

Whitehorse, Yukon
Wednesday, March 26, 2008 -- 1:00 p.m.

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

Prayers

DAILY ROUTINE

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

Are there any tributes?
 Introduction of visitors.
 Returns or documents for tabling.
 Reports of committees.
 Are there any petitions?
 Are there any bills to be introduced?

INTRODUCTION OF BILLS

Bill No. 50: Introduction and First Reading

Hon. Mr. Cathers: I move that Bill No. 50, entitled *Child and Family Services Act*, be now introduced and read a first time.

Speaker: It has been moved by the Minister of Health and Social Services that Bill No. 50, entitled *Child and Family Services Act*, be now introduced and read a first time.

Motion for introduction and first reading of Bill No. 50 agreed to

Bill No. 51: Introduction and First Reading

Hon. Mr. Cathers: I move that Bill No. 51, entitled *International Child Abduction (Hague Convention) Act*, be now introduced and read a first time.

Speaker: It has been moved by the Minister of Health and Social Services that Bill No. 51, entitled *International Child Abduction (Hague Convention) Act*, be now introduced and read a first time.

Motion for introduction and first reading of Bill No. 51 agreed to

Bill No. 52: Introduction and First Reading

Hon. Mr. Cathers: I move that Bill No. 52, entitled *Workers' Compensation Act*, be now introduced and read a first time.

Speaker: It has been moved by the Hon. Minister of Health and Social Services that Bill No. 52, entitled *Workers' Compensation Act*, be now introduced and read a first time.

Motion for introduction and first reading of Bill No. 52 agreed to

Speaker: Are there any further bills for introduction?
 Notices of motion.

NOTICES OF MOTION

Mr. Mitchell: I give notice of the following motion:
 THAT this House urges the minister responsible to work with the Yukon Housing Corporation to have the corporation

voluntarily withdraw as receiver/manager for the Whitehorse Housing Co-operative.

Mr. McRobb: I give notice of the following motion:

THAT this House urges the Minister of Highways and Public Works to table a report, as was promised by the first day of this spring sitting, detailing measures the department is taking to address issues raised in the Auditor General's report of 2007.

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

THAT this House urges the Yukon government to assist Yukon citizens who are addicted to tobacco products with the professional services and medication(s) that will aid them in quitting the use of such products and that these services and medications be at no cost to them.

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

THAT this House condemns the failure of the Yukon government to include an immediate and substantial increase in social assistance rates in the main estimates for 2008-09.

Mr. Cardiff: I give notice of the following motion:

THAT it is the opinion of this House that
 (1) workplace injuries among young people are extremely high;
 (2) having a job can be an extremely positive and valuable experience for a young person;
 (3) most jurisdictions in Canada have laws that set standards around the age that young people may be employed, the hours they may work and prohibitions against them working in dangerous occupations;
 (4) the Yukon is one of the last jurisdictions in Canada to deal with the issue of child labour; and

THAT this House urges the Yukon government to amend the *Employment Standards Acts* to provide proper standards for the protection and oversight of children and young people in the workplace.

Mr. Hardy: I give notice of the following motion:

THAT this House direct the Standing Committee on Rules, Elections and Privileges to meet at the earliest opportunity and to bring forward for the consideration of this House a recommendation to restructure the Public Accounts Committee in a manner that would ensure all parties in this House equal voice and vote in any of the committee's proceedings.

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

Speaker's statement

Speaker: Prior to Question Period, the Chair would like to make a brief statement on comments made in the House yesterday.

During Question Period, the Hon. Premier, in response to a question from the Leader of the Official Opposition, said, "I can assure the member just one thing. If this government ever - and I doubt it is going to happen -- has to be faced with reduc-

ing investment, the first cut we will make is the member's wages."

The Chair realizes that members engage rather enthusiastically in the cut and thrust of debate. Nonetheless, even when members cross swords, there are lines that should not be crossed. Whether the Hon. Premier intended it or not, his words imply a threat to the Leader of the Official Opposition in response to that member's actions in this House. That is not appropriate and I would ask him to choose his words more carefully in the future.

Also during the debate on Bill No. 11, the Leader of the Official Opposition used the word "arrogant" to describe the Hon. Premier and/or the government. The Chair would remind the Leader of the Official Opposition that this word has been ruled out of order in the past where it has been used as a personal insult, as this contravenes Standing Order 19(i).

The House will now proceed to Question Period.

QUESTION PERIOD

Question re: Asset-backed commercial paper investments

Mr. Mitchell: I have some questions for the Minister of Finance. Last summer the minister made some bad investments -- \$36.5-million worth, in fact. It was obvious to everyone that Yukoners were going to lose money as a result. The minister insisted, however, on at least three occasions last fall in the Legislature, and several times over the past few months, that the government had not lost any money and was not going to lose any money. When the Auditor General was in Whitehorse recently to deliver the results of her investigation on this issue she said, "There will be a loss. The question now is how much."

Will the minister now admit that the Auditor General is correct and that he was wrong?

Hon. Mr. Fentie: When the member likes to quote and make representations of the Auditor General, it has been very noticeable recently that the context in which the quotes are being made is somewhat suspect. The Auditor General pointed out a lot of things. The Auditor General also pointed out that these investments were being made by the Yukon government for quite some time; in fact, as far back as 1990.

Now, to the member's point. He keeps stressing the fact that we're going to lose money or we have lost money. I repeat: have lost money. That's not the case today at all. He points out that we've signed on to an agreement. We have not signed on to an agreement. In fact, nobody has signed on to the agreement of restructuring these investments. He also keeps pointing out that the Auditor General has stated that these investments are only in the time of this government's watch, which is also incorrect. So we're in an impossible situation in responding to the member opposite, because you can't respond to questions that aren't factual. Maybe it's the script that the member has. I know it's the cunning approach, but it's not the constructive or correct approach.

Mr. Mitchell: Well, the minister is trying to drown us in non-answers, but we'll ignore that. The fact of the matter is

that a couple of other government agencies in Canada also made bad investments in this asset-backed commercial paper.

In December, the Province of Ontario disclosed that it would take an estimated write-down of approximately \$100 million linked to ABCP. Ontario's Ministry of Finance said the provincial government holds about \$719.5-million worth of ABCP, so their loss is projected at being about 14 percent.

Alberta's Crown corporation, ATB Financial, said last fall it would take a \$79.6-million charge for potential losses and restructuring costs due to ABCP.

I'll remind the minister that there is a loss. We haven't received interest payments in October, November, December, January, February or this month. That's a real loss.

When is the Government of Yukon going to admit that we have lost money on these investments and take a write-down like other responsible governments have?

Hon. Mr. Fentie: Well, the member opposite is right about one thing: other governments have invested in this area as far back as the 1990s, and we all know that. It's a point that has been very difficult to get across to the member opposite these days.

However, at this time, we are not taking a write-down because there is no confirmation in the restructuring process that's on the table today that that will be a necessity. We'll see what happens when the process comes to its inevitable end, but we're not going to be premature in making decisions here.

It's a good thing the member opposite isn't in this situation, because the presumptuous way they have approached this issue is a very discomfiting approach, I'm sure, for officials and for all concerned, because it's clearly demonstrating that they don't really have an understanding of the issue in all its detail.

Mr. Mitchell: The Premier seems to be making remarks about being premature. I think it was a premature enunciation when he said last November that we would have it all resolved by December 14. We're in this mess because of this minister's gambler-type approach to investing our money. In Nunavut, as we recently said, local investment regulations don't allow the territory to put its money into ABCP. When asked about it, an official of Nunavut had this to say, "We based our regulations on the amount of risk that we wanted to take. Our primary concern was the safety of capital. I think we're just more conservative."

Yukoners wish this minister had been more cautious. He wasn't and we're looking at losses. Other governments have already taken write-downs; private companies are doing the same thing to cover projected losses from as low as five percent to over 20 percent. They don't wait until the final dots are dotted in 2014.

When is this government going to take a write-down on this investment and why hasn't it done so already?

Hon. Mr. Fentie: I've already answered that question, but only the Member for Copperbelt could turn approximately \$20 million in earnings into a loss; only that member can come up with that kind of arithmetic. So to keep on and on about loss at this juncture is premature.

Furthermore, the member says it's this government that was taking the risk. How does the member explain that over

200 investment transactions in these trusts, whether they're backed by banks or non-banks, have been made by Yukon governments as far back as 1990? How does the member explain that? These investments, as the Auditor General pointed out, were going on for some time and investments were being made in good faith. So, once again, the member is incorrect, as incorrect as he has been every day in this House. I'm telling you, Mr. Speaker, this must change because it's not the constructive approach for an opposition to take.

Question re: Asset-backed commercial paper investments

Mr. Mitchell: If the Member for Watson Lake likes asking questions so much, he can come and sit on this side and we'll go over there and give some answers.

Mr. Speaker, last year the Government of Yukon went outside the *Financial Administration Act* and bought \$36-million worth of junk bonds. That money is now frozen, so congratulations to the government and this minister because, going all the way back to 1990, as he says, no other governments had their assets frozen, their investments frozen, and their interest withheld. It's a first.

Now there is a process underway trying to rescue these investments. Part of that process involves getting new bonds. One of the problems with the old bonds was that they were illegal under our *Financial Administration Act*. The new bonds are not guaranteed by Canada or a province. They are not guaranteed by a bank; they are rated by only one agency. It looks like the new bonds are illegal as well.

Can the minister tell the House if the new investments will comply with the *Financial Administration Act*? It is a yes-or-no question.

Hon. Mr. Fentie: Mr. Speaker, once again I am going to correct the member, and that has been a constant process these days. The member continues to make the mistake of referencing only one particular timeline of investment, and the member is incorrect. He would better serve the public if he would stick to the facts.

Furthermore, we are going to allow the process to conclude before we make any determination, as every government, public corporation, or other corporation involved in this particular area of investment is going to do. Also, by the way, the final decision will be made by the courts. This whole matter is under court protection. In the case that the member is referring to, all investments -- 200 of them -- did not meet the *Financial Administration Act*, as defined by the Auditor General. We will see how we deal with the issue once restructuring is complete.

Mr. Mitchell: For the minister's benefit, I'm using the timeline laid out in the Auditor General's report and she only cited one government in the report -- I'll remind the minister that it is quick reading, nine pages; it didn't take her long -- one government, this government; although, she did, in fairness, cite them going back three years. She said, "We found that the government's investment in the summer of 2007 in two asset-backed commercial paper trusts did not meet the requirements of the Act." She concluded her audit with the following advice, "It is important that the Department of Finance manage the investment of public money prudently and in accordance

with legislation." We agree. We know the investments that the Premier made last year were not in accordance with legislation and I don't believe that the new investments will be either.

Can the Premier tell this House whether the bonds he is getting under this new arrangement, as currently proposed, fit within our law? Yes or no?

Hon. Mr. Fentie: You know, Mr. Speaker, what the member is actually doing is destructing a plan that is not even complete. The government side will allow the process to conclude so we know exactly what the restructuring plan will entail. But the member keeps referring to the Auditor General and her report. The Auditor General clearly states on page 7 of her report, and this is where the member is totally off side, that governments also made investments in asset-backed commercial paper that were set up by domestic banks. She further states that, "For the same reasons as those given for asset-backed commercial paper issued by trusts that were set up by non-banks, these investments did not meet the conditions set out in the *Financial Administration Act*." That includes approximately 200 investments since 1990.

Mr. Mitchell: If the Premier would like us to wait until this process concludes, I believe he is asking us to wait until 2014. That is when it's going to conclude; that's when it's proposed we'll get our money back and, in some cases, that's when the interest is supposedly going to be paid.

Again, we don't know if these new bonds are legal under our legislation.

I know the minister doesn't want to answer this question and I understand why. The answer is no, they aren't. They don't meet any of the three conditions that are required.

The government has a choice to make. Are they going to keep the new bonds in violation of the law? Are they going to sell the bonds as soon as they receive them, in what the minister called a "fire sale", or are they going to change the law and tailor it so that they can be in compliance? It's a mess -- one the minister created when the minister failed to provide proper oversight over his department. It's his job to provide that oversight. He has not been doing that.

Do the new bonds, as they are currently structured, meet the requirements of our *Financial Administration Act*?

Speaker: Thank you.

Mr. Mitchell: Yes or no?

Hon. Mr. Fentie: Mr. Speaker, once again, that is something we'll determine. We will work with the Auditor General, Purdy Crawford, and all involved in this matter, so that there is no loss in the investment and we recoup -- along with Ontario, Alberta, Quebec, Canada Post, Air Canada, the body that regulates the employee pension plan for the federal government, all involved -- the investments and, by the way, the only time this became an issue, Mr. Speaker, is when the banks reneged on liquidity agreements. So we will allow the process to conclude. We will not jump to conclusions like the member opposite; we will do our work to ensure that, in the best interest of the Yukon public, we are fiscally managing appropriately.

Question re: Asset-backed commercial paper investments

Mr. Hardy: Now, as an eternal optimist, I hope I'll have a bit more success getting answers from the Minister of Finance about the problem of this government's investment in the asset-backed commercial paper.

The minister is still insisting that there was nothing unusual about these investments and that they had the same guarantee they've had for decades. Of course, everyone but the minister understands that's not the case. The minister has said that we can't trust the banks. He doesn't trust the Auditor General, because her opinions are different from his.

So what factual evidence can the minister provide to convince Yukon people that they should trust his opinion?

Hon. Mr. Fentie: In the first place, this has nothing to do with my opinion. In fact, the government side is not in the opinion business. We're here in the public interest, so my opinion is not relevant to the issue. Frankly, legal opinions on this matter do differ. The Department of Finance presented that and fully disclosed that publicly weeks ago. We all understand that.

We've already taken steps to address this inconsistency and contradiction in opinion by putting in a policy that disallows any further investments in this area. That's critical, because this is the first government since 1990 that actually acted to address this issue.

Investments being made all along are the same, no matter what the members opposite say. This is what it is. They cannot manufacture it to be something different.

Mr. Hardy: Well, there is an opinion that is being expressed by the Minister of Finance, because we don't have the proof of what he's saying in front of us. He refuses to pass it over. The minister contends that he and the acting minister were giving the straight goods last November, when they said that these investments were guaranteed by the banks and had the highest ratings. Of course, that was just his opinion. And I don't expect to change the minister's opinion; some things just aren't humanly possible.

Right after the Auditor General released her findings, the minister said that the government had other opinions of a legal nature, and he has just referred to those again. When did the minister seek these opinions? When were they given to the minister, and what was the specific subject matter they addressed? Let's have some facts now.

Hon. Mr. Fentie: The Department of Finance has already stated that publicly. I'm sure the member has access to all that information; it's in the public domain. Let me once again correct another member of the opposition. They say that there were no liquidity guarantees and agreements with these investments. Wrong. There was. They say there was no rating. Wrong. They were rated triple A by a qualified bonding agency.

Mr. Hardy: Yes, and I remember the debate about that last fall, where I think it was required that you have two rating agencies recommend triple A before we should be investing.

The minister seems to be operating on the principle that if you repeat something often enough, eventually people will believe it. Unfortunately, I have trouble believing the minister

because of previous contradictions, and there are many of them.

The minister and the acting minister told the House last fall that these investments were guaranteed by the banks, and they had the highest ratings. In other words, in the minister's opinion, they met all the requirements of the *Financial Administration Act*. Yet for some reason, a few days before the Auditor General's report came out, the minister issued an edict that the Yukon government would no longer invest in ABCPs of any kind, Mr. Speaker. In other words, "It ain't broke, but I'll fix it anyway." When the minister changed that policy, was he acting on legal advice, or had he already been told that the Auditor General was going to rule that the act had been breached?

Hon. Mr. Fentie: Well, I think that answer is really clear. When the banks' liquidity agreements did not materialize, I think the problem was obvious. Even though 200 transactions took place in these investments, it only became an issue when the banks did not live up to their liquidity agreements, so we put in a policy to make sure that we're not involved in this area again.

Question re: Whitehorse Housing Co-operative

Mr. Cardiff: I have a question for the minister responsible for Yukon Housing Corporation. A short while ago, just within the past few weeks, I was shocked to learn that the Yukon Housing Corporation was planning to seek a court order to dissolve the Whitehorse Housing Co-operative and turn the 12 housing units over to Yukon Housing Corporation. In fact, they had already sent notices advising tenants of their plans. If the Housing Corporation got its way, about half the co-op's tenants who are paying full market rent for their units would be forced to find somewhere else to live.

Can the minister give us an update on this situation? Is Yukon Housing Corporation still planning to proceed with that court case?

Hon. Mr. Kenyon: In the late 1980s, the Whitehorse Housing Co-operative was created and accessed funds directly through Canada Mortgage and Housing Corporation. By October 1998, CMHC transferred the responsibility of the co-op file to Yukon Housing Corporation as part of the social housing transfer agreement, which was signed by Canada and the Yukon. The transfer agreement includes specific and annual funding for the co-op, as well as remedies if the co-op fails, and this was all done by court order.

In 2003, the co-op began to experience internal financial and management problems, including the non-payment of the financial obligations, including their mortgage. In the fall of 2003, the co-op accessed a \$60,000 loan -- not a grant, a loan -- from the federal cooperative housing stabilization fund, which is administered by the national co-op body. The intent of the \$60,000 loan was to address the mortgage and tax arrears, as well as capital improvements. Continuing financial and management problems included the non-payment of arrears, mortgage and taxes, and that's administered by the national co-op body. The intent of that \$60,000 loan was there but, between June and November of 2003, the debts incurred by the co-op

were approximately \$125,000, while the loan can only cover half of the debts incurred.

