standing Committee on Statutory Instruments, which has long been rather inactive, and that would allow members to have more opportunity to discuss that legislation, as well as, if they felt it appropriate, to do consultation with expert witnesses as well as members of the public. We believe that this would be an improvement in the democratic process here in the territory — to start doing that more frequently.

I would also note, just talking briefly about the question of reviewing a state of emergency, that the provisions contained within Bill No. 302, which we are discussing here today about recalling the Legislative Assembly, almost mirror the wording in the federal legislation regarding that, with very minor changes just to reflect differences in the way the federal legislation tends to refer to things and the fact that they have

both the House and the Senate and here we only have the Legislative Assembly.

I would just note that, while some may question whether there is a need for the Legislative Assembly to debate a state of emergency, that provision is in the federal legislation. It requires the House of Commons and the Senate to both debate that legislation, and I would respectfully contend that if over 400 MPs and senators — close to 450, in fact — can be summoned to debate a state of emergency at the federal level and the need for it, then surely, here in the Yukon, we can summon 19 MLAs back for debate in the Legislative Assembly if the House isn't sitting at the time.

The bill also includes a clause to provide for the ability of the Legislative Assembly to meet virtually or in another Chamber if circumstances require it so that if, for example, a state of emergency was affecting the ability to use these premises or make it difficult to get members together, there would be the ability to do that.

Again, Mr. Speaker, I just want to note in wrapping up my comments on this that the Yukon Party continues to believe that emergency powers should be used only when there is no reasonable alternative. However, if emergency powers are being used, we believe that they should be subject to proper democratic oversight and safeguards, and again, our position continues to be that emergency powers should only be used when there is no other reasonable alternative — not simply because it is convenient. As stated many times before in this Assembly throughout the pandemic, we believe that other tools, such as time-limited legislation, are more appropriate than using emergency powers to deal with whatever public health measures may be required during a pandemic.

I also want to just note that, even if public health measures are required, in our view, it doesn't mean that people, businesses, churches, NGOs, sport associations, and others shouldn't have an opportunity to be consulted on the details that impact their lives. We believe that in addition to giving people the opportunity to express their thoughts, concerns, and suggestions, that type of process — both in the pandemic and in any future emergencies that might be dealt with by this territory — actually just leads to better policy and, of course, is a far more democratic approach that gives the people we represent the ability to bring forward their concerns and suggestions.

So, Mr. Speaker, I won't go on for much longer here. On the topic of the *Civil Emergency Measures Act* and the use of emergency powers and the provisions, I have stood many times in this House before. In the interest of time, I will conclude my remarks and will look forward to hearing suggestions from other Members of the Legislative Assembly.

I do want to reiterate, in closing, that these are our suggestions of a constructive solution and structure, but we are certainly open to hearing from other Members of the Legislative Assembly, if they have suggestions on how to improve this.

Hon. Mr. Streicker: I want to begin by thanking the member opposite for bringing this bill forward. This is a first time for me to stand in the Legislature and debate a private member's bill or a bill coming from the opposition. I did a lot of work last night after we heard that this bill was coming forward to try to think about this bill.

I think that, at all times, the work that we do here in the Legislature is so critically important. Then to add on top of that the nature that this is a first time where it's not coming from the government-side of the House, I thought, "Okay, you had better be diligent with it." Then, on top of that, the act that we're talking about, the *Civil Emergency Measures Act*, is an act of paramountcy — that's an appropriate word. It's a word that was used when I was on the select committee looking at the act, meaning the act itself overrides lots of other acts. So, it's really important that we get it right; it's a very important act.

I appreciate that the Member for Lake Laberge is asking us to debate this important act and has taken the time to bring forward issues that I think are important to consider with respect to the act. Of course, it also relates to emergencies, and if we have learned nothing else over the past couple of years, it is how important they are for Yukoners and how much they affect our lives, and so it is terribly important work.

As the member noted just moments ago, there has been a lot of conversation about COVID and the *Civil Emergency Measures Act* — I will sometimes refer to it as "CEMA" — and the chief medical officer of health and lots of conversation in this Legislature over the past two years. I went back to try to scan through it. There is so much, but it's important to try to get a sense of what we've been talking about.

This bill is different in that, as he notes, he has added things to it. He just stood up and said that he had some influence from the federal *Emergencies Act*. I downloaded that act, as well, and took a look at it to try to see a comparison of the two. I noted a lot of those similarities. I must apologize that I did not have the opportunity to attend the briefing that the member opposite provided. I thank him for doing that. We got invited on the Monday afternoon for Tuesday morning. Unfortunately, we had a Management Board meeting at that time, so all of Cabinet could not attend. I wish that we had had more time. I look forward to further conversation with him about it.

Here in the Legislature over the past two years, we have had five tributes on COVID. By my last count, not counting today, there have been 136 questions that have come to us during Question Period — each question is often three questions, but you understand what I'm saying. So, 136 times, questions have been raised and a couple of petitions. I also have put forward a couple of motions — one we debated quite fully and one was adjourned. We also created a select committee.

I will talk a bit about that select committee in a moment, but just to begin with, I went to — and anyone can find it right now. If you go to the Yukon Legislative Assembly webpage, you can look under select committees. I think it is the second or third one down. One of the things that we did as a committee was we decided to try to make all of the information that we received open, public, and transparent, again, because of the importance of this type of legislation. I went back through and

grabbed all that material. It is far, far too much to read in an evening. One of the submissions that was given to us from, I believe, the Department of Community Services and the Department of Justice was 300 or 400 pages' worth of material, including a cross-jurisdictional look. It is definitely a complicated thing, so there is lots of material there.

I also looked through to try to see other times when we have debated this in the Legislature and to try to find references and moments when we talked about the importance of sharing information and about public engagement. I mentioned it yesterday, and the Member for Lake Laberge just talked about me mentioning it, and I think that he stood just now and said that, on the government side, they didn't have an opportunity to engage with the public because they don't have the same resources as government, but that doesn't diminish the importance of talking to the public.

In fact, one of the arguments within the bill itself that is before us today at second reading is that it is arguing that we need to get more public engagement on these issues. So, it is interesting to me that we are talking about the importance of getting public engagement and considering passing amendments to a critical piece of legislation without having engaged the public. I will talk a little bit about that.

Let me start with this notion of information. Yesterday in the Legislature — and I believe it was also the Member for Lake Laberge — in debate on second reading of the budget, he talked about how, during the pandemic, we did not share information from the chief medical officer of health. The criticism that came was that there was no information. Well, we did have two times that the chief medical office of health was invited to be a witness here, where the opposition members were given free rein to pose questions. We also, of course, gave briefings to the opposition members — not we, sorry — the chief medical officer of health gave briefings to the opposition members. There was a request from the opposition that they get direct briefings, and we said, "Yes, for sure, let's get that", and we set it up. Then as we got to the end of sort of the first wave of the pandemic, when we changed the border restrictions and all those rules, things loosened up, okay. Everything changed at that point, and then when we started hitting the next waves, opposition members again said, "Hey, we're not sure what is going on", and so we set up briefings again. I believe that the member's comments about "no information" from the chief medical officer of health are not at all correct.

In fact, one of the specific things that the Member for Lake Laberge pointed out was that there was no information that had been shared. At that moment, I'm saying, "Oh, come on"; I even tabled some of those recommendations here in the Legislature. We could find them, and if the member doesn't recall, I will certainly go back through, find them, point to the link where they are. That was part of our debate here. I stood up in the Legislature and already talked about it. It was actually on that day when I tabled it. I say, "Hey, I have just tabled this information", so it's all in the public record.

One of those motions that I brought — I'm going to talk a little bit about the two motions. The first one is Motion No. 217. That motion was to talk about whether there was support in this

House for following the recommendations from the chief medical officer of health. We're in an emergency that's declared under the *Civil Emergency Measures Act*. We are getting these recommendations. In the debate that day, as we were talking about it, we were discussing whether or not there was support for the notion of following the recommendations of the chief medical officer of health. The Leader of the Yukon Party stood and said that we shouldn't debate this because everybody knows already. Their position, as he stated at that moment, was that they do not wish to follow the recommendations of the chief medical officer of health, and he stated that the Third Party does wish to follow the recommendations of the chief medical officer of health.

They put forward a motion at that point to adjourn debate. In other words, let's not talk about it because it is all known, it's all decided, everybody's position is understood — which kind of contradicts what's being asked for in this amendment to the *Civil Emergency Measures Act*. It's the importance of making sure that we do have debate here and that we have the opportunity. So, there was an opportunity that I put on the table for all the members of this Legislature this past fall, and it was adjourned, because it was believed that "Yeah, we already know that everybody thinks; we're good."

The other motion that was brought forward was a motion by me as well, and it was a motion to debate whether this House supported the extension of the state of emergency. That is exactly what this bill is asking us to do — to have the ability that — let's say that there is an emergency and the government declares that emergency — that within a week — seven days — that the House sit to consider whether it's not just the government that thinks it's an emergency, but whether it is this Legislature or a majority of this Legislature or maybe a super majority of the Legislature, depending on where we get to with the suggestion.

Then, in that motion that we had in front of us, on Motion No. 236 — in that motion, we asked this House to consider whether we should have an extension to the state of emergency. What happened then?

In this Legislature, that debate went on for three days, but because of the nature of the motion, it was three days over five weeks. I'll have to check to make sure who brought the motion forward. It might have been a colleague — a private member — but it took us five weeks as a House to decide whether or not there really was an emergency. That's not a good example.

Can you imagine, for example, the flood or a fire and it takes us, as a group of people, five weeks to say whether or not there is an emergency? That would be a bit of a problem.

I think it's important to think through how these things will play out, because we don't want to catch ourselves in that type of situation.

So, as I stand here today, I wish to acknowledge that there are some jurisdictions in Canada — it's about 50-50 — that require that it be the legislature that considers extensions to states of emergency, or longer states of emergency, and there are some that do not, but I think that's a really good question to pose.

However, we had better be pretty careful about how we introduce it so that we don't inadvertently, through the way in which we have amended a piece of legislation here — if it's through a private members' bill or however it is amended — that it be done appropriately, because we are talking about incredibly serious issues. I just want to make sure that there needs to be that forethought that would go into how this legislation would be shaped. What if we set ourselves up into a situation where we were caught without being able to take a decision? That would be a very deep concern.

As I have said, Motion No. 236 was introduced on October 24, 2020. It was debated again on October 28, 2020. It was debated again on November 18, 2020, and I'm sure that it was because we insisted on bringing it back each time. We used up three days of this Legislature to get to that decision. Maybe that's appropriate. Maybe that's the amount of time that it would take, but surely, we can't let it take five weeks.

Just coming back to how we communicate, I have talked here in this Legislature about how we made sure that information was flowing to the opposition members. I think that it is always fair to say that people would wish for more. I think that it is always fair to say that we should look for continuous improvement in how we communicate. I recall early on — in probably that very first Sitting in the spring of 2020 when we were in that abbreviated Sitting because of the pandemic itself — that the Member for Lake Laberge made a very constructive suggestion. He said that no matter how much communication you are doing with the communities and trying to inform them about what's going on, you probably need to do more. That seems like a fair statement to me.

We started in that first week with a community call, and we welcomed municipalities, First Nation governments, and local advisory councils. We had this very large call. We talked it through with the communities and we asked them what they wanted. We set up three-times-a-week calls. I remember that we were flat out trying to get information. Then we realized that we should get the chief medical officer of health to sit in on those calls so that they could answer questions directly from our communities. Those calls three times a week — after things settled out a bit — went to twice a week, and while we had the border measures in place over the first period of time, it got down to about once a week.

