

Yukon Legislative Assembly
Whitehorse, Yukon
Thursday, November 27, 2008 — 1:00 p.m.

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

Prayers

Speaker's statement

Speaker: Members, before the House proceeds to the Daily Routine, the Chair would like to make a statement about order and decorum in this Assembly. After yesterday's sitting the Chair met with the three party leaders. At that time, the leaders informed the Chair that they had reached consensus that they and all members of their respective caucuses will rededicate themselves to their commitment to raise the level of order and decorum in this House.

It is a fundamental principle of parliamentary debate that members should treat each other as honourable at all times. The Chair appreciates that this is not always easy for members. They are committed to improving the lives of Yukoners. They are also committed to the positions they hold on important issues that face this territory. Often these positions are in conflict which can lead to unparliamentary behaviour as members passionately and enthusiastically debate bills and motions before them. However, the passion and enthusiasm members have for their own views cannot justify treating other members, who hold differing views, with disrespect.

The Chair appreciates the commitment that the party leaders are making. On behalf of the Deputy Speaker, the Chair can assure all members that the presiding officers will do their best to apply the House rules knowledgeably, consistently and impartially. The Chair will do his part to ensure that all members act in a manner that respects the institution in which we serve and earns the respects of those we were elected to serve.

The House will now proceed to the Daily Routine.

DAILY ROUTINE

Speaker: Tributes.
 Introduction of visitors.

INTRODUCTION OF VISITORS

Hon. Ms. Horne: Mr. Speaker, I would like the House to recognize Laura MacFeeters, who is in the gallery today.

Applause

Speaker: Are there returns or documents for tabling?

TABLING RETURNS AND DOCUMENTS

Hon. Mr. Rouble: Mr. Speaker, I have for tabling the Yukon Public Service Labour Relations Board Annual Report for 2007-08. I also have for tabling the Yukon Teachers Labour Relations Board Annual Report for 2007-08.

Mr. Elias: I have the following document for filing: *Managing Yukon Wildlife: How Are We Doing?* — a background discussion paper produced by the Yukon Fish and Wildlife Management Board.

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

NOTICES OF MOTION

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

THAT the Yukon Legislative Assembly, pursuant to section 22(3) of the *Human Rights Act*, remove John Wright and Darcy Tkachuk as members of the Panel of Adjudicators; and

THAT the Yukon Legislative Assembly, pursuant to section 22(2) of the *Human Rights Act*, appoint Michael Dougherty, Laura MacFeeters and Michelle Vainio to be members of the Panel of Adjudicators.

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

THAT this House urges the Yukon government to immediately negotiate a new agreement between the Yukon government and the Pharmacy Society of Yukon, which provides for insured health services to eligible beneficiaries and the manner in which these services would be charged to the government in order to reduce prescription drug costs for Yukoners.

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

THAT this House urges the Yukon Party government to enable the Standing Committee on Rules, Elections and Privileges, or SCREP, to fulfill its mandate to propose changes to the Standing Orders of this Assembly, make progress on legislative reform and improve decorum in the House by:

- (1) equalizing the number of vote-bearing members between the government and opposition;
- (2) ensuring that the chair of the committee calls a meeting in the near future;
- (3) giving its members on the committee a free hand in determining matters;
- (4) allowing the committee to schedule a sufficient number of meetings to deal with these matters; and
- (5) providing the committee with sufficient resources to properly carry out its important work.

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

THAT this House urges the Yukon government to respond to the dramatic increase in the number of sexually assaulted women in the territory in this month where we focus on violence toward women by establishing a rape crisis centre in conjunction with non-government organizations who have asked for this service for many years.

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

THAT this House urges the Yukon government to improve Yukoners' access to health care by:

(1) working with the Specialist Physician Service Committee to assess waitlists, volumes of services being provided in and out of the territory, medical travel trips/costs and patterns of use in other jurisdictions;

(2) developing quantitative and qualitative assessment tools to improve how the committee assesses which new specialists are required to improve Yukoners' access to care; and

(3) assuring that the tools developed should lead to an evidence-based process that assists the committee in arriving at sound selection decisions based on access, cost effectiveness and medical appropriateness and feasibility.

I give notice of the following motion:

THAT this House urges the Yukon government to expand locally available specialists services, provided either through resident specialists or visiting specialists, as appropriate and possible, where it can be demonstrated that they are likely to improve Yukoners' access to these physician specialists' services and it is cost effective and feasible to do so.

I give notice of the following motion:

THAT this House amend clause 95 of Bill No. 59, *Forest Resources Act*, to explicitly state that a process for review of the act must be established within five years of the act coming into force.

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

THAT this House urges the Minister of Community Services to publicly notify Marsh Lake residents on the status of land use planning in their community and inform them when the first public meeting will be held.

Speaker: Are there any further notices of motion?

Is there a statement by a minister?

This then brings us to Question Period.

QUESTION PERIOD

Question re: Pharmacare program

Mr. Mitchell: I have some questions today for the Minister of Health and Social Services. According to the report on the audit of the Pharmacare and extended health benefits programs, the agreement between the Yukon government and the Pharmacy Society of the Yukon expired in May 1997 and has never been renewed.

Under the terms of this agreement, the Yukon government is paying a higher markup rate on the cost of drugs than almost every other jurisdiction, yet the Health and Social Services minister told the House on November 25, "...we have an agreement and that agreement has to be honoured until the terms of that agreement are complete. I will state that the agreement is coming due soon and we intend to review that with those involved with the hope of getting a better deal for all Yukoners."

Is the minister actually unaware that this agreement has expired and, as a result, we've been paying a higher markup rate than necessary for at least the past six years?

Hon. Mr. Hart: As the member opposite indicated in the last part of his question, it has been in effect for the last six years. He has already indicated the agreement expired in 1997, and even though the agreement expired in 1997, we carry on with that agreement as if it were still in place, and it has been doing so since that time.

Mr. Mitchell: We do in the absence of a new agreement — we're not bound to. According to the report on the audit of the Pharmacare and the extended health benefits programs in the Yukon, we are paying a higher markup rate on the cost of drugs than other jurisdictions. We may even be paying the highest markup. This is also identified in *The Yukon Health Care Review* final report. That reports says we could potentially save \$1.6 million per year with a renegotiated agreement. In other words, we could've saved over \$9.6 million in the last six years of the Yukon Party government, if a new agreement had been in place. Will the minister commit to negotiating a new agreement between the Yukon government and the Pharmacy Society of Yukon for providing insured health services to eligible beneficiaries without further delay?

Hon. Mr. Hart: As the member opposite indicated, both the audit report and the sustainable health review indicated that pharmaceutical medications are very expensive in the Yukon. And they both indicated that the possible solution — I repeat — "possible solution" — was through development of a new agreement.

Regardless of the situation, Mr. Speaker, we are working on the development plan, or planning for the department, as a further follow-up to the audit. We're working toward the development of that program for the Yukon. In addition, we are planning to go out to the general public to get their input on the sustainable health review, and we'll await the response from there.

Mr. Mitchell: I appreciate that we're trying to keep this debate at a high level, but we're not getting the answers. We don't need to wait for *The Yukon Health Care Review* final report to go out to the public and be discussed with the public on cost savings. I don't think any Yukoner needs to be asked if they want to save money.

This recommendation from *The Yukon Health Care Review* report should be welcomed with open arms and the sooner, the better. The report even speaks of considering the option of legislated pricing if a new agreement and reimbursement arrangement cannot be reached.

The longer we delay on saving the taxpayers' money, especially in health care, the more the public will be rightfully outraged, especially if user fees are then brought in.

Will the minister negotiate a new agreement as soon as possible to save taxpayers' money on health care delivery and services?

Hon. Mr. Fentie: It's important that we discuss and understand all the issues related to this area. It is well known that since 1997, the agreement that was in place at that time has been carried forward for many years — a total now of 11, to be

exact. Mr. Speaker, this is not the first time this discussion has taken place in Yukon, but I will point out that this discussion is taking place nationally on a very high priority level. It is factual that the second highest cost driver in the health care system in the country is pharmaceuticals, and it's important for us to ensure that, as we have our public discussion on health care with Yukoners, as we construct our business case for the federal government on the continuation of the territorial health access fund, we are able to include the Yukon's position on a national basis when it comes to pharmaceuticals. The discussion has even included harmonization of pricing. It's important, Mr. Speaker, because to truly address the issue, we in Yukon cannot work in isolation. We must work with all jurisdictions in Canada, because Canada's health care system is based on the *Canada Health Act* and applicable to all.

Question re: Wildlife management and protection

Mr. Elias: Discussion of our fish and wildlife kindles a passion in many Yukoners and it's because they care. The Yukon Fish and Wildlife Management Board has summoned hundreds of Yukoners to gather at a symposium to build a vision for the year 2020 to manage our fish and wildlife. Congratulations to the board for taking the leadership. Yukoners are having a very frank and open dialogue. They are hashing it out, putting it all on the table and nothing is sacred during these important fish and wildlife discussions. Wildlife and habitat information is crucial for trend analysis and to help facilitate the valuable discussions among Yukoners.

I have been advocating for the current production of this crucial information on the state of our environment for years and all I got as response from the government was, "It was a benign legality."

Why hasn't the Environment minister provided Yukoners with a current state of their wildlife populations to help facilitate the symposium's dialogue?

Hon. Ms. Taylor: First I wish to thank and applaud the forward thinking of the Yukon Fish and Wildlife Management Board for convening this particular symposium, otherwise known as "20:20".

It really provides Yukoners from all walks of life and of all ages to put forward their ideas to learn about the work that is currently undertaken when it comes to fish and wildlife matters in the Yukon. It also provides them an opportunity to put forward solutions for respective changes.

Over the last number of years, the Department of Environment is very proud of its work in conjunction and in collaboration with a number of stakeholders, whether that be renewable resources councils, the Yukon Fish and Wildlife Management Board, First Nations, the Yukon Fish and Game Association, and so forth — working forward in a collaborative and coordinated effort to address issues of importance.

What we as a government have done in previous years and will continue to do is allocate resources where required. In this particular aspect, we have enhanced resources substantively — almost four-fold — in conjunction with fish and wildlife inventories, which enables the Department of Environment to do its good work and monitor those trends, et cetera.

Mr. Elias: Wouldn't it be nice if those brilliant minds that are at the Yukon Inn right now as we speak had a product from this minister? The bottom line is this: the minister has failed to fulfill her responsibilities and duty toward our environment, fish and wildlife, and Yukoners. Six years, record budgets, and nothing. The minister has no plan, no vision to get the job done and can't even meet Yukoners halfway.

The Yukon Party government openly boasts that the Yukon government spends more money per capita than any other jurisdiction on direct financial incentives for exploration in the mining industry. It also commits more of a percentage of its total budget to direct exploration incentives than any other jurisdiction in Canada. That's good, but where's the balance?

When will the minister table a current state of the environment report that includes valuable baseline data on our fish and wildlife populations?

Hon. Ms. Taylor: What I find ironic about this discussion that is transpiring on the floor of the Legislature today is that what I heard this morning at the opening of the symposium was that now is not the time to point fingers; now is not the time to assign blame; now is the time to work together.

We are in a state of change as we know it. Worldwide, this territory, this world is being confronted by changes on the global economy. It's confronted by changes on the social front. It's confronted by physical changes as we have witnessed as a result of climate change.

In my eyes and in those of the Department of Environment, Yukon is one of the most progressive jurisdictions in the country in addressing wildlife management matters in the territory through the implementation of final agreements and various cooperative management processes, including community-based wildlife management planning. Examples of such collaboration include the new Southern Lakes Wildlife Coordinating Committee, comprised of six respective First Nations, the British Columbia and Yukon governments, and the Canadian Wildlife Service, whose mandate is to manage a coordinated approach to moose, caribou, sheep and other wildlife populations.

Another example of collaborative work is working with the First Nations and Na Cho Nyak Dun on a five-year, long-range plan strategically to address community-based fish and wildlife management. Likewise, we're working with First Nations and renewable resources councils on a whole host of other management processes.

Mr. Elias: If the minister hasn't noticed yet, I call it like I see it. Why is it, then, that discussion papers at the symposium expressed the concern that the Yukon cannot provide information with much confidence on the overall status of most of its wildlife populations? It's right in the discussion paper.

The information that is provided for Yukoners to discuss at the 20:20 Vision Symposium amounts to educated guesswork. Information is the foundation of good wildlife management, and this Environment minister has failed to provide current, basic information that is required by law, as outlined in sections 47 and 48 of the *Yukon Environment Act*.

Those good Yukoners are going to fulfill their duty and commitment to Yukon's fish and wildlife over the next few

days, with or without the minister's work because it's that important to develop a vision.

Is the minister ready to produce and publish her responsibilities outlined under sections 47 and 48 of the Yukon *Environment Act*? Yes or no?

Hon. Ms. Taylor: Well, Mr. Speaker, again, one of the primary responsibilities of the Government of Yukon, of the Department of Environment in this particular aspect, is to develop and implement management programs that support biological diversity and ensure the conservation and sustainable use of fish and wildlife, habitat and water resources. Our government, in support of this objective, has increased funding significantly for wildlife inventories in support of wildlife management plans.

This supplementary estimates that we are debating, and as reflected in the mains that were tabled by the Premier earlier this year, recognizes an additional \$500,000 for fish and wildlife inventories, on top of the additional \$1 million that was increased a year ago. This additional funding has enabled more areas and more species to be assessed, including distribution and behaviours. Doing so, we not only better inform our wildlife management decisions, but we also monitor the impacts of climate change on Yukon's environment. This additional funding has enabled biologists to conduct a composition count of the Porcupine caribou herd. Certainly, 41 inventory and 17 wildlife management projects will be undertaken alone this year.

Speaker's statement

Speaker: Before the honourable member asks the next question, I would just like to remind all members that when one member is speaking, please refrain from making comments. Please allow one member to speak while the other members listen, because it becomes a bit unharmonious when members are calling out responses while another member is speaking.

Question re: Wildlife management and protection

Mr. Hardy: The president of the Yukon Chamber of Mines made some fairly controversial statements this week. He said, and I quote: "We need to ensure that the results of the Peel planning commission do not result in the protection of a large percentage of that area." He also said, "Protection doesn't mean that it has to remove the stuff that keeps us all fed and keeps us all in business like industrial development."

Does the Minister of Energy, Mines and Resources endorse these statements made by the president of the Yukon Chamber of Mines?