In October 2003, the co-op's bank account was closed by the bank because the account was overdrawn.

Mr. Cardiff: The minister didn't answer the question. He is trying to avoid answering the question and providing us with some sort of chronological history and justification for their actions.

This whole matter is very disturbing. Yukon Housing was appointed as a receiver/manager and was supposed to assist the co-op in getting back on its feet. Since that time, the co-op's volunteer board has turned the situation around. A recent evaluation assessment showed that the co-op's assets are worth more than double the amount of the outstanding loans and it seems incredible that a public body would just try to expropriate those assets, especially when its role as receiver/manager was to help the co-op get back on its feet.

Have the minister's officials given any indication that they are willing to back down and agree to work in good faith with the co-op board to resolve this situation? Can he answer that question?

Hon. Mr. Kenyon: For the member opposite, I do apologize for giving fact and justification.

In October 2003, CMHC advised the lender that the co-op missed July, August and September mortgage payments. In November 2003, both the president and vice-president of the co-op resigned. In November 2003 to March 26, 2006, the issue of the co-op was brought to the Yukon Housing Corporation Board of Directors on eight different occasions and the board reviewed everything from governance, management, operating budget, capital and maintenance budget, financial information dating back to 1995, and property appraisals, et cetera.

In December 2003, the Whitehorse Housing Authority, on behalf of Yukon Housing Corporation, was appointed by the courts as receiver/manager of the co-op. This was ordered by the courts. It can only be dissolved by the courts. There is not a question in anyone's mind that this can only be settled in the courts and, therefore, the threat of possibly going to court is rather moot and redundant.

The majority of co-op members signed a letter to the RCMP asking that they look into it. The Housing Corporation hired McKay & Partners, at Yukon taxpayers' expense, and the audit was given to the RCMP, who advised us that, although some of the transactions were questionable, no action would be taken.

Mr. Cardiff: It's simply amazing. The minister is talking about history; we're talking about today, Mr. Speaker. What is the minister and the Housing Corporation prepared to do today to assist these people like they were supposed to, to assist the housing co-op? Now, the co-op has proposed a solution to the long-standing conflict by suggesting that the Housing Corporation simply withdraw as receiver/manager. That could avoid a costly and damaging court action that is really in no one's interest. I hope the minister understands that the olive branch has been extended.

Just a few weeks ago, the Yukon Housing Corporation was falsely claiming that the co-op was bankrupt and did not have a board of directors. Fortunately, the chair of the Housing Corporation has since taken that statement back. Will the minister please advise his officials to give serious consideration to the co-op's proposals? Maybe as a token of good faith, will he start by setting the record straight, now that the housing co-operative is not bankrupt and never has been?

Hon. Mr. Kenyon: The co-op is not bankrupt; however, it is under receivership by court order. It is not a question of backing off or anything else; it is under court order. In August 2004, CMHC extended a comfort letter to the lender for the mortgage which was in arrears. In September 2004, we incurred, on behalf of the co-op, approximately another \$50,000, taking no funds whatsoever to act as the receiver. The comfort letter was extended into 2005 and now into 2007.

At the request of the members of the co-op, we engaged a third party to examine this. The board of directors have accepted that report; CMHC has accepted that report, and that is what we have gone back to the courts with, asking the court for a solution as we have no choice. Another solution might be someone else; perhaps the member opposite and his party would underwrite the several hundred thousand dollars that they're in debt and look after the \$80,000 or \$90,000 that Yukon taxpayers put into the co-op. All we want to do is remove that financial debt and that financial load from the Yukon taxpayers. How the court settles is a court matter.

Question re: Tax policies

Mr. Fairclough: I have a question for the Minister of Health and Social Services. Earlier this week, the government introduced an increased tax on tobacco.

The Member for Lake Laberge stated in this House, "However, in 2006, the Yukon Party ran on a platform entitled, *Building Yukon's Future Together: A Clear Vision for a Bright Future*. This is the second time that most members of the Yukon Party caucus, the government caucus, have been elected and it is the second time that we ran on a platform that included to not increase taxes."

Will the member please explain to Yukoners his statement in this House, now that his government has proposed an increase to tobacco tax?

Hon. Mr. Fentie: Well, this is quite interesting to see where the Liberals in this House stand when it comes to the health of Yukoners.

Now, this government has made a lot of effort and placed a great emphasis on reducing the tax burden to Yukoners -- and it's significant, whether it be the mineral exploration tax credit; a lower small business tax rebate; the Yukon Energy Corporation rebate; revised tax brackets for other credits, especially on medical issues; revised basic personal exemption -- and the list goes on: millions of dollars of disposable income, back into Yukoners' pockets.

But when it comes to the health of Yukoners, we take that issue very seriously, in our consultations and the whole process to date regarding the use of tobacco and the impacts on the health care system. It's clear -- the time has come.

Mr. Fairclough: This member, the Member for Lake Laberge, has established a credibility issue for himself and his government. He's becoming a liability because he says one thing one day and something else the next -- a flip-flop. And allow me to quote again, Mr. Speaker: "Our platform document says, on page 19, in the second commitment under promoting small business trade and investment, no tax increases. We did not say no tax increases except potentially tobacco. We said no tax increases."

Why was the member so adamant just a short time ago and today pretending as if he never said it at all? What new initiatives will this department be undertaking now that it will have an additional \$4 million to assist seniors on low income who are strongly addicted to tobacco?

Hon. Mr. Fentie: The Member for Mayo-Tatchun has stated that a credibility problem exists -- the government side agrees. We've been listening to and seeing the demonstration of a credibility issue for days now. Mr. Speaker, the Member for Lake Laberge was true to his principles, as we all were, about raising taxes but we on the government side fail to see the correlation between trade and investment and tobacco taxes as it relates to the health of Yukoners. The statistics show something here that is very disturbing, Mr. Speaker. The Yukon has one of the lowest tax regimes for tobacco in the country, but the Yukon also has one of the highest rates of smokers -- some 30 percent of our population. What is even more disturbing is, nationally, the Yukon has the highest rate of individuals who begin to smoke. This is hopefully going to be a deterrent. This government is acting and doing something about that.

Mr. Fairclough: It's a Yukon Party broken promise, Mr. Speaker. I don't think that it is about health at all. This is a tax grab. Someone has to pay for the \$36-million fiasco, Mr. Speaker. This government has no plan and it has no credibility. I quote, one last time, the member's remarks in this House, and this is the Minister of Health and Social Services: "This government keeps its commitments. I'm committed to keeping the commitments I made to Yukoners. We are committed to keeping the commitments we made in the platform that we ran on and we did not leave any wiggle room or question about whether or not we would raise certain taxes. We said no tax increases, and I would point out that this was not a small thing within the platform. This is something that our party is well known for -- our commitment not to raise taxes. We will keep that commitment. We will honour that commitment that we made in the 2006 election platform."

Mr. Speaker, the liquor tax raise is over \$3 million this year, and the tobacco tax is over \$11 million. Will the minister attempt to explain what his department plans to do with the additional revenue?

Hon. Mr. Fentie: Well, now we have the Official Opposition referring to addressing health issues for Yukoners as a tax grab. That's a rich one. We now know the Official Opposition's position.

We are about to debate today a very constructive measure brought forward by the third party. The government side has, in the spirit of cooperation, advanced this whole initiative. Mr. Speaker, the time has come, and it includes the issue of tax-

ation on tobacco in the Yukon -- one of the lowest tax regimes in the country. I would challenge the members opposite to try to justify their position to Yukoners today. We have reduced taxes for Yukoners in a very strategic way, placing a great emphasis on disposable income for Yukoners. We all know; the science is there. Smoking is bad for your health. If you are going to smoke, the levy will be put in place. We intend to do something about improving the health of Yukoners and that includes those who use tobacco.

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

ORDERS OF THE DAY

INTRODUCTION OF VISITORS

Hon. Mr. Cathers: I would like to ask members to join me in welcoming to the gallery the president of the Yukon Federation of Labour, Alex Furlong; the executive director, Doug Rody; and a constituent of mine, Peter Wojtowicz.

Applause

Unanimous consent re calling Bill No. 104, *Smoke-Free Places Act*

Hon. Mr. Cathers: Pursuant to Standing Order 14.3, I request unanimous consent of the House to call at this time Bill No. 104, *Smoke-free Places Act*, standing in the name of the Leader of the Third Party.

Speaker: The Government House Leader has requested unanimous consent of the House to call at this time Bill No. 104, *Smoke-free Places Act*, standing in the name of the Leader of the Third Party.

It is the Chair's duty to remind the House that Bill No. 104 is in Committee of the Whole at this time and should the Government House Leader's request be granted, the House would automatically resolve into Committee of the Whole. Is there unanimous consent?

All Hon. Members: Agreed.

Speaker: There is unanimous consent. The House shall now resolve into Committee of the Whole and proceed with Bill No. 104.

Speaker leaves the Chair

COMMITTEE OF THE WHOLE

Chair: I will now call Committee of the Whole to order. Is it the wish of the members to take a brief recess?

All Hon. Members: Agreed.

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

Recess

Chair: Committee of the Whole will come to order. The matter before the Committee is Bill No. 104.

Bill No. 104 -- *Smoke-free Places Act*

Chair: We will now proceed with general debate on Bill No. 104. Mr. Cathers, you have the floor.

Hon. Mr. Cathers: I will be very brief in my remarks. I will simply introduce this debate by noting that members ought to be well aware by now that we have followed a very cooperative approach in dealing with this private member's bill that was brought forward. We appreciate the work of the Leader of the Third Party and his staff in putting forward the amendments. Of course, we followed the process whereby the committee, composed of one member from each of the caucuses, toured the territory last year in the fall to hear from Yukoners on their views and opinions regarding the legislation. I am very pleased that we are able to continue here today with the cooperative approach and, in fact, once again, to be reviewing this private member's bill. With that, I look forward to hearing the debate on this private member's bill, Bill No. 104.

Mr. Hardy: I would like to be able to sit down through this if it is at all possible. I'd like to thank the Government House Leader for the motion allowing this important health measure to come back for debate in a time that would normally be used for the government private members' motion. I would also like to thank the Premier for his willingness to give this bill the serious consideration that it deserves. I would also like to acknowledge his generosity in allowing us to work with Justice officials to identify areas where the original bill could be clarified and improved.

Now, this was a very unusual step for any Premier to take with an opposition private member's bill and I do appreciate his cooperation. I also would like to acknowledge the unanimous support needed from all MLAs in order for us to debate this and to bring this forward, and I sincerely say that.

Since I first introduced Bill No. 104 nearly a year ago, a select committee of the Legislative Assembly travelled throughout the territory to get feedback from Yukon people on what measures should be taken to protect workers and others from the deadly effects of second-hand smoke in the workplace and in other public places.

I was very encouraged to see the high level of support for Yukon-wide legislation to deal with this extremely important public health issue. I'm very thankful for that input.

I also am grateful to the Yukon and Canadian Medical Associations, Physicians for a Smoke-Free Canada, British Columbia and Yukon Division of the Canadian Cancer Society and their national body for their support and encouragement as well as other submissions made.

The amendments I will be introducing during line-by-line debate incorporate many of the ideas that came forward from the public. In particular, they address the recommendations of the select committee that were tabled in the House last fall. With these amendments, which I hope will get the unanimous support of the House this afternoon, you can take a great leap forward in terms of protecting the health of our citizens.

For a long time we have been in the embarrassing position of being the last place in Canada to enact jurisdiction-wide legislation to restrict smoking. With this bill and the amendments we will be considering this afternoon, we can move from the back of the pack all the way to the front.

I look forward to line-by-line debate and to the opportunity to help make history as a group of legislators who have the

vision and the courage to act decisively to improve health, protect children and protect workers' rights to safe and healthy places to live and work.

Those are my comments. Thank you.

Mr. Mitchell: Once again, I would like to thank the Leader of the Third Party for bringing this legislation forward. I made those comments during second reading a year ago, when this legislation first came forward. I think it's legislation whose time certainly has come. I think it's important to be looking after the health of the citizenry of Yukon, and indeed of anybody who happens to be travelling through Yukon.

In particular, I think it's important to be fully cognizant of the serious effects of second-hand smoke and what those effects can be on unwilling victims or people who are associated with people who are smoking.

I said at second reading that I supported this bill and that we as a party support the bill. There are some things I'd like to correct for the record. I know that the Leader of the Third Party mentioned a couple of times recently in his radio address that he knew that the Liberals were opposed to it, and had voted against it. I can't find any evidence of us ever voting against it. I believe the vote was 17 yea and nil nay at second reading to move it into Committee of the Whole, and that included all members who were in the House that day.

Again, the vote was unanimous today to move forward with what would have been a government private members' day.

So I don't think we're really very much at odds over whether or not there should be legislation but just what the legislation should include.

I would also like to correct the record. To be charitable, I think the Premier must have misunderstood comments made earlier today in Question Period by the Member for Mayo-Tatchun who questioned why the Health minister was so stridently opposed to a tax. He never said that he opposed the tax, and I have said publicly prior to today in interviews with media, that I support the tax. I said it on *Voice of the Opposition* and I will say it again here. I support the tax; I will vote for the tax, and the minister should be careful in characterizing positions of others as being different from that which they have publicly stated and implying --

Chair's statement

Chair: Order, please. I would like to remind members that the debate today is focusing on Bill No. 104, *Smoke-free Places Act*, and I remind all members to keep their debate directed toward this bill, please.

Mr. Mitchell: Thank you, Mr. Chair. These two issues are so closely tied together there were comments --

Chair's statement

Chair: Order please. I just stated that members should focus the debate on the *Smoke-free Places Act* and not question what the Chair has ruled.

Mr. Mitchell, you do have the floor.

Mr. Mitchell: Thank you, Mr. Chair.

Regarding the act, we had an opportunity to be briefed just this morning for the first time on the amendments that are before us today, and we haven't had time to study them all thoroughly, having just gotten them at the eleventh hour; however, rather than speaking to all these amendments now, I think it would be more appropriate to speak to them after they have been tabled. From what I have seen, I can support the majority of them. I may suggest a friendly amendment regarding one of them. I do have some questions that remain to be answered, and I had hoped that we might have the benefit of members of the Justice department, who assisted in drafting this bill, regarding some inconsistencies in which section of the act would take precedence over another.

I'm happy to wait until we go line by line to deal with those if the sponsoring member thinks that would be more expeditious, rather than raising them now. So I just want to say that I'm speaking as the MLA for Copperbelt and I'm speaking on behalf of the official caucus position of being the party supporting this measure in principle. I know that I previously promised all members here that this would be a free vote, as it is not a confidence measure and it is not a government bill, and I will leave other members to express the issues that have been raised to them by their own constituents. I will raise mine when we get into looking at it line by line.

I want to thank all the people who took part in the consultation, both the MLAs who went out in the consultation and the ones who were on the committee; the two members -- I think one from the third party and one from our party -- who took part in a portion of it; the public officials who went out; and all of the officials in the Department of Health and Social Services and the Department of Justice who have worked on this.

I guess the last comment I would make is that this is a very unusual situation in that we are looking at legislation that has been brought forward by a private member, an opposition member, which may well pass this House. However, the enabling regulations will then become the responsibility of the government, once this becomes the legislation. That is traditionally done by the government -- I think that there is a standard consultation period on regulations when they go out -- and then are done as an order-in-council.

I would throw out a suggestion to the Health and Social Services minister and the Justice minister, whosever purview this falls under, that normally one expects that regulations would be consistent with a bill, based on the government having sponsored the bill. In this case, there are areas where I have asked questions in the briefing of the third party and they have said that will be done in the regulations. I'm hoping that the Justice minister or the Health and Social Services minister would find some way, in the collegial spirit that this is being debated, to provide an opportunity for opposition members to also see the proposed regulations and, perhaps, at least offer some official comment back. I've seen some things that might just be inconsistencies and it is unclear how they would be done, such as outside eating areas and a few other areas, and they are going to have to be addressed by regulation.

I would ask that of the Health and Social Services minister and the Justice minister, whoever would be responsible, and I

would look forward to hearing a response as to whether that opportunity might occur. Thank you.

Mr. McRobb: Before I start, I would just like to put on the record that we did ask the mover of the bill if he would move to the front row so as to be able to look him in the eye and speak in the microphone at the same time. I understand he believes I would not be able to see him if he was on the front row. I would like to remind him that it's about the same angle as when witnesses are in here from the corporations. To look at him now, I am away from the microphone. He wants our cooperation to support his bill, but he is not willing to return some of that cooperation so we can look him in the eye and ask the questions.

I feel it's my duty to my constituents to rise and speak to this bill.

Before doing so, I wish to avoid any confusion by stating clearly for the record that my comments on this bill do not reflect the position of the Yukon Liberal Party, or my caucus, or the Official Opposition.

My comments are my own and in the complete capacity of my position as MLA for the Kluane riding. I feel it's important to speak at this time, since it's the first time I've had the opportunity to do so on Bill No. 104.

There are a few points I do support that I will also make at the outset to avoid any confusion that:

- (1) I am in favour of passing smoking legislation for the Yukon Territory;
- (2) I am in favour of much of the bill before this House;
- (3) I am in favour of many of the proposed amendments;
- (4) I am in favour of such legislation coming into effect sometime this year;
- (5) I am in favour of banning smoking in vehicles when children are present;
- (6) I do believe that non-smokers have rights;
- (7) I do believe that workers deserve the right to work in a safe workplace;
- (8) I do believe that most smokers want to quit smoking;
- (9) I do believe it's a person's civil right to smoke, given acceptable conditions;
- (10) I do believe this type of legislation should include many of the places identified with it, including restaurants;
- (11) I do believe this legislation should be done right so it avoids problems down the road, including legal challenges, as best as possible.