After border measures were lifted, after we ended the state of emergency, things went down to maybe once a month or so, and then, after that, we hit the Delta wave and following right after that, on the heels of the Delta wave, the Omicron wave, and we went back into a state of emergency in order to allow for more supports for Yukoners to help keep Yukoners safe. We went back to those community calls and they started to get going more rapidly again.

My role at that time had changed. I was no longer the minister responsible for emergencies, but I know that those calls were going on. I am sure that the Minister of Health and Social Services or the Minister of Community Services could talk about those calls and the conversations with communities and how we were making sure that communication around something like our civil emergency was trying to be kept up.

Something that I got out of those calls — something that I shared with the select committee and something that I have said in this Legislature when we talked about it — is: What are the deficiencies of this piece of legislation in front of us? How can we improve it?

The main one predates our self-government agreements. It doesn't talk about First Nation governments. There isn't an appropriate way that it spells out within the *Civil Emergency Measures Act* how we will work with this other order of government that is throughout the territory. That, I think, is one of the biggest deficiencies of the current piece of legislation and one of the things that we really need to fix, and I have said that often.

We have heard it from those calls. We have heard it sitting down at the Yukon Forum four times a year, and First Nations have said to us that this is critically important. When we started debate here today on the bill in front of us, I listened to the Member for Lake Laberge. I was hoping to hear from him that there had been some conversation with communities, with the public, and with First Nations, but unfortunately, that hasn't been able to happen, and I appreciate what he is saying — that the resources weren't there for them to be able to do it. But still, here we are. I think it's important to do that. In fact, I think it is important to do that before you get to the legislation side of this, because what if we get it wrong?

I appreciate that he has stated that he is open to input. I think it is incredibly important to be open to input — not just from us here, but from other governments that this legislation affects so keenly. I think, as we build in oversights and safeguards to the legislation with respect to this Legislature, that it's also important that we have oversights and safeguards which are going to be there for other orders of government. They are very affected by this.

The last thing I will say under the topic of communication is that we have had many, many livestreams. For a while, they were a couple of times a week. I think they dropped down to roughly every couple of weeks. Once our borders opened up, once those rules changed, and once we ended up out of the worst of it, the frequency reduced, but we always had them. Then, when it got more severe again, we brought them back, and I think we have just now moved from weekly livestreams back to livestreams every couple of weeks. Almost every time, we have had the chief medical officer of health on those livestreams.

What we have done is that we have asked the chief medical officer of health to share with Yukoners what she is sharing with us. We have tried very hard not to filter anything or not to put any sort of step in between. We have tried to provide the chief medical officer of health direct access to Yukoners through those livestreams. We have always taken questions from the media. These are ways we have tried. We are not the only jurisdiction that has done that. The country has been in states of emergency under their equivalent to the *Civil Emergency Measures Act*. We have watched. This has been very common, where the chief medical officer of health stands up and gives this information. They have been incredibly

important ways in which we stay connected as societies — in this case, Yukoners.

Normally, when there is a piece of legislation that we would go through, that engagement would happen. It would be done well ahead of time. Often there are two rounds of it. You would start with asking very open-ended questions about what the public thinks we should do. Then when you start to get closer on a piece of legislation, you would go back out and again talk with various groups and certainly with other governments — incredibly important — and then almost always we would issue a “what we heard” document.

I was still hoping to hear — and maybe I will hear this afterwards today when other members of the Official Opposition stand up — about what their party has done in terms of engagement around this issue, because it is very important.

I think that we absolutely need to hear from our communities. I think that we absolutely need to hear from First Nations. As I have stated from the beginning, I think that the goals that the Member for Lake Laberge is trying to achieve — higher levels of oversight and safeguards — are good and laudable. I don't think that they yet have made it to the other issues that lie within this piece of legislation. I have heard directly from First Nations — and, in fact, I know that they have formed a working group. They have people talking about what they would like to see as changes to this piece of legislation. I think that we are missing it right now as we go through. That doesn't mean the amendments that the member opposite has proposed are not good and valid, but we do have to acknowledge that they are certainly not sufficient.

I would like to say that, even though there has not been engagement on this issue or this bill that's in front of us yet, that there still is — I would like to acknowledge that the Yukon Party is stating that it's important to have engagement, and I want to thank them for that.

I was looking at, over the last five years, where we've talked about the importance of having engagement on pieces of legislation. It started in 2017. The members opposite were saying that engagement is super important.

I'm going to pull up some quotes from October of this last year.

This is a quote from the Member for Lake Laberge as we were discussing the *Safer Communities and Neighbourhoods Act* amendments — and I quote: “I would note that, first of all, the lack of public consultation regarding these changes is a concern.”

So, the Member for Lake Laberge was expressing concern about not enough engagement around the SCAN legislation.

From the same day — and I quote: “Again, a couple of our concerns include the lack of consultation with the public and a lack of a review of SCAN. The government should have done both before proceeding with changes here...”

Then finally, another quote from that same day: “With that, Mr. Speaker, I will wrap up my remarks. I do want to emphasize, as I did at the start, that there are some parts of this proposal and additional definitions that the government is proposing adding that we do think are worthy of consideration. We do have a problem with the lack of public consultation.”

It wasn't just confined to the Member for Lake Laberge. The Leader of the NDP also said that day — and I quote: “You know, it is so interesting. My colleague, the Member for Lake Laberge, and I disagree on lots and lots of things. I guess it is no surprise here. It's no surprise to him and it's no surprise to me, but he just highlighted the lack of public consultation around the amendments to this legislation, and I have to say that I agree.”

The Leader of the Yukon Party also talked — this is on a different day — I believe it was November 1 out of Hansard, where the Leader of the Yukon Party said — and I quote: “I do want to reiterate, though, that we have some concerns with the changes to SCANA, largely due to a lack of consultation on those changes.”

I think it is really great that the members of the opposition are saying that we need to have consultation before we get to amendments to legislation here. That's not what they are saying today, but that is what they have been saying generally, and I think it's important to note. I think that's a good change for them.

We had the issues around the Peel. They ended up going to the Supreme Court. That was largely due to a lack of consultation. I remember YESAA amendments that went to court, where there hadn't been consultation with First Nations. I remember a discussion around the *Access to Information and Protection of Privacy Act*. There were criticisms, at the time, that the Yukon Party had not — well, criticisms from the privacy commissioner who said that they hadn't talked with the public. I want to thank them for now saying, generally, over the past five years, that it is important that we have engagement, although I note that it is missing from today.

Okay, let me talk for a second about the select committee that was struck last year — or maybe the year before, in 2020, I think — from a motion here in this Legislature to review the *Civil Emergency Measures Act*. One of the things we, as a committee, did right away, and I have noted, is —

By the way, the chair of the committee was the then-leader of the Third Party. The vice-chair of the committee is my colleague, the Member for Lake Laberge. I was the third member of that committee. It was an all-party committee with one member from each party. We set it up that way in order that it would be balanced, because this piece of legislation is so important to the territory. We didn't, as government, say, “Oh no, it's going to be three of us, two of them”, et cetera. No. We said, “Let's do one-one-one.” We agreed, as a committee, that it should be transparent, that we should share information. We asked to get information from all the departments. If you look online, you will see our four sets of minutes — I think we had roughly five meetings. I would have to go back and check my notes to be sure. You can see our work and how it progressed. One of the first things we did was to pose questions to each of the departments to ask about the legislation and what needs to change and what concerns they had with it.

We asked the deputy ministers of Justice and Community Services to come and speak to us, which they did. I am going to reference some of the material that was given to us just to share with us here what that select committee found in terms of

needed changes to the *Civil Emergency Measures Act*. There was conversation at our table about the ability for this Legislature to have additional oversight. I think that was always on the table as an important piece, but it certainly was not the first and foremost piece — it was just a piece.

One of the things that I recall as coming forward right away from the deputy ministers of Justice and Community Services was that there are really two acts that work together here, and we need to work on them both. We haven't even mentioned that other act, but I will mention it here: It's the *Public Health and Safety Act*. These two acts, and the way in which they work around emergencies, are very important. Of course, this is not the same as how it works for Canada or other jurisdictions, because each jurisdiction has a different set of legislation. That is why it's important to always do cross-jurisdictional work, but it's critical that we put it in the context of the Yukon, understanding our laws, especially with a law like CEMA that overrides other laws.

As I have noted, there are about 20 submissions. People can check those out and take a look at them. There are a couple that I want to note for us. I have some quotes from the Executive Council Office. The first thing that they noted for us and the first sentence in their submission to us is that “CEMA is an act of paramountcy.” Again, it's this notion that this act can override other acts, and we need to be very careful about how it works. It is a very important piece of legislation, in other words, and it is critical that we understand how it works.

One of the things that they said in their submission to us — and I quote: “... CEMA is a blunt tool and one that is well suited to managing localized and time limited emergencies.” They are talking about how, if you have a fire, you know it is an emergency. It may not be the whole of the Yukon; it might very specific in location, but you can go and deal with it.

What we figured out from the pandemic is that there is this longer term to it. Again, quoting from the same document: “A more nuanced legislative framework may allow government to respond to a variety emergencies in a more proportional way.” Sorry, I will continue on with that quote. “A more nuanced legislative framework may also be better suited to managing on-going emergencies and territory-wide emergencies of extended duration.”

So, it is really important to try to understand how the rules are set up for something like a fire or a flood, something of a very specific nature, and something that is different, like this, which is longer term. And so, they noted that it is important to think about those differences, and we are not getting that here on these amendments, but this is what they proposed as being needed for the *Civil Emergencies Measures Act*.

They went on in a heading called “Emergency Provisions in Yukon First Nation Self-Government Agreements”. There is a long section there and I encourage all of us to go and read it. They are talking about how we have to be careful with the legislation and orders that come under the legislation — and I quote: “... First Nations under their emergency legislation could displace orders made by YG under CEMA...”

Later on, they say — and I quote: “... this could potentially result in confusion and/or conflicting orders on and off

Settlement Lands, and/or on the Settlement Lands of different..." self-governing Yukon First Nations. They let us know that we have to be very careful about how we are doing this, and they just gave us a heads-up that this is an important thing to sort through.

When I read through the bill that is in front of us today at second reading and I looked at it, I tried to put it in this context, because that is what the Executive Council Office suggested that we do. I tried to think, "Okay, how would this have that effect?" To be honest, Mr. Speaker, I thought to myself that we could really get some legal expertise on this — that would be pretty important. We are moving these acts around. There is a proposal for changes to how they work, and I would want to be careful that we are not inadvertently changing things in a way that we don't understand.

In their submission to us, the Executive Council Office also went on to talk about federal legislation and hierarchy of legislation and supremacy of overlapping orders from Canada and the Yukon, particularly in relation to borders and conditions for admission into the Yukon.

You will recall that we had rules about our borders. We set up here, in the territory, isolation requirements to keep Yukoners safe under the *Civil Emergency Measures Act*. As we did that, we said that the federal government is dealing with Beaver Creek and Fraser and the Haines Road, and they are dealing with that. We had to have very close conversations with the federal government to make sure that things were going work well.

Two more things that I will say from this submission to us — and I quote: "In examining CEMA, thought could be given to how communications and consultation with First Nations governments might be improved, including establishing clear expectations for collaboration and communication upfront, establishing formal and informal communications channels and assigning these responsibilities within YG."