Hon. Mr. Cathers: Mr. Speaker, what I would point out, in fact, is that the commission, of course, will consider the perspectives of all, and as we have discussed on other pieces of legislation such as the *Forest Resources Act*, this is an example of the challenge that commissions and governments face in dealing with diverse perspectives from Yukon citizens, from industry groups, from conservation groups, who have differing opinions on the appropriate manner in which to proceed.

The president of the Yukon Chamber of Mines is entitled to his opinion, as are those who disagree with his opinion. At this point in time, we'll leave it to the commission to fully and

fairly consider the perspectives of all Yukon groups and citizens.

Mr. Hardy: I had asked the minister if he agrees with these statements or not. Obviously he doesn't want to answer that. The Yukon Fish and Wildlife Management Board published a background discussion paper for its symposium this week, entitled "What's your vision for fish and wildlife in the Yukon, in the year 2020?" "As Yukon's land manager," the paper says, "Energy, Mines and Resources is steward of Yukon's wilderness and wildlife habitats, and it is the regulator and decision-maker for land use ... EMR's primary business is promoting, assisting, and financing access and industrial development ..." The problem is this happens mostly in the wildlife habitats.

Does the minister see a potential problem here?

Hon. Mr. Cathers: What I would point out to the member is that the good work of officials in this area, not just in Energy, Mines and Resources but also other departments, such as the Department of Environment, is to work within the Yukon system to enforce the rules we have in place. There are also other players, such as the Yukon Environmental and Socio-economic Assessment Board, the Fish and Wildlife Management Board and renewable resources councils.

In this case, I would point out that we have a land use planning process underway. The land use planning is required pursuant to First Nation final agreements. We will allow that work to continue and we will not pre-empt, predetermine or prejudge the recommendations of the planning commission.

Mr. Hardy: The Yukon Fish and Wildlife Management Board further says, the Environment department "is charged with the conservation and management of wildlife and their habitats but it does not directly control activities that affect these lands. Thus the wildlife managers have habitat responsibilities, but lack practical means to discharge them outside of designated Habitat Protection Areas."

So I ask the minister the same thing the Fish and Wildlife Management Board has asked Yukoners in this discussion paper. Does the integrity of Yukon wildlife habitat depend more on market conditions than on a conservation commitment?

Hon. Ms. Taylor: I will say, as the Yukon's Minister of Environment, this government takes matters of fish and wildlife management very seriously. As I have articulated on the floor of the Legislature many times over, we have cooperative and collaborative processes involved with renewable resources councils under the mandate of the Yukon Fish and Wildlife Management Board. It is our mandate to prescribe and enforce the law when it comes to ensuring that we have a pristine, quality environment for the enjoyment of all Yukon citizens.

Mr. Speaker, we are working with our respective partners on wildlife management processes, which include a whole myriad of stakeholders as well as First Nation governments directly. We have allocated resources for a number of planning processes, including management plans for wood bison, elk and caribou in their respective territories. We have identified resources to collaborate, to ensure that we have the necessary wildlife inventories to make informed decisions and certainly

to provide informed advice to the land use planning process as well.

Question re: Seniors transportation

Mr. Edzerza: Months before the seniors complex on the Yukon College site was a reality, we put questions to this government on what it would do about transportation for them. We were told it wouldn't be a problem, that there were seniors who owned cars. Not to our surprise, this has become a concern and now that it's winter, it's even dangerous. Not all the seniors have cars, and those who do have transportation prefer to use the city bus system to save on the cost of gas and for environmental reasons. The bus stops in front of the college, but not in front of the seniors complex.

What is the Minister of Health and Social Services doing to assist Yukon seniors to access the bus route?

Hon. Mr. Rouble: The Canada Winter Games was a tremendous opportunity for all Yukoners to get involved. One of the steps where government got involved was establishing the residences that served not only the seniors there but also students. We could have just invested in tents; instead, the government put in a long-term legacy project.

Now, Mr. Speaker, we are happy to see that we have family units up there for students who come in from our rural communities and we also have additional seniors residences in our community. A bus goes up to Yukon College and through the turnaround.

If the City of Whitehorse — through its transportation branch — would like to continue that through to the turnaround in front of the seniors residence and put in an additional bus stop, I would certainly support that. I have raised the issue with the mayor. I understand there might be a couple of technical issues; however, I believe those are hurdles that we can overcome. I think it would be important for the government, and we will continue to work with the city to ensure that we have adequate transportation up there and if the city transport would like to extend bus service up there too, I would fully support it, as would the Minister of Health and Social Services and the minister responsible for Yukon Housing Corporation.

Mr. Edzerza: Mr. Speaker, let the record show the minister didn't answer that question. We have a petition signed by a vast majority of residents in the complex asking for bus services, and I will table that for the information of the House. These seniors have to struggle up a hill from the bus stop, carrying all their shopping. Seniors with health problems such as heart disease, arthritis, asthma and simple frailty are forced to walk in snow and ice for months of the year, or else they're housebound. The residents have been told that the residence site belongs to the territorial government, not the college or the city. They have been given the royal runaround. They have now written to the Premier to have the city bus add a short distance to its route. Has the minister or the Premier contacted the seniors in the complex to discover what the government can do to help?

Hon. Mr. Rouble: Once more for the member opposite — I fully support seeing an extension of the city's bus service to the additional areas of the residences. Mr. Speaker, I've

just been accused of not answering the question. I'll try to be a bit more blunt.

If the mayor would like to join me in putting up a new bus stop sign, I would gladly be up there with my shovel to help put it in. If she would like to tour up there with me and look at where the turnaround can go, I'll make time in my schedule.

We have the bus that goes up. It goes to the Yukon College property now. Yes, the property is owned by the Government of Yukon. I don't believe there is any problem with extending the bus service. I will continue to go to work with the City of Whitehorse to adjust their bus service so that it does include the additional residences.

Mr. Edzerza: Support is one thing, but it must become reality. A survey before the college complex was built showed that most seniors preferred to live where services are available downtown. The seniors are very pleased with the complex at the college, but they would appreciate available city bus transportation. This is a simple matter.

Can the minister tell me today, will this happen before Christmas so that I can attend their dinner and let them know that this service is definitely going to be in place? Why? Because the minister supports it.

Hon. Mr. Rouble: Mr. Speaker, the Government of Yukon has demonstrated its commitment to ongoing education, its commitment to people in rural communities and its commitment to seniors.

Mr. Speaker, when we had the opportunity with the Canada Winter Games — rather than invest in a short-term housing initiative designed to host athletes for a couple of days — the Government of Yukon made a long-term legacy project and we built a significant student residence and also a facility up there for seniors. Mr. Speaker, this has been a huge success. I believe that both of the facilities are booked solid. As well, Mr. Speaker, we had additional space in the basements of these buildings that can be used for a future purpose, whether it is the licensed practical nurse or some other program.

Mr. Speaker, I agree with the member opposite. I agree with the seniors I have talked to up there and I agree with the students who also use the bus. It would be wonderful if the City of Whitehorse would extend their bus service through to the other residence.

I will continue to convey those wishes and those desires of students and seniors to the City of Whitehorse, the Mayor and Council. Mr. Speaker, I'll go and dig a hole to put in the bus stop sign. We'll go to work with the City of Whitehorse on addressing this important issue.

Question re: Electrical rate stabilization fund

Mr. McRobb: The Yukon Party government made a promise about 18 months ago that there would be no net bill increases after the smoke cleared from changes to consumers' power bills. This promise was made to soften the impact from its decision to cut the rate stabilization fund by half, resulting in a 15-percent hike to power bills. The complete elimination of the RSF will occur in a few months, bringing the government-induced power bill hike to 30 percent.

The Yukon Party's great hope for reducing power bills was predicated on a rate decrease application by the publicly owned

Yukon Energy Corporation. As expected, the allowed rate adjustment is much smaller than the bill hike caused by the loss of the RSF. According to the recent decision by the Yukon Utilities Board, the rate decrease to Yukon Energy's rates is a mere 3.5 percent.

So can the Minister responsible for YEC tell us now whether the Yukon Party has made good on its promise of no net bill increase?

Hon. Mr. Cathers: I have to remind the Member for Kluane — which he should be aware by now — that the Yukon Utilities Board is a quasi-judicial board and they set the rate. The Yukon Utilities Board has responded to the application of the Yukon Energy Corporation by rendering an interim decision and an interim rate reduction while they consider the fuller scope of the application, which I believe is slated for hearings in May. It is in the hands of the Yukon Utilities Board, so the final outcome has not yet occurred. They have, in the interim, while they consider the request by the Yukon Energy Corporation, rendered an interim rate reduction.

Mr. McRobb: Well, Mr. Speaker, the wrong minister answered the question. Many Yukoners are having difficulty making ends meet and have lost life savings due to the economic meltdown. Businesses and municipalities are also feeling the pain. Now this government is making it worse by melting down on its promise of no net bill increase.

This government promised rate reductions would more than compensate for bill increases. When we look at the facts, there's a different picture. Power bills increased 15 percent last year when the government cut the RSF. Power bills increased five percent from Yukon Electrical's increase, with another five percent in the hopper. Power rates decreased only 3.5 percent as a result of the recent decision. Power bills will increase another 15 percent after the government abolishes the RSF in a few months.

A quick tally of these facts reveals an overall bill increase of 37.5 percent, or about \$450 more for the average customer. How is that no net bill increase?

Hon. Mr. Cathers: Again, the Member for Kluane's math is not accurate. It becomes very challenging to attempt to answer a question when the preamble to the question does not accurately represent the facts. The member's math is wrong.

What I will point out is that what the Yukon government is doing is that we are working with the private sector, we are seeking the participation of the federal government and possible partnership with First Nations, as well as in investing in expanding the Yukon's electrical grid, increasing our hydro capacity, and putting downward pressure on rates.

The increased revenue Yukon Energy Corporation has received from the Minto mine — formerly Sherwood Copper Corporation and now called Capstone Mining Corp. — has enabled them to make an application to the Yukon Utilities Board for a rate decrease. The Yukon Utilities Board has approved an interim rate decrease while they consider the fullness of the application and go through a fuller hearing process. But they have provided, in time for Christmas, an interim rate reduction for Yukon citizens that will be in place over the winter months. They have the ability at their May hearings to deter-

mine which decision to render and the ultimate final rate structure that will be put in place by the quasi-judicial board.

Speaker's statement

Speaker: Before the honourable member asks his next question — in light of the Speaker's statement earlier today, I ask the honourable minister not to personalize debate. I ask members to keep in mind Standing Order 19(i) when using language that is likely to create disorder.

Member for Kluane has the floor.

Mr. McRobb: It is clear that the Yukon Party government has no intentions of honouring its promise to the ratepayer, nor has it even warned the customer that bill hikes are on the way. It said nothing at all to clarify this matter. May I remind members that this is a bread-and-butter issue, a pocket-book issue. It is about affordability. The bill increase will mean that many Yukoners will have to do without to keep their homes warm and their lights on. It will affect the bottom line for businesses and lead to an increase in the cost of goods and services to the consumer.

Speaking of keeping the lights on, Mr. Speaker, the minister responsible has so far refused to direct his corporation to address this matter at the upcoming hearings. What then does the minister responsible plan to do to ensure this matter is properly addressed.

Speaker's statement

Speaker: Before the honourable minister answers, Member for Kluane, please do not make gestures toward another member. Please direct your questions and gestures toward the Chair.

Hon. Premier, please.

Hon. Mr. Fentie: I think it's incumbent upon all of us not to be too presumptuous on matters that are important to Yukoners. We have to go over a number of things for the Member for Kluane in this regard. First off, it's factual that there is an interim rate decrease, as set by the Yukon Utilities Board. There's still an ongoing rate application before the board for a decrease, as the corporation has presented.

The government has come forward with a plethora of conservation measures to help Yukoners conserve energy, thereby being less costly. The government in this budget has provided assistance to fixed-income earners with an increase in the income supplement. The government has made a significant increase in the pioneer utility grant. The government has invested considerable monies toward hydro infrastructure, with more coming.

All of what we're doing collectively is going to result in the reduced cost of energy for Yukoners. I want to remind the members of the House that if we do not do what we're doing in terms of the infrastructure investment today, the result will be — will be — rate increases and the difference will be the fact that by hydro we can produce electricity approximately 10 cents a kilowatt, by diesel it's 35 cents a kilowatt. The government is heading in the right direction.

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

We are now prepared to receive the Commissioner, in her capacity as Lieutenant Governor, to give assent to the bills which have passed this House.

Commissioner enters the Chamber, announced by the Deputy Sergeant-at-Arms

ASSENT TO BILLS

Commissioner: Please be seated.

Speaker: Madam Commissioner, the Assembly has, at its present session, passed certain bills to which, in the name and on behalf of the Assembly, I respectfully request your assent.

Clerk: *Act to Amend the Quartz Mining Act and Act to Amend the Miners Lien Act.*

Commissioner: I hereby assent to the bills as enumerated by the Clerk.

Commissioner leaves the Chamber

Speaker: I will now call the House to order.

Unanimous consent re motion re Yukon Human Rights Panel of Adjudicators membership

Hon. Mr. Cathers: Mr. Speaker, I request the unanimous consent of the House to call at this time the motion the Minister of Justice gave notice of earlier today respecting membership of the Yukon Human Rights Panel of Adjudicators.

Speaker: Is there unanimous consent to call the motion identified by the Government House Leader?

All Hon. Members: Agreed.

Speaker: There is unanimous consent.

GOVERNMENT MOTIONS

Speaker: It is moved by the Minister of Justice

THAT the Yukon Legislative Assembly, pursuant to section 22(3) of the *Human Rights Act*, remove John Wright and Darcy Tkachuk as members of the panel of adjudicators; and

THAT the Yukon Legislative Assembly, pursuant to section 22(2) of the *Human Rights Act*, appoint Michael Dougherty, Laura MacFeeters, and Michelle Vainio to be members of the panel of adjudicators.

Hon. Ms. Horne: I wish to inform you that panel members John Wright and Darcy Tkachuk have with great regret submitted their respective resignation as members of the panel of adjudicators. Today I ask the Legislative Assembly for unanimous agreement to remove John Wright and Darcy Tkachuk as members of the panel of adjudicators, as mandated under section 22 of the *Human Rights Act*.

Further, Mr. Speaker, I wish to thank Mr. Wright and Mr. Tkachuk on behalf of the people of Yukon and the Members of the Legislative Assembly for their high level of commitment and integrity while working as members of the panel of adjudicators. They have served well and ably. It was with great regret

that I accepted their resignations. On behalf of the Yukon government I extend my best wishes to them both in their future endeavours.

