



Yukon Legislative Assembly

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HANSARD

Monday, November 9, 2015 — 1:00 p.m.

Speaker: The Honourable David Laxton

YUKON LEGISLATIVE ASSEMBLY

SPEAKER — Hon. David Laxton, MLA, Porter Creek Centre

DEPUTY SPEAKER — Patti McLeod, MLA, Watson Lake

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Hon. Elaine Taylor	Whitehorse West	Deputy Premier Minister responsible for Tourism and Culture; Women's Directorate; French Language Services Directorate
Hon. Brad Cathers	Lake Laberge	Minister responsible for Justice; Yukon Development Corporation/ Yukon Energy Corporation
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Yukon Legislative Assembly
Whitehorse, Yukon
Monday, November 9, 2015 — 1:00 p.m.

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

Prayers

DAILY ROUTINE

Speaker: We will now proceed with the Order Paper. Tributes.

TRIBUTES

In recognition of Yukon's Farmers of the Year, 2015

Hon. Mr. Cathers: Today I rise to pay tribute to Yukon's Farmers of the Year for 2015. I would like to thank the minister responsible for Agriculture for allowing me to give the tribute since they are constituents of mine.

This year's recipients are Kate Mechan and Bart Bounds of Elemental Farm. Kate and Bart, along with daughter Juniper and Bart's children, Magellan and Cricket, have been running their market garden farm on the north side of the Takhini River since 2011.

Kate and Bart grow a range of vegetables using low-impact organic practices, and they also offer free-range eggs and poultry through their community-supported agriculture box program and at the farm gate. Operating off the grid, they are a great Yukon example of using the resources provided by nature to keep an organic, sustainable farm running. They work long hours and rely heavily on volunteer labour, providing interns valuable farm experience working with them on the family farm.

They use organic practices, feed, as well as other methods of pest control. Water comes from a nearby spring and they use their poultry to fertilize and clean empty garden beds. Not only do they provide great local produce, poultry and eggs to the community, giving Yukoners options for locally-grown healthy food, they are two examples of what a community farm can aspire to be.

They help other local farmers with poultry processing, as well as lending a hand with equipment. They swap with several locals, bartering with other livestock farms in exchange for produce. They also provide produce and eggs in exchange for services such as meal preparation, equipment repairs and help in the garden. Bart is a vocal advocate for the local agricultural industry, advocating for and demonstrating the use of sustainable and innovative farm-management practices. He has held several workshops at the Fireweed Community Market, has welcomed the children's learning program on the farm to learn how things work, and is open to people coming by the farm to learn about northern gardening practices.

Kate works with the Yukon Anti-Poverty Coalition to increase awareness about food security in the Yukon as well as awareness of locally available food. Every week during the Fireweed Community Market, they make sure that other

vendors have fresh produce to take home and they donate leftover produce to charitable organizations such as the Whitehorse Food Bank. They also donated the start seeds and young plants for the Victoria Faulkner Women's Centre's local community garden. This allowed the centre to provide healthy and nutritious meals to several programs, including the moms and kids summer program, the Wednesday women's lunch, and the safe places program, in addition to being able to give away free local produce.

In 2012, Kate and Bart were featured in a producer profile published in the Yukon Agriculture branch's information newsletter. One of the things Bart and Kate said that they had learned since starting their farm is just how much you can do with so little. A lot of food can be grown in a small space, they said. There is wisdom in this from which we can all benefit and learn, both here in the Yukon and around the world.

I would like to again congratulate them on receiving the award at the banquet this Saturday as well as congratulating all who were nominated this year for the Farmers of the Year award for all of the excellent work that they do in increasing the production of locally grown food and agriculture products.

Mr. Tredger: It is with pleasure that I rise on behalf of the NDP Official Opposition and the Third Party to pay tribute to Yukon's Farmers of the Year. I'll begin by recognizing the Yukon agricultural community as a whole. I commend them for working together to establish a vibrant, innovative, entrepreneurial and sustainable industry. I have had the opportunity to attend many agricultural conferences and visit farms, gardens and greenhouses over the last few years.