The last line in their submission was, quote: "A comprehensive review of CEMA, in the context of the broader pandemic response and sustained public health emergencies, should be undertaken prior to considering amendments." That is what we are doing today.

We are considering an amendment to this piece of legislation. Again, I think it is being brought forward with good intent. I support the notion that oversight and safeguards are important. I agree with the thought that we should think about these situations as being different from business as usual. It might not just be whichever government is in power that has these roles, but we just got advice — and this advice went to my colleague as well, the Member for Lake Laberge, because he was on the select committee — and it said very clearly that, before you start amending this act, please do your diligence around it.

There are a lot of submissions, and I am not going to go into all of them, but there is some really great information there. It's important information. I encourage us to go and have a look at it.

The main things that I take away from this are: This is an act that can override other acts; we need to be very careful about

how it works in the context of our legal framework here in the territory; we need to be looking at the *Public Health and Safety Act*; and we must be talking with First Nations. My feeling is that these things should happen before we get to the amendments that we have before us today.

Let's talk about the bill that is before us. I will just get into some of the details. First of all, I again wish to thank the Member for Lake Laberge for this effort. It is impressive. I have never had to do this. I am not a drafter. We have a legislative counsel office that does all this work. I said yesterday as I stood and answered in Question Period that I am so impressed with all of the work that they have done. It has been tough under the emergency, but I am impressed with what he has done here for this. He noted that there are differences here. I want to go through a few of those.

First of all, one of the things that I noted — I wish I could have had a briefing, and I again thank him for having set up a briefing and am sorry that I was not able to attend — is that there is language now in here that starts to borrow from the federal government's *Emergencies Act*, so I downloaded that act. I tried to read through it and look at them side by side. What he said — and this is under the amendment to section 6 — or in his bill, it's section 2, and it is talking about in section 6.3. It says that if a government declares a state of emergency, that's fine. Let them do that, but then, within seven days, get back here. I realized that suddenly we have some other things that we need to work on. It's how our own Legislative Assembly works and how the rules work here so that this does not go offside here. I grabbed the Standing Orders and I started to go through them. I didn't hear him say that he had a conversation with the Clerk's office here, but I also know just from other work that we're doing on the Standing Committee on Rules, Elections and Privileges that there is no legal counsel here with the Clerk's office, which may be needed in order to make this work well or appropriately.

The concept seems right to me, but I just want to make sure that, when we do this, we're not inadvertently putting ourselves offside of our own rules here. They need to work.

I sort of went through and saw that — here's where it came from in the federal emergency legislation, and here's where the Member for Lake Laberge has put it in in his draft. Does that work?

I had several questions in my mind. If we get to Committee of the Whole, then fine — I would be happy to get into the clause by clause. But there were several things that I want to note just for today.

One of them is that, let's say that we had ministerial orders. It says here — I'm now down under one of the new sections that would be added as section 16(2) — that we should have, within 45 days of being enacted by the Commissioner in Executive Council, a review.

So, let's say that there was any ministerial order that was brought in. We've had ministerial orders over the past two years. Again, I went back through and tried to look for where the members opposite asked for that review. I've heard them many times say that they disagreed with ministerial orders. They thought that it was inappropriate — they said that they

were oversteps — but the only two times I could find when they actually asked us about them here in the Legislature and talked about what's going on were ones where they asked us to add them — not take them away.

Let's just take a look at some of those ministerial orders.

I'm going to have to go back and find it. I would be happy to table it. It was in the select committee because the select committee gave us the whole list.

We have here border controls — we brought in border controls. I didn't hear any concerns that came up — well, I heard questions about border controls, for sure, and about maps that we were giving out and things like that, but I didn't hear that we should have a review of those. We had the state of emergency. As I have already noted, we brought forward Motion No. 236. It took us five weeks, but we got an agreement to say that we all agreed on the emergency, and then we went on and we had the drivers' medicals. We said that we don't need to have medicals for our older drivers. I didn't hear a concern about that from the members opposite.

We delegated authority to the Minister of Education around flexibility for instruction, and this was to make sure that, if schools had to have rules put in place, we could get it done quickly and that we could pivot pretty quickly. We had work around enforcement for the *Civil Emergency Measures Act*. We had exemptions. We created a bubble with British Columbia, Nunavut, and NWT. We had the self-isolation requirements. That, of course, was a big one, and this was all about trying to keep Yukoners safe. We had the ability for leases and timelines to be extended so that we could protect people in those leases. We allowed for leaves of absence if people were subject to a self-isolation requirement so that they wouldn't get fired from their jobs. There were a bunch of ones where, if a business or society needed to have a general meeting and they couldn't do it because they couldn't get together — we didn't want them to go offside because then they wouldn't be able to get funding. So, we said, "Okay, let's extend those time periods." We had one around masks. We had one saying that medical practitioners could get provisional licensing and that we would have more doctors around. We had the ability for pharmacists to expand their scope of practice to extend prescriptions.

We gave one around property tax relief where we said, "Let's extend the date regarding property tax relief." This was one of the ones where the Member for Lake Laberge said, "You brought that in, but you didn't inform people fairly, so they didn't know about that later deadline and they might have missed a deadline. You should have extended it again." That is one of the ones we were asked to extend further. We enabled our cannabis licensees to sell their products remotely. This is another one: Here in the Legislature, the one time I recall the members talking about the ministerial orders, saying, "We want you to do something different", it was, "Please do it further. Do it more."

We had rent deferral. Let's say there was someone who had to be self-isolating and they ran into trouble with their rent. We said, "No evicting people if they were self-isolating."

We extended the timeline for school council elections. We made sure that we weren't going to claw back any assistance

that people got from the feds — social assistance — and then we allowed for electronic meetings. We allowed for people to be able to sign things like legal documents remotely. We waived airport parking fees, landing fees, and loading bridge fees. That is basically the list.

What I heard from the members opposite then and now is that we need to be able to have a way to review these things. That is what this bill is asking us to do, yet we have been here for a couple of years with these, and I have never seen a motion asking for any of those to be reviewed. The only thing I have heard specifically is to please extend. I still think this is a good point, but I want to be careful because the way that stuff is set up is coming from the federal legal framework, and I just want to know from our legislative counsel office whether that works in our context.

There is another piece in here where there is a conversation around three people being able to call for a review. So, let's say that three of us, as legislators, come back and ask for a review of the emergency. Let's say that we get together as an Assembly and we say, "Yes, we should keep the emergency in place." I assume that it can happen again. It doesn't say that it can just be once, but then in our Standing Orders, it talks about how we are not allowed to re-debate something, so if we debate it again, how does that work? We would definitely need to work through the Standing Orders.

There is another piece in there that says that if we are going to extend the state of emergency, we need three-quarters of a majority in order for that to happen. Well, three-quarters of 18 would be between 15 and 16, so you would need 16 in order to make that happen. Watch now what that means. If you have three people who disagree, you're done. I just don't have other examples where we use a majority of three-quarters. I looked through the Standing Orders and found a couple of examples where we use a super majority of two-thirds. I think that is important, but all of these details are incredibly important.

Let me just talk for a moment about how we could do this, I believe, more appropriately. I totally agree with the member opposite that this needs to involve all parties because we are talking about emergencies. We should rise above what is the normal system here — the Westminster system — of criticizing and the government having all the authority. I think it is important that it be shared. I think this is a good value for us to consider, but, my goodness, we are talking about such a critical piece of legislation. We certainly need to consider it in its entirety. We definitely need to have First Nations at the table.

I believe that this is the right thing to be doing. I have stood up and said this often in this House — that we need a review of this piece of legislation. I continue to say it. I think that there are some very good ideas here and that they are worth pursuing. I am not trying to avoid the conversation about it; I just believe that we need to be careful that the conversation happens in our legal framework, our context, within our Standing Orders, and with our self-governing First Nations and our communities. That would be the way in which I would like to see this happen.

In our 2021 election campaign, we committed to reviewing the *Civil Emergency Measures Act*, and I made sure, as we were

developing our platform, that we put the *Public Health and Safety Act* in there.

These two things go so hand in hand. You have to watch where the chief medical officer of health's responsibility lies, where they have decision-making roles, where they have the role to make recommendations, who they make those recommendations to, and how the decisions follow.

We have done our best to try to make sure that the work of the chief medical officer of health is shared here in this Legislative Assembly, is shared with colleagues on all sides of the House, is shared with the public, and is used in the best way in order to try to protect the health and safety of Yukoners.

I will just say a couple more things and then I will wrap up my time. I thank everyone for the opportunity to speak at length. I believe that this is an incredibly important piece of legislation. I think that it really matters. I just believe that the responsible approach is to do this work more deeply and more thoroughly. When I look through the bill that is before us today and in the context of the legislation, I am uncertain if there are unexpected or adverse consequences to what is being asked. I agree with the principles that are being proposed, although I find them to be overly limited in what is important about this legislation.

While we should be criticized — that is how this House is set up. I have stood up and said, and will continue to say, that I appreciate the efforts of Yukoners to keep each other safe during this pandemic. It has been incredible to watch.

COVID has never been fair. I remember thinking that from day one. There was some conversation that I was listening to — and I can't remember whether I was in a community discussing it — and someone said: "You know, this is not fair. This group is going to be more adversely affected than this group." Then someone else said: "This thing is not going to be fair at all." I remember thinking that they are right, and I still think that today.

Of course, we want to do our best to support all Yukoners, but it has been tough. I want to acknowledge the hard work that everyone has done to try to keep us safe. I will include, when I say "everyone", all of us here as legislators trying to do our best to keep everyone safe and well.

I'm not sure what will happen with this piece of legislation. Again, I appreciate that we have the opportunity to rise to speak about it today. When it was tabled, of course, I read it, and yesterday afternoon when the Member for Lake Laberge indicated that they were going to bring it forward today, I spent all evening trying to work through it, trying to consider it, and trying to be respectful to the bill that's before us and to do my diligence around it. I find that there are important topics, but what I don't find is that I can support the bill as it stands. I think that we ought to take this good work, this initiative, and put it into a process that would allow us to do a fuller and more appropriate review using some of the resources that the member opposite was referring to. I just don't quite understand how we can get to: Let's change the legislation and then let's talk to Yukoners. That's not the way I think it ought to go. I think that it just must go the other way.

What I will say is that we recognize that this legislation needs to be reviewed. Our government is committed to reviewing the *Civil Emergency Measures Act* and the *Public Health and Safety Act* to better equip the Yukon to address future emergencies. I will, as I stand on my feet, say that we are intending to table a motion addressing this commitment next week. I hope it will be supported by all members of this House.

We do not support this bill being referred to a standing committee, and we do not support the bill as it is written and before us today. We look forward to a vote on the bill. Thank you, Mr. Speaker.

Ms. Tredger: I'm pleased to rise on behalf of the Yukon NDP to address this private member's bill.

When we look back at the last two years, or frankly even the last two weeks or the last two days, it's clear that the COVID pandemic has affected every single Yukoner.

I am cautiously optimistic. I really hope that we are seeing the end of this tunnel finally, so it is time to look and see what lessons we can learn.