It gives me great pleasure to recommend the appointments of Michael Dougherty, Laura MacFeeters and Michelle Vainio to the panel of adjudicators, as mandated under the *Human Rights Act*, section 22(2), to fill two current vacancies and to add a third member, thereby increasing the membership of the panel to six members from five.

Michael Dougherty previously served two terms on the panel. His professional background includes a bachelor of arts and master of arts in political science and graduate school study in urban planning. He currently is a sessional lecturer at Yukon College and a journalist with the *Yukon News*. He has extensive experience in mediation, decision writing and conflict resolution. He is an active community member and has extensive experience on various boards. Mr. Dougherty will bring his past experience and a strong commitment to human rights to the panel.

Laura MacFeeters is a private consultant in health, justice and social service policy development and analysis. Her professional background includes a bachelor of arts, a master of public administration from Queen's University, and a masters of social work from the University of Toronto. She has worked previously for the Minister of Justice and Government Services and in the departments of Justice and Health and Social Services.

She has extensive experience on various boards and is an active community volunteer. Ms. MacFeeters will bring a strong commitment to human rights to this panel.

Mr. Speaker, Michelle Vainio is currently the Mayor of the Town of Faro, having served on the town council since 2000. Her professional background includes office administration and business management in the building and service industries. She has extensive experience on various boards, serving as chair of the community training trust, past president of the Association of Yukon Communities and a participant in the Yukon Regional Round Table. She is active in community events and serves as a volunteer on local Faro committees.

Ms. Vainio will bring a vast knowledge of community issues and needs and a strong commitment to human rights to the panel.

Mr. Speaker, I am pleased today to ask the Legislative Assembly for unanimous agreement to appoint these highly respected and capable citizens of Yukon to the panel of adjudicators. They will undoubtedly bring a sincere and strong voice for human rights and social issues to the panel.

In conclusion, I would like to take this opportunity on behalf of the government and the people of Yukon to thank all the members of the panel of adjudicators for their fine work on our behalf. Chief Adjudicator Barb Evans and members Donna Mercier and Michael Riseborough continually demonstrate a high level of commitment, integrity and professionalism in their work with the panel. I am confident that, with the appointment of the three members today, the panel of adjudicators will continue to serve Yukon in the same exemplary fashion.

Mr. Mitchell: It gives me pleasure today to speak to support and second this motion that the Minister of Justice has brought forward to appoint Michael Dougherty, Michelle Vainio and Laura MacFeeters as members of the Yukon Human Rights Panel of Adjudicators.

These are three very accomplished Yukoners who all have a long history of service to our community of Yukon. They will do the Yukon proud in serving on this important panel. I would also like to thank Mr. Wright and Mr. Tkachuk on behalf of all Yukoners for their past service to this panel and the good work that they did.

I'd like to note that it certainly is a plus that Ms. Vainio is Mayor of Faro and, as someone who has been the chair of the Association of Yukon Communities, will bring a rural perspective to the panel, which is always important. I note that the Justice minister wanted to make sure there was that rural perspective provided.

I want to thank the Justice minister for coming personally to consult with me on behalf of our caucus on these appointments and working cooperatively in that spirit.

Mr. Hardy: I also want to commend the people stepping forward — Michael, Laura and Michelle — in taking on the task of dealing with human rights. It's a hard task: you're dealing with very sensitive issues, things that affect people's lives very deeply. I believe these three people will definitely contribute to very sound decisions and help for the people of the territory who need to use human rights adjudication.

Also, on behalf of the NDP, I'd like to thank the two members who have now resigned. They served us well — Mr. Tkachuk and Mr. Wright — and I hope to see them involved in some other activities that serve the people of this territory because they did a good job under human rights.

Also, just to mention something as well, and that is to thank the Justice minister and the members of the select committee who went out and listened to the people of this territory. It all contributes to our evolution in ensuring that human rights is a number one priority and one that we have to respect throughout this territory as around the world. Michael will bring international experience and understanding of human rights to the adjudication, Laura McFeeters will bring national and territorial understanding, very deeply, due to her involvement for so many years in many boards and activities — and Michelle will definitely bring a rural perspective. I think that mix will contribute very well to assist and help people in this area.

Motion agreed to

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

Motion agreed to

Speaker leaves the Chair

COMMITTEE OF THE WHOLE

Chair: Committee of the Whole will now come to order. The matter before the Committee is Bill No. 59, *Forest Resources Act*.

Do members wish to take a brief recess?

All Hon. Members: Agreed.

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

Recess

Chair: Order please. Committee of the Whole will now come to order. The matter before the Committee is Bill No. 59, *Forest Resources Act*.

Bill No. 59 — *Forest Resources Act* — continued

On Clause 7 — continued

Amendment proposed — continued

Chair: Before we proceed, the Chair would like to remind members that we are currently debating an amendment before us. I would like members to keep the debate strictly to that amendment, please.

Hon. Mr. Fentie: I will be very brief in my concluding remarks from the other day. I think I will begin, Mr. Chair, with a statement that the proceedings of the Assembly, in all its areas and purview, are very important. It is critical that we the members of this House debate all matters of the public's business before this House in a constructive, respectful manner that would be appropriate for the station of the offices that we hold.

With respect to the amendment itself, though we do not dispute that the Member for Kluane has an opinion from a conclusion that the member may have drawn, I must point out to the member that the amendment he has tabled is inconsistent with the issue of the act itself.

First, consulting with affected renewable resources councils is a fact. It is done in many cases, but the renewable resources councils are also mandated through the agreements and this act is very clear in its establishment that the agreements will prevail, therefore giving the resources councils that very important undertaking.

It also includes the fact that the act and the expressions "consult" and "consultation with renewable resources councils on settlement land" have the same meaning — I want to emphasize the same meaning — as the final agreements. Therefore, the act is completely consistent with our obligations and they have been carried out accordingly.

The second part of the amendment is something that cannot be put in this particular statute because it is again inconsistent with the bill itself. The budgeting for renewable resources councils is the direct obligation of the federal government. The implementation dollars that were included with the final agreements' signing many years ago also included the allotments for renewable resources councils. The nine-year review, by the way, that has been done shows clearly that there are deficiencies and gaps in implementation that we are addressing with the federal government today through the process of developing a new mandate for implementation.

Therefore, the issue of budget for the renewable resources councils is being dealt with in a completely different forum and through a completely different process that includes our national government. The federal government must be there.

The act itself, the *Forest Resources Act*, is an obligation and a direct responsibility of the Yukon government, post-devolution. It is part of successor legislation, and this is the first bill that we are obligated to bring forward. And, by the way, all we've had in this territory for many, many years is a very outdated set of timber regulations.

But today we have before us a legal instrument that will provide First Nations, Yukoners, industry, conservationists and departments responsible for managing our forests the necessary tools to be able to improve the overall management and conservation of our forests as is written into the act, and of course the overall balancing of management to ensure that, in the management of our forests, we are not excluding the interconnected values and biodiversity.

So, Mr. Chair, what we need to do here today is recognize that if the opposition have amendments that can be accepted and debated, the government side is more than willing to do that, but amendments coming forward that are inconsistent with the act, inconsistent with what we can even put into the act, the government will no longer engage in debate, but will await the votes and move ahead on the passage of Bill No. 59, the *Forest Resources Act*.

The really critical step that is before us now, once we have passed the act, is to conduct the very hard work with all concerned — and that includes renewable resources councils, First Nations and others — to develop the regulations that are a requirement of the act to be able to get on with managing Yukon's forests.

I would hope, Mr. Chair, that given the Speaker's statement today, given the commitment by all in the House and in the context of improving decorum and raising the bar of the debate, that we will just simply move ahead. This amendment will be opposed, of course, by the government side — I want that to be made clear. As I said, the reasons are clear. Also, the amendment itself is inconsistent with the bill, with the legislation and with any process involving this particular bill.

Thank you very much, Mr. Chair.

Mr. McRobb: Mr. Chair, I am rather astonished that the Premier has somehow extrapolated the need to improve decorum in the Assembly with the need for his government to escape accountability on this bill. The questions that we are raising are brought to us —

Some Hon. Member: (Inaudible)

Point of order

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

Hon. Mr. Cathers: Considering the commitment by all three party leaders to improve accountability and the statement made by the Speaker, the assertion that the Member for Kluane made of the government trying to escape accountability, I would suggest, is a little out of bounds.

Chair's ruling

Chair: There is no point of order. It is a dispute between members. I would like to reiterate, Mr. McRobb, when the Chair is speaking, I expect all member to be seated.

There is no point of order, but I will proceed to restate to all the members that when the Chair or the Speaker is speaking, all members are to be seated. I expect members to debate the amendment that is at hand. Mr. McRobb.

Mr. McRobb: Thank you, Mr. Chair. I'm merely responding to the remarks the Premier just made.

When the Premier makes a remark that they're going to refuse any more debate on this matter and will participate only in the votes — that is escaping accountability. I'm sorry if it offends any members in here, but that's exactly what it is — escaping accountability.

Now these concerns — as I was saying — have been brought to us by renewable resources councils, Yukon organizations and Yukon people. It is felt this bill is lacking with respect to empowering the involvement of the renewable resources councils into the process. A whole other area deals with the development of forest management plans. We heard submissions from these same people that there is no assurance within this piece of legislation that these important councils will be guaranteed a role in the development of the forest management planning process, and that's critical.

So when the Premier and the minister call these amendments useless, one can only make a determination that the government has no will to respect the *Umbrella Final Agreement* that empowers these boards. That is shameful.

I'm ashamed to be a member and be part of this Assembly that condones that sentiment. The *Umbrella Final Agreement* as law was signed on to by all governments of the day, and it should be upheld and respected. That legislation should supersede all legislation by empowering renewable resources councils into involvement in the planning with respect to fish and wildlife in their local areas. Yet this bill completely excludes a requirement for that.

Yesterday during Question Period, I pointed out how more progressive legislation can be found south of the border in the Province of British Columbia. It is including into its legislation the mention of aboriginal rights and title.

That brings us back to the minister's previous comment that there is no legislation in the Yukon or elsewhere that contains such provisions. Well, Mr. Chair, the minister was wrong again. Yesterday, I cited a part in the *Wildlife Act* which specifically mentions a land claim agreement. So why doesn't this piece of legislation include that? It would clarify the rules for everybody in the Legislature on down to the logger in the woods, and everybody in between, including large Outside companies who may someday have plans to harvest timber within our territory. It would help to avoid costly legal disputes and wars in the woods. Mr. Chair, it's beyond me why the government says no to that.

But I will take the Premier up on something. I think it's clear the government, as it has stated already, will say no to these amendments, and we'll make a brief argument for, but

Mr. Chair, we refuse to belabour each one because we know it would be pointless to do so. There remains in this sitting, within the diminishing number of days, a number of other pieces of legislation that deserve our attention. I am hoping that we can show a level of cooperation and get this act through today. Let us just say that we agree to disagree. We can put our position on the record and move on.

Mr. Chair, I am ready for a vote on this now.

Hon. Mr. Cathers: I will be very brief. Of course, both the Premier and I have indicated to members again and again that clause 4 of the act states very clearly and reminds anyone — in case there is any question, and I point out that there was not in first place — that the final agreements prevail. They do prevail; they are constitutionally protected regardless of any Yukon legislation. Again, that is reiterated in the act. The amendments as brought forward by the opposition to date and the ones that they have indicated they are likely to bring forward are not consistent with the act nor do they reflect the process that must be followed.

In fact, I again note that not only through the successor resource legislation working group was this developed, but through the consultation with the renewable resources councils, as mandated in section 17 of the final agreements. Again, all obligations of the *Umbrella Final Agreement* are reiterated by clause 4 of this act. Therefore, there is no need or benefit in engaging in further debate and spending numerous hours laying out the facts and reiterating that clause 4 and the *Umbrella Final Agreement* prevail.

Mr. McRobb: I indicated that I was prepared to move on to the vote, but not so quickly. There is a gaping hole in what the minister just said, and that hole includes unsettled First Nations that aren't signed on to the *Umbrella Final Agreement*. That is our primary concern with respect to how this bill excludes mention of aboriginal rights and title. I just wanted to get that on the record now.

Chair: Is there any further debate on the amendment? Shall the amendment carry?

Some Hon. Members: Division.

Count

Chair: Count has been called.

Bells

Chair: Order please. Committee of the Whole will now come to order. The matter before us is an amendment. All those in favour of the amendment, please rise.

Members rise

Chair: All those not in favour, please rise.

Members rise

Chair: The results are seven yea, nine nay.

Amendment to Clause 7 negatived

Chair: Is there any further debate on clause 7?

Clause 7 agreed to

On Clause 8

Clause 8 agreed to

On Clause 9

Mr. McRobb: I'm wondering why there's no First Nation involvement in the appointments mentioned in this clause.

Hon. Mr. Cathers: Mr. Chair, if the member will look further on in the act, they will see that when settlement lands are included within a planning process, there is guaranteed equal representation on a planning board. In the absence of an agreement to put settlement lands along with public lands in the planning process, nothing precludes First Nation involvement, but there are no specific provisions or seats set aside for First Nation participation. The intent of it being, of course, to encourage government participation and, recognizing that forests do not end where settlement land ends or where public land ends, that it is all part of one forest, one ecosystem, and that ideally, together, First Nations and government should be working — we would like to see First Nations and government working side by side in a joint planning process with equal representation on the board. Therefore the act encourages that, but again does not preclude — if First Nations choose not to participate in the planning process, it does not preclude participation.

Mr. McRobb: Okay, so just to clarify this a bit further, Mr. Chair, the minister's saying, in a location like southeast Yukon where 70 percent of the territory's merchantable timber is located, that there is no guaranteed involvement of First Nations there in the planning process because they are unsettled. Would that be correct?

Hon. Mr. Cathers: There is provision for unsettled First Nations provided further on in the act, under clause 12, allowing in areas where First Nations are not settled that joint planning processes can be undertaken. However, of course, the rights and powers of a settled First Nation government that has a binding final agreement are different and larger than those of one which is in a state of having undefined and undetermined aboriginal rights and titles that have not yet been resolved through tripartite negotiation.

But, yes, there is provision later in the act for participation and work with an unsettled First Nation, specifically provided for in clause 12.

Clause 9 agreed to

On Clause 10

Clause 10 agreed to

On Clause 11

Mr. McRobb: I do have an amendment for this clause. I will pass this over to the Clerk at this opportunity. I will read it out and argue it later. How's that?