Mr. Chair, this list would be more complete had we had more time to review the amendments before us -- which just arrived sometime yesterday -- as well as more warning that we would be dealing with Bill No. 104, which was tabled last spring, instead of the government bill we were promised by the Yukon Party last fall.

There are also a few points I do not support that I will also make at the outset to avoid any confusion:

- (1) I do not believe government should dictate to adults how they should live their lives;
- (2) I do not believe government should interfere in a person's right to civil liberties, including the right to smoke in acceptable areas;

(3) I do not believe this bill as it stands -- and even with the circulated list of proposed amendments -- avoids compromising those rights;

(4) I do not believe this bill avoids negatively impacting the social lives of many rural residents;

(5) I do not believe this bill avoids discriminating against rural communities; and

(6) I do not believe this bill avoids discriminating against rural businesses.

Again, this list would be longer had there been more time to spend examining the list of amendments in this bill.

I now wish to state that I believe it is possible to capture the good and avoid the bad by introducing further amendments to this bill. This may be done either by other members who rise before me or, failing that, by me. On amendments that I may introduce, I do not expect every member of this Assembly to support them. I ask merely that each member give due consideration to them and vote accordingly.

The areas of concern I have that would hopefully be addressed in such amendments deal with the following matters:

(1) the rules regarding permissible smoking areas within a home-based business;

(2) the rules regarding permissible smoking outside of buildings in patio areas;

(3) the rules regarding permissible smoking in vehicles; and, last but not least,

(4) the rules regarding a permissible smoking area within a bar.

There are also questions that will require answers on the record before this bill is voted upon. These pertain to areas of enforcement, regulations and accountability.

Mr. Chair, I now wish to make some general comments.

We as legislators must ask ourselves what is the intent of this legislation? Is it to protect non-smokers, including children, from the negative health impacts associated with smoking? Or is it for the purposes of social engineering our perspective of what society should be? If it's the latter, then I'm very concerned, as are many of my constituents and no doubt other Yukoners, as should be every one of us in here today.

If it's the former, then we must exercise due caution not to go beyond that intent. Yukoners deserve balanced legislation. It shouldn't be skewed to an extreme that represents a side of either smokers or non-smokers. In order to achieve that balance, each and every member of this Assembly needs to have a balanced perspective.

Mr. Chair, I will also add that many non-smokers have concerns with this bill -- people I have talked to in both the riding and other parts of the Yukon. In terms of the constituents I have talked to, I would put the score at about 50 opposed to this bill, especially how it does not provide for an enclosed, ventilated smoking area within a bar, and two people who support the bill as it stands. So that is quite a gap -- 50 to two.

Other Yukoners I have talked to outnumber those in support of the bill as it stands. I know the consultation dealt with numbers. I know there were some problems with the consultation process. Some people from either side stayed home. Some of them felt this legislation was a slam dunk, and there was no

use for them to go to the public meetings, whether they were for or against it. In some communities the notice of the meeting was provided too late and people were not aware of it. Sure, they had an opportunity to respond on the government Web site, but all things considered, I believe the public consultation process -- although important -- is not the end-all that each of us as legislators should consider before we vote on this bill.

As I've said already, we all need to have a balanced perspective. Let's look at the Province of British Columbia. As I understand it, B.C. was on or near the leading edge of introducing smoking legislation. This was driven mainly by the Workers' Compensation Board in that province. Yet British Columbia found it necessary to introduce a period in which ventilated smoking areas would be allowed in bars. On the other hand the mover of this bill, as it stands now, including the circulated list of amendments, does not provide that same condition.

I ask, why the difference? B.C. was at the forefront to try to introduce this legislation in the country; it found it fair and reasonable to allow certain exceptions, provided certain criteria were met. I believe there is no need for us in the Yukon to rush into a bill, to try to be -- in the words of the mover of this bill on the radio this morning -- at the front of the pack.

Mr. Chair, I'll say that a lot of Yukoners pride themselves on living in our beautiful Yukon Territory, and they believe it to be the last frontier. Important to that thought is the maintenance of civil liberties and avoiding government intrusion into how they live their lives. I believe, especially in rural Yukon, not allowing an enclosed smoking area in bars will intrude upon their lives. I've mentioned it will impact communities. Let me explain. People I have talked to in the community of Haines Junction, for instance, have told me they will discontinue frequenting the bar -- which is a social gathering place -- if this legislation comes into effect.

I've questioned them on it, trying to determine a confidence level in believing this statement. I was left with no doubt that they were serious and that they would do it. Mr. Chair, in small communities like Haines Junction, social interaction is very important. If government interferes and limits that social interaction, the very thread of our communities is at risk. We speak a lot about community fabric and social integration. Well, Mr. Chair, if people stop integrating, where does that leave us?

Let's look at the impact on rural businesses. Again, in Haines Junction and other communities, these businesses need every last customer they can get to stay in business. If people stay home, that is a threat to their financial viability. Now, I know that we heard the representative from the Canadian Cancer Society say that statistics show different results, but I'd like to state that those results are a far different situation from rural Yukon, by and large, than the results from major cities where there are different lifestyles, more tourism and other major factors that affect the equation in rural Yukon.

I've talked to some bar owners, and they are more than willing to pay the expense of installing equipment to allow ventilated smoking areas. In fact, as I understand it, the Province of British Columbia allowed an interim period for those ventilated smoking areas, which will soon be coming to an end.

Well, I would suspect, Mr. Chair, that equipment could be available at reduced prices soon, so the cost of installing those areas in bars would be greatly reduced.

So, Mr. Chair, there are a number of other points to get on the record.

I wish to give the mover of the bill an opportunity to respond to some of the points I have made. I will possibly follow up after listening to him.

Mr. Elias: First of all, I want to make it clear that I support the enactment of anti-smoking legislation in the Yukon.

I am also proud of the fact that I was part of the select committee that travelled around the Yukon. I learned a lot from Yukoners. I just wanted to thank my fellow parliamentarians, the Member for McIntyre-Takhini and the Member for Lake Laberge. I think it was very important that we showed Yukoners, when we travelled around the territory, that we can work in a non-partisan way to achieve a common goal and the common good. I am glad that we fulfilled our obligations to the Yukon Legislative Assembly in our six recommendations in the report presented last fall.

Thank you, and I look forward to reviewing and debating these forthcoming amendments to this bill.

I'd also like to say that I'm very concerned about the health risks to children and all Yukoners being exposed to second-hand smoke. I hope that this legislation will pass swiftly, enabling us to better protect our youngest and most vulnerable citizens, especially, of this territory.

In the same tone, we have to get this right and not fast. That's what I have said in the past. However, in my mind, the right process that could have been followed would have been to be inclusive of all elected officials in this Legislative Assembly.

More recently it has been brought to my attention, and I was shocked to learn that the third party and the Yukon Party have been working on these amendments for months now, yet the Liberal caucus office is only metres away from the third party, and they did not seem to have the fortitude to work with us over these months, especially when the Leader of the Third Party has continuously said in the public that the Liberal caucus has voted against this bill. That is, in fact, not true. I would also like him to stand up in general debate and correct the record, because that is not factual at all.

He also said they are continuing to work with everybody they possibly can on this legislation, and yet I've heard that this work has been ongoing for months, but only this morning did we get a briefing on this important legislation and these 23 amendments put forward to the Legislature today. That does concern me; however, if it means being flagrantly political or working the system and making the compromises necessary to get the best deal possible for Yukoners, then I'm in. I'm willing to work in the process that we agree to here today.

I'd like to focus a bit of attention on children. My position on banning smoking in vehicles carrying children is well-known, because there is no safe level of exposure to second-hand smoke. It can cause lung cancer and heart disease in non-smoking adults, low birth weight, sudden infant death syn-

drome, childhood cancers, asthma and respiratory problems in children.

Second-hand smoke releases some 4,000 chemicals as smoke that is directly inhaled, but in even greater quantity. Approximately 50 of these chemicals -- carcinogens -- cause cancer. Second-hand smoke contains three times more tar, which gums up lungs and breathing passages; five times more carbon monoxide, which reduces the amount of oxygen in the blood; 10 times more benzene, which is a poison used in insecticides; and 40 times more ammonia, which is commonly used in household cleaners.

A recent Environics poll commissioned by the Canadian Cancer Society found that 82 percent of Canadians support a ban on smoking in vehicles carrying children under 18. To me, this demonstrates that Canadians in general are ready for action to protect the health of children. A total of 2,032 Canadians took part in the poll. It is considered to be accurate within plus or minus 2.2 percentage points, 19 times out of 20.

The Yukon could be the second jurisdiction in Canada to adopt this measure that protects the health of children, Nova Scotia being the first in November 2007. I am asking this Legislature to ban smoking in cars carrying children under 16 years of age.

In addition to the legislation adopted in Nova Scotia, laws banning smoking in vehicles with children have been passed in California; Arkansas; Louisiana; Puerto Rico; Bangor, Maine; Keyport, New Jersey; Rockland County in New York; and the Australian states of South Australia and Tasmania. A number of other states in the U.S. are in the final process of enacting this type of legislation.

Private members' bills aimed at banning smoking in vehicles carrying children have been introduced in the past couple of months in British Columbia and Ontario by members of different political stripes.

The national statistics indicating the excessively high smoking rates among people living in the north is further evidence that we must do all that we can to protect our citizens, especially our children, from the unnecessary health risks of second-hand smoke.

I believe that Yukoners are expanding their definition of what is not acceptable, and smoking in a vehicle with children present is no longer acceptable.

I also believe that it is incumbent upon us as elected representatives to do all that is necessary to protect the health of children. I was able to present a motion in the Legislative Assembly on Monday, December 10, 2007, that urged the Yukon Party government to include a section within the forthcoming anti-smoking legislation that prohibits smoking in a motor vehicle occupied by minors, and it is good to see that the third party have included in their new amendment this ban on smoking with children in vehicles because it wasn't in their original Bill No. 104.

The recommendations to the Legislature by the 2000 Select Committee on Anti-Smoking Legislation did not include a ban on smoking in vehicles occupied by minors, because the committee could not come to unanimous agreement on this.

Presently in the Yukon, children travelling in motor vehicles are legally being exposed to very concentrated levels of second-hand smoke. I encourage this House to include a prohibition provision on smoking in vehicles occupied by children in the forthcoming legislation that we are debating today.

Behaviour already mandatory in motor vehicles includes no open alcohol, no cell phones in some jurisdictions, mandatory seat belt use, car seats and the wearing of helmets on motorbikes. These are just a few examples of laws pertaining to the civil liberties of private vehicles.

I believe that, once leaders across this country and our territory reflect on the facts with regard to the prohibition of smoking in vehicles occupied by children, it will just be a matter of time before we legislate this because it's the right thing to do.

No one has the right to poison children and smoking in a motor vehicle occupied by children is, in effect, poisoning the children. The United Nations, in the 1989 *Convention on the Rights of the Child*, ratified a resolution of which a section stated, "Bearing in mind that, as indicated in the *Declaration of the Rights of the Child*, 'the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection before as well as after birth.'"

The *Declaration of the Rights of the Child*, proclaimed by the United Nations General Assembly resolution on November 20, 1959, in Principle 2 states, "The child shall enjoy special protection and shall be given opportunities and facilities, by law and by other means, to enable him to develop physically, mentally, morally, spiritually and socially in a healthy and normal manner and in conditions of freedom and dignity. In the enactment of laws for this purpose the best interests of the child shall be the paramount consideration."

We as Yukoners owe it to each and every child to provide the best that we can give. Children have no choice but to breathe second-hand smoke in a car and are not in a position to protect themselves. So if the conscience of any adult won't stop them from harming a child, if there's second-hand smoke in a motor vehicle, then maybe the prospect of a \$200 fine will help them decide to butt out before they get in the car. The motto could be, "Butt out before you ask a child to buckle up."

We are the last jurisdiction to enact smoke-free places legislation. Let's not be the last to protect children from the poisons of second-hand smoke in motor vehicles.

I look forward to going line by line and, for the most part, those are my initial remarks with regard to debate today and I look forward to further debate. It's good to see that the six recommendations of the Select Committee on Anti-Smoking Legislation are reflected in the third party's new 23 amendments, as well as the banning of smoking in vehicles occupied by minors. This is legislation that I can work with. I look forward to the proceedings here today. Thank you.

Mr. Inverarity: I'm not going to take too long; I spoke to this bill the last time it was before Committee of the Whole. I voiced most of my opinions at that particular point. I would like to take this opportunity to thank all the members who sat on the committee. I did have an opportunity, as you know, to be a substitute for part of the around-Yukon hearings

that we had. I have to say that I found them quite interesting. I had always had a bit of a lackadaisical attitude toward smoking, mostly because I do not smoke and I never actually considered it as part of my whole repertoire. However, with regard to that, my mother did get cancer when I was very young because she smoked. So, indirectly, I believe that we have all known or do know someone who has been affected by cigarette smoke. I think that it is important for us to keep that in mind.

The result of actually going to the hearings that were around the territory helped me focus and change my overall perspective regarding smoking in public places to the point where, as I indicated earlier, I am in favour of this particular bill. I look forward to the amendments that are going to be introduced. I do add the same comments that I wish we had received them a little bit earlier. However, we will do our best to try to get through them this afternoon. I would like to add that I think that the debate on this has been pretty good, overall, and I look forward to the line-by-line debate that will be coming on.

One last comment, as we get down to the actual voting on the bill: most members know that I'm being paired today with the Minister of Justice and that will affect my position here, because she is away on some personal issues, so please bear that in mind. I would like to state for the record, though, that I do support anti-smoking legislation and I look forward to the debate this afternoon.

Mr. Edzerza: I just wanted to make a few comments. I too would thoroughly like to thank the Member for Lake Laberge and the Member for Vuntut Gwitchin for being a part of the committee. I also want to thank all the officials who took the tour. I also want to thank all those who did come out and attend the meetings, even though some were held on a Saturday night. They made efforts to come out, and I really appreciated all the comments they made.

I would also like to thank the Leader of the NDP for bringing this bill forward. Even during his difficult battle with his own personal health issues, he continued to keep his spirit up while pursuing the passage of this bill. Obviously, it meant an awful lot to this individual, and I'm just thankful and appreciative of all the MLAs who agreed to bring this bill forward again under the third party.

I know that it's a real challenge, in any situation, to please everyone. That's almost an impossible task. I know there are smokers' rights and also rights of non-smokers. I probably would have felt a lot better growing up in my younger years had there been legislation like this in place. I remember many difficult and almost disgusting places where I went to eat lunch, for example, where somebody was smoking a pipe or somebody was smoking a cigar in a cafe.

With all due respect, I believe that a person can quit smoking, but it would be far more difficult to put in a new set of lungs once they're destroyed, and that could happen to someone who has never smoked a cigarette in their life. So I think the common sense and common value of a person's life should really outweigh someone's pleasure of having a smoke.

I am very pleased that this has come forward today and I look forward to all the discussion around the amendments. Thank you.

Chair: Is there any further general debate? Seeing none, we will proceed clause by clause on Bill No. 104.

On Clause 1

Mr. Hardy: There are proposed amendments to clause 1 before everybody in the Legislative Assembly. Just to clarify, when you are saying clause 1, is it the wish of the House to read off all the amendments within clause 1, or should we go paragraph by paragraph? They are not listed under sub-category (a), (b), (c).

Chair: Committee of the Whole will take clause 1 as a whole, but we will move each amendment separately.

Amendment proposed

Mr. Hardy: Mr. Chair, I move

THAT Bill No. 104, entitled *Smoke-free Places Act*, be amended in clause 1 at page 1 by deleting the definition of "employee" and substituting for it the following definition:

"'Employee' has the same meaning as in the *Employment Standards Act*;"

That is just for clarity and consistency with Yukon legislative use.

Chair: It has been moved by Mr Hardy,

THAT Bill No. 104, entitled *Smoke-free Places Act*, be amended in clause 1 at page 1 by deleting the definition of "employee" and substituting it for the following definition:

"'Employee' has the same meaning as an employee in the *Employment Standards Act*;"

Is there any debate on the amendment?

Mr. Elias: My understanding was that this was supposed to read "employer" instead of "employee".

Some Hon. Member: (Inaudible)

Chair: Is there any further debate on this amendment?

Amendment to Clause 1 agreed to

Chair: Is there any further debate on clause 1?

Amendment proposed

Mr. Hardy: Clause 1(2), starts with "employer" -- and I believe this is the one the Member for Vuntut Gwitchin was referring to.

Mr. Chair, I move

THAT Bill No. 104, entitled *Smoke-free Places Act*, be amended in clause 1 at page 1 by deleting the definition of "employer" and substituting for it the following definition:

"'employer' has the same meaning as in the *Employment Standards Act*;"

Chair: It has been moved by Mr. Hardy

THAT Bill No. 104, entitled *Smoke-free Places Act*, be amended in clause 1 at page 1 by deleting the definition of "employer" and substituting for it the following definition:

"'employer' has the same meaning as in the *Employment Standards Act*;"

Amendment agreed to

Chair: Is there any further debate on clause 1?

Mr. Mitchell: For clarity, Mr. Chair, I am just seeking direction on how we are doing this, because I have a question about the very next paragraph, but there are other amendments

within this whole clause 1 and there is no sub numbering. At what point does the Chair want to have questions asked about the next paragraph in how it relates to other paragraphs that follow it?

I am not going to be proposing amendments; I am seeking clarification.

Chair: We're on debate on clause 1, so you are free to ask questions.