In early 2020, opposition parties were receiving regular updates from the chief medical officer of health. That gave elected officials the ability to ask questions often to better help those around them in understanding the directives and decisions being made. As 2020 wore on, there were fewer and fewer briefings from the CMOH. There were fewer yet in 2021 and not a single one this year. I highlight this issue because, without having a clear channel to unfiltered and non-politicized information, without being able to ask questions of the experts, people in our positions are often left guessing at the "whats" and the "whys" behind decisions that are being made publicly in the weekly online updates.

As elected representatives, we are receiving information at the same time as the public, so do we, as a group of decision-makers, think that these updates that are given to the public and media, with the media being allowed two questions — and I am thankful that they do have those questions and occasionally get extras — is that an adequate amount of oversight? That is really the question. When an emergency is declared and enforceable rules or directives come out of it, what is the role of this Chamber and those of us who are elected?

Moving from the general to the specific, on this specific bill, I would say that this bill has some really important points. There is a need for more accountability and more oversight of the use of the *Civil Emergency Measures Act*. I absolutely agree that there is a need for improvement. It is well-known that we have been pushing for less politics and more opinions — and more information from experts — in the use of CEMA. Declaring a state of emergency that grants such broad powers to a government should be used only in the best interests of all Yukoners.

I do want to point out that there are numerous issues with this bill as well. Parts of this bill have essentially been copied from the federal *Emergencies Act*. That is problematic in terms of legislative language, scope of the bill, feasibility, and so on. I say this not to be nitpicky but because it is important. It is a concern that this bill, as written, would do what it is intended

to do, because it is harder than one might think to take a federal bill and apply it to a much smaller jurisdiction, like ours.

This bill tries to fix some issues that were raised during the COVID-19 pandemic, but we also have to remember that in the Yukon, CEMA has only previously been used for floods and fires. We need to be careful when we are amending a bill with one specific use in mind, as it would be applicable for all other uses as well. That is when it becomes overarching and excessive.

I would like to speak to some of the specific sections of the bill, starting with section 15. I like the idea of having the possibility of the state of emergency requiring approval of the Legislative Assembly. It would improve oversight and allow for a public debate on the use of such an important legislative tool.

That said, there are a few concerns. I know we are all thinking about COVID right now and for good reason. As mentioned, previously, CEMA has only been used in the Yukon for flooding and fires. I'm not sure there is a need for the Assembly to debate the need for a state of emergency when people's houses are being flooded or threatened by wildfire.

I remember, this summer, so many people took time off work to go help with the sandbagging efforts at Laberge and the Southern Lakes. In an emergency time, I would rather see public servants go help with sandbagging and transporting volunteers and such rather than having to stay at the office to write briefing notes and prepare for legislative proceedings, et cetera. An emergency is not the time for more bureaucracy.

Debate and ratification by the Assembly would improve oversight in the case of an evolving emergency, like we have seen these past two years, but this bill does not differentiate between short-term and evolving emergencies. I would want to see that distinction made to see how the legislation could be made to work efficiently in all types of emergencies.

As I mentioned, this bill has been used during the ongoing COVID-19 pandemic, but it has also been used to respond to floods and wildfires. I don't know that Yukoners want their representatives spending time debating the merits of a particular emergency response when the flood waters are rising ever closer to their homes. I would prefer to see a mechanism such as an inquiry after a flood has receded to make sure we have learned the lessons and can better prepare next time. It's about accountability for the emergency response, not whether government should respond to emergencies.

Could it be that the Legislative Assembly debates and improves only the extension of a state of emergency of CEMA? Or maybe there could be a way to expedite the process of all three party leaders agreeing. I think there are better methods for oversight, and I would like to see them explored further.

I have some concerns with some of the language being used in the proposed section 15. Some of it, again, is based on the House of Commons' rules and proceedings. The rules and proceedings for this Assembly are different and don't use the same language. I have concerns that some of the language in the bill doesn't mean anything for us in the Yukon in our proceedings. You can't just take a federal bill and transpose it into the territory without extensive rewriting so it fits into our

own systems of laws and rules. Again, I say this not to be obstructionist or nitpicky but because we need to make sure that this does what it is intended to do. Again, I would like this to be explored to make sure that language is aligned with our own system of proceedings and legislation.

Moving on to section 16, the Yukon NDP has been very clear that we wish that the CEMA process was more transparent, especially when it came to recommendations made by the chief medical officer of health and how the regulations under CEMA were being decided.

We do need more transparency and accountability when they are as broad and overreaching as the ones we have seen during the pandemic — not as much to repeal them, or to change them, but to improve the public's understanding of why these measures are being taken. Better transparency and better communication around these measures would have been a big help during the pandemic, as we have said often.

That said, do we need a committee or the Legislative Assembly to review regulations when it comes to fighting a wildfire threatening one of our communities or evacuating people from a flood zone? I think that we need to hear from experts on that more than politicians. I say that specifically because of the 45-day timeline for review included in the bill, which means that this may have to take place while the emergency is still unfolding. I have concerns about the checks and balances being proposed versus what is actually possible to achieve, while all efforts are simultaneously being made to save lives and property from fires and floods, for example. I would absolutely want to see an opportunity for the emergency officer in charge to provide a rationale for the regulations being put in place.

Again, I will leave the fine details for now.

Moving on to section 17, this would allow three members of the Legislative Assembly to table a motion, and this motion would bypass all other business to be discussed by the Legislative Assembly. A concern is that this seems to allow three members to continuously disrupt the work of the Legislative Assembly to debate a similar motion over and over again. This contradicts the rules of the House, so one question would be: What supersedes what?

It also has the potential to allow three MLAs, three MLAs alone, to completely disrupt the work of the Legislative Assembly, and that is an issue. I know that the member opposite did say that he is open to considering amendments. At this point, I am not sure what the best way to amend this is. It could be three MLAs from at least two different political parties. Another possibility is that it could be five MLAs, or it could be debated outside of normal sitting hours so that the rest of the business could get done. There are a lot of options. I would like to say that these kinds of questions should have been dealt with prior to tabling the bill, as now it leaves members very little time to think about a better way to do it.

Lastly, I believe that I would like to deal with section 18. Section 18 deals with the question of holding a public inquiry following the application of CEMA. I like very much the idea of a public inquiry after such a broad emergency like we have seen in the past two years — again, not to specifically point

fingers and blame, but to make sure that we learn the lessons and that we are better prepared for next time.

I worry about the proposal here, because putting partisan appointees in charge of the inquiry risks further politicization of the issue. I would like to see, perhaps, a board appointed with agreement from all parties instead. We should be putting the inquiry in the hands of non-partisan experts, not leaving it to political operatives, as it is currently written.

Lastly — and concerns have been raised about this before — subsection 4 allows for waiving of the public inquiry by a three-quarter majority of members. I'm wondering where that threshold comes from. Maybe it should be unanimous; maybe it should be 50 percent plus one. What if the government holds three-quarters or more of the seats? — as does sometimes happen. They could choose not to investigate themselves.

Overall, we are interested in these ideas put forward. We absolutely agree with the idea of reviewing and improving the *Civil Emergency Measures Act*, especially in terms of oversight, accountability, and expert opinions.

But I'm not convinced that this bill achieves that, while maintaining the ability to respond to emergencies in a timely manner. There are many options that this bill puts forward to explore. This is an important debate that we are having on an important piece of legislation that needs to be improved and lessons learned.

Mr. Dixon: It's a pleasure to rise today to speak to this private member's bill put forward by my colleague, the Member for Lake Laberge. I would also like to thank those before me speaking today — both the Member for Whitehorse Centre and the Member for Mount Lorne-Southern Lakes have made excellent points that I appreciate very much.

Unfortunately, to get where we are in the order now, I only have 20 minutes to respond, and so I will concede to the Minister of Energy, Mines and Resources that I won't be able to cover all of the material that he raised today. Some of it, I will have to table, perhaps for a Friday night at the Jackalope, but I will do my best to cover off some of the more pressing points that I wanted to raise.

Mr. Speaker, a few weeks ago, the Prime Minister of Canada declared a state of emergency in Ottawa. That sparked a considerable national discourse around the appropriateness and the use of emergency powers in our country. We saw politicians weigh in, we saw academics weigh in, and we saw NGOs weigh in, all of whom provided their thoughts on the use of emergency powers.

One of the takeaways from that event, in my view, was the discussion about what is the appropriate level of power that a government should exercise in a state of emergency. When should a government be able to exercise that power? How? And for how long?

Now that, I thought, was extremely relevant to us here in the Yukon because of the fact that the invocation of a state of emergency in Ottawa for a mere number of days provoked that level of discourse.

Here in Yukon, I believe that we are in month 21 of a state of emergency over the past two years. I don't think that this level of debate and discussion has happened here in the Yukon.

I think that it is worth noting the principle of what we're talking about today. There was a lot of discussion about what this particular government has done over the last two years, which particular measures they used, what steps they took, et cetera. Ultimately, I think what shouldn't be lost is the fundamental principle, which is the rule of law. We have laws that are passed through this Assembly that bind all actors and all Yukoners. When a government exercises emergency powers, they unilaterally enable themselves to act outside of that law, so all of the powers that were exercised by the Liberal government here in Yukon were needed because they were inconsistent in some way with the law.

That came in a lot of different forms, and the Minister of Energy, Mines and Resources outlined a number of those. I think that he listed most of them. I know that in the past he has asked, "Which of these do you not support?" What is lost in that is not our support or lack of support for an individual measure; it is the principle that the government, through a unilateral declaration in the Cabinet room, can now exercise an extremely broad and sweeping level of power to not follow the law.

The ways in which this government did not follow the law were benign in my view, for the most part. I don't think that it is a democratic travesty to extend relief to property owners vis-à-vis their municipal property taxes or to allow small businesses to exercise new sales channels like delivery, even if they are inconsistent with the law. But the fundamental principle there is that those powers are there for emergencies and are extremely enabling of government to act outside of the law, beyond the law, or in ways that are inconsistent with the law. That is not something that I think we should take lightly and that is the nature of the federal discussion around the *Emergencies Act* use in Ottawa.

I have seen some really thoughtful input on this from some very intelligent people, whether they are in the NGO sector or the academic sector. I think that most people agree — and what I have seen in public discourse is that emergency powers should not be normalized. It cannot become the norm for the government to take action through emergency powers unless it is absolutely necessary and critical to do it in that way.

I would posit that some of the actions that this Liberal Government of Yukon has taken over the course of the last few years were not necessarily to that threshold. I do believe that there were other remedies for some of the actions that they took. I do believe that time-limited legislation was something that should have been considered. I do believe that strategic amendments to particular bills to allow for things — this has become sort of the poster-child regulation, but the delivery of cannabis. Of all the things that the government did, I always find it interesting that this is the one we talk about the most.

The reason I say that is because, when the government acts in that way — when they take action that is beyond the law for some reason — it very well could be justified. In this particular case, it was justified. However, there is always the possibility

that it goes too far. The Minister of Energy, Mines and Resources noted the border restrictions that this government imposed on internal travel in the country — at the border of the Yukon. I would remind members that this exact action was taken also by the Northwest Territories. The Northwest Territories came out shortly after, released their legal advice, and indicated that the action they had taken was indeed likely a Charter violation, and therefore, they changed tack. That is a pretty serious concern. If government is taking unilateral action outside of the law and violating the Charter, that is something that I think merits a debate and discussion in the Legislative Assembly.