Amendment proposed

Mr. McRobb: I move

THAT Bill No. 59, entitled *Forest Resources Act*, be amended in clause 11 at page 14 by deleting subclause (1).

Chair: It has been moved by Mr. McRobb that Bill No. 59, entitled *Forest Resources Act*, be amended in clause 11 by deleting subclause (1).

Mr. McRobb: Thank you, Mr. Chair. I think we could probably agree to disagree on this matter and keep debate relatively concise. The main concern here is we believe that the

minister should not have the sole discretion to amend a forest resources management plan or to declare a forest resources management plan to be no longer in effect. This would apply to the plan in whole or in part.

I think the amendment speaks for itself. We would have expected the government to be more conciliatory toward its government partners and not give itself all the power in this respect and that is therefore the cause for bringing forward this amendment today.

Hon. Mr. Cathers: I'm actually quite surprised and disturbed by this amendment that has been brought forward in that if the Legislature were to pass the proposed amendment, it would be bad for the environment and would not recognize the right of the public to elect new governments or, through existing governments, change priorities and for governments to respond to them as time goes on, and to cancel a plan that had a defined purpose in time, or amend the plan at public request.

The members will note later, in clause 11, there are specific provisions requiring, prior to amending or declaring a plan to no longer be in effect, the minister to notify First Nations whose traditional territory falls wholly or partially within that part of the planning area to be affected by the proposed amendment or declaration, and provide them with no less than a 30-day period to make a representation to the minister on the proposed action and, secondly, a requirement to give public notice of the proposed amendment or declaration and provide no less than a 30-day period for the public to make representations to the minister on the proposed action.

It also provides the ability later in that clause for a First Nation whose traditional territory falls wholly or partially within a planning area to make a written request to the minister at any time to amend or declare that a plan in whole or in part is no longer in effect and the minister must inform the First Nation in writing within 90 days of receipt of the request as to whether the plan will or will not be amended or declared no longer in effect. Again it provides the ability for First Nations to request this.

What the Liberals are forgetting in bringing forward this amendment is that this is not something that applies, either one way or the other, in increasing or reducing the ability of annual allowable cut or any other matter under the plan. This is something that is, in fact, common in other legislation. There are emergency provisions in acts such as the *Wildlife Act*. Even when there are provisions for consultations and requirements for changes to occur through renewable resources councils and the Fish and Wildlife Management Board, there are provisions, and need to be provisions, for emergency decisions for conservation reasons.

In this case, there is a provision for, at the very least, a 30-day period of notice, and I stress again — at the very least. But it allows the government of the day to respond to any issues that may occur, which might include a recognition of some problem with a plan that needs to be changed for protecting the ecosystems and protecting the environment. Of course, one of the checks and balances on any change under here is the public will hold government accountable for any decisions made in this area — again, the provision for mandatory consultation

with First Nations would be affected and mandatory consultation with the public.

The amendment the members have brought forward — again I am surprised because it would be bad, not only for those who use the forests, but bad for the environment to eliminate this clause, and therefore the government will be voting against it.

Mr. Cardiff: Thank you, Mr. Chair. I will try to be brief.

I think the rationale for the amendment, and the understanding that I have of the rationale for the amendment, is that there's some concern that either a current government or a future government could go in and amend or remove, get rid of, a forest management plan that had been done through consultation. I think one of the things that I heard in a different discussion about a different topic, I guess, is that a lot of times deputy ministers and others in the bureaucracy, in interpreting legislation, often what they'll do is go to second reading speeches and discussions that happened here in the Legislature in Committee of the Whole for clarification about what was meant and what was intended when legislation was passed.

So I think the concern is that governments either present or future could act unilaterally without due process, going to consultation without consulting stakeholders, and either amend or cancel a forest management plan. So would the minister go on record as saying that the intent of this legislation now as it is written is not to do that and that appropriate consultation with stakeholders and First Nations would happen prior to the amending or cancelling of a forest resources management plan?

Hon. Mr. Cathers: Mr. Chair, again what I want to emphasize in response to the questions asked by the Member for Mount Lorne is that this provision clearly lays out the requirement for doing a minimum of 30 days of consultation. Again, that is at the very least because of the fact that this is — much as with the mention I made the powers and provisions under the *Wildlife Act* — that there is a requirement, that there is a need for the minister to be able to respond to environmental issues and to move forward if there is a problem that occurs.

It should be recognized that clause 11(4) specifically lays out the requirement for the minister to respond to a request by a First Nation that the minister amend or declare a plan no longer to be in effect. So again, the clause specifically provides provision for the First Nation to make that request and a maximum of 90 days after that request to be made, the minister must respond to them.

This is something that is important to have in here. Governments and the public can have different understandings and changing priorities as time goes on. Any government that goes through a planning process — any of the plans we have put in place we want to have in place because they provide increased certainty. We can't judge what any future government might choose to do, but I would point out that part of democracy is that the public has the ability through the governments they elect to change plans that have been in place before, and to remove a plan that was put in place, and to establish a new one.

A future government may choose to do this for whatever reason it chooses. It may be an issue that the public — for rea-

sons of pro-industry, pro-conservation, pro-wildlife, pro-whatever or simply for more balance — feels that a plan that has been developed needs to be changed. This allows a future government the ability to do so; however, I would compare it for the member to a situation. A comparable situation would be government funding of non-governmental organizations, as an example. There is nothing preventing a future government from cutting the increases that we have made to groups such as women's transition homes and to groups such as Many Rivers, et cetera, and the significant funding we've put into those areas. Nothing precludes a future government making a decision not to fund that. However, as with a plan removed pursuant to clause 11.(1), any government and any decision that any government makes will be scrutinized by the public. Again, this clause has to be in here to give future governments the ability to respond to environmental reasons, public requests, First Nation requests, and to create a new plan or to change a plan as time goes on.

Chair: Is there any further debate on this amendment? Shall this amendment carry?

Some Hon. Members: Division.

Count

Chair: Count has been called.

Bells

Chair: All those in favour of the amendment please rise.

Members rise

Chair: All those not in favour of the amendment please rise.

Members rise

Chair: The results are six yea, nine nay.

Amendment to Clause 11 negatived

Chair: Is there any further debate on clause 11?

Clause 11 agreed to

On Clause 12

Mr. McRobb: This clause would appear to make it possible to enter into an agreement on forest planning outside of a final agreement. However, it gives no direction on when, how or what the agreement might entail. Further, it requires consistency with the act. What happens if the act is inconsistent with an aboriginal right or a First Nation's vision for its titled lands?

As well, Yukon may want to make promises and agreements that remove, for example, a director's discretion with respect to the annual allowable cut in an area. Would doing so be inconsistent with the act?

It is assumed that the government will only enter agreements consistent with legislation. However, the Yukon government may wish at some point in time to make promises and agreements that require legislative amendments. This would actually be impacting its own bargaining ability. Again, I have a remedy to propose by the way of an amendment that reads as follows.

Amendment proposed

Mr. McRobb: I move

THAT Bill No. 59, entitled *Forest Resources Act*, be amended in clause 12(1) at page 16 by replacing the word "may" with the word "must".

Mr. Chair, I would further add that it has a previous date on the copies and the Clerk has informed me that is quite all right.

Chair: It has been moved by Mr. McRobb that Bill No. 59, entitled *Forest Resources Act*, be amended in clause 12(1) at page 16 by replacing the word "may" with the word "must".

Is there any debate on the amendment?

Hon. Mr. Cathers: It's very interesting the member mentioned in his preamble that his amendment would strengthen the Yukon government's position on this. The member is mistaken and of course this would be a very ill-advised amendment compelling the Yukon government to enter into an agreement.

To try and force an agreement and make it a requirement of an act puts it into the situation where — how would the member possibly see that being resolved? How could anyone conceive of that? If the government and the First Nation were not able to agree to terms that were acceptable to one or both in a planning agreement for the First Nation traditional territory or for an unsettled First Nation — if either government is not able to reach an agreement with the other that is acceptable to the people it represents, how does one compel by law that an agreement must be reached?

This provides the ability for an agreement and lays out clearly the intent to embark upon trying to establish such agreements, but it is simply — I'm looking for language that is parliamentary, Mr. Chair — it would be very badly advised of any government to put in legislation an attempt to create something binding on either or both the Yukon government or a First Nation government, to force them to reach an agreement. I have to emphasize, it is possible — certainly we would hope it would not be the outcome, but it is possible — that either one of those governments might determine the terms offered by the other, the wording proposed by the other, not to be acceptable to its citizens. Therefore, we cannot support this amendment.

Chair: Is there any further debate on this amendment? Shall this amendment carry?

Some Hon. Members: Division.

Count

Chair: Count has been called.

Bells

Chair: All those in favour of the amendment, please rise.

Members rise

Chair: All those not in favour of the amendment, please rise.

Members rise

Chair: The results are six yea, nine nay.

Amendment to Clause 12 negatived

Chair: Is there any further debate on clause 12?

Clause 12 agreed to

On Clause 13

Clause 13 agreed to

On Clause 14

Mr. McRobb: This happens to be another clause that I'll be proposing a remedy to. The particular clause causes some concern. I will just spell out the argument and then introduce the amendment and we will go on from there. This clause 14(2) in particular allows the ministers to simply treat as an approved plan any plan that the minister feels is, "prepared using a process comparable to that set out under this Part." That is a quote.

This might be surprising to a First Nation who participated in a plan without having fore-awareness that it might be given such statutory authority. This clause should set out a consultation process and some direction for how this decision will be made or require the agreement of the affected First Nation.

Again we point to the situation in Yukon today where 70 percent of the territory's merchantable timber exists in south-east Yukon, within the traditional territory of a First Nation that does not have a land claim.

So the remedy, as mentioned, goes as follows:

Amendment proposed

Mr. McRobb: THAT Bill No. 59, entitled *Forest Resources Act*, be amended in clause 14(2) at page 17 by, after the words, "using a process comparable to that set out under this part", adding the words, "with the agreement of the affected First Nation".

Chair: It has been moved by Mr. McRobb that Bill No. 59, entitled *Forest Resources Act*, be amended in clause 14(2), at page 17 by, after the words, "using a process comparable to that set out under this part," adding the words, "with the agreement of the affected First Nations."

Is there any debate on the amendment?

Hon. Mr. Cathers: Mr. Chair, this amendment is redundant. The member is failing to note that the forest management plans referenced are by agreement with the First Nation, as would any that are mentioned in the transitional clause. The entire point of the transitional clause is giving the ability for work that's underway, including within Kaska traditional territory, not to have to proceed to square one, and for everyone who has been involved in the planning process to return there — both government and First Nations, and of course, interested stakeholders. This amendment is unnecessary, it is redundant, and it is not well drafted either, so the government, of course, has no choice but to vote against it.

Chair: Is there any further debate on the amendment? Shall this amendment carry?

Some Hon. Members: Division.

Count

Chair: Count has been called.

Bells

Chair: All those in favour of the amendment, please rise.

Members rise

Chair: All those not in favour, please rise.

Members rise

Chair: The results are six yea and eight nay.

Amendment to Clause 14 negatived

Chair: Is there any further debate on clause 14?

Shall clause 14 carry?

Clause 14 agreed to

On Clause 15

Mr. McRobb: Once again we have trouble with this clause because, in part 1, the general prohibition is a direct infringement of an aboriginal right to harvest timber. It should include, "except where a person is harvesting forest resources pursuant to an Aboriginal right."

Once again those outside a final agreement are specifically excluded from this act. Therefore, once again, I have a remedy to propose by way of an amendment which reads as follows.

Amendment proposed

Mr. McRobb: I move

THAT Bill No. 59, entitled *Forest Resources Act*, be amended in clause 15(1) at page 17 by, after the words "except in accordance with", adding the words "an Aboriginal right".

Chair: It has been moved by Mr. McRobb that Bill No. 59, entitled *Forest Resources Act*, be amended in clause 15(1) at page 17 by, after the words, "except in accordance with", adding the words, "an Aboriginal right".

Is there any debate on the amendment?

Hon. Mr. Cathers: The act, as worded, already allows for both settled and unsettled First Nations; therefore, this amendment is not necessary.

Chair: Is there any further debate on this amendment?

Shall this amendment carry?

Some Hon. Members: Division.

Count

Chair: Count has been called.

Bells

Chair: All those in favour of the amendment, please rise.

Members rise

Chair: All those not in favour, please rise.

Members rise

Chair: The results are six yea, nine nay. The amendment is defeated.

Amendment to Clause 15 negatived

Chair: Is there any further debate on clause 15?

Mr. McRobb: I have a similar concern with 15(2)(d). A further type of authorization should be included, one allowing a First Nation to engage in direct harvesting as accommo-

dition of their aboriginal title rights in order to engage in an economic activity related to and flowing from that right.

Amendment proposed

Mr. McRobb: Once again, I propose a remedy to patch this bill by way of an amendment that reads as follows:

THAT Bill No. 59, entitled *Forest Resources Act*, be amended in clause 15(2)(d) at page 18 by after the words, “final agreement” adding the words, “or, where a First Nation does not have a final agreement, a First Nation person or First Nation exercising an aboriginal forest resources harvesting right.”

Chair: It has been moved by Mr. McRobb

THAT Bill No. 59, entitled *Forest Resources Act*, be amended in clause 15(2)(d) at page 18 by after the words, “final agreement” adding the words, “or, where a First Nation does not have a final agreement, a First Nation person or First Nation exercising aboriginal forest resources harvesting right.”

Is there any debate on the amendment?

Hon. Mr. Cathers: Well, again, Mr. Chair, I will not be long in debate. Once again we have an amendment that is not well-advised and in this case I pointed out that the clause allows First Nations to continue with their subsistence harvesting rights, but the member is seeking to define rights that have not yet been negotiated, and it is certainly not an appropriate place to do it in legislation here. The appropriate place to do that is through a negotiated land claim process.

Chair: Is there any further debate on this amendment? Shall this amendment carry?

Some Hon. Members: Division.

Count

Chair: Count has been called.

Bells

Chair: All those in favour, please rise.

Members rise

Chair: All those not in favour, please rise.

Members rise

Chair: The results are six yea, nine nay.

Amendment to Clause 15 negatived

Chair: Is there any further debate on clause 15?

Clause 15 agreed to

On Clause 16

Mr. Cardiff: This clause deals with the setting of what is known as the annual allowable cut — the AAC — and this is important.

We had some of this discussion with the minister earlier in the debate, and he has assured us that it's covered off in other areas of the act. We're not so sure that it is.