Last weekend, at the North of 60 Agriculture Conference, I was able to attend several excellent sessions, one on the benefits of pasture-raised beef, another on invasive weeds and a very informative session from three Yukon retailers who are selling and the challenges of putting local food produce on the shelves. These retailers were Your Independent Grocer, Farmer Robert's and the Potluck Food Co-op. These conference sessions were opportunities for enthusiastic farmers, gardeners and consumers from across Yukon to meet, share ideas, innovations, challenges and techniques to build a community.

The enthusiasm is infectious as one of the speakers, Brian Lendrum attended a 1991 North of 60 Agriculture Conference as a neophyte landowner. He is now a fully engaged and respected producer of fine goat cheeses from Lendrum Ross farm. He remarked rather tongue-in-cheek and said that these conferences are a dangerous place to go.

I would like to thank the Yukon Agriculture branch for showcasing and nurturing our agricultural industry. Yukon is fortunate to have a growing community of producers and consumers working together to produce local, sustainable and healthy produce. As well as the Yukon Agriculture branch, I would like to acknowledge the Growers of Organic Food Yukon, the Yukon Agricultural Association, as well as farmers markets throughout Yukon, and especially all those farmers and gardeners who are producing quality Yukon food.

Through their efforts, “grown in the Yukon” has become synonymous with excellence, healthy, sustainable and affordable.

I am particularly pleased this year to see communities and First Nations in my riding embracing the food security sustainability of locally grown foods, developing community greenhouses and gardens. Again, I was struck this weekend by the knowledge, the thirst for new knowledge and the sharing of that knowledge within the agricultural community. What an enthusiastic and dynamic community of growers and consumers. A highlight of this year’s workshop for me was the personal stories from three local farmers: Jackie and Scott, Bart and Kate, and Brian and Susan Lendrum. Little did I know that the presentation of Kate and Bart would be followed by an announcement at the evening banquet of this year’s Farmers of the Year, Bart Bounds and Kate Mechan, Juniper, Magellan and Cricket of Elemental Farm.

Mr. Speaker, their story and the living of that story enrich us all. We all know of their great produce, the fabulous food and their welcoming stall at the Fireweed Market. It became evident to me that it’s driven by Bart and Kate’s belief that underlies all they do — that if you have a focus on building and growing family, farm and community, that circle will sustain you. Elemental Farm is centred around growing and providing good, healthy food and food experience in a sustainable manner.

They are growing, as their website states, food for change. Mr. Speaker, Bart and Kate have enriched our community. They are examples of the vibrancy of our local farming community and active members of Growers of Organic Food Yukon. They talked of the help and the assistance they receive from neighbours. They shared their ideas and lessons, and they talked of passing their knowledge along — ideas and dreams that they have been incubating for the future. They and their growing community have carefully and sustainably nurtured the land into the productive farm that it is today. But most of all, they talked about how farming, growing good, healthy food — food for change — had enriched their lives.

Bart and Kate talked about a small, inauspicious beginning — living in a tent during the farming season — and various farming techniques and challenges they encountered.

They talked about the growth of their farm, their family and their community. They talked of their work with the Yukon Anti-Poverty Coalition and the Growers of Organic Food Yukon, the working together to ensure all Yukoners have reliable access to wonderful, healthy and sustainable local food. Kate, Bart, Juniper, Magellan and Cricket have nurtured and raised a community of woofers, friends, neighbours, producers and consumers. Indeed, you might say they’re raising a farm.

Kate, Bart, Juniper, Magellan and Cricket of Elemental Farm, I congratulate you. You are truly deserving of Yukon’s Farmers of the Year award. On behalf of all Yukon people, thank you, Kate and Bart for your efforts, your innovations, the years of hard work, the sharing of the fruits of your labour, your willingness to help others do the same, and your many

contributions to community and life in the Yukon, and especially your great food.

Thank you.

In recognition of Medical Radiation Technologists

Hon. Mr. Nixon: Thank you.