So, that is sort of the fundamental premise of what our intent is with bringing this forward. I listened carefully to the concerns that were raised by the Minister of Energy, Mines and Resources as well as the Member for Whitehorse Centre. I very much appreciate them. There was a great deal of time spent on the consultation aspect of this bill and the fact that there has been no consultation on this bill, which, of course, is very much true. The minister outlined what normally happens when government consults in the development of a piece of legislation. I think we are all very familiar with it. I am personally extremely familiar with it. I have seen the development of legislation both from the political level at the Cabinet table, but I have also worked in departments and policy shops for departments that have looked at actions that require public consultation.

I know that when the government seeks to consult on matters, it has a whole team of policy and communication folks who go out. It often goes through a multi-stage process that allows for policy analysts in various departments to weigh in and communication analysts in various departments to weigh in, and then a large-scale consultation usually takes place.

Obviously, as my colleague, the Member for Lake Laberge, indicated, that is not the type of resource that we have in opposition, and so that is not the degree of consultation that we were able to conduct, but the minister makes a sound point that consultation should, indeed, occur.

Mr. Speaker, I also wanted to note a few comments following on the Member for Mount Lorne-Southern Lakes' comments. He noted, as well, that over the course of the last few years, there has been plenty of time to discuss the state of emergency and the actions that the government has taken. He cited the tabling and debate around motions that were put forward in the previous Legislature, prior to my time being elected here. I believe that those motions were from my predecessor — as the Member for Copperbelt North, actually.

I wanted to note that, while I appreciate his point that there were three days of legislative business occupied by debate on a motion about whether or not members supported the state of emergency, there is a fundamental difference between a non-binding motion in the Legislature and a vote on something that is outlined in law, like the *Civil Emergency Measures Act*. That is because motions that are passed in the Legislature aren't binding. We know that this government in particular often doesn't follow motions that are passed in the Legislature. There have been a few, since I have been here, that I could point to as

examples. In fact, if the government did follow motions that were passed by the Legislature, the current composition of the Cabinet would look a little bit different, but that is not my point. My point is that there is a fundamental difference between debating a non-binding motion in the Legislature on a private members' day and having a vote on the extension of a state of emergency pursuant to legislation. That is very different fundamentally, and the principle behind them is very different, in my view.

With that, Mr. Speaker, what I wanted to say is that, as I began to indicate, I do believe that further consultation is warranted and I do believe that more work can be done on the bill itself. I think that this work should be done in a multi-party way. I think it should be done in a way that allows for the three parties to be represented and for that group of people to seek input from outside parties.

Previously, this Legislature — not this Legislature but a previous Legislature — has considered this through the development of a standing committee on the review of the *Civil Emergency Measures Act*. That committee is no longer with us and died with the conclusion of that last Legislature.

We have Committee of the Whole, which, of course, allows for debate and allows for amendment but doesn't allow the dynamic ability to go out and seek input. The Minister of Energy, Mines and Resources has suggested that we need to hear from First Nations, communities, and others. I think that's sound advice. I would also add that I think we should hear from legal experts about the extent to which emergency powers should be exercised. I think we should hear from the Civil Liberties Association of Canada about their thoughts on the matter. I think we should hear from the Canadian Constitution Foundation. I think that experts like Dr. Leah West of the Norman Paterson School of International Affairs would be of great benefit — all of whom have weighed in over the past few weeks, speaking about the federal invocation of the state of emergency and the pursuant emergency powers that are afforded to the federal government.

So, Mr. Speaker, with that, what I will do is make an amendment to the motion that we have before us today. Now, it is of course a bill that is before us, but the motion is for second reading. So, I will propose an amendment to that motion.

Amendment proposed

Mr. Dixon: I move:

THAT the motion for second reading of Bill No. 302, *Act to Amend the Civil Emergency Measures Act (2022)*, be amended by adding immediately after the phrase "be now read a second time" the phrase "and referred to the Standing Committee on Statutory Instruments; and

THAT the committee report the bill to the Legislative Assembly no later than the first sitting day of the next Sitting of the Legislative Assembly."

Speaker: Order, please.

The amendment is in order. It has been moved by the Leader of the Official Opposition:

THAT the motion for second reading of Bill No. 302, *Act to Amend the Civil Emergency Measures Act (2022)*, be amended by adding immediately after the phrase “be now read a second time” the phrase “and referred to the Standing Committee on Statutory Instruments; and

THAT the Committee report the bill to the Legislative Assembly no later than the first sitting day of the next Sitting of the Legislative Assembly.”

Leader of the Official Opposition, you have six minutes and 23 seconds remaining.

Mr. Dixon: Thank you very much, Mr. Speaker. I appreciate your indication of the time I have remaining, so of course I will be brief.

As a starting point, I want to thank the Member for Lake Laberge very much for his work in developing this bill. As the Minister of Energy, Mines and Resources pointed out, it is no small task to go into a piece of legislation, review it, draw from other pieces of legislation, and bring it together in a coherent bill that would amend legislation here in the territory. I am appreciative of that.

I am also appreciative of the comments made by the Government House Leader and the Member for Whitehorse Centre about questions, concerns, and thoughts that they have about some of the details. While I support the bill in its current form, I appreciate that further discussion would be of use and that some of the details of the bill should perhaps be considered in more detail. Whether a certain number of days are sufficient or insufficient, whether a certain number of members to vote is a sufficient or an insufficient number, each of those issues would benefit from a review from a committee of this Legislature.

The statutory instruments committee is a standing committee of our Legislature. Of course, as members all know, the Legislative Assembly can refer a bill to any of the committees it deems appropriate. I would suggest that any of the other standing committees — PAC, SCREP, MSB, appointments to boards and committees — are not well-equipped to deal with this type of bill, but I believe that the statutory instruments committee is. I believe that it is the best fit of the standing committees available to us. It is for that reason that I have put forward this amendment to send this bill to the statutory instruments committee so that this committee, which includes members from all three parties here in the Legislature, can discuss the issue.

I should also note that the current composition of the statutory instruments committee is a function of the confidence and supply agreement that was reached between the Liberals and the NDP, but nonetheless, I think that it is a fair process. It’s a fair way for all parties and all members to have the opportunity for the Legislative Assembly committee to take into consideration the various issues that need to be considered, as have been debated here today.

I take the Member for Mount Lorne-Southern Lakes’ suggestions very seriously. I think that the suggestion to seek input from communities and First Nations is a sound one. I think that seeking input from departments like ECO — whether

they are new submissions or submissions that were tabled with the former CEMA committee — should be considered. I think that the statutory instruments committee is well-equipped to consider this bill and have a discussion about the merits of the bill itself and the various provisions therein.

As I said at the outset, I believe that the bill is sound. I would vote for it today were it to come to third reading vote. We know there are steps in between and we know that we have to bring along other legislators in order to achieve that success. In order to do that, we have to be willing to entertain amendments, entertain further input. It’s my view that the statutory instruments committee is the appropriate venue for that to occur.

With that, I will conclude my remarks. I look forward to hearing from my colleagues about the proposal to send this to a committee. I believe that this process is one that we should consider more often. I think that, more often, bills like this — whether they are from private members or from government — ought to be more thoroughly considered by committees. I hope that this is the first of a trend toward greater legislative scrutiny over legislation that comes before the Legislative Assembly.

I also should note that the statutory instruments committee is empowered to seek input from the public, to seek input from other groups and from different levels of government as well. I think they have the tools available to them to have that discussion, not only among the parties in this Legislature, but from the public and from those outside the Chamber who are certainly affected by this as well.

It’s important work, and I think it should be done by a committee like this.

Some Hon. Member: (Inaudible)

Point of order

Speaker: The Member for Mount Lorne-Southern Lakes, on a point of order.

Hon. Mr. Streicker: It has been our practice during COVID protocols that we could request a brief recess when there are amendments to allow for a little bit of opportunity for conversation among each of the caucuses around amendments.

Could I just request five or ten minutes? That would be most appreciated.

Speaker’s statement

Speaker: In order to facilitate discussion among members and comply with COVID-19 safety precautions, the House will recess for 10 minutes.

Recess

Speaker: I will now call the House to order.
Member for Lake Laberge, on the proposed amendment.

Mr. Cathers: Mr. Speaker, I am pleased to rise in support of this amendment brought forward by my colleague, the Leader of the Official Opposition. As he referred to, and as I mentioned earlier, we have suggested through another all-party committee that reviewing legislation through a standing

committee and having some of the bills that are of more interest to the public having additional opportunity for people to talk directly to MLAs is a model that we believe is one that would be good for the Yukon to start expanding our democratic institutions in that manner and not doing that for every single piece of legislation, but doing it for ones such as this or the *Workers' Safety and Compensation Act*, for example, where there is significant public interest in considering them.

I want to emphasize that, if this amendment to the motion for second reading passes and if the vote at second reading passes, referring this bill to the Standing Committee on Statutory Instruments certainly does not preclude a comprehensive review of the *Civil Emergency Measures Act* or the *Public Health and Safety Act*, as the minister suggested that the government was committed to. But those things do take time, and they should take time, because of the scope of them. And I would note, in terms of the speed of that, that the government made a commitment, when they established the previous select committee on the *Civil Emergency Measures Act* that the minister and I both served on, to go down that road, but still, we are now well over a year past when that was established, and there is no tangible sign of change occurring as a result.

So, I would actually refer back to examples of this in how the Minister of Justice characterized amendments to the *Safer Communities and Neighbourhoods Act* previously — and I am just going to find the quote here. When she was talking about them bringing that forward and our criticism was about lack of consultation, she said — and I quote: “Let me say that both my colleagues have agreed that this legislation is useful, and that is why we have brought these surgical amendments. A full review of the act — a larger review of the SCAN process — that is a good idea. That is not what we are talking about here. What we are talking about here is surgical amendments so that those activities could be part of the SCAN opportunities, or possible investigations.”

While these are different pieces of legislation, the fundamental point that I am making is that the government has, at times — when they have felt that certain and specific changes should proceed before a broader review takes place — they have spoken in favour of advancing that, but they have argued against it when they would rather just do the comprehensive review and don't support the more surgical amendments.

What I would point to again is that the proposed amendments contained in Bill No. 302, *Act to Amend the Civil Emergency Measures Act (2022)* — as I noted in my introductory speech, we are certainly happy to talk about the details of it or consider amendments brought forward by other members. What we were attempting to do with this is to provide a clear, tangible, specific proposal that would be, if not supported in its current form by enough other Members of the Legislative Assembly — which of course, was our hope — that at least it would be a good starting place for a conversation about the potential safeguards and oversight that should be put into the Yukon's *Civil Emergency Measures Act*, in our view. Of course, we have based many of those largely on the federal *Emergencies Act* with appropriate revisions. As well, some are

inspired by provisions in jurisdictions — such as the Province of Ontario, which we used as an example before — where the extension of the state of emergency requires a vote in the Legislative Assembly.

Again, I have to emphasize that, if this motion passes, it doesn't preclude and should in no way interfere with or delay a more comprehensive review of the *Civil Emergency Measures Act* and the *Public Health and Safety Act* by government. These are specific, discrete segments of the legislation that are aimed at providing more oversight for the Legislative Assembly, particularly for those of us who are not on the government side, which is the majority of members in the House. The specific changes outlined in this include the requirement for votes in the Legislative Assembly on a declaration of emergency and on its extension and a provision for the Legislative Assembly, or a committee of the Legislative Assembly, to consider and review regulations and ministerial orders issued under a declaration of emergency.