Setting the annual allowable cut is key to the process of establishing a sustainable timber industry because it's the outcome of the forest resources planning process, especially where there are other values such as wildlife or soil or water that need to be taken into consideration.

It's during the process that takes place in developing a forest management plan that those values that need to be protected can be identified and it be laid out where those values are and built into a forest management plan.

It's hard to imagine a sustainable harvest level could be determined in the absence of a forest management plan without the appropriate planning.

It's similar to the conundrum that we have around land use planning and resource development, but this is even taking it down to a lower or an increasingly smaller level, I guess, or a finer level in developing a forest management plan for a sustainable forest industry.

I haven't dated and signed this yet because I wasn't sure we were going to get there. But I appreciate we're moving forward today, but I would like to propose an amendment.

Amendment proposed

Mr. Cardiff: I move

THAT Bill No. 59, entitled *Forest Resources Act*, be amended in clause 16(2) at page 18 by adding subclause 16(2)(a) which is to read, “In areas with forest resources management plans, the annual allowable cut shall be based on the forest resources management plan for the area”, and by adding subclause 16(2)(b) which is to read, “In areas without approved forest resources management plans, the Minister shall:

(i) consult with the First Nation and the public to determine the annual allowable cut for the area;

(ii) establish a conservative annual allowable cut in order to protect all forest-based industries and forest values;

(iii) establish a provisional timber harvest ceiling until the forest resources management plan is completed and approved; and

(iv) submit an annual report to the Legislative Assembly to document progress on the plan until the plan has been completed.”

Chair: Order please. It has been moved by Mr. Cardiff

THAT Bill No. 59, entitled *Forest Resources Act*, be amended in clause 16(2) at page 18 by adding subclause 16(2)(a) which is to read, “In areas with forest resources management plans, the annual allowable cut shall be based on the forest resources management plan for the area”; and by adding subclause 16(2)(b) which is to read, “In areas without approved forest resources management plans, the Minister shall:

(i) consult with the First Nation and the public to determine the annual allowable cut for the area;

(ii) establish a conservative annual allowable cut in order to protect all forest-based industries and forest values;

(iii) establish a provisional timber harvest ceiling until the forest resources management plan is completed and approved; and

(iv) submit an annual report to the Legislative Assembly to document progress on the plan until the plan has been completed.”

Is there any debate on this amendment?

Mr. Cardiff: I'd just like to say a few more words about the reasons for bringing this amendment forward. As I

stated earlier, setting an annual allowable cut is key in the process of establishing a sustainable timber industry, and I believe that's why we're all here today.

Having a *Forest Resources Act* is a good thing, and we are moving forward. There are good things about the *Forest Resources Act* as it's presented, but we all want to ensure that the industry is sustainable.

Now, the minister has suggested that there are places in the act where — and he's going to stand up and provide this assurance — that annual allowable cuts will be based on a forest resources management plan. There is no harm in putting in this amendment because I think it's the kind of enabling words that would fit in this legislation and would give comfort to people — to First Nations and to those with other interests in the forest — that the annual allowable cut would be based — it provides clarity.

The second part of this amendment is to ensure that in areas where there isn't a completed forest management plan that there is a process to follow to arrive at an annual allowable cut. There is a concern that if there isn't a plan then there needs to be some sort of process. The process as outlined in the amendment is that there shall be a consultation with the First Nation and the public in order to determine that annual allowable cut. As a precaution, it directs the government to be conservative in establishing its annual allowable cut in order to protect all forest-based values, whether it is selective harvesting, the harvesting of firewood or timber for the production of lumber or log homes or any other, as well as other forest values that I spoke about earlier — wildlife, the soil and the water.

It also suggests that the government should establish a harvest ceiling until such time as the plan is completed. It also suggests that the minister shall submit an annual report to show progress. I think this is a good thing because, in the interest of transparency and accountability to the public and to First Nation governments, it is good that the government show progress on the work it does with the public and First Nation governments on how it's moving forward in a good and progressive manner in establishing these forest management plans.

The government has said there's no worry, that we don't need to worry about unlimited licences or unlimited tenure, and that the annual allowable cut will provide limits, but it's about how we arrive at that limit. The Whitehorse area could be set as a good example because there is no approved forest management plan, but there is a whole number of issues within the periphery of Whitehorse.

We were talking about some of them yesterday in the Legislature — about land use planning in Marsh Lake. There are issues with respect to the conservation of the Southern Lakes caribou herd. We heard both the Member for Vuntut Gwitchin and the Minister of Environment talking about how important those wildlife values are in this area and how there is collaboration between this government and six First Nation governments — transboundary — on those wildlife issues.

I think it's those types of things that could guide the setting and the development of a forest management plan and it's that type of information that would be valuable in setting an annual allowable cut and making that conservative annual allowable

cut so that we could protect the forest resources, both for the industry and for the others that are active out there on the land — whether it be concerns about wildlife, wilderness tourism operators, or traditional pursuits of First Nations or others out on the land.

That's the rationale that I would provide. As I said earlier, the fourth provision in 16.(2)(b) that's proposed is about accountability of the government to the Legislative Assembly and the public and First Nation governments about reporting its progress in the good work that it can do on moving forward with forest management plans and establishing annual allowable cuts. So that's the rationale that I would provide, and I would hope that the minister and his colleagues would support this amendment.

Hon. Mr. Cathers: Mr. Chair, I appreciate the comments from the Member for Mount Lorne and I appreciate his perspective on this. I would note a few things. First of all, the act — as we discussed earlier, but I will reiterate — is intended to be a framework, a legislative framework. The basic overriding objective of the basic purpose of the act is to provide for the process to establish forest management plans, set annual allowable cuts through those plans and then to regulate the activities pursuant to them. A key outcome of forest resources management plans is that annual allowable cut.

It's important also, as far as establishing things within the act, that each area, including the affected First Nation stakeholders and the public, be able to develop that plan — again, the annual allowable cut and the consideration of conservation interests, et cetera, be built into the plan.

What the Member for Mount Lorne is essentially suggesting is a planning process outside of the planning process. We are not going to spend a lot of time devoting resources and time of officials and time of consultation to planning outside of the planning process. We need to and intend to proceed with the development of these plans. That being said, provisions for consultation exist and those include, of course, the *Yukon Environmental and Socio-Economic Assessment Act* provisions that apply to any applications being made, whether from an individual or the government for an area that is to be harvested.

In the absence of plans, regulators typically do take a conservative approach in this or in any other matter. We, of course, have been clear as a government. We are not going to go down the road of placing any moratoriums on development in areas where a planning process hasn't been concluded, whether that be through whatever type of application — whether it is timber, mining, tourism, as the member noted or any activity that the member can name. We are not going to place a freeze on Yukoners being able to access things prior to full planning processes, whether they are land use planning, forest resources management planning or local advisory plans going on.

The access in absence of those plans is and will continue to be managed in an appropriate and conservative manner by the department. Of course there was the safeguard for all through the *Yukon Environmental and Socio-economic Assessment Act* process of public notification, posting on the Web site opportunity for everyone to be involved in expressing their comments and in identifying any socio-economic concerns that exist.

So much of the intent of what the Member for Mount Lorne proposes will already be addressed. There are certain parts of it, particularly the planning process outside of the planning process, that we can't agree to. The annual report to the Legislative Assembly on documenting the progress on the plan until the plan has been completed — again, there are areas of provisions for reports to the minister, et cetera, including extensive reporting requirements that is something that, undoubtedly, if plans have not been completed, questions will be asked. The minister of the day will answer the questions.

Setting of the annual allowable cut will be addressed in regulations and, of course, a key part of any forest resource management planning process is defining what is merchantable timber and also defining all of those other interests the Member for Mount Lorne indicated and which we discussed in general debate to some large extent, so I won't bother reiterating now. But balancing all of the interests and all of the users — all three of those interests: recreational, commercial and subsistence, and any other usage of the forest that exists, whether by those harvesting forest resources or those using it for personal pleasure, their livelihood, or hunting food, et cetera, or harvesting berries — you name it — all of the many uses that Yukon citizens use our wilderness and our forests for are things that are considered in any planning and disposition process.

Again, the key objective of this act is the forest resource management plan process. We're not going to establish a planning process outside of that, but there are provisions that will be further spelled out in regulations for consultation and notification with those affected, including First Nations, stakeholders and the public.

There will be a determination process for those areas that don't have a plan. And, again, as I stated, in all areas where land use planning, local area planning or forest resources management planning, or any other type of planning hasn't occurred, there is more of a conservative approach taken than once a plan has been concluded by the regulators when they are making their decision. I would point out that the processes are running in many areas in a very appropriate manner now, and a key objective of this act is spelling out the process in more detail than the antiquated timber regulations do, and providing increased provision and comfort for all involved about what the process will be, modernizing that very outdated language to reflect modern day realities and the priorities of Yukon citizens.

I could on at quite some length on this but I think I have made my point to the members and explained why we cannot support this particular amendment, while agreeing with much of the intent. But again, the particular wording of it and the specific approach it has taken is simply not the right one.

Mr. McRobb: I just want to put on the record that we will be supporting this amendment. It makes sense to do so, as it would all the amendments that have been brought forward, and it's unfortunate the government is defending its bill in the face of logic.

Chair: Is there any further debate on the amendment? Shall the amendment carry?

Some Hon. Members: Disagree.

Amendment to Clause 16 negatived

Chair: Is there any further debate on clause 16?

Clause 16 agreed to

On Clause 17

Clause 17 agreed to

On Clause 18

Clause 18 agreed to

On Clause 19

Chair: The Chair would appreciate it if a member of the opposition would say "carried" if they are in agreement.

Clause 19 agreed to

On Clause 20

Mr. McRobb: Well, I see the government members are in a haste to clear this clause the way it is written; however, Mr. Chair, there is another problem with this clause like there is with so many others.

This deals with restrictions on harvesting licences. I would draw your attention to how this clause should be providing government officials with the flexibility to make adjustments in light of new information or unanticipated impacts on aboriginal rights and empower officials to amend harvesting licences — once issued — on the basis of concerns about aboriginal rights.

These changes may protect Yukon from liability where it may have to claw back the allowable cut in order to accommodate an aboriginal right. So, Mr. Chair, that is a concern that should be provided for within this piece of legislation.

Amendment proposed

Mr. McRobb: Once again, I have a fix to propose with an amendment that reads as follows:

THAT Bill No. 59, entitled *Forest Resources Act*, be amended in clause 20(4) on page 20 by after the words, "where due to" adding the words: "impacts on Asserted aboriginal rights, including title, or due to".

Chair: It has been moved by Mr. McRobb that Bill No. 59, entitled *Forest Resources Act*, be amended in clause 20(4), on page 20, by after the words, "where due to" adding the words: "impacts on asserted Aboriginal rights, including title, or due to".

Is there any debate on the amendment?

Hon. Mr. Cathers: Mr. Chair, again the Liberal Party is on the wrong side of timing and this type of approach is late. They're failing to recognize that the appropriate time for any concerns or issues that exist with unresolved aboriginal rights and titles should be addressed prior to the harvesting licence being issued.

Of course, if a planning process has occurred, a forest resources management plan and/or timber harvest plan will address those issues and eliminate any question that exists in these issues around areas, even when there are unresolved aboriginal rights and titles. As well, in the absence of those processes, notification as required will occur to First Nations prior to a harvesting licence being issued.

For the members to suggest that after a licence is issued is the time to create the ability for issues around unresolved and

undefined aboriginal rights and titles to be dealt with is not only too late in the process in fairness to the First Nation, but it is also completely unfair to someone to whom a harvesting licence has been issued. Rather than doing as this act provides for and dealing with those issues — any such issues as may occur where related to unresolved aboriginal rights and titles to be dealt with up front — the members of the Liberal Party would suggest that they be dealt with after the licence is issued, after the person has made investments in equipment required to utilize the harvest and it would severely threaten the ability and interests of Yukon citizens who have received a harvesting licence.

Again I point out that regarding the issues around any unresolved aboriginal rights and titles, provision already exists within the act to address those prior to the issuing of the harvesting licence, which is the appropriate time for that to be dealt with. So therefore, of course, we have no choice but to oppose the amendment.

Chair: Is there any further debate on the amendment?
Shall the amendment carry?

Some Hon. Members: Agreed.

Some Hon. Members: Disagreed.

Amendment to Clause 20 negatived

Chair: Is there any further debate on clause 20?

Clause 20 agreed to

On Clause 21

Clause 21 agreed to

On Clause 22

Mr. McRobb: I am sure that all members of this Assembly will be pleased to hear it but, at the risk of sounding repetitive, we believe this clause does require a fix, and I'll elaborate on why we believe it's necessary.

First of all, this clause should entrench the management of forest resources for the sustainability of aboriginal rights as a fundamental principle guiding the determination to issue a harvesting licence. It should spell out terms and conditions designed to sustain and preserve aboriginal rights and recognize the existence of asserted aboriginal title.

It should also implement the measures that are required to give real meaning to sustainability of aboriginal rights on the ground. This would mean, for a First Nation outside of a final agreement, an adequate and ongoing forest resources needs assessment for the First Nation and sufficient, detailed, scientifically sound baseline data to inform decisions about potential impacts.

There should be a provision for the adjustment of a TRL to reduce impacts on aboriginal rights and the capacity of Yukon to withdraw or limit amounts after the fact to protect an aboriginal right.

Mr. Chair, for the illumination of members opposite, these amendments that I have been proposing, along with a few yet to come, weren't drawn up in the back room of the Liberal office. These were drafted by a recognized, professional aboriginal rights lawyer who is working in conjunction with the First Nation whose traditional territory encompasses 70 percent of the territory's merchantable timber.

So for the Member for Lake Laberge to criticize our party for bringing forward these amendments is really to criticize the First Nation whose traditional territory encompasses 70 percent of the territory's merchantable wood. I think the member should treat these matters with greater respect.

I propose a fix by way of another amendment that reads as follows.

Amendment proposed

Mr. McRobb: I move

THAT Bill No. 59, entitled *Forest Resources Act*, be amended in clause 22 at page 21 by inserting a new subclause (g) and renumbering the following subclauses, inserting the following: "(g) acknowledge the asserted Aboriginal title of any First Nation whose traditional territory encompasses, in whole or in part, the area of the licence".

Chair: It has been moved by Mr. McRobb

THAT Bill No. 59, entitled *Forest Resources Act*, be amended in clause 22 at page 21 by inserting a new subclause (g) and renumbering the following subclauses, inserting the following: "(g) acknowledge the asserted Aboriginal title of any First Nation whose traditional territory encompasses, in whole or in part, the area of the licence".