Mr. Mitchell: This is a question. The definition that follows the ones that we just amended, which would be "enclosed public place," -- I won't read the whole definition but, at the end it says, "... or any other place prescribed by regulation but does not include a private residence; ..."

Further down in clause 4(1)(b), under Prohibitions, it says, "No person shall smoke in any enclosed place that is or includes ... (b) a place to which the public is ordinarily invited or permitted access, either expressly or by implication, whether or not a fee is charged for entry; ..." The clarification that I'm seeking is: which has precedence? That is, if there were to be a home-based business, somebody working as a drafts person or as an insurance person, or renting costumes or whatever it may be, operating in a private residence, would that be classed as a place to which the public is ordinarily invited or permitted access? Or will it not be, because it says in clause 1, "but does not include a private residence...?"

So these are places that are not solely for the businesses but rather some of the many home-based businesses that we have. Again, we only had the briefing this morning and the person who provided the briefing was not able to answer that question. I don't know whether the sponsor of the bill can answer it, but I just seek clarification because it could have a very different meaning depending on the answer.

Mr. Hardy: I know the Leader of the Official Opposition and I talked about this one earlier on today and I think, in our discussions around it, we came to an understanding. We have to trust that the regulations will reflect the intention of the act and that common sense will prevail; however, the Leader of the Official Opposition did give me an example. In giving the example, it became clear to me that often what we would be using is a tax structure in that sense. If a person has part of their home being used for business then, of course, this legislation would apply for the business section of the home, but not the private section. When you have a business and you operate your business out of your home, you are allowed to designate a certain portion of that house, that private residence, as a business write-off.

It's often done by a square footage and, in most cases, I believe -- and I hope when Justice does the work, they draft the regulations up so they reflect the fact of the right of the private residence being separate from the business. In most home-based businesses, if you have people coming into your business, there is a separation between your common, private residence from the room or access that you do have, and I believe that is where the line would be drawn. Of course the restrictions would be in what is identified or recognized as the business area of the home and, outside of that, it would be private residence and that would not be affected by this.

Some Hon. Member: (Inaudible)

Point of order

Chair: Mr. Fentie on a point of order.

Hon. Mr. Fentie: I am trying to contribute to this process so that all members get an opportunity for input, but I think we have to be a little more reflective of what these things are saying. If the members follow this whole area of prohibitions through to the bottom, it says something very critical to this discussion: "except as permitted by Section 5". Section 5 defines exemptions and, if I can refer the members to section 5(1) --

"No person shall smoke in any enclosed place referred to in subsection 4(1) except

"(a) if the person is within a building, structure, vehicle, or part of a building or structure that is used as a private residence ..."

I think that is important to this discussion. I hear the Member for Kluane, but he is being technical -- I'm just trying to be helpful, Mr. Chair. It goes on to say "... unless --

Some Hon. Member: (Inaudible)

Chair's ruling

Chair: On the point of order, the Chair realizes that this is not a point of order but it is a part of a debate so, Mr. Fentie, please continue.

Hon. Mr. Fentie: The proviso goes on to say "... unless a home health-care worker, probation officer, or social worker requests a person not to smoke in his or her presence while he or she is providing services; ..." That could be the same for a customer, for example.

I know the place you speak of. There's one in Riverdale, where there is a home-based business that rents -- in fact, we've probably had those costumes on a time or two. They are theme costumes for the Klondike history of the Yukon. So I think this does help the discussion because we have to reflect on the fact that, even though there are prohibitions, there is a section of the act that includes the exemptions.

Mr. Mitchell: I thank the Member for Watson Lake for his attempt to provide clarity and also the Member for Whitehorse Centre for his response.

I just want to point out that I had an opportunity for some additional reflection following the conversation I had late this morning with the Member for Whitehorse Centre. And I don't think the issue I'm raising is fully resolved by referring to the tax regulations because the tax regulations are fairly specific at talking about exclusivity.

If you're going to designate a certain amount of square footage in your house as being an office, the tax laws require that they be used exclusively or primarily for that purpose. That would apply, for example, to the business that the Member for Watson Lake was just referring to. I think that would resolve it there. However, there are other cases, such as insurance brokers, real estate appraisers and mortgage brokers, where there may be no dedicated area of the house that is the area in which the public gets to come; rather, the public comes and they sit at the kitchen table or out on the back deck or what have you.

I'm not in any way opposing this. I'm just seeking clarification because I'd like to know what it is I'm voting for, and I have some level of discomfort saying that the regulations will address all that. With all due respect for the Member for Watson Lake, part of the problem we see is that clause 4(1)(b) could be in some conflict with clause 5(1). And 5(1) provides specific examples. If it's a health care worker who is coming to visit, then smoking will be prohibited, but it doesn't do anything to protect the real estate appraisal agent who would meet with you in a home or the insurance agent who operates out of his or her home.

I'm just looking for clarification. Can I get a commitment from the government side, which will be drafting the regulations, that they will try to clarify this through the regulations so there is less doubt in the public's mind?

Hon. Mr. Cathers: I think that as was pointed out by both the Leader of the Third Party and by the Premier in comments here, there is not really an issue of lack of clarity in this now in terms of the Leader of the Official Opposition's questions. To me it appears that they have been answered. In the interests of being constructive in debate, if he has further questions, perhaps he could clarify what exactly he is asking. Perhaps I'm misinterpreting his question. I think the act is quite clear in that. As far as the regulations go and his request for a commitment, of course the government will -- if this act passes the House -- move forward with regulations that reflect the spirit and intent and legal parameters of the act as government must do on all legislation.

Mr. Mitchell: How we are doing this is a little bit unusual. The Health minister has just responded that he feels that the act is clear, but I haven't heard a response from the Member for Whitehorse Centre. If he feels that this is clear, I would just like him to say so, but the tax laws won't solve it so it has to be clear beyond the tax laws, because many home-based businesses don't have a designated area that's solely for the use of the business.

Mr. Hardy: Okay, let me try this, and I'll use an example without using names. Knowing full well that the people are going to have to make a slight adjustment within their home-based business to accommodate this -- to protect the public, to protect people that come -- they will designate an area and not have their whole private residence as a business, such as a kitchen, or mixing it up with their families. I believe some adjustment will have to happen with some of the small, home-based businesses. I believe many of them already operate separately, because it does allow them to have a private life as well.

Running a small business years ago, ultimately I did designate an area just to keep some sanity in my home. Unfortunately, and I understand the concerns the member is expressing, there will be a fair amount of adjustment on some of these amendments and the bill that we brought forward for a lot of people in their lives. We are hoping that it will not be too much of a hardship -- some changes will have to happen. I believe the language and the intent of the language gives enough direction for drafting regulations that hopefully will be clear enough and that we will all get to review as soon as possible. That is about the only assurance I can give.

A lot of this legislation that we bring forward in the House does leave unanswered questions and we have to have some leeway in allowing the regulators to draft up something that is more definite for people to follow.

Mr. Mitchell: I thank the Member for Whitehorse Centre for providing that clarification, and I will accept it. I just want to point out that I don't smoke, I have never smoked and I will never smoke, and I have a no-smoking house.

I am asking these questions on behalf of people in the public who have raised this with us as MLAs. I do want to point out that the ambiguity must be there to some extent because the answer provided by the Member for Lake Laberge as to the clarity that he felt was in the act is actually quite different from the answer that the Member for Whitehorse Centre just gave us in suggesting that people will have to adjust and will have to dedicate a finite area in their house.

I will accept the words of the Member for Whitehorse Centre that that is what this clause means, and now we at least have an understanding that home-based businesses will need to make that designation. Thank you.

Amendment proposed

Mr. Hardy: The next clause amendment will be -- it starts "group living facility."

I move

THAT Bill No. 104, entitled *Smoke-free Places Act*, be amended in clause 1 at page 1 by deleting the expression "in the care of the Minister" in the definition of "group living facility" and substituting for it the expression "operated by the Government of Yukon."

Chair: It has been moved by Mr. Hardy

THAT Bill No. 104, entitled *Smoke-free Places Act*, be amended at clause 1 at page 1 by deleting the expression "in the care of the Minister" in the definition of "group living facility" and substituting for it the expression 'operated by the Government of Yukon.'

Amendment to clause 1 agreed to

Chair: Is there any further discussion on clause 1?

Amendment proposed

Mr. Hardy: If members feel that we're skipping ones that are not being amended and need to be discussed, please make sure your comments are known. But I'll be going through the amendments.

I move

THAT Bill No. 104, entitled *Smoke-free Places Act*, be amended in clause 1 at page 1 by adding the following definition to clause 1 immediately after the definition of "inspector":

"'licensed premises' means licensed premises as defined under the *Liquor Act* including an outdoor eating or drinking area that is part of or operated in conjunction with the premises;"

Chair: It has been moved by Mr. Hardy

THAT Bill No. 104, entitled *Smoke-free Places Act*, be amended in clause 1 at page 1 by adding the following definition to clause 1 immediately after the definition of "inspector":

"'licensed premises' means licensed premises as defined under the *Liquor Act* including an outdoor eating or drinking area that is part of or operated in conjunction with the premises;"

Amendment to Clause 1 agreed to

Chair: Is there any further debate on Bill No. 104, clause 1?

Amendment proposed

Mr. Hardy: I move

THAT Bill No. 104, entitled *Smoke-free Places Act*, be amended in clause 1 at page 1 by deleting the definition of "Minister" and substituting for it the following definition:

"'Minister' means the Member of the Executive Council to whom the administration of this Act is assigned."

Chair: It has been moved by Mr. Hardy

THAT Bill No. 104, entitled *Smoke-free Places Act*, be amended in clause 1 at page 1 by deleting the definition of "Minister" and substituting for it the following definition:

"'Minister'" means the Member of the Executive Council to whom the administration of the Act is assigned."

Amendment to Clause 1 agreed to

Chair: Is there any further discussion on clause 1?

Amendment proposed

Mr. Hardy: Mr. Chair, I move that Bill No. 104, entitled *Smoke-free Places Act*, be amended in clause 1 at page 2 by deleting the definition of 'smoke' and substituting for it the following definition: "'smoke'" means to smoke, hold, or otherwise have control over an ignited tobacco product;"

Chair: It has been moved by Mr. Hardy

THAT Bill No. 104, entitled *Smoke-free Places Act*, be amended in Clause 1 at page 2 by deleting the definition of "smoke" and substituting for it the following definition:

"'smoke' means to smoke, hold, or otherwise have control over an ignited tobacco product;"

Is there any discussion on this amendment?

Amendment to Clause 1 agreed to

Chair: Is there any further discussion on clause 1?

Amendment proposed

Mr. Hardy: Mr. Chair, I move

THAT Bill No. 104, entitled *Smoke-free Places Act*, be amended in clause 1 at page 2 by deleting the definition of "tobacco" and substituting it for the following definition:

"'tobacco product' means a product manufactured from tobacco and intended to be smoked, or used in a smokeless form;"

Chair: It has been moved by Mr. Hardy

THAT Bill No. 104, entitled *Smoke-free Places Act*, be amended in clause 1 at page 2 by deleting the definition of "tobacco" and substituting it for the following definition:

"'tobacco product' means a product manufactured from tobacco and intended to be smoked, or used in a smokeless form;"

Hon. Mr. Cathers: I just sent a note over to the Leader of the Third Party regarding this. The only comment I

would make is that in talking to officials from my department, the suggestion was that it might be a little clearer in the intent of this if, rather than using the word "used" in the last part of the proposed amendment, the word "consumed" be used instead.

Subamendment proposed

Hon. Mr. Cathers: I move

THAT the amendment to the definition of "tobacco" in clause 1 of Bill No. 104, entitled *Smoke-free Places Act*, be amended by:

deleting the word "used" and substituting the word "consumed" for it.

Chair: Mr. Cathers has moved

THAT the amendment to the definition of "tobacco" in clause 1 of Bill No. 104, entitled *Smoke-free Places Act*, be amended by:

deleting the word "used" and substituting the word "consumed" for it.

Subamendment agreed to

Amendment to Clause 1 agreed to

Chair: Is there any further debate on clause 1?

Amendment proposed

Mr. Hardy: Mr. Chair, I move

THAT Bill No. 104, entitled *Smoke-free Places Act*, be amended in clause 1 at page 2 by deleting the definition of "tobacco-related product".

Chair: It has been moved by Mr. Hardy

THAT Bill No. 104, entitled *Smoke-free Places Act*, be amended in clause 1 at page 2 by deleting the definition of "tobacco-related product".

Amendment to Clause 1 agreed to

Chair: Is there any further debate on clause 1?

Mr. Mitchell: Mr. Chair, since this would bring us to the end of the proposed amendments on clause 1, before we move on to clause 2, I would like to take this opportunity to raise another issue: the definition of "restaurant".

In the definition of restaurant, if you move down, it says "food take-out establishment, grocery store that contains a snack bar or other place where food is served, and any other eating establishment or outdoor eating area that is part of or operated in conjunction with a restaurant;"

The concern I have is that, to me, the intent of this bill is the protection of the innocent public -- that is, to make sure that people are not without choice being subjected to second-hand smoke at the will of others. That would include, of course, employees.

In this definition, I can think of a particular establishment - it was not open last year, but hopefully will open again -- at Pelly Crossing, for example.

It's a 100-percent take-out establishment: you go to the counter, you buy your food, you go over and you sit down at one of two tables.

I know, on at least one occasion when I have been there, the Member for Mount Lorne also arrived there after a several

hour drive, bought his snack, sat down and took the opportunity to take a smoke break with his food.

He was not putting me at risk because I was not sitting at his table; he was not putting the owners of the establishment or the employees at risk.

I am wondering -- because I don't want to get into drafting amendments on the fly -- whether the government might see fit, by regulations, to find a way to accept outdoor areas where there are no service personnel put at risk: it's take-out; people go over and sit at a picnic table; it's on the grounds of the establishment, so therefore it would be considered an outdoor eating area that is part of an operation in conjunction with a restaurant. But it's the travelling public who are making use of it. This definition would actually proscribe and prevent a customer -- by themselves, being the only person there -- from sitting and having a cigarette after their meal, and I don't see why we are doing it.

The intent of this bill is second-hand smoke. If we wanted to regulate people from smoking, then we should ban smoking, and that is not what we are doing. I would seek whether the Health and Social Services minister feels that there might be some room to narrow that a little bit to areas that don't affect employees, that are self-serve, and where there should be no health risk to anyone except the smoker.

Hon. Mr. Cathers: With regard to the member's proposal, as the member should be aware, in legislation you cannot do anything in regulation that is not permitted by the legislation. The advice that I have received from my department and from Justice officials is that, based on the current wording of Bill No. 104 and the amendments that have been passed to this point, what is being proposed by the Leader of the Official Opposition would not in fact be in order. If the member wishes to see that change, then the member's avenue for doing so would be to propose an amendment to the act during this debate in Committee of the Whole.

Mr. Hardy: To bring some attention back to what the select committee heard when they went through all the communities and solicited input, one comment regarded an equal playing field. Businesses were very concerned, if we pass a law, that it be equal -- so some outdoor patio decks, for instance, would fall under the restrictions but, because it is a picnic table on the ground, they wouldn't, and that would not be equal to the businesses across this territory.

I know the facility. I have stopped there many times. I have actually had people sit at my table and light up a cigarette, and I don't appreciate that. I can smell it and it affects my eating. I have seen families smoking while children are trying to eat their food. We have to remember, and I believe the Member for Vuntut Gwitchin eloquently pointed out the necessity to remember those who are innocent, who haven't got a voice, and how we protect them.

It should not be considered a hardship to get up and walk away from that space and have your cigarette standing. There is a lot of wilderness there, so one could stand away from people, have their cigarette and come back if they wish. As to an individual doing it -- this is an old quote, and I recently heard the Mayor of Whitehorse say it. "You have to consider the needs of

the many over the wants of the individual." I read that regarding land.

In this case I support this, because I think adjustments can be made. I think people learn by habit so after awhile they may have their meal and then go and have their cigarette 20 feet away out of that area. I think that is just a consideration; it is in the legislation, but it ensures that we do treat businesses equally. I don't want to start heading down a road where some businesses get an advantage over others. We do remember who we are trying to protect -- not just the workers, but the children as well.

INTRODUCTION OF VISITORS

Mr. Mitchell: I just want to recognize that a former Member of the Legislative Assembly for Riverside and the current head of the Yukon branch of the British Columbia and Yukon Canadian Cancer Society has joined us in the gallery this afternoon. He has worked hard toward this bill, and I would like to acknowledge his presence. Mr. Scott Kent.

Applause

Chair: Is there any further discussion on Bill No. 104, clause 1?

Seeing none, we will proceed with clause 2.

Clause 1 agreed to amended

On Clause 2

Amendment proposed

Mr. Hardy: Mr. Chair, I move

THAT Bill No. 104, entitled *Smoke-free Places Act*, be amended at clause 2(2) at page 2 by deleting the expression "or the use of tobacco by a group prescribed by regulation for a prescribed purpose."

Chair: It has been moved by Mr. Hardy

THAT Bill No. 104, entitled *Smoke-free Places Act*, be amended at clause 2(2) at page 2 by deleting the expression "or the use of tobacco by a group prescribed by regulation for a prescribed purpose."

Is there any discussion on the amendment?

Amendment to Clause 2(2) agreed to

Chair: Is there any further debate on clause 2?

Clause 2 agreed to as amended

On Clause 3

Chair: Is there any debate on clause 3?