Mr. Speaker, as Canada celebrates medical radiation technologists — or MRTs — from November 8 to 14, I ask my colleagues in this House to join me in specifically recognizing the 18 nationally certified MRTs in Yukon who are on staff at Whitehorse General Hospital. MRTs are experts in the use of complex medical equipment that is used to quickly and precisely diagnose a wide range of medical conditions, often in critical or life-saving situations. At the same time, these professionals provide safe, excellent and compassionate care to each patient.

We are indeed fortunate to have two of the four MRT professional disciplines working here in Yukon, including radiological technologists, otherwise known as X-ray techs, who use ionizing radiation to produce images of body parts and systems with equipment such as general X-ray, computed tomography or CT scan and breast imaging or mammography. From time to time, X-ray techs are called upon during critical procedures such as surgery. We are also fortunate to have a full-time MRI technologist on staff at Whitehorse General Hospital. With the addition of Canada’s first MRI program north of 60 in January of this year, this professional is able to conduct the advanced and safe test using highly specialized equipment that generates radio waves and a strong magnetic field to produce images of structures inside the body.

It is widely said that MRTs deliver technology with care in hospitals and clinics from coast to coast, on the battlefields wherever the Canadian Forces are deployed, as well as in the dressing rooms of our professional sports teams. These skilled individuals are committed to compassionate patient care while delivering critical high-tech services that assist our physicians and other health care professionals.

On behalf of all Members of the Legislative Assembly, please join me this week in thanking and recognizing our skilled and dedicated MRT professionals.

In recognition of MADD Canada’s 28th Project Red Ribbon campaign

Hon. Mr. Cathers: Thank you, Mr. Speaker. I’m pleased to rise in the House today on behalf of Yukon government departments to recognize Mothers Against Drunk Driving Canada’s 28th Project Red Ribbon campaign. Each year, from November 1 to the first Monday after the new year, Canadians are asked to display red ribbons on their vehicles and personal items. Displaying the red ribbon is a commitment and reminder to drive safe and sober through the holiday season and throughout the year.

Deaths and injuries resulting from impaired driving are needless tragedies and are preventable.

I would like to thank the MADD Whitehorse chapter for their work that reminds us that road safety and stopping impaired driving is everyone’s responsibility. We extend our

gratitude for your tireless efforts to stop impaired driving in the Yukon.

The Yukon government is pleased to work and support MADD, along with our public safety partners, on enforcement, education, awareness and technology initiatives aimed to eradicate impaired drivers from our roadways. This week, at the community safety awards, we saw for the first time the presentation of the RIDE awards, which Mothers Against Drunk Driving present to RCMP members who have shown significant success in their efforts to address drinking and driving by handing out tickets. At that event, I had the opportunity of joining them in paying credit to those RCMP members who have gone above and beyond the call of duty in doing so. We thank them for their ongoing commitment and work they do on a daily basis.

In closing, I ask Yukoners to make a commitment. When you drink this holiday season, don't drive. Plan for a safe ride before you begin your festivities, and if you see a driver you suspect is impaired, call 911 to report it to police.

Mr. Barr: Mr. Speaker, I rise on behalf of the NDP Official Opposition to pay tribute to the tireless efforts of Mothers Against Drunk Driving. First and foremost, I want to acknowledge that the positive and constructive advocacy of this citizens group comes out of injuries and losses that may have felt, at times, unbearable. Thank you to volunteers with Mothers Against Drunk Driving who have turned needless tragedy in their lives into a positive contribution to all of our communities. Your efforts save lives.

This year, a seemingly small change in language, replacing the word "accident" with "incident" is a significant reminder to all Yukoners. Driving while drunk is not an accident. It is a choice. It is a preventable incident. With five times the national rate of impaired driving and the second highest rate of impaired driving in the country, we Yukoners need to admit that there is a serious drinking problem in our territory. It is not a new problem, Mr. Speaker; it has been part of our culture for a long time. We must not deny this.