Is there any debate on the amendment?

Hon. Mr. Cathers: It's the same issue as with the previous clause. The Liberal Party is proposing a very bad approach. The outcome of this would be a tremendous lack of certainty for anyone to whom a licence was issued, about whether they could invest in new equipment, whether they could hire people and whether they would be able to have a business. The time to deal with any issues around aboriginal rights — including aboriginal rights which have not yet been defined due to a lack of a final agreement — is prior to the issuance of the licence, not after. Once that licence is issued, the holder of that licence needs to have the clarity around what they will be allowed to cut and where. They should not have a question mark placed on whether they can indeed engage in that activity.

The time for government to deal with any issues related to a First Nation that does not have a final agreement on land claims and self-government is prior to the issuance of the licence, as I illustrated and explained in the previous clause with regard to harvesting licences. Again, with the timber resources licence, for the government to go down this road would be a very bad step. And I do have to point out that this is reflective of — shall we say, this type of approach points to what happened when the Liberals were in government — the lack of certainty that existed. This is, again, that same type of approach that, though I will give them credit — I'm sure their intentions are good — but by being the wrong approach, it leads to tremendous uncertainty on the part of anyone who is trying to engage in utilizing Yukon's resources because, by the approach advocated by the Liberal Party, this does not allow certainty on the part of the holder of a harvesting licence or a timber resources licence. Of course, we will support certainty; we will support government doing the work up front as it should, prior

to the issuance of a licence, and we have no choice but to oppose this flawed amendment proposed by the Liberal Party.

Chair: Is there any further debate on this amendment? Shall this amendment carry?

Some Hon. Members: Disagree.

Some Hon. Members: Agree.

Chair: The amendment has been defeated.

Amendment to Clause 22 negatived

Chair: Is there any further debate on clause 22? *Clause 22 agreed to*

On Clause 23

Mr. McRobb: While the Premier is calling across the floor saying “disagree” already, I would just remind the Premier that perhaps his government should show a little humility and openness toward improvements brought forward by the opposition parties. That’s what a good government would do, and that’s what good governance is all about — not just closing the door before the government of the day even knows what an amendment to a bill is about. Our intention here is to strengthen this bill and improve the legislation, to help withstand and avoid future court cases.

As I indicated at the last opportunity, these particular amendments were drafted by a constitutional expert, who has lots of experience in aboriginal rights and title. So the government can belittle this all they want, it’s all on record.

Someday, Mr. Chair, this record could very well make its way into the courtroom as evidence. We are quite prepared within the Official Opposition to allow that to happen.

Anyway, with respect to clause 23, I have a particular concern to make known about part 1 and this is on page 22, with respect to this clause. I believe it should entrench the management of forest resources for the sustainability of aboriginal rights as a fundamental principle guiding the determination to issue a harvesting licence. It should spell out terms and conditions designed to sustain and preserve aboriginal rights and recognize asserted aboriginal title — another sensible and doable improvement to the act that can be fixed simply by acceptance of the following amendment I wish to propose.

Amendment proposed

Mr. McRobb: I move

THAT Bill No. 59, entitled *Forest Resources Act*, be amended in clause 23(1) at page 22 by inserting a new subclause (g) and renumbering the following subclauses, inserting the following: “(g) acknowledge the asserted Aboriginal title of any First Nation whose traditional territory encompasses, in whole or in part, the area of the woodlot”.

Chair: It has been moved by Mr. McRobb

THAT Bill No. 59, entitled *Forest Resources Act*, be amended in clause 23(1) at page 22 by inserting a new subclause (g) and renumbering the following subclauses, inserting the following: “(g) acknowledge the asserted Aboriginal title of any First Nation whose traditional territory encompasses, in whole or in part, the area of the woodlot”.

Is there any debate on this amendment?

Hon. Mr. Cathers: Again, we have the same issue that we’ve discussed in the past two amendments proposed by the Liberal Party. Again, the approach that they propose would lead to uncertainty. It would place a giant question mark on every licence, large or small, issued to a Yukon citizen or company for using forest resources. That would include, in this case, a licence as small as a woodlot licence.

Mr. Chair, I am very disturbed by the approach the Liberals have proposed. It is not good for Yukon citizens. It would lead to court cases, not avert them, as the member suggests. I’m frankly astounded that even the Liberals with their approach would propose this amendment.

Again, I have to point out that concerns related to aboriginal rights and titles, including aboriginal rights and titles that have not been defined by a final land claims agreement or self-government agreement, need to be addressed prior to the licence being issued. It would be a very ill-advised move for the Yukon government or the Yukon Legislature to place a giant question mark on any and every licence issued for Yukon citizens to utilize forest resources.

Therefore, we have no choice but to oppose this amendment emphatically. I can only hope that — Mr. Chair, I guess I won’t make that statement. I’ll try to remain parliamentary in my approach here today. I would again encourage the Liberals to recognize the mistake they are making in their approach. I would encourage them to recognize that placing uncertainty on licences issued for utilizing forest resources is absolutely and unequivocally the wrong approach for government to take. It is government’s job to provide certainty, if government truly wishes to see Yukon citizens benefit economically and profit from the responsible development and use of resources.

So I must again state that we have no choice but to emphatically oppose this approach.

Mr. McRobb: Mr. Chair, it is unfortunate the minister did not accept the challenge issued earlier to keep the comments to the act itself and the amendments that are being proposed. Instead, we heard a political speech where he unloaded on the Liberal Party. Well, Mr. Chair, I wish to respond to the allegations, first of all by saying that we disagree with these arguments that we are hearing from the minister, not only on this amendment but every one so far. It is just that we view the time of the House as being more important than to extend this debate — especially with no purpose, because the government already has its mind made up. I would merely add that this act, by excluding these provisions, does bring certainty all right. It brings certainty of court action. Consequent with court action, Mr. Chair, is a dark cloud over the industry and Yukon. We’re talking about possible court injunctions that prevent anyone from harvesting timber.

The minister speaks about inconvenience. Well, what about the inconvenience of a situation where a harvester may have employees on the ground who are stopped by roadblocks, stopped by court injunctions and furthermore, the consequent graver action of legal challenges that give the Yukon a bad reputation for investors, both in the territory and Outside. It’s with all of these concerns in mind and the spirit within that we have brought these amendments forward today.

Just to conclude, it would be more productive if the minister dispensed with the political interpretation and characterizations and stuck to the bill at hand.

Hon. Mr. Cathers: I certainly was not intending that the Member for Kluane take my comments as being personal in nature. I point out that the political position taken by the Liberal Party on this is badly mistaken, badly advised and it would lead to the certainty of uncertainty. It's the certainty of an endless question mark over access to Yukon timber resources, large or small. It would lead to, if we accepted the Liberal approach, the certainty of court cases involving large and small operators. The members are badly mistaken in their approach. This amendment is very ill-advised. It is the wrong approach for Yukon citizens. It would create endless uncertainty; therefore, we must oppose it.

Chair: Is there any further debate on the amendment? Shall the amendment carry?

Some Hon. Members: Agree.

Some Hon. Members: Disagree.

Chair: The amendment has been defeated.

Amendment to Clause 23 negatived

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

Recess

Chair: Order please. Committee of the Whole will now come to order. The matter before the Committee is Bill No. 59, *Forest Resources Act*. We are now on clause 23. Is there any further debate on clause 23? Shall clause 23 carry?

Clause 23 agreed to

On Clause 24

Mr. Cardiff: In clause 24 — this is something that I raised earlier with the minister — there is the concern about the definition of “fuel wood” being used for things like bioenergy, for the generation of electricity and, I guess, district heating systems. We weren't able to rectify that situation and consequently, I guess there is still the possibility of massive harvesting of fuel wood for the generation of electricity at some point. It's a matter of, again, taking into consideration other values in the forest — wildlife, the forest resources, the natural resources, the renewable and non-renewable resources and the subsistence activities of Yukoners.

I think part of where the concern comes, I suppose, is — it states that you can establish the right of a licensee to harvest timber for the commercial sale of wood for fuel wood, which includes biofuel, not exceeding 20,000 cubic metres in the area specified for the licence and that the term not exceed five years.

In subclause 2 of clause 24, it says that “a person may hold one or more fuel wood licences with similar or different terms.” So when we talk about the harvesting of biofuel, typically electrical generation or district heating systems have been fuelled with sawmill waste in the past — but what we're talking about here is large-scale harvesting, possibly, of fuel wood and the ability to hold more than one fuel wood licence could allow for more large-scale harvesting, not just of saleable tim-

ber — timber that could be used for lumber and have a value-added component to it down the road — but also the harvesting of trees that aren't necessarily most suitable for use in fuel wood pursuits.

So I don't know how the minister feels about that. I don't understand why a person would need to hold more than one fuel wood licence if the limit was 20,000 cubic metres of wood allowable under one licence. Maybe the minister could explain the reason behind allowing one person to hold more than one fuel wood licence.

Hon. Mr. Cathers: In answering the member's question, the primary issue here is not the number of licences that someone has or can access. It is the impact that those licences are having, the effect those licences are having, on the forest resources. The primary issues at hand are what is harvested and how it is harvested, not how it is used. Particularly with regard to the inclusion of being able to use fuel wood for bioenergy, as we discussed in definitions, that was included not only at the request of industry, but also included input from others, including the Champagne and Aishihik First Nations, who specifically requested in a letter from the chief that we include the ability to use fuel wood for bioenergy within the act and that we change the definition to allow it.

So in answer to the specific question of the Member for Mount Lorne in this case — in laying out the licences, the real issue at hand is the impact the area is having on the forest, not who is holding the tenure for that area and whether they hold another licence or not. The issue is about the collective impact and the size of that particular licence and the size of the area that is being used in that particular regard.

Larger end-users would want one of the larger licences, such as particularly a timber resources licence, because it would give far more ability to harvest within one area and be operating in areas next to the other areas they're operating in, rather than being spread out in smaller areas through a smaller licence.

The issue of the fuel wood licence here is a smaller amount of licence; it is within an area — again, the impact of the licence is the key question, not whether someone can hold one or more.

It provides that flexibility for someone. It would be more a case of a bridge or an interim step between the two licences — that someone would be likely to go from one of these licences to two of them versus the one larger licence that would be, again, someone who is still a fairly small operator, but a little bit larger and quite possibly, once the forest management plan is laid out, would be dealing with that in a different area of the forest; whereas, timber resources licence would be more likely to be in one big area. I hope that answers the question.

Mr. Cardiff: I thought I heard the minister say “clear”. I thank the minister for his explanation.

I think the concern here is the ability to hold more than one fuel-wood licence. If we end up in a situation where there is a large-scale bioenergy operation, whether it's the generation of electricity or a district heating system — when we create the need for the fuel — it's about when the economic need is there, and the infrastructure is in place — that's being used as the

justification for the issuing of large amounts of fuel wood to be cut and multiple licences in some instances.

There needs to be some assurance, I guess. It depends on whether there is a forest management plan or in the absence of a forest management plan that the allowable cut protects the other values again. It is the balance. When you allow something to begin, such as a large-scale bioenergy operation, that the justification could be that we need to ensure the continued operation of this regardless of those other values and the justifications and decisions will be made purely on that economic basis and not in consideration of other values or other concerns.

Now, I'm not going to belabour this any further but the minister indicated that there was a letter from the Champagne and Aishihik First Nations specifically requesting that fuel wood be defined as being used in the production of bioenergy. I haven't seen that letter, and no one on this side of the House has seen that letter. It was submitted to the government as part of the consultation process. It should be a public document, and I would ask the minister to make that available.

Hon. Mr. Cathers: I'll take that request under consideration. I don't have the letter in my hand here, but the other day I did read out the excerpt, word for word, of the relevant passage of that letter, so it should be, by now, within the pages of *Hansard*.

The issues brought forward by the Member for Mount Lorne — again what I want to emphasize in this — first of all, when talking about bioenergy, I would state that what we're hearing from stakeholders, including industry but also including others, such as the Champagne and Aishihik First Nations, is that there is some potential use for bioenergy. And that, of course, as the Member for Mount Lorne and I discussed earlier in general debate in Committee of the Whole on this bill, the possibility of using other products, including garbage, in bioenergy facilities and incineration and deriving benefit from that has been something that has worked well in other areas and, particularly as technology is further improving, those are the types of things that this is intended to contemplate — that bioenergy might be a mix of different types of products.

At such point in time as there might be someone — an individual, a company, a First Nation or anyone — looking at development of a bioenergy facility, I think the real issues at that point in time would be related to long-term supply of fuel. That would be something, when they were making the applications — because of course, although they do have the technology for clean burns, there would be issues such as I believe they would require an air emissions permit; I know that they would certainly require it for the development of any facility, and any areas that hit the triggers of YESAA would require permitting through their public process, et cetera. I'm certain that at such point in time as someone might propose doing that, there would be questions around the long-term security of the fuel supply and the ability of the forest to sustain the level of harvest that would be required to produce the portion of fuel that was supposed to be from harvested wood.

Those are the questions that would be key in that socio-economic assessment process.

I'm certainly not disputing the member on the fact that we do have to be concerned about the impact of any licence to harvest timber resources and what impact that is having on other users of the forest resources. As we discussed earlier in general debate with the varying, many different types of uses that occur throughout the forest — and that includes industries using the forests that are not typically defined as forest industries, and I won't go through the whole list again. I'm sure the member recalls our debate. What I would emphasize is that there is the potential for all of these to have some conflict. Those are the issues that government, regulators, socio-economic assessment board and any others that may be involved have to work at balancing, trying to ensure that existing interests are not affected in a way that is unreasonable or unfair. In some cases, with projects of any different type, including timber projects but not limited to that, including fuel wood but not limited to that — I speak of any type of application that goes through the socio-economic assessment — there will be times when it is determined by a YESAB designated office or by the Yukon government, or by whichever government is the decisions body in the specific case that the effect on existing users of an application cannot be reasonably mitigated. Those are the considerations that have to take place through that process.

I do appreciate the member's concerns and, again, as I stated to him before, my belief is that it is not possible for a government of the Legislature to pass legislation that sufficiently gives any user group, any citizen, 100-percent confidence that there is no potential that other users or potential users of an area that engage in either recreational or business pursuits or hunting pursuits will have an impact on them. However, it is a very important job of government and of boards such as those I mentioned, including others that have some effect in some cases, such as the Fish and Wildlife Management Board — all of those processes are set up to try to ensure that potentially competing uses by citizens are balanced and fairly and appropriately reconciled to the best extent of public processes.