Amendment proposed

Mr. Hardy: I move

THAT Bill No. 104, entitled *Smoke-free Places Act*, be amended in clause 3 at page 2 by deleting the heading for clause 3 and by substituting the expression "Administration of Act" for it.

Chair: Mr. Hardy has moved

THAT Bill No. 104, entitled *Smoke-free Places Act*, be amended in clause 3 at page 2 by deleting the heading for clause 3 and by substituting the expression "Administration of Act" for it.

Is there any discussion on this amendment?

Amendment to Clause 3 agreed to

Clause 3 agreed to as amended

On Clause 4

Chair: Is there any debate on clause 4?

Amendment proposed

Mr. Hardy: I move

THAT Bill No. 104, entitled *Smoke-free Places Act*, be amended in clause 4(1)(a) at page 2 by deleting the said clause and substituting the expression "(a) an enclosed public place of the Government of Yukon, a city, town or village or any agency thereof, or of a corporation, partnership, sole proprietorship, or a society;" for it.

Chair: It has been moved by Mr. Hardy

THAT Bill No. 104, entitled *Smoke-free Places Act*, be amended in clause 4(1)(a) at page 2 by deleting the said clause and substituting the expression "(a) an enclosed public place of the Government of Yukon, a city, town, or village, or any agency thereof, or of a corporation, partnership, sole proprietorship, or a society;" for it.

Amendment to clause 4(1)(a) agreed to

Chair: Is there any further discussion on clause 4?

Amendment proposed

Mr. Hardy: I move

THAT Bill No. 104, entitled *Smoke-free Places Act*, be amended in clause 4(1)(c) at page 2 by deleting the expression "Territorial" and substituting the expression "Yukon" for it.

Chair: Mr. Hardy has moved

THAT Bill No. 104, entitled *Smoke-free Places Act*, be amended in clause 4(1)(c) at page 2 by deleting "Territorial" and substituting the expression "Yukon" for it.

Amendment to Clause 4(1)(c) agreed to

Chair: Is there any further discussion on clause 4?

Amendment proposed

Mr. Hardy: I move

THAT Bill No. 104, entitled *Smoke-free Places Act*, be amended in clause 4(1) at page 3 by adding immediately after clause 4(1)(p) the following clause, "4(1)(q) a vehicle in which any occupant is under the age of eighteen years;" and by renumbering the remaining clauses of this section accordingly.

Chair: It has been moved by Mr. Hardy

THAT Bill No. 104, entitled *Smoke-free Places Act*, be amended in clause 4(1) at page 3 by adding immediately after clause 4(1)(p) the following clause, "4(1)(q) a vehicle in which any occupant is under the age of eighteen years;" and by renumbering the remaining clauses of this section accordingly.

Is there any discussion?

Mr. Mitchell: Yes, I have some points I'd like to make about this particular proposed amendment. First of all, I want to say I strongly support in principle the object of the amendment, which is to protect young people who are unwitting victims by being passengers in motor vehicles, where they are in an enclosed area and may be subjected to the smoke of

the drivers, be they their parents or guardians, neighbours or friends.

In particular, the intent is to make sure that infants, toddlers, school-aged children and young children be so protected. I've had a look at how this is done in other jurisdictions and I know that, in Ontario, they have chosen the age as being 16. The logic for that is that, at the age of 16, someone can be a driver, in and of themselves. Now, some jurisdictions distinguish between driver and passenger, and that is a difficult situation. I think that this wording is good because it gets around the problem of the driver being 25 and the passenger being 18, 17 or 16, where the driver can't smoke and then they switch places and the driver is now able to smoke because the passenger is over the age.

I support the wording of just "occupant", but I am troubled by the age being 18 because, by the way this currently reads, if someone was 17 or 17-and-a-half years old or anything short of 18 and they are driving up the highway on their own -- it could be the summer and maybe they are driving up the Klondike Highway and heading out to do some work in the bush for a mining company -- they have a four-hour drive and they are not allowed to smoke in their own vehicle. Again, the intent of this bill as I understood it was to protect people from being the victims of second-hand smoke.

I see there is some puzzlement on the other side of the floor. We asked in the briefing today whether "any occupant" would also include the driver when the driver was the only occupant, and we were told yes, that is what this wording means.

I find that to be problematic. I do appreciate that, earlier today, I did receive a call from the Member for Whitehorse Centre, because this amendment, as we saw it earlier this morning, had read 19 years of age and he changed it to 18 and asked if that would be sufficient.

I thank him for doing that, but I still think that, by the time someone is 16 years old, or 17 years old and we give him or her the right or the authority or the privilege of holding a driver's licence to drive a vehicle -- they can own their own vehicle -- when there are no other passengers involved, I find it difficult to see why we are telling that person they can't smoke.

They can pull over to the side of the road and lean against the door of the pickup and smoke to their heart's content -- they can smoke half a pack of cigarettes -- but they can't smoke in their own vehicle, despite the fact that weather can be inclement or it may not always be safe or advisable to pull over and get out of the vehicle.

I would like to propose an amendment. I think I have explained the reasons why I am making this amendment: it's to have full clarity that we are not differentiating between what people are allowed to do legally under the law, which is that they can be smokers. They can't purchase cigarettes but they can smoke.

Subamendment proposed

Mr. Mitchell: I move

THAT the amendment to add a clause 4(1)(q) to Bill No. 104, entitled *Smoke-free Places Act*, be amended by:

deleting the word "eighteen" and substituting the word "sixteen" for it.

Chair: It has been moved by Mr. Mitchell

THAT the amendment to add a clause 4(1)(q) to Bill No. 104, entitled *Smoke-free Places Act*, be amended by:

deleting the word "eighteen" and substituting the word "sixteen" for it.

Hon. Mr. Fentie: The Leader of the Official Opposition has just put an amendment on the floor of this Legislature. We experience much ado about contraventions, and I want to point out to the member opposite that legally you can't even purchase cigarettes until you are 18 years old. That is why the amendment to the act is remaining consistent with other statutes and legal requirements.

Mr. Mitchell: I thank the Member for Watson Lake for his comments. I would point out that there are many things that one cannot purchase legally but one is fully entitled to use legally. In this case we have no statutes, federal or territorial that I am aware of, that prevent or preclude 18-, 17- or 16-year-olds from smoking. That is why I suggested using the age of 16 because at the age of 16 they are able to drive their own vehicle. They have a smoking pit outside of F.H. Collins although I don't think that is a very advisable thing to have.

I am only suggesting that we are not banning smoking, but now the member is suggesting that we should use the logic of whether it is legal to purchase the item as to whether it is legal to consume the item. If the member thinks that, I encourage him to bring forward legislation banning the consumption of tobacco by anybody under the age of 18, if that is his belief. I don't think he has proved anything by saying that you can't purchase the cigarettes. I am just trying to suggest this.

The reason I am suggesting it is that I don't believe that we should be passing legislation that encourages people to be scofflaws, because once somebody decides to ignore one section of the law, that may affect their respect for other sections of the law. I know the Member for Watson Lake may have a different view of this, but I am only suggesting that you will have an awful lot of 16- and 17-year-old drivers heading up the highway smoking to their heart's content. Are we really going to ask the RCMP to be enforcing that by trying to make judgement calls on whether they are looking at a 17-year-old driver or an 18-year-old driver? I think that is a waste of resources.

So, again, I think we should pass legislation that people will follow and not try to pass legislation knowing in advance that we know some people -- as some members have suggested in private -- won't follow, but it's a good idea.

Chair: Is there any further debate on the subamendment?

Mr. Hardy: I just want to add a couple comments regarding this. First, I'd like to clarify that it says "under the age of 18". It's not 17- and 18-year-olds. This is just to clarify a statement that the former Speaker had mentioned. So, once they turn 18, of course, they are. So we're really talking about 17-year-olds, truthfully.

There are restrictions throughout the world right now and mostly in North America about cellphone use. Do you think everybody is going to follow those? Of course, they're not.

They are there to protect the public. There are restrictions about drinking and driving and there is a limit on how much you can drink before you should not drive, which is .08, for instance. Do we have no drinking and driving out there? Of course, there is a lot of it, and in Yukon, it's extremely high. We continue to try to deal with that.

It is important, and I think it's a lot clearer if it's tied in with the legal purchase of the product. It sends two very clear messages to the person -- the young person in this case. First, they can't purchase tobacco products, and second, they can't be driving and smoking. We have to consider how skilled the drivers are at this stage. A lot of accidents are being identified now from overuse -- I shouldn't say "overuse" -- from multi-tasking while people try to drive. And the younger they are, the fewer skills they have as a driver.

We have a graduated licensing program, for instance. They can't get a licence at 16; they can only get a partial licence, and it's a graduated licence. It takes 18 months to get licensed. It's bringing things closer together, so there is a clear message. So, harmonization is good.

This is not the first suggestion. Lots of the states -- California, for example and other examples -- are using the figure 18-year-old. I think it is a legitimate one. If a person really wants to smoke then it is not bad that they pull over and have their cigarette and then get back in the vehicle. It is a lot safer in many cases, especially if they are an inexperienced driver. Again, let's not forget that it is not just about second-hand smoke.

If we can discourage smoking in young people -- and we're talking young people because a 17-year-old is young -- I know that some are going to be facing that soon, but anyone who has raised teens has realized that it is a tough period of their life and they don't always think clearly about consequences. We do want to give them some guidance and we have to have some regulations in place and rules to give them that guidance.

So, as was mentioned, I did initially have 19, but with discussion with other people, 18-years-old was one that I thought was a compromise. I think it is legitimate. We should never back off from bringing in a law just because we think that some people may break it. That is a very, very weak defence, because that means that we would still have drinking and driving. That means that we wouldn't be using seat belts. That means that the majority of our laws would never work. There are always people out there that will break them. I hope that people do take breaks and don't drive for four solid hours anyway.

Mr. McRobb: I want to go on record to reinforce the concerns that were put on the record by the Member for Copperbelt.

First of all, it is very important to review the facts here. There is no law against someone smoking at ages 16 or 17 in the Yukon Territory.

If this amendment passes as moved, the people in that category cannot drive their own vehicle while smoking. We are going beyond the intent of protecting innocent parties who are subject to second-hand smoke. This was the very concern I stated in my opening remarks -- what is the intent here today? Is it to protect people from second-hand smoke, or is it to en-

gage in some practice of social engineering? I believe this amendment does exactly that.

The Member for Whitehorse Centre thinks this is funny -- it is not funny. He talks about the graduated licensing system. That applies only to Yukon drivers. What about drivers coming up the Alaska Highway at that age who have their licence? Do they have to butt out at the border for fear of getting busted for smoking in their vehicle, even when they are by themselves? This is ridiculous.

There is such a thing as upholding public respect for a law, and there is also another factor about turning innocent, law-abiding people into criminals. In effect, that is what this clause would do.

As legislators, we have to ensure that our laws are written as well as possible to avoid projecting the image that a law is intended to be broken or not enforced. Several members last fall talked about the importance of passing proper legislation. Sure, this bill isn't perfect, but with a slight amendment as proposed, we can get very near the point of perfection on this and not render illegal something that is perfectly legal now.

So, Mr. Chair, again I'm asking for a measure of reason here. A person 16 or 17, driving their own vehicle, whether they're from the Yukon or another jurisdiction, and they smoke -- there is no reason for us to outlaw that. This bill, its real intent here, is to protect people from the health risks of second-hand smoke, especially children. Point made.

Hon. Mr. Lang: Listening to the member opposite on the age question, I'm amazed at the Member for Kluane, who would bring a thing like that to the floor of the House. What we're doing here is we're talking about the health of Yukoners and the health of the community as a whole. An individual is restricted from buying cigarettes at the age of 18 and, in turn, if they are under the age of 18, they're restricted on smoking in a vehicle. That's all we're saying. We're saying, if we put a position in the territory on age for buying cigarettes and consumption, then let's work with that. I mean, to bend that is folly.

Hon. Mr. Kenyon: I think we're going quite sideways on this one. My impression is, by having the original drafting by the Leader of the Third Party at the age of 19, it leaves a person able to purchase cigarettes at 18 but be charged for consuming and exposing himself or herself in their own car. By dropping it to 18, then obviously, if they can buy the cigarette and want to smoke it in the car, well, you know, that's the thing.

By opening everything else up, somehow we're ending up with cellphones and everything else -- that's a debate for another day. But right now what we're trying to correct is the silliness -- for want of a better word -- of someone who can legally purchase cigarettes and then be charged for smoking in their own car. It's certainly a quagmire and a legal loophole and we should get out of there, but the other debates maybe should be left for another day.

Hon. Mr. Fentie: Mr. Chair, I think that we have to get right to the heart of the matter. We now have the Official Opposition calling tax measures to ensure that we have a deterrent as a tax grab.

Chair's statement

Chair: Order please. Earlier today I did rule out the Leader of the Official Opposition's comments on questions with regard to Question Period on taxation. So I would actually refer to all members once again to keep the debate on Bill No. 104 and this subamendment.

Hon. Mr. Fentie: Well, we've had a quite a day today, and now the Official Opposition is actually promoting the use of tobacco for 16-year-olds and 17-year-olds because they might be driving to a job somewhere.

Mr. Chair, this Assembly has to address these kinds of issues. The Leader of the Third Party has tabled an amendment so we are consistent with other statutes in the territory. If you can't buy tobacco products until you are 18 years old, how is it reasonable to consider the fact that you would allow a 16-year-old to smoke in a vehicle? It doesn't even make sense.

Furthermore, the purpose of what we're doing is to stop young people from smoking and from even starting to smoke, not promoting it because they might be going to work. I can't believe what the Official Opposition is doing here, Mr. Chair, and it is vital to the discussion that we all address these kinds of issues that come forward because it gets to the heart of the matter on what the Official Opposition stands for and what the rest of this Assembly stands for.

Mr. McRobb: Mr. Chair, I think that was a rather unfair characterization. First of all, it branded us as the Official Opposition and standing for allowing smoking by our young citizens of the Yukon. Nothing could be further from the truth.

What we are asking for is to avoid a scofflaw. First of all, an example I gave was an out-of-territory driver coming up the Alaska Highway. Another example given was someone who did not purchase the cigarettes, who is 16- or 17-years-old, who is smoking while driving. Yet the Premier avoided those critical parts of the discussion.

We are just trying to make a law that is reasonable, that people can respect, and that doesn't turn law-abiding citizens into criminals or deprive rights. Contrary to what the Premier said, the intent of this bill is not to ban smoking by anybody; it is to prevent the health-related negative impacts of smokers to non-smokers. That is the intent of this bill. If the Premier wants to bring forward a bill that bans smoking, let him do so. We'll see how that is treated. But that is completely separate from this bill and today's discussion. Case closed. This amendment makes sense.

Mr. Edzerza: I was just listening to the Member for Kluane. It is a very weak argument to say that you are going to charge someone driving up the highway if they are smoking and they are 16. I think we all know in the United States it is not compulsory to have insurance on a vehicle, and they aren't pulled over at the Yukon border and turned back. Mind you, some of them should be, the way they drive, but the facts are that is a more serious issue than what's on the floor here today with somebody smoking a cigarette. I would like to recommend that we try to keep this in perspective as best as possible.

Chair: Any further debate on the subamendment?

Some Hon. Members: Division.

Count

Chair: A count has been called.

Some Hon. Member: (Inaudible)

Point of order

Chair: Mr. McRobb, on a point of order.

Mr. McRobb: I believe the rules of this Assembly require two members to stand and call division. I saw only one.

Chair's ruling

Chair: We need two members to call for a count.

Some Hon. Member: (Inaudible)

Point of order

Chair: Mr. Kenyon, on a point of order.

Hon. Mr. Kenyon: Since my stroke, I have been allowed to sit during these types of things. I did call division. Two members did. I thank the member opposite for recognizing that disability.

Chair's ruling

Chair: On the point of order, we will proceed with a count.

Division bells will ring for five minutes.

Bells

Chair: Order please. Committee of the Whole will now come to order. We're in the process of doing a count on the subamendment deleting the word "eighteen" and substituting the word "sixteen" for it.

All those in favour, please rise.

Members rise

Chair: All those opposed, please rise.

Members rise

Chair: The results are three yeas, 10 nays.

Subamendment negated

Chair: Any further discussion on the amendment?

Amendment Clause 4(1) agreed to

Chair: Is there any further debate on clause 4?

Amendment proposed

Mr. Hardy: I move

THAT Bill No. 104, entitled *Smoke-free Places Act*, be amended in clause 4(4) at page 4 by deleting the clause and substituting the following clause for it:

"No manager or person in charge of an enclosed place referred to in subsection (1), of a place referred to in subsection (2), or of a school shall permit a person to smoke in such a place or on the school grounds."

Chair: It has been moved by Mr. Hardy

THAT Bill No. 104, entitled *Smoke-free Places Act*, be amended in clause 4(4) at page 4 by deleting the clause and substituting the following clauses for it:

"No manager or person in charge of an enclosed place referred to in subsection (1), of a place referred to in subsection (2), or of a school shall permit a person to smoke in such a place or on the school grounds."

Is there any discussion on this amendment?

Amendment to Clause 4(4) agreed to

Chair: Is there any further debate on clause 4?

Mr. Mitchell: I have a question for clarification now that we've gone through all the amendments for clause 4. In 4(1)(p), it says, "a vehicle used in the course of employment while carrying two or more persons."

I just want to be clear. Does that mean that if there are two people driving in the course of their employment -- and I can think of a very good example that happens weekly, which is in my former occupation of real estate -- such as during the house tours where people are driving two or three to a vehicle in their own private vehicle. If there is a vehicle that is only containing smokers -- two people who both smoke are driving and they want to smoke in their vehicle -- they obviously don't smoke when they go into houses -- would this prohibit people from making that decision? We're not talking about 16- or 17-year-olds; we're talking about 40- or 45- or 50-year-olds. The way I read this, it says that even in a private vehicle which is used in the course of employment with two people driving, they could not both choose to smoke. I'm just asking this for clarification. Thank you.