Front-line responders know the negative consequences of impaired driving all too well. I want to recognize the work of the RCMP and EMS staff and volunteers, who are often the first on the scene of incidents of impaired driving. First responders are experts when they respond to incidents. Beyond training and resources, we must also ensure these experts get support to deal with the traumatic impact of being first on the scene at unnecessary tragedies. I will state again: Impaired driving is not an accident. It is preventable.

It is an honour today to pay tribute to the determination, creativity and persistence of the chapter of Mothers Against Drunk Driving Yukon who are bringing their positive message to schools and legislatures. I urge all of us to support the MADD campaign every day of the year, at every opportunity. Citizens can donate time and money. Legislators can strengthen laws and enforcement, and the community as a whole can come together to shift our culture away from impaired driving to responsible driving.

Thank you, Mr. Speaker.

Mr. Silver: Thank you, Mr. Speaker.

I rise on behalf of the Liberal caucus to also pay tribute to the Mothers Against Drunk Driving Red Ribbon campaign. The Whitehorse chapter of Mothers Against Drunk Driving, or MADD, was established in 2003. MADD's mission is to stop impaired driving and carnage on our roads and highways.

Mr. Speaker, our local chapter of MADD continues to raise awareness and educate Yukoners on the effects of impaired driving and is helping to make a difference. Each year, from the beginning of November to the first Monday after January 1, MADD volunteers distribute red ribbons across the country. Displaying the red ribbon is a commitment by Canadians to drive safe and sober. The red ribbon is also a sign of respect for the thousands of Canadians who have lost their lives or who have been injured as a result of an impaired driver.

Driving a motorized vehicle, boat, car, truck, quad or snow machine while under the influence of alcohol or drugs can have tragic consequences. Death and injuries resulting from impaired driving are needless tragedies and are totally preventable, Mr. Speaker.

MADD volunteers were out this weekend, and I did go through one of those checkstops on Friday night and I do know that Chief Bill of the Kwanlin Dün First Nation has participated in these checkstops to raise the profile of the work MADD does.

Mr. Speaker, life is a precious gift. Let's help save one today.

Speaker: Introduction of visitors.

INTRODUCTION OF VISITORS

Ms. Hanson: Thank you, Mr. Speaker. I would ask the members of the Legislative Assembly to join me in welcoming the peripatetic Mike Tribes to the Legislature. I think he is here to see his son as page.

Applause

Speaker: Are there any further introductions of visitors?

Are there any returns or documents for tabling?

TABLING RETURNS AND DOCUMENTS

Hon. Mr. Cathers: Thank you, Mr. Speaker.

I have for tabling the *Yukon Development Corporation 2014 Annual Report* and the *Yukon Energy Corporation 2014 Annual Report*.

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

Are there any reports of committees?

Are there any petitions to be presented?

Are there any bills to be introduced?

Notices of motions.

NOTICES OF MOTIONS

Ms. McLeod: Thank you, Mr. Speaker.

I rise to give notice of the following motion:

THAT this House urges the Government of Canada to continue the mineral exploration tax credit, also known as the super flow-through program, and enhance the credit for northern and remote areas from 15 percent to 25 percent in order to promote the exploration of Canada's mineral resources, creating jobs and economic development throughout Canada.

Speaker: Is there a statement by a minister?

This then brings us to Question Period.

QUESTION PERIOD

Question re: Costs of legal actions against government

Ms. Hanson: You know, Mr. Speaker, when it comes to negotiating with other parties, this government's strategy is clear — bungle the negotiations, push the other parties into court to protect their legally defined rights, and subsequently lose the court case. This has been common practice by various iterations of this Yukon Party government.

Last week, the Minister of Education tabled the costs of fighting the Commission scolaire francophone du Yukon — \$3 million for three court cases. Yukoners know that this money could have been spent in better ways.

Does the government agree that it could have accomplished more with \$3 million than forcing and losing yet another costly legal battle?

Hon. Mr. Graham: One of the reasons I tabled the expenses — besides the fact that we're an open and accountable government — was to show Yukoners exactly what that court case had cost the territory and the French community over the years. It is one of the reasons that we've gone ahead and conducted negotiations with CSFY in an attempt to resolve our issues without proceeding further with costly court battles, because we believe that the best possible way of settling these differences in our opinion is through negotiations and through settlement of these issues.