I would note, as well, just for the consideration of the Third Party, that the section of the legislation leaves flexibility for a committee to determine what to do once it reviews those ministerial orders or regulations. They have the ability to hear from expert witnesses or conduct public hearings or both if they deem it appropriate. If there are other specific regulations or orders that they feel do not warrant that process, they are not bound to have every single ministerial order be subject to a public hearing process.

It does, however, empower them to make that decision and to ensure, particularly in a minority government, that it is not a handful of members of this Assembly making decisions behind closed doors in the Cabinet room without other members having the ability to weigh in and without other members being able to trigger a process, if they have the support of a majority on the committee, to engage with Yukoners and to hear their specific views and concerns.

I would suggest that, much as with two specific pieces of legislation in the past that come to mind — the examples I gave, one being Bill No. 102, which was tabled by a Liberal member when the Yukon Party was in government and by the — I'm having a mental blank on the bill number, but the anti-smoking legislation tabled by the late Todd Hardy, as Leader of the NDP. Both of those pieces of legislation were referred to a select committee that was created for that purpose. Those committees had the ability to consult on those pieces of legislation but also consider other related matters and ultimately come back and choose what they wished to contain in their report to the Legislative Assembly.

Similarly, though this is a proposal to refer it to a standing committee, if this motion passes, the Standing Committee on Statutory Instruments will have the ability to decide what to do in its report, including whether to recommend passing the bill in its current form, passing a modified version of the current bill, or adding additional measures. A fourth option is, if the committee were to decide, following its work, to recommend that the more comprehensive review of the *Civil Emergency Measures Act* and the *Public Health and Safety Act* take place before the specific elements were dealt with, that would be

within the range of the options at the committee's disposal to report on.

But the important thing this would do is trigger that process, trigger that longer discussion outside of this Legislative Assembly in the limited time we have here and allow members of all three political parties to review this legislation, to consider and discuss the specific concerns and questions that members of the NDP and the Liberal Party have raised here regarding this legislation.

I, again, want to emphasize the fact that, while we were trying to reflect the concerns of Yukoners and bring forward what we feel, based on things including the national discussion around the appropriate use of emergencies legislation and appropriate parliamentary oversight — we brought forward what I believe was a good proposal of a potential way to put safeguards in. But we are certainly open to discussing how that occurs and very open to discussing the details with other members.

As the Government House Leader indicated the concerns about the lack of public consultation, in fact, I would note that while it's up to the committee to make that decision, I would very much welcome the committee hearing from the public with thoughts on this proposed approach and any other matters that they may wish to raise.

I would hope that members will support this legislation. I understand that the Minister of Energy, Mines and Resources, the Government House Leader, indicated before this amendment was proposed that he would not support it at that stage. I hope that, with this amendment and the proposal to send it to the all-party committee on statutory instruments, it will result in him changing his mind and supporting this proposal.

Again, should this pass here this afternoon, it would empower the committee to have further conversations and discussions, both about what is good in this proposed amendment to the *Act to Amend the Civil Emergency Measures Act (2022)* and what changes potentially might be made to improve it.

Ms. White: There are lots of challenges today. I say that in terms of — the first I heard that the government was willing to review the legislation was on the floor of the House. I believe we haven't faced this before; we haven't had this level of emergencies called and extended, and we haven't seen what has happened in the last two years. I think if there was ever a time for a review, it would be now, because we haven't seen it used in this way. Previously, we saw it used for wildfires and flooding. Having 10 minutes to consider the amendment — I do really appreciate that I had a conversation with the Leader of the Yukon Party, where he said that one action doesn't have to exclude the other. So, I am standing here right now, and I can tell you that no one knows where I'm going, because I'm working through it as I'm talking.

There are a couple of different things. To be honest with my colleague from Laberge, the first time I read the legislation, I wasn't in agreement, and then I read it again, and I said, "Okay, well, I can see the need for oversight, and I can understand where we're going." Then I did the comparison with

the federal stuff, and we have highlighted some of our concerns around the language — because it doesn't match up — and some other things.

Yesterday at the briefing, the Member for Lake Laberge was really open to amendments, but there is just no way that it would be humanly possible to get them done in time for today. So then, the Yukon Party has brought forward — well, let's send it to a committee and try it that way. Had that just happened in isolation, without anything else, I would be supportive, but I think there are other things. I think that we need to review the *Civil Emergency Measures Act* in a broader way. I think that we need to look at the *Public Health and Safety Act* in a broader way.

The Leader of the Yukon Party told me, "Don't look at this in isolation. This isn't just one or the other." But I also know about the resources that are involved in committees. There are three members right now who sit on a committee where we have met upwards of a dozen times, and we have spent hours in the room together discussing things because we are working on this. I understand those resources. I understand the people time that is behind that.

Right now, the question is: Do I think a committee has the ability to review this legislation on that full spectrum? It is kind of what I am grappling with right this second.

Again, I've come to this point right now not having a clear idea of where I am leaning, but I understand that it's a big question from both sides. Ultimately, when we look at this bill, there are really important things included in it. It is the concept of oversight. It's the concept of making sure that more voices are involved. The truth of the matter is that, if it was a majority government, it wouldn't matter; we could go into the Assembly and the decision would be made on the other side. Where it really becomes interesting is in the situation that we are in now, where it is not a majority. It's a minority government.

When I think about future governments, I hope that we don't have majorities in the same way that we have had in the past. I hope that we have to work together. I believe that, right now, what we are doing is what I hope for the future. It sounds like a record when I say it's not easy, but it is not. The example is right now — on my feet talking about the proposed amendment.

I have to look at it right now with the consideration of the sheer amount of people time that I would be asking for from my own colleagues versus what it would look like when the government does a review. The one thing that I would say right now is that I believe that the government missed out on an opportunity to say, "We are going to learn from other examples and we are going to review this legislation."

Had that been said before today, 45 minutes ago, we might not be having the same conversation right now. It becomes challenging because, in the last few years, the truth of the matter is that we have seen this legislation used in a different way. No one saw this coming. No one could have anticipated that there would be a worldwide pandemic and that governments across the planet would be having to try to respond. In making this decision right now on the fly, there is also the point where I understand what the direction of Question Period has been

lately. I don't believe that this discussion should be about what was done and what wasn't done, but I have concerns that maybe cards have been shown in a different way.

I thank my colleagues from the Yukon Party for bringing forward the proposed bill and the amendment. I might ask for another couple of minutes to consider it, but the challenge is making that decision right now on the floor. I can say that, having read through it and finding where I thought there needed to be improvements, it was more than was in my own capabilities to do in time today. It makes me think that there needs to be that broader look at it. I know that the Yukon Party is proposing that through a committee and I know that the government is proposing that through a review. That is the question.

I know that government has stood up to speak to the review, but I would like to hear them speak to the review. I would like to know where they stand on it. That would be helpful. I say this in terms of — like the Leader of the Yukon Party said, one wasn't in isolation. I would like to know what their thoughts are on it, because that will be helpful in the decision.

Speaker: Is there any further debate on the amendment? Are you prepared for the question?

Some Hon. Members: Division.

Division

Speaker: Division has been called.

Bells

Speaker: Mr. Clerk, please poll the House.

Hon. Mr. Silver: Disagree.

Hon. Ms. McPhee: Disagree.

Hon. Mr. Streicker: Disagree.

Hon. Mr. Pillai: Disagree.

Hon. Mr. Clarke: Disagree.

Hon. Ms. McLean: Disagree.

Hon. Mr. Mostyn: Disagree.

Mr. Dixon: Agree.

Ms. Clarke: Agree.

Mr. Cathers: Agree.

Ms. McLeod: Agree.

Ms. Van Bibber: Agree.

Mr. Hassard: Agree.

Mr. Istchenko: Agree.

Ms. White: Disagree.

Ms. Blake: Disagree.

Ms. Tredger: Disagree.

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

Speaker: The nays have it.

I declare the amendment to the motion defeated.

Amendment to motion for second reading of Bill No. 302 negatived

Speaker: Is there any further debate on the motion?

Hon. Mr. Pillai: Thank you for the opportunity to rise to speak to this motion. As well, I will try to do my best to discuss a little bit concerning the ideas around consultation in the work that was just touched upon.

First of all, I think it's important that we just take a look at what has played out here over the last couple of days. First what we've seen is the announcement, and I actually have really appreciated today's dialogue and discord. In the last number of years, it has been a very, I think, valuable Wednesday. We have all had an opportunity to talk about something that's very important. Truly, I think that the intent of this motion is — I agree that there has to be work done around CEMA. I think that we walked into a situation — myself and colleagues — two years ago where we were in a situation where we were using the tools that were left in the toolbox by previous governments of all political stripes.

In this particular case, I'll probably just try to focus on a couple of different items that have been touched on today, primarily by my colleague, the MLA for Mount Lorne-Southern Lakes, and maybe just try to expand a little bit on those items and also touch on some of the previous legislation that we have seen passed in the Yukon that would definitely have — that should be taken into consideration as we consider the amendments to this particular act.

I would like to start with the comments that were made early on by the Member for Lake Laberge, and that was really touching upon the comments around safeguards that were identified in these amendments. The safeguards spoke to the fact that there would be potentially three individuals in the Legislative Assembly who would have that opportunity within a particular time period to overturn the actual CEMA orders, the emergency orders.

There have been some comments made about that, and it really talks to: Is that truly a safeguard? How does that affect that small number of individuals? How could that affect not just the activities here in the lands that the Yukon government governs, but also how does that affect the decisions on settlement lands across the territory?

In a short period of time — there was a press conference just a short period of time ago, and then we had that opportunity, as the MLA for Mount Lorne-Southern Lakes touched on — there was a short turnaround provided for members of government to attend a briefing. Then we are here today on Wednesday. The challenge with that is that there was a scheduling conflict around Management Board where the important financial decisions of the Government of Yukon take place, and that was the conflict. That was the meeting that we had booked at that particular time.

We have tried to do our best to prepare for this. I think that there have been a lot of strong comments and arguments made today, but I am going to touch on the safeguards. The first thing that I did today was reach out to subject-matter experts — whether from the legal community or elected individuals within First Nation governments — to try to have a discussion with them around what that would mean to them — having just three people in the Assembly. As tabled, there were other comments made today that talked about changing this in the future or

bringing it to committee, but in this particular case, it was — three individuals at the table where one particular party could make that change.

At least from my recollection over the last five years, we have been in a situation in a number of cases where this Assembly in collaboration — and in some cases, all three parties came together to support particular policy points. But you could tell that there was almost a division where, in some parties, there were two people in a free-vote system who would go in a completely different direction. I think that — to our surprise, in some cases — there was some really emotional, significant legislation that was coming through, and one or two individuals making a decision — potentially three — who then, on a split vote and the party splitting their vote, could turn the tide on a conversation like this.

I think that we have seen, at least over the last half decade, that this could be really detrimental to the governance of this territory. Even if we got alignment, really, from all three political parties, just some individuals with some strong feelings — and maybe a different set of values than the others — would be voting in a particular way or their constituency wanted them to vote that way and you would have three constituencies — and I guess they would poll them and come back, and that could certainly send us in a different direction. That was one thing that was concerning.

The second was that, going into the last election, there was a commitment made to do work around this. There was some committee work done, and I think that we all feel that this — I agree with portions of all of the speakers today that what we have seen — the tools that we have had to use — maybe the word is to be “modernized”.

But the other thing is that, within that modernization process, I think we need to make sure that they are congruent with self-government agreements. I think that was one piece that my colleague touched on today in the opening discussion, but I think that there could be a bit of further dialogue on that.