Mr. Hardy: My understanding of course is this would and there are reasons for it, of course. It goes back very simply to making sure that the law applies equally to all and not to some businesses and others, not because they're using their private vehicle. However, sometimes a person is in a situation where they have to ride with somebody, even if they're both adults. They both are really working; they're colleagues; that person smokes and it may again inflict tobacco products which can cause illness, cancer or death upon that person. There are ways around it very simply. Pull over, step out like you do if you had children in the car and have your cigarette. An example that the member just alluded is that, in most cases -- they are 10- or 15-minute drives. When they get to their site, they can have their tobacco product, whatever their choice is, before they go into the building or show the building or whatever, if they're realtors.

There are ways around it to ensure the person can still smoke. It's only when you have another person in the vehicle. We have to remember -- and there seems to be a little confusion here -- that we are protecting the rights of non-smokers but we are also trying to encourage people to address their habit and not subject themselves to this extremely dangerous substance. Being in an enclosed vehicle is one of the worst places to be when somebody smokes, whether one smokes or not. Second-hand smoke is a killer. There is no question about it and in this case we are trying to save lives and prevent very serious illness. I think everybody here, including the member that raised this very legitimate concern, agrees with that.

Again, as I said, some of our laws will create a bit of discomfort but we hope people will recognize the reason that they are being brought in. It's really to help them and those around them, such as their families.

Mr. McRobb: A lot of the arguments raised in the previous amendment apply here. A good example that comes to mind is the long-haul truck drivers. Take for example LTI --

Linden Transport. A lot of them are double drivers. A lot of them smoke. Quite often when coming through the Yukon, one of them is in the sleeper, curtain down and vents open. Are we now saying by this law that we are now prohibiting either driver from smoking in that truck? If they are pulled over by the RCMP and there is a freshly extinguished cigarette in the ashtray, under this law could at least one of those drivers be charged? I would say that is exactly what the Member for Whitehorse Centre is saying. Obviously, that is wrong.

I think that this particular quirk in this bill needs to be rectified. I heard the Health minister say in the fall it is important to get this bill right, especially to avoid legal challenges. Now, it seems he is taking a different tack. In the fall, he mentioned the potential cost of legal challenges. I think it is only fair at this time to again raise this point. There is a potential here for legal challenges that come at great cost to Yukoners. I am concerned about that.

I'm concerned about the impracticality of this. If you have two or more people in a vehicle, and everybody smokes, how can smoking not be allowed under this law? I say that's ridiculous.

I think there is a lot of good in this piece of legislation. Let's not give it a bad name. I could just hear what a lot of those truckers would have to say about this law, and that's only one example. Another one, already explained, was realtors in a car. There are all kinds of occupations. There are all kinds of private individuals, where every occupant of a vehicle could be a smoker. Now we're banning that?

Again, I want to bring us to the purpose of this whole legislation -- what I was led to believe -- and that is to protect non-smokers. Why are we banning smokers from smoking in their own vehicles or a company vehicle, like the long-haul truck driver? Why are we doing that?

Hon. Mr. Lang: Part of this is to encourage people to not smoke, and a truck is a workplace. The truck is a tool that is owned by a company, and it is a workplace. What we're trying to do with this is to encourage people to curb their smoking in their workplace.

So, as far as the member opposite, with that weak argument, it's just that -- it's a weak argument. We are trying to encourage people in the workplace to butt out for their own health and the health of their surroundings and individuals in the community.

I think this is a prime example of a workplace -- of a confined area. The member talks about individuals smoking in a truck. What if one guy smokes and the other doesn't? And that individual has to sit in that workplace and tolerate an individual smoking? That in itself is unfair to that individual.

Never mind fairness, Mr. Chair, it is unhealthy. We are talking about the health of our country, Mr. Chair. So, let's move on.

Hon. Mr. Kenyon: It's interesting the tack that the Liberal Party is taking on this, sort of going against what we are trying to do. I think that the spirit of the act is to restrict smoking in the workplace.

Some Hon. Member: (Inaudible)

Point of order

Chair: Mr. Mitchell, on a point of order.

Mr. Mitchell: I quite clearly stood up and asked for a question of clarification. I did not move an amendment. I did not take a tack. I asked if this is what it meant.

Chair: Order please.

Chair's ruling

Chair: There is no point of order.

Hon. Mr. Kenyon: For the record, to the Member for Copperbelt, it was not so much his comments that I was going after, but the comments from the Member for Kluane. I do think the question goes back and for clarification, the Member for Copperbelt refers to his profession, or perhaps former profession, as a real estate agent. Either that member has not used any deductions for income tax for that vehicle which he characterized as private, or perhaps he should seek some much better tax advice. It's a workplace.

Chair: Is there any further debate on clause 4?

Clause 4 agreed to as amended

On Clause 5

Chair: Is there any debate on clause 5?

Amendment proposed

Mr. Hardy: I move

THAT Bill No. 104, entitled *Smoke-free Places Act*, be amended in clause 5(1)(c) at page 4 by adding the expression "or senior citizens over the age of 65" immediately after the expression "care of veterans".

Chair: It has been moved by Mr. Hardy

THAT Bill No. 104, entitled *Smoke-free Places Act*, be amended in clause 5(1)(c) at page 4 by adding the expression "or senior citizens over the age of 65" immediately after the expression "care of veterans".

Is there any debate on this amendment?

Amendment to Clause 5(1)(c) agreed to

Chair: Is there any further debate on clause 5?

Hon. Mr. Cathers: I would like to introduce and preface my remarks by noting that during the tour there was one area of clause 5 that had been identified by policy people of Health and Social Services as not being in accordance with what was found in the court case testing Whitehorse's bylaw, and as the Member for Vuntut Gwitchin and the Member for McIntyre-Takhini will be aware, that is clause 5(7). The Member for Porter Creek South and the Member for Mount Lorne should be aware. This was identified at all the hearings held by the all-party committee noting that this change would be required.

Amendment proposed

Hon. Mr. Cathers: I move

THAT Bill No. 104, entitled *Smoke-free Places Act*, be amended in clause 5(7) at page 5 by:

deleting "A manager shall ensure that a person who refuses to comply with this Act does not remain in the enclosed public place, on those grounds, or in that area."

and substituting the following clause for it:

"A person who refuses to comply with this Act shall not remain in the enclosed public place, on the grounds, or in that area."

Chair: It has been moved by Mr. Cathers

THAT Bill No. 104, entitled *Smoke-free Places Act*, be amended in clause 5, subsection 7 at page 5 by:

deleting "A manager shall ensure that a person who refuses to comply with this Act does not remain in the enclosed public place, on those grounds, or in that area."

and substituting the following clause for it:

"A person who refuses to comply with this Act shall not remain in the enclosed public place, on the grounds, or in that area."

Mr. Mitchell: I just want to speak briefly to the amendment and I want to thank the Health and Social Services minister for bringing that amendment forward. It answers a concern that I expressed at second reading about the enforceability of laying the responsibility on the manager and as to how the manager would effectively prove that they had discharged their due diligence. It puts the onus on the person who is non-compliant, that if they don't vacate the premises, then they are in violation of the law. I think it improves the act and I support it.

Hon. Mr. Cathers: I thank the Leader of the Official Opposition for his comments. I would note also just further to this topic for those who may not be as familiar with Bill No. 104 as the members of the committee, or the former all-party committee, are and the member of the third party is, that if the amendment I have proposed passed, the bill would still require in the subsection immediately previous, that being 5(6), that the manager, owner or proprietor shall request the person to immediately stop smoking or holding lighted tobacco, et cetera, meaning that there is still an obligation for the owner or manager to inform an offender that an offence is being committed, request that they cease and desist that offence, and cease providing that person with the goods or services customarily provided in that public place until they cease that contravention.

However, the revised wording of the proposed replacement of 5(7) would clearly identify that it is the offender who is responsible for their behaviour. It would respect the determination of the courts in the City of Whitehorse bylaw test, when it was essentially determined that the manager could be compelled to report but cannot be compelled to act as an enforcement agent under the act and, therefore, I think that explains this section adequately and would encourage members to support it.

Mr. Hardy: Keeping in mind that we have a lot of clauses still to go through for a very important piece of legislation in front of us, I have no problem with this change; although I possibly would have wanted a little bit stronger language. It still, I think, catches the intent of what we're trying to achieve here. The indications are that both the Yukon Party and the Liberals are in support of this change and, because of that, I will support it as well.

Chair: Is there any further discussion on the amendment?

Amendment to Clause 5(7) agreed to

Chair: Is there any further discussion on clause 5?

Mr. McRobb: In my opening remarks I identified an amendment that I would be bringing forward to allow ventilated smoking areas inside of bars. I do have an amendment that I will be tabling to that effect.

First I would like to spend a minute to discuss it. This was raised previously when the bill came forward and I believe that the Member for Whitehorse Centre, at the time, said that those enclosed ventilated smoking areas don't work. That piqued my curiosity and recently, while attending the Mineral Exploration Roundup in Vancouver, I took the time to visit some licensed premises to see first-hand how those ventilated enclosed smoking areas worked.

Mr. Chair, I can tell you as a non-smoker, not only did I not smell smoke outside the ventilated areas, I couldn't smell smoke inside the ventilated areas either. The ones I visited were very well-ventilated to the exterior of the building and the smoke basically goes straight up and is sucked straight out.

I say it's still within our ability to allow these enclosures, as mentioned. I believe the interim period in British Columbia is coming to an end, and the apparatus and equipment will be available on the market for reduced prices, I would expect, which basically counters the argument that the cost of these facilities is prohibitive to businesses.

I see the Member for Whitehorse Centre laughing again. Mr. Chair, I take this matter seriously because a lot of my constituents are concerned about this. As I mentioned before, it's going to basically terminate their ability to socially interact in their community. It's going to force them to change their lives. It's going to reduce the quality of life in some communities. And if members don't believe it, I say, why don't you go visit some of these communities?

The smoking consultation tour heard expressions to this effect, not only in Haines Junction, but in Ross River and Teslin as well, and probably other communities too. Again, what are we trying to achieve here? Is it to protect non-smokers from the toxic, negative impacts of smoking, or is it to go further?

Again, if the intent is to go further, I challenge somebody to bring in a piece of legislation that bans smoking, and let's see how that discussion proceeds.

But what, in effect, we're trying to do here is alter people's lives in a negative fashion. It's going to impact a lot of these rural businesses that depend on every single customer they get in order to survive financially. And this is going to mean that people will stay home. And I've been told that -- guaranteed -- by several people.

In one particular establishment, all the servers are smokers, and they have guaranteed me that they will quit -- not smoking. They will quit their jobs.

Well, I see the Premier is responding, "That's funny." I suggest that maybe he should go out to rural Yukon and talk to these people. I'm standing here in this Assembly today trying to inform other people that they should be aware of this.

I understand that in the Province of British Columbia servers were allowed to enter the ventilated smoking areas on a voluntary basis. I see no reason why that example couldn't apply here in the Yukon, if we were to permit these spaces within

bars. The example I gave is one where all the servers themselves smoke, so I would imagine that everyone would volunteer to serve in those areas. If, at some future time, there are servers who don't smoke and don't want to voluntarily enter those areas, then the patrons can simply serve themselves. Those areas seem to work, contrary to the information put on the record here in previous discussions. They seem viable, so why can't we consider allowing them?

Again, it is in rural Yukon where this is going to have the main impact. Now, I'd heard an argument about a "level playing field". Well, let's think about that a minute. Okay, the City of Whitehorse and the City of Dawson have banned smoking in public places -- period -- but are we going to say what happens in Whitehorse should apply to all rural Yukon?

Well, I'm not too willing to accept that argument on face value.

Rural Yukon in a lot of respects is different from the capital City of Whitehorse, and should not have to fall in line with everything that is done in the City of Whitehorse. The only difference would be if a person goes to a rural community and sees an enclosed ventilated smoking area, they will know that smoking is permitted in that establishment. So what is the confusion? There should be no confusion. It is a small concession that I will be asking the members to consider when voting. It is a small concession on this bill, which I've said has a lot of good in it. I'm merely trying to take into consideration the perspectives of a lot of rural Yukoners and try to bring that through an amendment to this bill so that we as legislatures aren't impacting their lives, we aren't impacting their communities and we're not impacting rural businesses. I don't think that is too much to ask.

Amendment proposed

Mr. McRobb: So given that, Mr. Chair, I will circulate this amendment and read it for the record: I move

THAT Bill No. 104, entitled *Smoke-free Places Act*, be amended in clause 5(1) at page 4 by adding the following section following section 5(1)(c):

"5(1)(d) if the person is in a self-contained ventilated section of a licensed premises."

Chair: It has been moved by Mr. McRobb

THAT Bill No. 104, entitled *Smoke-free Places Act*, be amended in clause 5(1) at page 4 by adding the following section following section 5(1)(c):

"5(1)(d) if the person is in a self-contained ventilated section of a licensed premises."

Is there any discussion on this amendment?

Hon. Mr. Kenyon: I'm just again a little concerned here, because it appears that the Member for Kluane is looking at promoting smoking, which is quite opposite to what we're doing, although I do very deeply appreciate his willingness to go bar-hopping in Vancouver to do research on this. I thought that was somewhat creative.

Unfortunately, I'm looking at this from a different perspective. I've had the good fortune to live in a number of jurisdictions. I lived in Toronto when this whole debate came up and

that was one of the first communities and major cities to look at this legislation, followed by the Ontario legislation. Although I do recognize the fact that much of what they call northern Ontario we would still consider the "deep south", there are some similarities and I heard all the same arguments. Massive bankruptcies never occurred; massive social unrest never occurred; everybody's going to quit their job -- it never occurred. The whole idea is to look at smoking and second-hand smoke. I think the Leader of the Third Party has done a good job in putting this together and promoting it.

Look at the effect that smoking has on our health care system. People say, "We want to smoke; it's our right to smoke." People should have a right to smoke as long as they guarantee that when they get lung cancer, emphysema or other diseases, that they won't be a drain on the health care system. Until that is possible, then I think society has the right to try to discourage smoking where possible and to discourage exposure to second-hand smoke. I don't think that sitting in a fume hood in a bar is a really good approach.

Mr. Edzerza: I would just like to make a couple of comments. After listening to the Member for Kluane it almost appears that the member is suggesting that Kluane and other rural communities in the Yukon should be exempt from laws that would apply to other people in the territory. It can't work that way. It is impossible. The law has to cover all jurisdictions in the Yukon. You can't pick and choose who has to comply and who doesn't. Listening to the rationalization that the Member for Kluane gave, I know I can't support this amendment.

Mr. McRobb: Allow me just to respond to some of these comments. The Member for McIntyre-Takhini rather incorrectly surmised my input as trying to exempt some communities from the law. Nothing could be further from the truth. In effect this is a territory-wide law, so it could apply anywhere. However, where there is a law established by a local level of governance such as a municipality that goes further than the Yukon-wide law, then of course those laws or bylaws would apply. That is the answer to that question.

In response to the Member for Porter Creek North who went bar-hopping, well the member knows I'm a non-drinker and have been for nearly 25 years, so I don't think what he was implying with his comment was very fair.

Some Hon. Members: Division.

Count

Chair: A count has been requested.

Bells

Chair: I now call Committee of the Whole to order.

The matter before the Committee is an amendment to clause 5(1) in Bill No. 104, *Smoke-free Places Act*.

All those in favour of this amendment, please stand.

Members rise

All those opposed, please stand.

Members rise

Chair: The results are six yea, seven nay.

Amendment to Clause 5(1) negatived

Chair: Is there any further debate on clause 5?

Clause 5 agreed to as amended

On Clause 6

Clause 6 agreed to

On Clause 7

Clause 7 agreed to

On Clause 8

Chair: Is there any debate on clause 8?

Amendment proposed

Mr. Hardy: I move

THAT Bill No. 104, entitled *Smoke-free Places Act*, be amended in clause 8 at page 5 by deleting the said clause 8.

Chair: It has been moved by Mr. Hardy

THAT Bill No. 104, entitled *Smoke-free Places Act*, be amended in clause 8 at page 5 by deleting the said clause 8.

Amendment to Clause 8 agreed to

Clause 8 agreed to as amended

On Clause 9

Chair: Is there any debate on clause 9?

Amendment proposed

Mr. Hardy: I move

THAT Bill No. 104, entitled *Smoke-free Places Act*, be amended in clause 9 at page 5 by deleting the said clause and substituting the said clauses for it:

Tobacco products not to be displayed

9.1 No person shall, in any place where tobacco products are sold or offered for sale, display or permit the display of tobacco products in any manner that would permit a consumer to view or handle tobacco before purchasing it.

Tobacco products not to be advertised or promoted

9.2(1) No person shall advertise or promote tobacco products

(a) in any place where tobacco products are sold or offered for sale, or

(b) in any manner if the advertisement or promotion is visible from outside a place in which tobacco products are sold or offered for sale.

(2) Despite subsection (1), a place described in subsection 1(a) may have one or more signs listing the tobacco products offered for sale and their prices if the signs comply with the requirements prescribed by the regulations.