Ms. Hanson: This isn't a unique practice. This government has demonstrated a complete inability to respect the rights of key members of Yukon's community, causing court battle after court battle.

Just last week the government was dealt a blow by the Yukon Court of Appeal over their unilateral Peel watershed land use plan.

Similar to the Commission scolaire francophone du Yukon debacle, this government spent Yukoners' money fighting against the interests of Yukoners and ultimately losing.

In the interest in continuing this new-found commitment to openness, will the government now tell us: What are the complete costs of the Peel court battles, including in-house legal counsel, outside legal counsel and public relation costs?

Some Hon. Member: (Inaudible)

Point of order

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

Mr. Elias: It seems to me that the Leader of the Official Opposition has asked two very distinct and different questions here with regard to the costs of two separate court cases that have no relationship to each other whatsoever.

Speaker: Opposition House Leader, on the point of order.

Ms. Stick: I would just point out that before my colleague could finish the question, it is with regard to legal costs of court cases from this government.

Speaker's ruling

Speaker: There is no point of order.

Hon. Mr. Kent: As I mentioned last week, I believe, we do have the legal costs for the Yukon Supreme Court trial portion with respect to the Peel watershed. Hunter Litigation Chambers was engaged for that trial and expenditures to them are \$53,271, as I mentioned last week. Again, when it comes to costs with the appeal and costs of consultation and communication, we will release those at a later date. Once the appeal process is complete, then we will have a final number with respect to those costs.

Ms. Hanson: The numbers on the cost of the Peel appeal given by this government do not include in-house legal costs. If the government spent \$3 million fighting the francophone school board, they have certainly spent more than \$50,000 on the Peel process.

This government has spent thousands of Yukoners' dollars fighting losing court battles. They have said it's for clarity, but the clarity Yukoners want is the total cost — the total cost to Yukoners of this Yukon Party's court battles.

Will this government commit to tabling — they say they're satisfied with the court case last week, so now tell us: How much did it cost? How much of Yukoners' monies have they spent on in-house legal costs, expensive Vancouver and Toronto lawyers, and their communications strategy trying to sell Yukoners on their bad deal?

Hon. Mr. Kent: I mentioned in my previous response the legal costs for the Supreme Court trial. We retained Hunter Litigation Chambers for that. It was \$53,271, and I did commit in an earlier response that once the appeal process is complete, we will table the balance of the legal amounts that were accrued by Tors LLP out of Toronto. We are not hiding anything. We are just waiting for this next aspect of the proceedings to conclude before we release the number for that stage.

Question re: Shakwak reconstruction project

Ms. Moorcroft: Thank you, Mr. Speaker. Last week, the United States House of Representatives passed a transportation bill that did not contain funding for the Shakwak portion of the Alaska Highway in Yukon. The lack of funding for Shakwak is not new. In 2012, the US removed funding for Shakwak from their budget. This is disappointing

news for the Yukon, though, because since its signing in 1977, the Yukon has benefitted greatly from Shakwak funding. The government has spent thousands of dollars lobbying the US government to reinstate the Shakwak funding without success.

Aside from the unsuccessful lobbying to date, has the Yukon government developed any new approach to secure funding from the US government for Shakwak funding?

Hon. Mr. Pasloski: Thank you, Mr. Speaker. Indeed, the Shakwak agreement is an agreement between two sovereign nations. This was an agreement between the Government of Canada and the Government of the United States of America. We have worked diligently since 2012, working to gain support in both Houses in Washington and support from the affected committees in both the Senate and the Congress. We also had the support of congressmen from Alaska and the two state senators. We had support from both Houses in the State of Alaska. We had support from union, labour and business as we went forward, and we also had support from our Ambassador to the United States and the Foreign Affairs minister. This remains a priority. This is an agreement that the United States signed with Canada, and we will continue to work toward seeing that this is honoured and recognized.