I will not spend a tremendous amount of time on this. I think I have explained the issue as I understand it to the Member for Mount Lorne. Again, I would point out that with a licence of this size, it would typically be for a smaller parcel of land. That's the wrong term, but it would typically be a smaller area of land that would be affected than under one of the larger threshold licences. It would not preclude another smaller area. For simplicity, let's refer to it as a large area and a small area. This would allow someone to have another small area for fuel wood harvesting that might be in the same general area within a forest resources management plan or it might be in another area entirely, but it would not be that type of larger licence that would typically have a larger impact or effect on the forest in one contiguous area within any specific area.

I hope that has explained the issue and given the member some comfort and at least answered his questions.

Chair: Is there any further debate on clause 24?

Clause 24 agreed to

On Clause 25

Clause 25 agreed to

On Clause 26

Clause 26 agreed to

On Clause 27

Clause 27 agreed to

On Clause 28

Mr. McRobb: Can the minister provide the rationale for subclause (5), why the ability to initiate an audit isn't open to any other parties under this section?

Hon. Mr. Cathers: The member has not correctly interpreted this section. It does not preclude any Yukon citizen from requesting an audit. The intention of this clause is to specifically note that a First Nation has the right to request that an audit be initiated. And while it doesn't guarantee explicitly that — let me go further down the clause here.

If the member looks further down the clause, he'll see provisions for what happens when a First Nation requests that an audit be initiated under subclause (5), and the director would not otherwise undertake such an audit under subclause (1), prior to agreeing to that request that the director should seek the views of a licensee proposed to be audited, et cetera. It does provide some balance for licensees as well, but this section is to specifically recognize First Nations as a level of government and give the clarification in the act that due consideration will be given to their request for an audit, but it certainly does not preclude the ability of any Yukon citizen to request an audit.

Mr. McRobb: Okay, Mr. Chair, I just want to put on the record that what I heard from the minister sounds an awful lot like the arguments I expressed for the need to include provisions for aboriginal rights and title into the act, to which the minister responded that there's no need for that. Well, we just heard an explanation that this right doesn't specifically have to be in there, but it is. And I think it demonstrates some inconsistency on the part of the government side when being inclusive of First Nation rights into this piece of legislation.

I have no intention of belabouring this matter. As I indicated, I just want to ensure that it is put on the record.

Hon. Mr. Cathers: Mr. Chair, I will respond very briefly, noting that the difference here which the member has missed is that the right to request an audit under this area of the act is not something that is already provided for within the *Umbrella Final Agreement*. Therefore, the points the member has been repeatedly making were things that are provided for within the UFA and the member was failing to recognize that the UFA already applied in the act. It specifically reemphasizes in clause 4 that the UFA applies to this act and governs the act. This specific ability for a First Nation to request an audit — the member can look far and wide within the *Umbrella Final Agreement* and he will not find a reference to it and that is why it is included in the act.

Chair: Is there any further debate on this clause?

Shall clause 28 carry?

Clause 28 agreed to

On Clause 29

Clause 29 agreed to

On Clause 30

Clause 30 agreed to

On Clause 31

Clause 31 agreed to

On Clause 32

Mr. McRobb: I've been informed that the minister apparently has said this section is necessary to ensure that temporary logging roads do not become public roads. It has been suggested this is like using a jackhammer when only a finishing hammer is needed. I'm just wondering if the minister can provide some rationale.

While he's on his feet, can he explain part (d) where it refers to "decommission?" I'm wondering why reclamation isn't included. Does that mean it's okay to build these roads and just declare them decommissioned or is there an onus on the operator to reclaim the road? When the highways are reconstructed and there's an older section of road, the onus is on the government to reclaim the former sections of highway unless there's a reason not to do so. That same requirement applies to several companies that build roads. I'm just wondering, what is the rationale for that?

Hon. Mr. Cathers: The member has not correctly understood this section. The purpose of this section is to provide the ability for a road once created — typically, when created under the *Highways Act* and becoming a public road, it then becomes very difficult to remove that road from the public system. This is to provide for it to be attached to the work that is being done in accordance with the forest resources management plan and that includes, in a case where a road has been specifically by a proponent, that those conditions can be attached within the licence. But those are issues best addressed within the regulations and at the licensing stage, not within the act. In some cases and some examples, such as work that has been done to date in creating an area and building a road for commercial woodcutters within an area where commercial permits exist — Mr. Chair, I'll wait until the members are listening.

This specifically relates to it, although there is the ability under a licence for conditions to be a requirement for someone to decommission the road and pay for the cost of that. In a case such as has already occurred, where there are several commercial permits within an area and a road constructed at shared cost by those individuals but with the work being done by a contractor contracted by the government to do that work, there is the ability in this to specifically require an individual to do that. To spell it out, as the member is suggesting, would get complex and would not reflect multiple-user situations. Again, in those conditions, that requirement to pay costs is in no way, shape or form precluded by this section of the act.

Also, in the case where there is a road that would potentially be extended after use in a certain area to a further subsequent area of harvesting for multiple users at another point in time down the road, and would not be decommissioned for quite some period of time, it would not be appropriate to start including wording in the act around requiring any individual to do that. A road might be intended, through a forest resources management plan, to hypothetically be in place for 15 years when the members will see the maximum term of any type of licence under this act is 10 years.

So to build a road to do that and to have it intended to be decommissioned, if such was the intent, five years after the termination of any existing licensee, when the licensees of today would not even necessarily have the licence at that point in time, would simply be problematic, and therefore to try and write that type of language into the act would not be very effective and would create more problems than it solved.

Mr. Cardiff: I'd just like the minister to be clear about a couple of things. Number one: the decommissioning of the road and the reclamation of the road. I just want to be clear: who is ultimately responsible for the cost of decommissioning of the road or the reclamation, when it becomes necessary? Could the minister tell me whether or not there are provisions in any other acts, such as the *Quartz Mining Act* or the *Placer Mining Act*, that are similar to the provisions in this Bill No. 59, the *Forest Resources Act*?

Hon. Mr. Cathers: Mr. Chair, that becomes a bit of an issue of mixing apples and oranges and trying to compare them. In the case of placer mining or quartz mining, for example, within a claim area there are requirements that exist around what reclamation must occur. That would likely include that, on that claim area, typically whether it is a small- or large-scale operation, there is some work that is done to construct some types of roads for the use of that operation, which in some cases such as placer mining, a road may be in existence on that claim for only part of a season before it is moved and removed.

So again those requirements are dealt with in a different manner. This refers to roads that would be created and allowed either by the proponent or through government efforts, which would typically involve multiple users. The issues related to cost recovery, et cetera, and the exact requirements for those who have a licence to pay costs of decommissioning a road are things that have to be dealt with in the consultation on the regulations.

I would point out to the member that it has been practice in recent years with the development of things such as at the Fox Lake burn that in an area where a road was being put in, the costs of putting in the road are borne by the individuals who had the licences. Issues related to any subsequent removal of the road, because facilitated by government, would be dealt with through the arrangements that exist as far as paying for the cost of the road, stumpage, et cetera, in that area.

This would be dealt with through those specific areas. The member is looking puzzled. What I would point out is that at this point in time there is some flexibility allowed to be dealt with in consultation. In handling this, when a road is being put in at expense — whether fully paid by one licensee or shared between them — there are a couple of ways of dealing with it. One, of course, is to require them to do the work at the end, to decommission a road. Another is to require them to pay the costs of decommissioning a road. A third approach is to either through the up-front costs of putting the road in place or through the stumpage fee or any other associated costs prescribed through regulations, through the revenue they make over that period of time, then utilize those costs for the road.

Again, that is work that properly needs to occur within the consultation on the regulations because there has not been a

detailed consultation with stakeholders, industry and others at this point in time. The flexibility is there for any of those possible options.

But the principle that applies in this case is that there is intended to be for commercial operators — they will be bearing costs related to road construction and will not simply have — if what the member is getting at is whether there will be miles and miles of highways constructed for them, that is certainly not the intent of this. It is intended that they would bear the responsibility and that the revenue government receives would be more than the costs borne by government — again, I've referred to whether that is through stumpage or specific fees levied for road construction and/or decommissioning.

Mr. Cardiff: I just want to be clear with the minister. I think it's important that what we recognize here is that the cost of building and decommissioning the road should be a cost of doing business to the licensee. That is what I am trying to make clear to the minister.

The minister is suggesting that there may be, through their consultation on regulations and in the development of regulations, a process whereby money recovered for stumpage fees could be used to finance the decommissioning and reclamation of a road. I would argue against that. This goes back to a similar argument we had about royalties. It's about the Yukon and the citizens of the Yukon being paid fairly for non-renewable resources. I say non-renewable because it takes a long time for trees and forests to regenerate. In fact, they never really come back the way that they were, as a natural forest.

I think we need to ensure that Yukoners, both present and future generations, are compensated for the economic benefits that licensees and forestry people — people operating forest resource businesses — pay appropriately for the resources that they take from the land and they reap the benefits of — they need to pay appropriate stumpage fees for that — and that the taxpayers should not bear the costs, out of those fees, for decommissioning or reclamation works. Maybe it would be likely that there would be a bond posted to ensure that appropriate forest practices are practised and that the areas are reclaimed, reforested and decommissioned appropriately.

That's the point that I was trying to make, and if I didn't make it clear to the minister the first time, I hope I have now.

Hon. Mr. Cathers: In reviewing — of course, attempting to respond to the member's question in an expeditious fashion for the speed of debate earlier — upon reviewing the legislation and notes we have, I want to correct the record. In fact, the intention is to have the costs of the road paid for through levies other than stumpage fees. So I think that answers the member's question.

I know the concern he's coming from, and again I agree fully with the principle that the costs of road construction and reforestation should be a cost of doing business, not a cost that is borne by the taxpayers in cleaning something up after it has been dealt with. Again, any obligations that would occur through a road would be intended to be dealt with through a stumpage and other levies.

I believe the relevant section was — particularly, I know if the member looks in the bill for the larger licences, referring to

a timber resource licence there is a specific reference under 22(g) of requiring the licensee to pay stumpage and any other fees that may be established by regulation. Those “any other fees” are intended to be specifically related to costs of road construction, costs of road decommission and anything related to any other environmental rehabilitative work that is required, whether it be silviculture or others. There are, of course, other provisions relating to silviculture but that specific section is to give some flexibility for any costs that may exist or may be required or work that may be required to be done to be borne through levies other than stumpage by the holder of such a licence.

Mr. Edzerza: I have one concern that I would like to put on record here with regard to this section. A large number of my constituents had issue with the very thing of the government building roads in prime woodlot country and putting a steel gate across it and stopping the public at large from having access to the roads that the government built. I guess the feeling of a number of my constituents was that there was really differential treatment here, preference given to commercial woodcutters versus the public at large.

I also want to put on record that I did have a phone call from some woodcutters in Dawson City who had an issue with the government assisting commercial woodcutters in and around the vicinity of Whitehorse and ignoring the communities. Some of the commercial woodcutters in the communities said they don't have such privileges as having government assist in providing access roads into woodlots.

So I just wanted to put that on record. If the minister wants to respond, it's up to him, but he doesn't have to. I just wanted to make sure that the public at large is not neglected here when it comes to government putting roads into woodlots.

There is one more concern I had with this type of approach — and I may be wrong, and the minister may correct it, if I am wrong — and that is that this enables the government to basically take possession, you might say, of a very large burn, for example, and only allow permitted commercial woodcutters into that area. I certainly hope that's not the case. But reading this section of the proposed legislation, it looks like it possibly could happen.

Hon. Mr. Cathers: First of all, I would point out to the member opposite that I recognize his concerns in the Fox Lake situation. What I would also note to the member is that when an area has been developed for commercial woodcutting and whether a road has been developed for that, or for personal woodcutting, or for a mix of them — and in that particular case, there was payment for the costs of the road from those who held commercial licences.

Once a permit — personal or commercial, large or small — has been issued for a section of Yukon forest, there will not be another overlapping permit issued over the same area. Part of this, of course, relates to knowing who is responsible if environmental damage is done. Of course, anyone can go into an area illegally and cut. We can deal with issues relating to trespassing in that particular case if that is proven, but part of it is about knowing who we are holding responsible for lawful work that occurs in accordance with a permit, if there is a problem. It

is also about providing some security to access the amount of wood and rights of the licence holder to harvest that wood, whether it is for personal or commercial use.

On some of the areas that the member has referred to in the past, I recognize his concerns, but I would also note that some of it relates to permits that were issued for an area, but the cutting had not necessarily occurred, and a second overlapping permit could not be issued. I would also note to the member that there are opportunities for personal woodcutting within the Whitehorse area, including within the Fox Lake burn area. If he or his constituents have questions about that, I would encourage them to go into the office at 918 Alaska Highway, apply for a permit and ask for information about that. The staff there can certainly help them with those requests.

What happens, of course, is that sometimes there are times, such as in this particular case, where it may make more sense to group commercial permits together and group personal permit opportunities together, as well. So again, I do appreciate the member's concerns. I don't think there's a need to spend a lot of time discussing this back and forth, but I would also note, with regard to his other comment about it seeming like there was the ability for a government to take possession of an area, that the government is not taking possession of any area issued, whether commercial, personal or some mix. Under the provisions of the legislation, when it's Crown land and the Yukon government's a decision body in issuing regulations, the job is to manage the access for both commercial and private timber harvesters — or timber or wood or whatever purpose. It's about managing access. The government certainly does not possess it, but it does have the authority as the decision body, and the responsibility to manage those access issues and manage the permits and licences held by those that hold them.

Mr. Edzerza: I just want to make one statement about the possession part of a large area of wood. I guess I might be able to make it a little clearer because — and I may be mistaken — but I believe that the government has the authority to designate an area as commercial woodcutting area. Am I right when I say that?

Hon. Mr. Cathers: Under this legislation, under forest resources management plans, under the provisions related to annual allowable cut and under the regulations, what is proposed is indeed giving the ability for there to be terms set around annual allowable cut, types of permits, allocation of permits, et cetera, and yes there is the ability for the director to manage who gets a permit and where, and that applies to both commercial and personal. Neither is intended to be to the exclusion of the other, but in any area that a licence is issued for, as I noted, there will not be another overlapping licence type in that area or other overlapping user. Where the licences are issued and a permit is issued in that place, there may be cases where commercial is grouped together and personal is grouped together.