Some of the things that I would like to refer to first — there was an act that was assented to on December 19, 2005, and that is the *Cooperation in Governance Act*. It was actually an act that was assented to while the Yukon Party was in government. It speaks specifically — this would have been under the leadership of Premier Fentie — to the importance of aligning the legislation and the governance of both the Government of Yukon and First Nation governments. Of course, the member who had the opportunity to table this legislation today would have part of this Assembly at that particular time — likely in his first mandate.

It really just spoke to — I will just quote a couple of pieces from this: “Recognizing the respective authority and jurisdiction of the Legislature, the Government of Yukon and self-governing Yukon First Nations...” — just simple language, really.

As well, the next paragraph below that or two paragraphs down: “Recognizing that representatives of the Government of Yukon, the Council of Yukon First Nations and certain self-governing Yukon First Nations entered into a Memorandum of Understanding on Co-operation in Governance in the Yukon

which establishes...” — of course, the Yukon Forum — “... for co-operation in governance...”

So, you can tell that, for a number of years, there has been a commitment, although we have seen some challenges and gaps in that commitment, but there really has been a commitment in this Assembly through successive governments to work together and to try to ensure that legislation, goals, and priorities are aligned where they can be, but also that there is an opportunity to understand how legislation can play a role or how it should be considered in both levels of government.

What does that matter today? I would now like to go back. I’m just going to refer to the *Kwanlin Dün First Nation Self-Government Agreement* and specifically to provision 13.3, and that is really talking about the activity, where it says — and I quote: “The Kwanlin Dun First Nation shall have the power to enact laws of a local or private nature on Settlement Land in relation to the following matters...” It talks about a number of different items. I’m just using this as an example. Of course, every self-governing nation across the territory would have similar language as 13.3, and it would really speak to their abilities to have particular laws enacted on those lands.

As well, the other item within the self-government agreement that I would like to touch on is 13.4. That falls under 13.4.0, and that is Emergency Powers — and I quote: “13.4.4 On Settlement Land, in relation to those matters enumerated in 13.2, in any situation that poses an Emergency to a person who is not a Citizen, the Kwanlin Dun First Nation may exercise power conferred by laws enacted by the Kwanlin Dun First Nation to relieve the Emergency, notwithstanding that Laws of General Application may apply to the Emergency.”

When I think about the comments from the MLA for Whitehorse Centre, I think there were some fantastic points made. We are debating today within one particular context, which is, of course, dealing with the challenges we have all had to face around COVID, but of course this particular piece of legislation can be used in other ways, and we’ve seen that previously. It has been more around what could be termed “natural disasters” or impacts and effects of climate change.

So, I’ll ask the House to give me a little bit of room to try to provide a couple of examples.

Where this could be a challenge is if we’re in a situation where we went down a road today or in subsequent days — and I hope this gives a little more comfort to the Leader of the Third Party on the previous vote, because I think that was an appropriate thing to do — is the fact that, what happens if we amend this act that gives particular powers to the Yukon government and then we see a self-governing First Nation start to draw down or to put their own laws in place that have the potential to completely counter what both groups are trying to do? That can be based on what’s happening with the governance of the land, if you’re trying to close roads or if you’re trying to make sure that people are safe. So, you have one government that is saying that everything is okay, but then you have another government that is enacting particular things like roadblocks or they’re asking people to move off those lands.

I think that now we have this really great opportunity to reconcile, as you move forward, how we deal with that, but in order to do that, we have to have extremely thorough conversations with First Nation governments.

Now, I will try to keep this very professional. Within the work that I think was done by the Member for Lake Laberge, I don't know if that was contemplated. Certainly, today, hearing from the Council of Yukon First Nations, I don't believe it was. Going out and seeking technical advice from legal experts on this particular item, I don't think it was. I think that was a gap.

It surprises me, because the member opposite is the former Minister of Justice and also a Minister of Energy, Mines and Resources. I think that what we're kind of doing now — and I think that amendment that was just voted down was really trying to take — and this term wouldn't be so professional, but one my grandfather would say is, we're kind of trying to “put a round peg in a square hole”.

So, if we're going to do this right, I think we need to go out and do the proper consultation with individuals across the Yukon — just community members — from all corners of the Yukon. That is going to be a key part of this work. I think that we have an obligation to go out and have a discussion with self-governing First Nations — as well as nations in White River, Ross River, and Liard First Nation — and likely conversations, pending legal advice on this, with transboundary nations.

The other thing that was a bit surprising was that the opposition today touched on a laundry list of people who should also be spoken with — legal experts, NGOs, and a number of folks. I appreciate that this has been brought to the table. I am wondering why, before the member tabled this legislation, those folks were not spoken to. When we talk about capacity and the ability here to do consultation, I would say that the Leader of the Official Opposition underestimates the ability of the MLA for Lake Laberge. There are about 1,200 people in that particular riding. I can tell you, I have seen some extensive consultation done by the member.

Previous to the last election, there was work that was being done by the Department of Energy, Mines and Resources that was really specific to collaboration with indigenous governments. It was a planning exercise — very simplistic — and probably a lot of Yukoners who normally wouldn't know about something as simple as a local area plan, they probably know about this one because of how it was highlighted and how it turned into a massive political hot potato. It was a challenging conversation. I would say that it was definitely a challenging conversation for me, and so I think that if there is anyone who is as effective as one MLA going out and having a discussion with their constituents, the member opposite knows how to do it.

How it played out was there was a planning process between members of the area — it was called the “Shallow Bay planning” — it was a consultation process. It was very similar but not as wide as going into the work of this legislation. It was about a small area in the Yukon. There were people appointed from one First Nation — the Ta'an Kwäch'än Council — and from the neighbourhood. They came together and made a series of recommendations. That is it — recommendations. Through

the election process, what ended up happening was that the member opposite took that opportunity, before the election and then when the election was called, to speak to a tremendous number of people. People in that constituency said that hundreds and hundreds of people were spoken to. Sadly, the information that was passed on was not accurate, from my perspective — I wasn't in those conversations — but from what I learned. That then, as a side note, led to members from that community coming and knocking on doors in my riding in the middle of the election and going and telling my constituents that I was —

Some Hon. Member: (Inaudible)

Point of order

Speaker: Member for Lake Laberge, on a point of order.

Mr. Cathers: Pursuant to Standing Order 19(b), the Member for Porter Creek South seems to speaking to matters other than the question under discussion. We have listened to several minutes of him on a tangent that has nothing to do with the *Civil Emergency Measures Act*. I would ask you to remind him of what we are debating and suggest that you urge him to actually talk about the bill that we're talking about.

Speaker's ruling

Speaker: On the point of order, can we please stick to the topic on the bill?

Continue, Minister of Economic Development. You have two minutes.

Hon. Mr. Pillai: Thank you, Mr. Speaker. Absolutely, I will. I will realign my conversation. The only point I was trying to make is that I think, on this particular bill, if there was a will, there would have been extensive conversation and consultation that could have been executed.

I think that today, even for us, even being able to call the First Nation governments and have a discussion with the leadership, that alone — making those phone calls — would have been — and actually reaching out to some others, we're talking less than 20 different conversations.

So, I think that the capacity — again, I don't believe that the amendment that we talked about earlier really was going to put this on the right stead. I think what we're looking at is a piece of legislation that has some significant flaws in it. I think that this is stirring up — or will — a lot of different conversation around it.

I do agree with the intent of this motion. I think that we have work to do. I think that the Leader of the Third Party is correct in that we have an opportunity to go back and look at it. I think that every single party here did their very best to deal with a global pandemic. As we have said, when you get a handbook for the Legislative Assembly, they tell you how to conduct yourself as an MLA; there was no chapter on global pandemics, so we used the tools that we had. Hopefully, we're coming to an end to that and this will truly be the opportunity to move forward and to reconcile that.

Again, thank you for the opportunity to speak to this motion today.

Ms. White: First, I think that it is important to say that I see the spirit and intent of this bill and of these amendments to the *Civil Emergency Measures Act*, and I support these intentions and that spirit. It is why, prior to everything that has happened today, I was ready to move it. We do need to have those conversations. I agree with all the members here who have expressed support for greater oversight and accountability of this government and of any government — of future governments — and their ability to enact the *Civil Emergency Measures Act* and then, with that, their ability to rule by regulation once it's in place.

While CEMA in the territory is not as broad in its power as the *Emergencies Act* recently enacted by the federal government, it still grants our Yukon government a lot of power, whether they were able to enact broad measures that temporarily rewrote or changed — without any consultation with the elected members of this Assembly — our laws about taxes, elections, the openness of our land borders, and so much more. I want to be clear that I'm not saying that these things shouldn't have been done, but that what we now see is an unprecedented and broad use of this legislation, and it's not hard to see how it might be abused by some future government because we've changed the way that it's used. Again, we have never faced this situation before.

We mentioned previously that we have only seen it to deal with things like localized wildfires and floods, but, of course, now that door has been opened and it applies to all sorts of things. Before I am accused of blindly supporting the Liberals, as I'm sure it's coming, understand that I have many criticisms on their dealings in the past two years. So, to the government side, do not consider the NDP having voted against the proposed amendment as a free pass.

I will remind everyone in this Assembly that the first emergency was declared by a majority government. Had we come into this Assembly, had we debated it, and had half of the Assembly had a difference of opinion, we still would have proceeded forward. In the past two years, the opposition has had fewer briefings from people making the decisions. When we have asked about direction and the advice of the CMOH, we have not had clear answers. That is partially what has got us here; it is our inability to access information.

So, I ask the government side: If the roles were reversed, would you have been satisfied with the level of engagement regarding the pandemic that both the Yukon Party and the NDP have received in the last two years? Would you say that it was adequate? Would you say that it was enough? Would you say that it was fulsome? Would you say that you fully understood and that you were able to make decisions based on the information that had been shared? I would like to think that this is one of those lessons that we will learn from, that there needs to be more information shared and more opportunity.

In 2020, we had weekly briefings with the CMOH, but by the time 2021 rolled around, we had two, and in 2022, we haven't had any. I heard the Premier say that he wasn't in control, but again, there is a way. We are talking about accountability here. That is part of it. Of course, we recognize

the need for our government to act swiftly in the case of an emergency. As I noted last week in Question Period, you wouldn't respond to an imminent flood by having a summit to talk about it, just as we wouldn't recall the Legislature in July to debate the need for a flood response. We want government to be able to act on that for sure. What we need is an act that balances the ability of the government to respond to imminent threats to the well-being of Yukoners with proper accountability for those actions to members of this Assembly and to the public. I think that we see the intent behind Bill No. 302. We see that desire for that accountability and that ability to share information.

I also want to point out that, under the current act, the Government of Yukon can declare a state of emergency, but it also enables our municipal governments to declare one. Knowing that this act was passed in 2002, a lot has changed since then. There are other governments in this territory. We have heard it referenced. First Nation governments are not granted these powers under the act. I think that maybe it is time we changed that, because our modern Yukon needs to include First Nation governments as equals. What would happen right now if there was an emergency in Pelly Crossing or Beaver Creek? We don't have municipal governments there. Those governments should be able to say what needs to be done. I am hoping that, with a review, it will be defined.