9.3 Sections 9.1 and 9.2 come into force on May 15, 2009.

Chair: It has been moved by Mr. Hardy

THAT Bill No. 104, entitled *Smoke-free Places Act*, be amended in clause 9 at page 5 by deleting the said clause and substituting the said clauses for it:

Tobacco products not to be displayed

9.1 No person shall, in any place where tobacco products are sold or offered for sale, display or permit the display of tobacco products in any manner that would permit a consumer to view or handle tobacco before purchasing it.

Tobacco products not to be advertised or promoted

9.2(1) No person shall advertise or promote tobacco products

(a) in any place where tobacco products are sold or offered for sale, or

(b) in any manner if the advertisement or promotion is visible from outside a place in which tobacco products are sold or offered for sale.

(2) Despite subsection (1), a place described in subsection 1(a) may have one or more signs listing the tobacco products offered for sale and their prices if the signs comply with the requirements prescribed by the regulations.

9.3 Sections 9.1 and 9.2 come into force on May 15, 2009. Is there any further discussion on this amendment?

Amendment to Clause 9 agreed to

Clause 9 agreed to as amended

On Clause 10

Mr. McRobb: This is one of the areas identified at the outset that had questions around it. Can somebody please explain the record who the inspectors will be, how this act will be enforced, and how it will be funded and administered? Is it the Government of Yukon that has the ultimate responsibility for this bill to ensure that it is enforced properly, or will it take a lackadaisical approach because it is a private member's bill? I would like those questions answered very clearly for the record, please.

Mr. Hardy: For the Member for Kluane with his concerns -- it states in the first bullet, 10(1)

"The Minister may appoint or designate inspectors for the purpose of this Act."

So that makes it the responsibility of the minister, in a sense. It also falls under Yukon government for the enforcement. Following that is "(2) For the purpose of ensuring compliance with this Act and the regulations, an inspector may ..."

If the member wishes to read that, it may assist him. Ultimately the responsibility for this does lie with the minister.

Mr. McRobb: Thank you for that explanation. I would like to hear from somebody on the government side about this, again for the record, more specifically with regard to the inspectors or the enforcement. Will this be handed off to the RCMP or some other existing personnel in the employ of the Yukon government, or will there be new positions created to fill this responsibility? Will someone on the government side please respond for the record?

Mr. Hardy: I do not speak for the Yukon government, but I think I can assume how I would do it. Being a member who once was part of a government, I do have a little bit of experience in this, as the Member for Kluane does as well.

Designating inspectors could be based upon the minister's decision. It could be the liquor inspectors; it could be the RCMP, as well; it could be a combination and it may, at some point, entail assigning somebody particularly for it.

However, I believe, like all legislation, that would be part of the regulations and, again, the minister will be responsible and I'm sure that the minister, if there is an act that has been passed by the Legislative Assembly -- not a private member -- because once it has passed, it is the law of the people. We have to remember that. We shouldn't get too hung up over who is bringing this forward; we should remember that we in this Legislative Assembly will be deciding on this act and, once it is

passed, it is the law. It will be incumbent upon whichever government to enforce that.

Mr. McRobb: I'll try just one more time and leave it at that. The Member for Whitehorse Centre spoke to an assumption that he had. I want to hear from someone on the government side, especially the Premier or the Minister of Health and Social Services, about this matter. Who will be enforcing this act? It's a fair question and I think it deserves to be answered by someone on the government side.

Hon. Mr. Fentie: For the Member for Kluane's benefit, if the member seeks more clarity in the section before us -- for Bill No. 104 -- the member is certainly able to move an amendment to provide that clarity he seeks. I think it's pretty clear to the rest of us in the Assembly: it is designating the minister and the minister may appoint. In the case of appointing or designating inspectors, it goes on then to inform that an inspector "may", and it lists a number of things that an inspector may do.

If the member wants more clarity then bring forward an amendment.

Mr. McRobb: I have just one final remark, Mr. Chair. I said at the outset that I will not be bringing forward an amendment on this. It was a matter of question; the question was not answered. The word "may" is a qualifier; it does not state who will be enforcing this act. I think that a lot of Yukoners, those either for or against this act -- or indifferent -- are probably wondering the same question. Maybe members of the RCMP are as well, or perhaps the liquor inspectors or other inspectors already under the employ or perhaps taxpayers are wondering if new positions will be created. This was the opportunity for the government to state on the record what it intends to do. It was asked three times, and we did not get an answer. I said that I would not belabour this point. I shall sit down.

Chair: Is there any further discussion on clause 10?

Clause 10 agreed to

On Clause 11

Clause 11 agreed to

On Clause 12

Chair: Is there any debate on clause 12?

Amendment proposed

Mr. Hardy: I move

THAT Bill No. 104, entitled *Smoke-free Places Act*, be amended in clause 12(2) at page 7 by deleting the said clause and substituting the following clause for it:

"(2) In a prosecution for an offence under this Act, it is sufficient proof of the offence to establish that it was committed by an employee or agent of the accused, whether or not the employee or agent is identified or has been prosecuted for and convicted of the offence, unless the court is satisfied that the offence was committed without the accused's knowledge and that the accused exercised all reasonable efforts to prevent its commission."

Chair: It has been moved by Mr. Hardy

THAT Bill No. 104, entitled *Smoke-free Places Act*, be amended in clause 12(2) at page 7 by deleting the said clause and substituting the following clause for it:

"(2) In a prosecution for an offence under this Act, it is sufficient proof of the offence to establish that it was committed by an employee or agent of the accused, whether or not the employee or agent is identified or has been prosecuted for and convicted of the offence, unless the court is satisfied that the offence was committed without the accused's knowledge and that the accused exercised all reasonable efforts to prevent its commission."

Is there any debate on this amendment?

Mr. Hardy: Just to point out that strengthens the bill by clarifying liability and providing due diligence defence.

Chair: Is there any further debate on this amendment? Has this amendment carried?

Amendment to Clause 12(2) agreed to

Chair: Any further debate on clause 12?

Amendment proposed

Mr. Hardy: I move

THAT Bill No. 104, entitled *Smoke-free Places Act*, be amended in clause 12(4) at page 7 by deleting the said clause.

Chair: It has been moved by Mr. Hardy

THAT Bill No. 104, entitled *Smoke-free Places Act*, be amended in clause 12(4) at page 7 by deleting the said clause.

Amendment to Clause 12(4) agreed to

Clause 12 agreed to as amended

On Clause 13

Clause 13 agreed to

On Clause 14

Chair: Is there any debate on clause 14?

Amendment proposed

Mr. Hardy: I move

THAT Bill No. 104, entitled *Smoke-free Places Act*, be amended at subclause 14(1) at page 8 be amended by inserting a ":" at the end of paragraph (g) and by deleting paragraph (g.i) and (g.ii) and substituting the following paragraphs for them:

"(g.1) governing or prohibiting tobacco advertising or tobacco promotion;

(g.2) regulating the sale and distribution of products such as candy pipes, cigars, cigarettes or similar products or banning their sales or distribution; and

(g.3) prescribing places in which tobacco products shall not be dealt, sold, offered for sale or distributed;"

Chair: It has been moved by Mr. Hardy

THAT Bill No. 104, entitled *Smoke-free Places Act*, be amended at subclause 14(1) at page 8 be amended by inserting a ":" at the end of paragraph (g) and by deleting paragraph (g.i) and (g.ii) and substituting the following paragraphs for them:

"(g.1) governing or prohibiting tobacco advertising or tobacco promotion;

(g.2) regulating the sale and distribution of products such as candy pipes, cigars, cigarettes or similar products or banning their sales or distribution; and

(g.3) prescribing places in which tobacco products shall not be dealt, sold, offered for sale or distributed;"

Amendment to Clause 14(1) agreed to

Clause 14 agreed to as amended

On Clause 15

Chair: Is there any debate on clause 15?

Amendment proposed

Mr. Hardy: I move

THAT Bill No. 104, entitled *Smoke-free Places Act*, be amended in clause 15(1) at page 9 by deleting the expression "any other authority to regulate, restrict or prohibit smoking" and substituting the expression "a municipality's power to make bylaws to regulate, restrict or prohibit smoking".

Chair: It has been moved by Mr. Hardy

THAT Bill No. 104, entitled *Smoke-free Places Act*, be amended in clause 15(1) at page 9 by deleting the expression "any other authority to regulate, restrict or prohibit smoking" and substituting the expression "a municipality's power to make bylaws to regulate, restrict or prohibit smoking".

Amendment to Clause 15(1) agreed to

Chair: Is there any further debate on clause 15?

Amendment proposed

Mr. Hardy: I move

THAT Bill No. 104, entitled *Smoke-free Places Act*, be amended at clause 15(2) at page 9 by deleting the expression "between this Act and any other authority, regulating, restricting, or prohibiting smoking, the more restrictive authority" and substituting the expression "between a provision of this Act and the provision of a municipal bylaw that regulates, restricts, or prohibits smoking, the more restrictive provision".

Chair: It has been moved by Mr. Hardy

THAT Bill No. 104, entitled *Smoke-free Places Act*, be amended at clause 15(2) at page 9 by deleting the expression "between this Act and any other authority, regulating, restricting, or prohibiting smoking, the more restrictive authority" and substituting the expression "between a provision of this Act and the provision of a municipal bylaw that regulates, restricts, or prohibits smoking, the more restrictive provision".

Amendment to Clause 15(2) agreed to

Clause 15 agreed to as amended

On Clause 16

Chair: Is there any debate on clause 16?

Amendment proposed

Mr. Hardy: I move

THAT Bill No. 104, entitled *Smoke-free Places Act*, be amended in clause 16 at page 9 by deleting the expression "June 1, 2008, or on such earlier date" and substituting the expression "May 15, 2008 or on such earlier day" for it.

Chair: It has been moved by Mr. Hardy

THAT Bill No. 104, entitled *Smoke-free Places Act*, be amended in clause 16 at page 9 by deleting the expression "June 1, 2008, or on such earlier date" and substituting the expression "May 15, 2008 or on such earlier day" for it.

Amendment to Clause 16 agreed to

Clause 16 agreed to as amended

On Title

Title agreed to

Hon. Mr. Cathers: Mr. Chair, I move that Bill No. 104, entitled *Smoke-free Places Act*, be reported with amendment.

Chair: It has been moved by Mr. Cathers that Bill No. 104, entitled *Smoke-free Places Act*, be reported with amendment.

Motion agreed to

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

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

Motion agreed to

Speaker resumes the Chair

Speaker: I will now call the House to order.

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

Chair's report

Chair: Mr. Speaker, Committee of the Whole has considered Bill No. 104, entitled *Smoke-free Places Act*, and has directed me to report it with amendment.

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

Some Hon. Members: Agreed.

Speaker: I declare the report carried.

GOVERNMENT BILLS

Bill No. 11: Second Reading -- *adjourned debate*

Clerk: Second reading, Bill No. 11, standing in the name of the Hon. Mr. Fentie; adjourned debate, Mr. Lang.

Speaker: Minister of Energy, Mines and Resources, you have about 29 minutes and 45 seconds left, sir.

Hon. Mr. Lang: Thank you, Mr. Speaker, and thank you to the House. When I was opening debate yesterday on my support of this financial package put in front of Yukoners in the form of our financial plan, the go-forward plan for the coming years, it certainly is a positive experience to be in a situation where we are today.

I'd like to thank my constituents in Porter Creek Centre for their support over the last six years and I look forward to serving them in the future. Of course, we can't forget the other Yukoners, the Yukoners we all work for, because everyone in the House represents Yukoners -- but, as government, we are tasked with representing all the communities and all the individuals who live in this great territory.

Yesterday we were talking about the continual comments from the opposition on what is happening in the Yukon today. That debate has been going on for a period of time. The government of the day, our government, the Yukon Party government, has been in the situation of having the challenges of

managing the economy of the Yukon and managing the government of the day for going on six years. This is our sixth budget.

Seventy-two months ago, this government was elected to take over the challenge of managing the economy of the territory. When we accepted that challenge in December of 2002, we found out that, after the short term of the Liberal government of the day -- the 22-month term of that Liberal government -- the economics in the territory were very fragile.

Within 22 months, the government of the day took over Dawson City. It was virtually bankrupt, because the territorial government irresponsibly let the City of Dawson go over its lending restrictions. That was all a decision made by the government of the day.

We had a Mayo-Dawson power line that, if it had gone on much longer, it would have bankrupted one of our major Crown corporations. I have no doubt that management of that power line was going to hamstring that corporation and the government would have had to make other decisions on that corporation.

Seventy-two months ago, we took over the challenge of the corporation and found the fragile situation we were in. We of course made many changes to the structure and the individuals who were managing the fiasco that the power line was; we also found the corporation itself needed an infusion of capable people with the capacity to manage. That is an ongoing issue because, as they say here in the House, representing all Yukoners, the corporation is still dealing with the fiasco of the Mayo-Dawson line. Today we are still eventually going to court with the company the previous government put in place to do the power line. As far as the responsibility of the previous government, we are still dealing with their shortcomings. Yukoners should know that.

Today we have a very solid financial picture for Yukoners. We have a strong bottom line. My responsibilities are in Energy, Mines and Resources -- a very positive department to be representing here in the House. I would certainly like to compliment the individuals who work in that department, Mr. Speaker.

They've done a tremendous job, as a team, in the last 72 months, to turn around a department.

In those 72 months, we absorbed, through devolution, a huge responsibility for the resources of the territory. With that came responsibilities, but it also came with the workforce -- the individuals working in the department that we absorbed into Energy, Mines and Resources. They made it the solid department that it is today.

When you look at the Department of Energy, Mines and Resources, you are looking at the management tools or the management department, the regulatory department, of an expanding economic foundation for the territory.

The members opposite go off on a tangent that mining would come regardless of who was in government. Even if the Liberals were still in government, there would still be mining. That's an argument put forward by the opposition.

I say, with the government of the day and the commitment we made to industry and to Yukoners, the Yukon Territory is one of the top preferred investment areas of Canada.

In 72 months, we went from number 63 to number 11, and now we are at least in the top five investment areas. That is not because of luck. It is because of the hard work of the department.

It's amazing, Mr. Speaker, how much more luck we get in the department the harder we work. When the members opposite talk about the mining industry as just the luck of the draw, in fact, they are wrong, whether it's forestry or oil and gas -- they talk about oil and gas.

I would like to announce in the House today that we are putting dispositions out. For the first time in Yukon's history, we have a regular process to put oil and gas dispositions out into industry's hands.

Also, Northern Cross moved a drilling rig into the Eagle Plains area. This is all very positive for the oil and gas industry.

Now, the members opposite talk at great length about the economy and, of course, it's an interesting twist to the economy. The argument isn't that we have the resources. Somehow, in the Leader of the Official Opposition's critiquing of our economy, we don't deserve the resources we get from Ottawa. That's very clear in his debates here in the House.

He would prefer us to cut our budgets by 15 or 20 percent. Let's say we cut \$77 million out of the budget, because we are somehow less equal than other Canadians. Again, all the Minister of Finance, the Premier, has been doing over the last six years was getting a fair share of the resources of Canada.

We got these not by going down with a gun, holding up a bank. We got these by sitting down with Ottawa and putting a rational argument forward -- in partnership, by the way, with our fellow territories, Nunavut and Northwest Territories -- to come to a resolution on how we as Canadians could get equal treatment as Canadians, and how we, in turn, as a public government, could work with Yukoners to create an economy for the territory and an economic basis for individuals who live in the territory.

In 72 months of management by the government and the extension of that government, we're in a situation where our kids can come home. There is opportunity here, not only for people working in the government, but there are more and more private enterprises out there working to get our youth to come back to the territory.

That's a plus for all Yukoners, because why not encourage our youth to come back because they like the Yukon, they understand the Yukon and they'll stay in the Yukon?

Mr. Speaker, if you're out on the street looking around, you're looking at the ads in the newspapers for opportunities for individuals to go to work, there are also more and more young people out there who are becoming a part of our community with opportunities and working here in Yukon. Not a bad track record. It is not a bad thing to look back on and think about where we started and where we are now.

We started with a bankrupt government with no resources that was running on a line of credit. We took over a bankrupt city -- Dawson City -- and we took over a bankrupt power line.

In 72 months, we're sitting here today and Dawson City is getting back on its feet. We're no longer running on an overdraft. We are resolving the Mayo-Dawson fiasco and to top that off, the corporation is going one more step and looking at expanding and working today. By the way, Mr. Speaker, we're on track to be on time and on budget. Can you imagine, Mr. Speaker, the next expansion to the hydro line is going to be on time, according to the reports I had in the last 10 days, and certainly on budget?

At the end of the day, we are going to arrive with a customer base. We're taking the community of Pelly Crossing -- a community with 200 or so people -- off diesel and we're going to put in a mine, which is the Sherwood Copper Mine. This is going to be cash in the pocket of the Crown corporation. It's another customer. They are going in front of the Utilities Board with a GRA to move forward on realizing some benefits to all Yukoners, which by the way, Mr. Speaker, are the shareholders in that corporation.

The member opposite -- the Leader of the Official Opposition -- talks about subsidizing power bills. We're the only jurisdiction in Canada that would be in a situation where they would encourage us to hide the real cost of energy. Instead of acquiring more customers, more resources, and giving everyone a realistic break on their power bill, we are going to subsidize it, and hide the fact that there is a real cost to energy.

That is not the way this government is going to go forward, Mr. Speaker. We are going to go forward with the corporation, the Yukon Utilities Board -- we are going to work with them -- and at the end of the day we are going to address how we can conserve energy. That is the most important thing that we as a community can ask. How can we educate people and how do we as a government encourage people to conserve energy, and to manage energy better? It is not by subsidizing and hiding the real cost. You are either taking it out of somebody's front pocket or their back pocket. This is not good management.