Some of this will have to do also with practicality of the size of areas and the type of forest resources in the area, whether it is a burn area, what the type of vegetation is — live, dead, coniferous, deciduous, et cetera. Of course the intention

of the act, if the members noticed, is related to coniferous trees, lest they ask that question.

But the management of forest resources is provided for and consideration is given to all types of vegetation and the appropriate protection of that in accordance with this. So yes, the government would have the ability under this in accordance with the planning work done to issue permits of varying types, including various sizes of commercial and personal permits.

Mr. McRobb: Mr. Chair, I have a couple more questions on this word “decommission”. Can the minister give us the minimum definition of “decommission”.? For instance, is it putting a pocket of gravel at the start of the road? Would that meet the terms of decommission?

Hon. Mr. Cathers: That is a very hypothetical question. It depends on the type of road. There are many different types, many different amounts of work. There is a difference between an area where someone is repeatedly driving over an area without any work or plowing, et cetera, and it’s simply vehicle tracks versus an area where gravel may be utilized, which would not commonly be done but might occur in some situations where necessary. So it’s a pretty open-ended question to give an answer to. It would depend on the situation and would be in accordance with other things, such as forest resources management plans, the regulations and, of course, the terms of the licence.

I would also point out that there is going to be further work dealt with on the regulations and work with stakeholders to determine these issues and how exactly these things are worded.

Mr. McRobb: Well, we’re dealing quite a bit with hypotheticals because we have to look into the future and ask ourselves what possible situations might arise in order to properly evaluate each of these clauses. I expressly mentioned the minimum requirement with respect to decommissioning and gave an example of a bucket of gravel, and we didn’t get a very helpful response from the minister.

So he’s talking to his official now. Perhaps he can help improve our understanding. For the record, would a bucket of gravel, for instance, at the beginning of the road constitute decommissioning as stated in this act?

Hon. Mr. Cathers: Mr. Chair, I’m at a loss for determining how to respond in a parliamentary manner to the Member for Kluane. That type of question is — it was quite the example that the Member for Kluane gave. Again, I answered the question already. The member is coming up with suggestions of solutions that I can see — his suggestion of a bucket of gravel having — the chance of it having a practical application in any particular case is about a snowball’s chance in hell, I believe would be the term. It doesn’t really have applicability.

Unparliamentary language

Chair: Order. Order please. The member knows that that terminology is not warranted or expected from anybody in this House. I would ask the member not to use that terminology again, please.

Hon. Mr. Cathers: I do apologize. I thought that language was in order, but I certainly appreciate your correction

on that. Again, as I note, I’m at a loss for the appropriate words in a parliamentary manner. I thought I’d come up with them. Apparently, I did not.

However, let me point out that that specific hypothetical example would have very little chance of any relevance to anything, anywhere, any time, in any situation. It doesn’t make a lot of sense, Mr. Chair. Let’s leave it at that. Again, as I pointed out, there would be different types of roads. There is a big difference between whether a road is something that someone drove a pickup truck over enough times that there is evidence of traffic and a road that has been heavily used and bulldozed and perhaps gravel put on it. To answer the member’s question, it is so open-ended and so hypothetical that it has no relevance to the debate at hand and no relevance to the act. I have answered the question, and there is no point in further debate on this clause, the topic or the hypothetical idea that the Member for Kluane asked about.

Mr. Mitchell: I just feel compelled to enter into the debate momentarily. We are discussing a clause and a bill. The purpose of questions is to have a better understanding of the meaning of a clause. Now, there is a definition section at the beginning of the bill that defines a number of terms and words. This is not among the words that are defined and provided to us.

Yukoners have a great deal of interest in the care of the environment in which we choose to live. While the environment is not always pristine, we do try to balance the commercial use of the resources within the environment with other uses. The Member for Kluane is simply asking if the minister can explain what is meant by decommissioning, since he has suggested that there are other words that might perhaps be better used — such as “rehabilitation” or others.

The minister is taking offence with an example that is being providing by the Member for Kluane. I would suggest that if the minister feels that is not an example that he finds useful, the minister should stand when he next takes the opportunity and provide examples as to how he interprets this clause. If the minister doesn’t know how the clause should be interpreted, how are we to determine how we feel about the clause?

Hon. Mr. Cathers: I’m sure the Member for Kluane appreciates the intervention of the leader on this topic. However, as I stated in answering the member’s first question, the hypothetical example is fairly — it’s very hypothetical and it’s a bit of a wild example to have presented in debate. It doesn’t have any relevance to this. I did answer the question. Apparently the Liberal leader was not listening to the answer.

This work and the determination around these things — this is the type of work that really needs to be dealt with through things such as the licensing stage and forest resources management plans, et cetera. There is a big difference in different areas depending on the sensitivity of the ecosystem, depending on the nature of the ecosystem, on how much work is required to decommission a road. It cannot simply be answered on the floor of this House — what would define “decommissioning” — because in an area that was, for example, fairly dry and perhaps rocky or gravelly in nature, there might be no need for anything to be done. In an area that was somewhat more

sensitive, that had a higher level of moisture and was softer, there would need to be more precautions taken up front to prevent damage to the ecosystem.

In many cases, there might be more work required than to decommission. To define this and to describe this — the act enables it. The act is a framework. This issue is appropriately dealt with in regulations and in the conditions of a licence. The Member for Kluane has asked quite the hypothetical question, and I really cannot respond other than giving him the facts, which I have done, and informing him of what will be done, which I have done. I have nothing else that I can provide to that, other than remarks which I believe you would rule unparliamentary, Mr. Chair. So let's leave it at that, and move on.

We all recognize the Liberal leader is attempting to make a strong point on this but I would point out that the member would be hard-pressed to find a Yukoner anywhere who doesn't place significant importance on the preservation and appropriate management and use of our natural environment.

Lest anyone be tempted to try and style themselves as the defender of the environment, I would point out that we all recognize the needs of the environment. Yukon citizens expect it. Yukon citizens expect to be able to use the Yukon wilderness for things including personal wood cutting, hunting, berry picking, recreational pursuits and other activities, including business purposes other than forestry and including being able to — for those in the forestry industry — do things beyond cutting personal fuel wood to actually making a living cutting wood for someone else, whether it be for fuel wood or another purpose.

Over all of this, Yukon citizens place a great deal of importance on appropriate management of the environment. This will be dealt with through the appropriate steps, through regulations, and open-ended, hypothetical questions such as this simply cannot be answered in the Assembly.

I think that I have made my point to the members. I would hope that they would recognize the facts that I am stating and avoid unnecessary debate on the topic and making an issue out of something that really isn't an issue and that they ought to know it isn't an issue.

Mr. McRobb: Well, I think we just heard 10 minutes of unnecessary debate and repetitiveness.

Chair's statement

Chair: Order please. That kind of comment will lead to discord, and I would encourage the member not to do that.

Mr. McRobb: Well, I asked for a simple explanation of a definition and within 10 minutes didn't get it. Obviously, it's a waste of time asking for such answers.

But there is one answer I think Yukoners do want to know, and it is: who will get stuck with the costs of reclamation? The Member for Mount Lorne made a convincing case that it should not be the taxpayers. That's consistent with requirements in other legislation — for instance, mining roads.

I would like the minister to clearly state who will be paying for reclamation of forestry roads. And I would like him to be very clear where that will be stipulated. Is it in this act? Will it be in the regulations, where the regulations won't see the light of day for debate in this Assembly? We need some assur-

ance about where the costs and requirements associated with reclamation will be found.

Hon. Mr. Cathers: I already answered that question to the Member for Mount Lorne and I spent a significant amount of time explaining it. The Member for Kluane appears not to have been listening. I will not waste the time of this Assembly by repeating my answer again. I would refer the member to the Blues.

Mr. McRobb: I was listening and I did not hear a clear answer. The minister could have been brief in his comments if he would have answered the question so I'll ask him again: where will the requirements associated with reclamation of forestry roads be found? Is it in the act? Will it be in the regulations? We need to be very clear. This is an important point that must be clearly established for the record.

Some Hon. Member: (Inaudible)

Mr. McRobb: Mr. Chair, let the record show the minister is content to let an unclear answer remain on the record, specifically in a case where a clear answer was requested more than once.

Hon. Mr. Cathers: The statement the member just made — of course, if the member reviews the Blues, he will see that the comment he just made was not accurate. I did clearly answer the question and I would refer the member to the Blues.

Chair: Is there any further debate on clause 32?

Clause 32 agreed to

On Clause 33

Mr. McRobb: Mr. Chair, I've checked with the third party, and the opposition would like to request the unanimous consent of the Committee to clear all remaining clauses of Bill No. 59.

Unanimous consent re deeming all remaining clauses of Bill No. 59 read and agreed to

Chair: Mr. McRobb has requested the unanimous consent of the Committee to deem clauses 33 through to 97 read and agreed to. Is there unanimous consent?

All Hon. Members: Agreed.

Chair: Unanimous consent has been granted.

Clauses 33 to 97 deemed read and agreed to

Chair: Is there any discussion on the preamble?

Mr. McRobb: Yes, Mr. Chair. We found the preamble somewhat lacking.

Amendment proposed

Mr. McRobb: Again I'd like to bring forward a fix for that through an amendment that reads as follows:

THAT Bill No. 59, entitled *Forest Resources Act*, be amended in the preamble at page 5 by inserting the following paragraph after the first paragraph and before the second paragraph: "Recognizing that Yukon's forests should be managed for ecological sustainability and for the continuance and sustainability of Aboriginal rights".

Chair: It has been moved by Mr. McRobb that Bill No. 59, entitled *Forest Resources Act*, be amended in the preamble at page 5 by inserting the following paragraph after the first paragraph and before the second paragraph: "Recognizing

that Yukon's forests should be managed for ecological sustainability and for the continuance and sustainability of Aboriginal rights".

Is there any debate on this amendment?

Hon. Mr. Cathers: Mr. Chair, the proposed amendment to the preamble actually weakens the preamble and weakens the holistic approach taken by the preamble.

The preamble already states a number of things, including first and foremost: "Recognizing that the long-term health of Yukon's forest must be maintained and protected for the benefit of current and future generations." Again, this is a reference to the health of the forest which, of course, is just a different word for "ecological sustainability".

It refers, of course, to: "Recognizing that the use of forest resources can play an important role in the economy of the Yukon."

It also refers to: "Recognizing that Yukon forests play an important role in the social and cultural lives of Yukon residents, and that Yukon Indian People have a special relationship with these environments." Again, the specific reference to aboriginal interests and the special relationship Yukon Indian people have with those environments.

Fourthly, it notes: "Recognizing that the use of forest resources must be planned and undertaken to enhance beneficial socio-economic change" — and I emphasize "to enhance beneficial socio-economic change" — "while not undermining the ecological and social systems upon which Yukon communities and societies depend." So, again, it already mentions ecological — it states it in different words from what the member proposes, but it already recognizes that in two of the clauses in the preamble. And by the member adding this in, it de-emphasizes the other interests.

It does not in any way, shape or form actually enhance the preamble. Aboriginal rights are addressed within this preamble, as well; therefore, it is not a good amendment. It is not a well-worded amendment. The government has, of course, no choice but to recognize the importance of keeping the preamble as it is and rejecting this proposed amendment.

Mr. Cardiff: Just briefly, I just want to remind the minister of my comments earlier about how I believe that future governments, bureaucrats and those responsible for the administration of this piece of legislation and the regulations that will come under it, and indeed possibly legal interpretations down the road — the minister's comments are going to influence that. I hope that is the case. The minister is trying to assure us that all is well and that they are going to use their majority to ensure, as they have all day today and in previous days, that no amendments are allowed to come forward.

I would just like to make that comment for now and I'm prepared to move forward.

Hon. Mr. Cathers: Mr. Chair, I will be very brief here, again noting that the basic concerns and interests expressed in this preamble are already expressed in other parts of the preamble, and they are expressed with better wording than this.

In answer to the Member for Mount Lorne's belief that the comments we make in a speech will influence the interpretation or the view and understanding of an act down the road, from a legal perspective I don't think that's the case as far as somebody reading or interpreting what they believe it means when they're dealing with it. I can't either confirm or contradict the member's understanding. That may be the case in some situations. I will state these interests — ecological sustainability and the issues around aboriginal rights, including particularly the special relationship Yukon Indian people have with the environment — are recognized in the preamble as are other interests, including the importance in the social and cultural lives of all Yukon residents, because it is important to all Yukon citizens — both First Nations and non-First Nations — are recognized within the preamble.

Chair: Is there any further debate on this amendment? Shall this amendment carry?

Some Hon. Members: Division.

Count

Chair: Count has been called.

Bells

Chair: All those in favour of the amendment, please rise.

Members rise

Chair: All those who disagree with the amendment, please rise.

Members rise

Chair: The results are six yea, nine nay.

Amendment to the preamble negatived

Chair: Is there any further discussion on the preamble?

Preamble agreed to

On Title

Mr. McRobb: Although this legislation is a significant improvement over existing legislation, it seems to exclude a lot of values with respect to First Nation rights and aboriginal title, particularly with respect to the southeast Yukon where, as I've said several times, the vast majority of our timber resources are located, and we have a situation with an unsettled First Nation. It has been suggested that a more appropriate title would be the "Timber Harvesting Act," rather than the *Forest Resources Act*. I know if an amendment were brought forward, the Yukon Party would just once again use its majority to defeat the amendment.

It has been a long afternoon, Mr. Chair; there have been several amendments and it will probably just be a waste of time to print out several copies of an amendment and bring it forward, so I won't bother. At least we did get through this act today in Committee of the Whole and, of course, the next stage is third reading and I will look forward to making summary comments at that opportunity.

Thank you, Mr. Chair.

Chair: Is there any further discussion on the title?

Title agreed to

Hon. Mr. Cathers: I move that Bill No. 59, entitled *Forest Resources Act*, be reported without amendment.

Chair: It has been moved by Mr. Cathers that Bill No. 59, entitled *Forest Resources Act*, be reported without amendment.

Motion agreed to

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

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

Motion agreed to

Speaker resumes the Chair

Speaker: I will now call the House to order.

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

Chair's report

Mr. Nordick: Committee of the Whole has considered Bill No. 59, *Forest Resources Act*, and directed me to report it without 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.

Hon. Mr. Cathers: Seeing the time, 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. Monday.

The House adjourned at 5:29 p.m.

The following Sessional Papers were tabled November 27, 2008:

08-1-91

Yukon Public Service Labour Relations Board 2007-2008 Annual Report (Rouble)

08-1-92

Yukon Teachers Labour Relations Board 2007-2008 Annual Report (Rouble)