Considering that, I think it is an important consideration that wasn't included in the proposal from the Yukon Party. That leaves me asking: What else might have been missed in that legislation? Again, yesterday, I wasn't in favour, and then I thought maybe we could work on it, and then I identified all the spots where I thought we would have to make amendments. Then I wondered how on Earth we could possibly make amendments to laws on the floor of the Assembly without fully understanding the ramifications, because I am not a lawyer — I am not a judicial lawyer — and some of those decisions will have consequences.

But I appreciate that, like the public members here in this Assembly, I want more accountability, not just from this government but from any government. I don't speak just about me standing in this spot right now, but what about what happens in five years or 10 years? What happens when every member in this Assembly has retired and there are new people in these seats? We don't want them to have to go through what we just did. We want to learn from these mistakes. We want to make better legislation, and we want to move forward so that they aren't left having these conversations about what didn't work.

So, I believe that the intent and the spirit of today's bill needs to be part of any conversation as we go forward because we need that level of accountability. I appreciate the words that I have heard from the Leader of the Yukon Party and from the Member for Lake Laberge, and I don't think that this is about "who did what level of consultation" because really it is about trying to make it better for the people who come behind us.

So, again, to the government, this isn't a free pass. To my colleagues to my right, we had the discussion about where we were voting. Again, had the offer not come forward about

reviewing this legislation, I think that this conversation would be different.

Again, I thank my colleague, the Member for Lake Laberge, for bringing it forward, but I think that it needs a bigger and broader stroke. The *Civil Emergency Measures Act* goes far beyond just the proposed amendments. I think the direction and intent of those amendments needs to be included in any kind of legislative review going forward. It will be interesting to see where this ends up.

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

Does any other member wish to be heard?

Mr. Cathers: Mr. Speaker, I would like to thank all of the members who have contributed to the debate this afternoon. I would particularly like to thank the Leader of the Official Opposition for proposing that this bill be referred to the Standing Committee on Statutory Instruments. As both he and I have indicated, we believe that having more all-party committee discussion of legislation that is of significant interest to Yukoners would be a good thing.

It happened on several occasions through select committees during our time in government and led to changes to legislation, both in the case of a proposal brought forward by the NDP and by Todd Hardy at the time which resulted in changes to the Yukon's smoking legislation and a proposal brought forward by the Liberals that led to some changes to the *Human Rights Act* following some consideration by a committee.

I do just want to note that members have made their decision, but it is unfortunate that there was the choice not to support public consultation by a standing committee and discussion of the details. I do appreciate the comments from the Leader of the NDP indicating some support for the spirit and intent of this or some of the parts of it. I would just note, in urging the members of the Third Party to consider their vote and, in fact, urging members of the government to consider their vote at this point, that voting for legislation at second reading is voting to continue debating it. Amendments can be made later. There can be a decision, as occurred with the government's legislation related to energy retrofits, to not even proceed in that Sitting but to discuss it later.

If you are supportive of the intent of the bill, it's hard to square that with someone choosing to vote against it. A vote for it at second reading is a vote to continue discussing the content of the legislation or at least leaving that open for a later date.

I want to just remind all members and all Yukoners listening that, despite especially some of the unrelated discussion brought forward by members of the Liberal Party, the proposal here is a relatively simple, straightforward set of changes that are aimed at improving democratic oversight here. It takes provisions, including a number of provisions that are based on the principles of oversight contained in federal legislation and principles of oversight that have been supported by many legal and constitutional experts who have argued

about the importance of checks and balances in the use of emergency powers by any level of government.

Just to recap the specific provisions in this legislation, the bill would change the *Civil Emergency Measures Act* to, one, provide the Yukon Legislative Assembly with oversight and control by requiring that any declaration of a state of emergency be considered by the Assembly within seven days of being issued and subject to a vote. That provision, again, is something that is very similar to what's in place at the federal level.

As I indicated earlier in debate, if over 400 Members of Parliament and senators can get together on a week's notice to vote on a declaration of emergency at the federal level, then surely, we can have 19 MLAs arrange to meet, especially since the legislation specifically contemplates that it could even be virtually by video conference.

The proposal would provide the Yukon Legislative Assembly with oversight and control over the extension of a state of emergency. It would require that any regulations and ministerial orders be subject to a mandatory review by either the Legislative Assembly or a committee of the Assembly within 45 days of being issued. It would empower committees of the Legislative Assembly to conduct public hearings on regulations and ministerial orders under the *Civil Emergency Measures Act*.

Just to pause for a moment on reading the details, I note that this would provide the ability that, on any ministerial orders and regulations issued during a state of emergency, it would empower a committee to hear from Yukoners with concerns about them. And that, to answer concerns that may come from some members, would not require that a public hearing on every single ministerial order be held, but it would empower the committee, based on requests from Yukoners or matters that it felt were of specific interest, to do things like consult with business owners on the impacts specific rules were having on restaurants, bars, and so on. It would allow consultation with church leaders and faith-based organizations on rules that were affecting them. It would allow consultation with sports organizations on rules that were affecting them and with parents on the rules that were affecting them and their children, just to name a few of the examples that it would empower.

Returning to the list of what the proposed legislation would do, it would create the situation that, if the Speaker receives an official request from a number of Members of the Legislative Assembly to require the Assembly to consider a request to revoke a declaration of a state of emergency within seven days — I point out, in fact, that the federal legislation requires that to be considered within just three days, and it's based on either 10 senators out of just over 100 or 20 MPs out of a total Parliament of 338 making that request.

I also want to note, as I did earlier, that should this legislation pass second reading, this is an area that we have flagged in the briefings and during the House this afternoon that we are certainly open to considering amendments about the details of that. It was an attempt to bring in a provision — a safeguard from federal legislation — and come up with a reasonable number for the Yukon, but if there was a desire to

adjust that in some way, we are certainly open to that proposal. It is simply a case of saying that, if the federal government can do that for a national emergency, should we not, here in the Yukon with a much smaller House, also be open to considering such a request?

Finally, the provision in the legislation would require that a public inquiry be held after a state of emergency but create the ability for a large majority of MLAs — we had suggested three-quarters, but we are open to changes on that — to vote in favour of not having a public inquiry.

I would agree that some matters — such as some floods and some fires — probably do not warrant a public inquiry, but just to give an example of where that may not always be the case, I would point out that, last summer with the flooding, much as there were many things done right, there were also serious concerns from Yukoners, such as constituents of the MLA for Mount Lorne-Southern Lakes who had about a half-dozen houses that, to use their words, were “walled into Marsh Lake” because of a decision made using emergency powers to cut that off. The intention, of course, was to protect other properties, but as all MLAs will be aware, a number of those homeowners complained to the media because they felt that the decision was not the correct one, and they felt that the Minister of Community Services did not give proper consideration to their concerns.

That is just an illustration of where, in some cases, there might be an inquiry required or required into certain aspects of the response with a flood or a wildfire.

I would also just note that, fortunately, none of my constituents at Jackfish Bay were issued an evacuation order. Some were issued an evacuation alert after the water rose above Jackfish Bay Road, and this, again, I would remind ministers, was after the Minister of Highways and Public Works didn't think that residents or me, when we contacted him, knew what we were talking about. They first told me effectively that I was wrong in responding to it and then went out and looked at the situation, and then, I believe it was the next day, staff of Community Services went door to door and handed out an evacuation alert to over a dozen property owners.

Had that actually been issued, I can assure you that some of those owners would have wanted accountability afterward and would have very likely wanted to see a public inquiry.

In returning more specifically to the scope of the bill, that is why, in doing this, it is not intended to just deal with issues related to the pandemic, but it is intended to address issues and concerns we have heard from Yukoners. The fundamental elements of this legislation do not prevent a more comprehensive review of the legislation. It does not prevent additional changes being made to incorporate the ability for First Nation governments to declare a state of emergency or changes to the *Public Health and Safety Act*.

This matter, just as the Minister of Justice argued, should occur with changes to the *Safer Communities and Neighbourhoods Act* and would be a somewhat surgical approach that is aimed solely at improving democratic oversight and providing the structure to empower the ability to conduct public hearings and to hear from people whose lives

are being affected by regulations and ministerial orders during this declaration of a state of emergency or any other declaration of a state of emergency which might occur at some point in the Yukon's future.

I will wrap up my comments here by, again, encouraging members to vote to continue to discuss this legislation, rather than to vote against the contents of it and kill the bill. I would again emphasize that the Yukon Party continues to believe that a public health situation is not an excuse to bypass democracy. We believe that democratic safeguards, including checks and balances on the use of emergency powers, now and in the future, should be in place and that it is important to change the legislation to make those changes to provide democratic safeguards and oversights, based on best practices by the federal government and elsewhere in the country.

Our position continues to be that emergency powers should be used only when there is no other reasonable alternative, not simply because it is more convenient for government, and that tools, such as time-limited legislation, which is discussed and debated democratically, would have been a better approach right from the start of the pandemic, rather than issuing repeated ministerial orders and regulations that are in no way subject to public consultation or democratic debate in this Legislative Assembly before they are issued, but are affecting the lives of over 40,000 Yukoners and are the subject of concern by many Yukoners at various periods in time throughout the past almost two years, since the start of the pandemic.

With that, I would conclude my remarks and encourage all members to support this legislation at second reading, rather than voting against public consultation and democratic oversight.

Speaker: Are you prepared for the question?

Some Hon. Members: Division.

Division

Speaker: Division has been called.

Bells

Speaker: Mr. Clerk, please poll the House.

Hon. Mr. Silver: Disagree.

Hon. Ms. McPhee: Disagree.

Hon. Mr. Streicker: Disagree.

Hon. Mr. Pillai: Disagree.

Hon. Mr. Clarke: Disagree.

Hon. Ms. McLean: Disagree.

Hon. Mr. Mostyn: Disagree.

Mr. Dixon: Agree.

Ms. Clarke: Agree.

Mr. Cathers: Agree.

Ms. McLeod: Agree.

Ms. Van Bibber: Agree.

Mr. Hassard: Agree.

Mr. Istchenko: Agree.

Ms. White: Disagree.

Ms. Blake: Disagree.

Ms. Tredger: Disagree.

Clerk: Mr. Speaker, the results are 7 yea, 10 nay.

Speaker: I think the nays have it.

I declare the motion defeated.

Motion for second reading of Bill No. 302 negatived

MOTIONS OTHER THAN GOVERNMENT MOTIONS

Motion No. 288

Clerk: Motion No. 288, standing in the name of Ms. Van Bibber.

Speaker: It has been moved by the Member for Porter Creek North:

THAT this House urges the Government of Yukon, in recognition of the Platinum Jubilee of Her Majesty Queen Elizabeth II, to celebrate with Yukoners by:

(1) creating a one-time Queen's commemorative medal to present to deserving Yukoners and front-line workers in recognition of significant contributions that they have made to their community or to Yukon; and

(2) providing funding to interested communities for the purpose of holding a community tea or celebration on June 2, 2022 in honour of Her Majesty's 70-year reign.

Ms. Van Bibber: I would be delighted to speak about this motion that I brought forward; however, seeing the time, I move that we adjourn debate.

Speaker: It has been moved by the Member for Porter Creek North that debate be now adjourned.

Point of order

Speaker: Government House Leader, on a point of order.

Hon. Mr. Streicker: Can I just ask you to confirm with the Clerks? I just thought there was a Standing Order which stated that a member should not adjourn their own debate of their own motion.

Mr. Dixon: Mr. Speaker, I can make that motion to move that debate be now adjourned.

Speaker: Order, please.

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

Debate on Motion No. 288 accordingly adjourned

The House adjourned at 5:30 p.m.