As we move forward and finalize the Carmacks-Mayo line, we are looking very optimistically at the next step, and that would certainly be the Pelly-Stewart line. Then we can take a look at the line from Mayo to Dawson. Of course with the management skills of the Liberal Party we have to restring all the lines, because they were never designed to be tied into the southern grid. That is going to be another issue, another challenge. I would say that it was very poor management by the government of the day, not understanding that the reason we are putting the Mayo-Dawson line in together is to eventually tie in the whole grid. But they didn't do that, so it was left to us, Mr. Speaker.

It amazes me when I listen to the conversation about how somehow we talk about the budget as if Yukoners are in some way less Canadian than the rest of Canada.

Highways and Public Works -- there's a solid investment in the infrastructure of Yukon. It's very, very important to have our highway system open and up to the standard that we expect it to be. Now, we're certainly moving forward with policies and resources in place to work with exploration or mining companies to enhance some of the access to their area, and we're

equipped to do that. We're also looking at the Campbell Highway, a very important corridor that has been ignored by many governments up to now. We're going to invest \$31 million in that infrastructure. Now, that is extra money in the department. It's not being taken away from any maintenance budget. That maintenance budget is important and we will continue that on the level that we laid out here in the budget.

Our steady bridge maintenance is going ahead. I would like to thank the Alaska government for their support on the Shakwak project and, of course, Washington and the American government for the resources that they put into our highway system in the past -- which was quite substantial -- and are committing to look at in the future. We look forward to resolving those negotiations and moving forward with another package of improvements for the Alaska Highway. We certainly look forward to moving forward in partnership with the Americans and bringing the Alaska Highway up to an even better standard.

If we were to look at the health issues in our territory, if you were to look at where we were 72 months ago in the commitment of a government to enhance a better quality of life per se -- certainly we've strengthened that. We've looked at the Haines Junction area. There was a demand for a seniors complex; we moved forward with that.

We are certainly looking at Dawson City. Dawson City has some challenges and some concerns, and we're committed to answer those concerns.

In the Watson Lake area, the growing senior population is an issue, and they are now making decisions to stay in our communities instead of moving Outside or somewhere else, as they did in the past. They are now making a decision to stay in their communities, and this government is committed to making that option available for the seniors in our communities and in Whitehorse -- and working with the hospital and the hospital board to fund and realize the cost of keeping our hospital, medical staff, and infrastructure throughout the Yukon up to a standard that is acceptable for the communities in this day and age. So there is a real burden on our communities and, of course, on budgets across Canada for our health care dollars.

I'd like to thank the Minister of Health and Social Services for moving ahead with the advocate in Vancouver, Edmonton and Calgary to make sure that, when people are sent to these places for medical attention, there is somebody there to walk them through a community like Vancouver to find their appointment areas -- where they're going for medical assistance. That, in itself, is a move forward.

Of course, we were re-elected on the basis of what we had done during the previous four years. Certainly, the majority of the territory was very confident in giving this government another term to move on and finish a lot of the work we had started in our first term. That was a compliment in itself because, as you know, Mr. Speaker, we were the first government returned to power in 17 years.

There was a lengthy period of time when there were no two-term governments. This government has certainly met the challenges put in front of us -- through our first mandate, but

the second mandate as well. And, of course, we have a lot of work to be done.

Certainly, this budget speaks to all of that. Our Minister of Tourism and Culture and the expansion of the airport is a big commitment by a government. That's a huge commitment to get our airport up to the standard that is necessary in this day and age for security. It made that commitment of \$15 million, expanding the parking facilities.

I drove by there the other day. Where do all the cars come from? We have tripled the size of the parking lot. I drive by there and it's full, as it was when it was half the size. So, there is a need there.

We are looking at finishing that facility so that we'll have a controlled parking area and expanded airport facility.

I'd like to commend the Department of Highways and Public Works for their thought pattern. We were obliged to put a holding room onto the existing airport until such a time as we built our new one. The department designed something that we can pick up and move to Faro.

So, not only are they thinking locally, but they are thinking in the long run: that facility can be used in Faro and will become the new terminal in Faro at such a time as we get the airport done.

Those are all the kinds of things that we deal with on a daily basis in Highways and Public Works. I have been traveling around and visiting all the facilities we have across the territory. I would like to compliment the staff out there who work on a daily basis to keep our roads and airports open. I would like to compliment the esprit de corps the department has but also all of these individuals are great corporate citizens. They, in turn, are important, whether in Destruction Bay, Carcross, or Drury Creek. All of these places have individuals, whether it's six people, 12 people, or whatever, who contribute to those communities.

Most of the individuals I have met have worked for the highways for many years. That is a compliment in itself. We don't have a lot of turnover within the department, so we have individuals who have made a commitment to the territory.

Look at education -- and certainly the Minister of Education will be debating his budget. In this government's last term, we built the Carmacks school. We finalized that, which gives the community of Carmacks a very impressive building. If there was one school that had to be replaced, it was the Carmacks school. Certainly this government made that commitment. We've moved ahead. I would like to thank the Member for McIntyre-Takhini. He was the lead on it, and he did an excellent job getting that off the ground and getting it moving forward. The commitment was made by the government, funded by the government, and certainly today it is being used by the community of Carmacks.

Look at community clubs. We all know and understand the necessity of the fabric of a community, and one of the things that is important is a community complex, or club or social centre where people can go to interact with their neighbours and friends. We did that in Mayo and Marsh Lake. All of that was an investment made by this government to contribute to the betterment of these communities.

Look at our budget overall. It is a growing budget and is a budget to be critiqued. You can look at how it benefits every Yukoner. There is no part of this budget that doesn't have an impact on our communities.

We have a wonderful opportunity here as a government, thanks to the aggressive Finance minister and Premier, who worked with Ottawa and got the resources in our hands. We've got a solid bottom line, Mr. Speaker. The future of the territory on a yearly plan, five-year plan and 10-year plan has never looked better.

So, with the flexibility of the resources at hand and the good planning that we do as a government, whether it is the Minister of Education, the Minister of Health and Social Services, the Minister of Environment, the Minister of Community Services -- all these individuals and the whole caucus would certainly recommend this to the House and recommend it to Yukoners. I recommend Yukoners read it and don't take my word for it and certainly don't take the opposition's word for it. This is a public document. Everybody in the territory, if they have time, should sit down and read it and think about where we were 72 months ago, where we are today and the positive things that are going to come out of this budget.

I recommend that all members vote in favour of this budget. Of course, this government will. I look forward to working with this government in the future, and I certainly look forward to two or three more budgets. I wonder where we'll be in 36 months. If we can do what we did in 72 months, then the future looks very good.

Mr. Elias: I would like to begin by thanking my community members of Old Crow for their incredible support. As always, I am honoured to represent and serve the wonderful riding of Vuntut Gwitchin in this Legislative Assembly. Please know that I care for each and every one of my constituents.

On behalf of my constituents, I would also like to thank many of my fellow parliamentarians on the other side of this Legislature for recognizing the importance and the priorities that I speak to them about throughout the year in regard to my riding.

Because my constituents bear the consequences of government action and inaction every day, I respond to the budget with respect. To my colleagues on the other side, these are my comments.

With regard to climate change, I must say that this Yukon Party government is moving at a snail's pace and it's almost painful to watch when it comes to combating the effects of climate change on our territory. There is no significant commitment to climate change. Once again, the money allocated to the climate change action plan is far too low -- \$130,000 is a mere one percent of the overall Department of Environment's budget and it's disappointing to see. Many members of this Legislative Assembly will not be alive 50 years from now, but their children and grandchildren will and it's for them that we must make the right decisions and take action to avoid the social, economic and environmental disasters as a result of climate change that they will have to deal with.

Where are we going as a territory and how are we going to get there, I ask? When the government speaks of the development of the climate change action plan, I would like to know where they are going with it and what will it include? Will the plan include some things that other Canadian jurisdictions have included in their plans, like emission reduction targets, development of power from renewable resources, targets to have a percentage of electricity to come from renewable resources, tax rebates for buying energy-efficient appliances, creation of an energy-efficiency agency, installing Power Smart meters on all houses and buildings in the Yukon so families, businesses and governments can have access to valuable power consumption information and have control over the power they consume? Will it include moving toward new legislation to combat climate change, adaptation and mitigation? Are we going to ensure that all new government developments will be of the highest green standards, adopt a green building code to save energy and water, legislate requirements of municipalities to incorporate greenhouse gas reduction targets and supporting strategies in their communities?

Are we looking to participate in regional cap-and-trade carbon initiatives? Will there be a stand-alone branch responsibility within the Department of Environment to coordinate and direct government climate change mitigation efforts and public education campaigns that will include made-in-Yukon solutions and that will provide Yukoners with the tools and information they need to make informed choices? Will we be working toward getting older vehicles with higher emissions off Yukon roads? Will the action plan include carbon trading and carbon-neutral initiatives throughout the territory? Will the plan address the monitoring prediction and adaptation to future climate change conditions? It would have been nice to have had answers to these questions a long time ago.

I'd like to go into what I call an infrastructure deficit in my community of Old Crow. It's time to do something about the infrastructure deficit in my community of Old Crow. There is a new federal mandate now to deal with northern infrastructure, and my community intends to take advantage of it. I believe it's called "Building Canada".

Many of my constituents continue to speak of how wealthy we are to have clean water, clean air and an abundance of fish and wildlife, and a vibrant culture and language that still exists in my riding. Yet my constituents continually give me direction to address the large gap of program and service delivery in my community and the lack of infrastructure investment from this government. They go hand in hand, Mr. Speaker.

My riding is not immune to the social ills of drug and alcohol abuse, the national health problems of diabetes, the uncertainty of the *Helicobacter pylori* bacteria in my community lately. It's been of concern lately.

We are working toward a healthy community and infrastructure is a big piece of that puzzle in achieving the goal of being a healthy community. It's time to achieve a community and recreation complex for our community that will be safe and last 40 years plus.

It's time to develop a new subdivision and housing lots on the upper bench away from the crowded downtown core, so that our community can expand.

It's time to fix the water drainage problem and road servicing promised by the Premier in the springtime. When the snow melts, the water just lays around the community. It doesn't go anywhere. There are large pools of water. It's not only a health concern; it's dangerous to little toddlers. It's just a tremendously big problem in my community, and the Premier did promise to fix it.

There is money set aside in northern strategy and we would like to see that addressed as soon as possible.

It is time to upgrade the water-well distribution system and filtration system, as well as the testing and test results reporting. It is time to move forward with these initiatives and to strengthen my isolated community's future and help achieve a healthy community.

I would like to expand a bit on the Old Crow community recreation complex initiative. My community of Old Crow continues to work toward the construction of a multi-purpose complex that will stand the test of time. Recent developments on this front are the passing by consensus of the Vuntut Gwitchin First Nation General Assembly in 2007 resolution committing a portion of the beneficiary dollars to the planning and construction of the multi-purpose complex. Many of my community members recognize this as a need in the community and they have passed five consecutive resolutions throughout the years showing their support for this. This is the fifth resolution in as many years giving direction to achieve this goal. Another resolution passed and a Yukon Legislative Assembly petition from my constituents demonstrates the commitment of my community citizens in this important priority.

I would like to go over a brief timeline from 2004 to 2011, explaining what has been happening and what we hope to achieve in the next years.

In 2004, a Vuntut Gwitchin General Assembly resolution was passed to undertake a feasibility study.

In 2005, another resolution was passed to develop a volunteer working group and seek out funding sources to begin the work toward an Old Crow community and recreation complex.

In 2006, another resolution was passed for the working group to develop a design and actual costs of a building and what it would look like, and to look for initial partners. Also in 2006, a community questionnaire and many public meetings were held.

In 2007, the feasibility study was completed and funded by the Yukon territorial government in the amount of \$10,000 in April of 2007.

Also in 2007, another General Assembly resolution was passed by the Vuntut Gwitchin citizens to support the financial allocation toward the project and working group to move forward and determine the actual costs of the Old Crow community and recreation complex.

As part of this, the Vuntut Gwitchin government provided the working group with \$60,000 to achieve the resolution goals. Later in 2007, a community petition was submitted to the Legislative Assembly in May. Public meetings were held,

again, and a progress report was made in June and December of 2007 and the Old Crow recreation complex society was created.

This year, the working group needs to raise \$136,000 for the schematic drawings to determine the actual construction costs; this begins phase 1, 2 and 3. In 2009, we hope to have the finalization of the building site and seek commitment to use waste heat from the ATCO generators. There are two potential sites in Old Crow. One site is adjacent to the school and the benefit of site A is the cost of gravel fill. Everyone knows that cost of gravel in Old Crow is very expensive but the benefits of site A, which is beside the school, is that it could utilize the resources of the school and the ability to use the facility for curriculum.

There is a site B, which is now the existing ball field, or behind the Porcupine construction site. The challenge of this site is utilizing the waste heat of the ATCO generators, and the benefit of this site is that there is minimal site preparation.

It is going to take patience, hard work and acting when the time is right to achieve this goal.

Going on to what we hope to achieve in 2009, we want to complete the final drawings and secure funds in 2009 and in 2010, with the help of the community.

We also need to develop an operation and maintenance plan going on into 2010 and obviously going through the YE-SAA process for such an infrastructure.

Again, the goal for the community is to set targets for ourselves and be proactive. The target for construction to begin the Old Crow community recreation complex is 2011, coinciding with winter road development, et cetera.

It is also recognized that construction of such a building in Old Crow will be challenging. It is dependent on a lot of things, including snow level depth for the building of the winter road for instance. Those kinds of things have to be brought into consideration.

It is my community's hope that one day we will soon reveal with pride all that we have accomplished over these years -- all the things that I have just mentioned. We will open a new multi-use facility in Old Crow that will meet the recreational and social needs of our community, now and in the future.

I would like to speak a bit about the caribou issue. I am encouraged by the fact that I see expenditures in this budget for the caribou. They are directed again to the Vuntut Gwitchin First Nation to continue their grassroots education campaign in our country and in the Lower 48, in the United States of America, to protect the calving grounds in the coastal plain of the Arctic National Wildlife Refuge in Alaska.

My constituents continue to provide me with a direction to be solution oriented and to help achieve the 1988 mandate to protect the calving grounds within the Arctic National Wildlife Refuge in Alaska. I will reiterate that, in my opinion, the best way to permanently protect the calving grounds is to have a Democratic U.S. president. This is our best chance to avoid a veto of protection legislation to maintain a healthy majority in the United States House of Representatives and the Senate. One of the most important things for me is to scale up our educa-

tional effort and keep our northern communities engaged so we don't become complacent.

I hope this is one of the goals in the upcoming Gwitchin gathering that happens once every four years. It's happening in Old Crow on July 15. I invite all members of the Legislative Assembly to come and join in the festivities and the discussion. It's going to be a fun time.

We also need to be assertive in getting Arctic National Wildlife Refuge permanent protection legislation through the United States Congress.

More recently, Senators Lisa Murkowski and Ted Stevens put forward legislation to open up the Arctic National Wildlife Refuge coastal plain to oil development. In my opinion, all they are doing is trying to attract political attention to their cause, even when the odds of this bill getting successfully passed through the House of Representatives and the Senate is very minute. They are simply doing what they do on an annual basis, because let's not forget they are backed by the big oil companies. That's a fact and of course they're not going to waver in trying to open up the Arctic National Wildlife Refuge. Just like the Vuntut Gwitchin and the grassroots effort will never give up trying to achieve permanent protection of the calving grounds of the Porcupine caribou herd within the Arctic National Wildlife Refuge and the coastal plain in Alaska.

All three remaining presidential candidates -- Barack Obama, Hillary Clinton and John McCain -- all say that the Arctic National Wildlife Refuge is too precious to destroy and are in favour of no development in the Arctic National Wildlife Refuge. It is my understanding that of the three presidential candidates only Hillary Clinton has said that she would permanently protect the refuge if she becomes President. However, I'm sure they all understand the incalculable ecological and cultural value of the Arctic National Wildlife Refuge in general. The coastal plain of the refuge in particular makes the Arctic refuge inappropriate for oil and gas exploration and drilling.

I'm hearing comments from the other side of the floor from the Minister of Health and Social Services and I encourage him to look at www.northyukon.ca and that will answer his questions about the grassroots lobbying effort in Washington, D.C. There are some nice pictures there for you to view.

Going back to my response, the strongest possible protection for the Arctic National Wildlife Refuge is more important now than ever before. Polar bears, migratory birds and other wildlife and traditional subsistence cultures that depend on the refuge are already severely stressed by the impacts of global warming and climate change. We must not put any additional stresses on this fragile Arctic landscape; instead, we must put in place additional protections like those offered by congressional proposals to permanently protect the Arctic refuge as wilderness.

The coastal plain, often referred to the "American Serengeti", is the biological heart of the Arctic National Wildlife Refuge with its incomparable wildlife resources, including polar bears, caribou, wolves, muskox and hundreds of thousands of migratory birds that come from as far away as South America and Australia to live, breed and moult there. More than 200

animal species would be at risk from the massive industrial infrastructure required for oil and gas drilling.

The coastal plain of the Arctic National Wildlife Refuge is a sacred ground for the Gwich'in people whose culture and way of life depend on the Porcupine caribou herd, which gives birth on the coastal plain.

Motion to adjourn debate

Mr. Elias: Mr. Speaker, seeing the time, I move that we adjourn debate.

Speaker: It has been moved by the Member for Vuntut Gwitchin that we adjourn debate.

Motion to adjourn debate on second reading of Bill No. 11 agreed to

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

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

Motion agreed to

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

The House adjourned at 5:27 p.m.