Ms. Moorcroft: So they will continue to work then. The loss of Shakwak funding is a blow to Yukon's highway improvements. The funding was removed in 2012 and we have already begun to feel the impact of its loss. Previous years' budgets were \$19.7 million and \$26.7 million for Shakwak. This year's budget allocated \$9.9 million for road improvements through Shakwak, mainly to deal with permafrost degradation. However, without Shakwak funding in place, Alaska Highway paving efforts between Haines Junction and Beaver Creek have been put on hold.

What is the government's plan to fill the gap in funding for highways that the loss of Shakwak has left in Yukon's budget?

Hon. Mr. Kent: Thank you very much, Mr. Speaker. When it comes to the Shakwak, it is, as the Premier mentioned, an extremely important piece of highway infrastructure, not only for Yukon residents, but for the 85 to 90 percent of travellers on that section who are Americans, whether they are travelling from southeast Alaska into the interior or whether they are travelling from the Lower 48 states to visit Alaska as tourists or commercial truckers or military personnel and others. This is something that is extremely important to us.

I do have a call that is being arranged with the new federal Minister of Transport Canada, and I will be bringing this up as one of the priorities for the Yukon to ensure that the new Cabinet ministers in Ottawa are aware of it as well. I should say, though, that this government, over the past number of years, has introduced a capital envelope for highway improvements throughout the territory, something that wasn't done previously.

There have been significant investments made on roads throughout the territory. I believe we have close to 5,000 kilometres of maintained roads that we have to look after with

a relatively small population. So as far as transportation improvements, I think we are punching above our weight. We will continue to do so, continue to make investments that are important and continue to lobby for funding for Shakwak.

Ms. Moorcroft: Mr. Speaker, Yukon faces the very real threat of losing Shakwak funding permanently. Since its inception, US funding has made up a quarter of all monies spent on the Alaska Highway and Shakwak improvements. Last spring, the Minister of Highways and Public Works said — and I quote: "...a permanent loss of funding will have significant impacts on Yukon's ability to continue highway improvements and will have a direct impact on the condition of the road for all future...users". Last week's announcement takes us one step closer to that permanent loss of US funding that the minister was warning us about and Yukoners want to know if they should expect highway improvements to decline.

Mr. Speaker, how will the government ensure appropriate funding for the Alaska Highway to meet the standards that are set out in the Shakwak agreement?

Hon. Mr. Pasloski: Thank you, Mr. Speaker. This government will continue to work with its partners to ensure that the US government recognizes the obligation and the duty that they have to support an agreement that they signed, Mr. Speaker. This is an agreement between the Government of the United States of America and the Government of Canada to get the highway up to a modern, two-way, paved standard, at which time Yukon would continue to pay the cost for the maintenance.

We have support from the governor; we have support from the State House; we have support in both houses in Washington, we have support from labour and from business; and I know that certainly this will be an issue, as the minister has articulated, that he will bring up with his counterpart in Ottawa. I too will raise this issue with the Minister of Foreign Affairs and also with the Prime Minister of Canada.

Question re: Yukon College

Mr. Silver: Thank you, Mr. Speaker. I have a number of questions for the Minister of Education about Yukon College. I would like to start with the future of the endowment lands that have been identified for many years. This is an almost 100-hectare piece of land that surrounds the current campus. Mr. Speaker, the college's most recent strategic plans says that some of the issues facing the college in the foreseeable future include securing endowment lands. Despite the fact that this land has been identified and set aside for many years, it continues to not be protected against encroachment. It would put everybody's mind at ease if the government protected this land for the college.

During Committee of the Whole debate, the minister did commit to getting this settled sometime in the future, but didn't say specifically when.

Why has the Yukon Party, after 13 years of office, not settled this yet and when specifically will these endowment lands be figured out?

Hon. Mr. Graham: Mr. Speaker, it's an interesting question. This issue goes back almost — well, it does go back

to 1978 when the college site was first chosen in its current location. At that time, a proposal was made for endowment lands for the college. So, contrary to what the member opposite says, it actually goes back a whole lot longer than 13 years. It has taken a number of years to progress to this stage. We have just recently completed a land use plan with the college as part of one of the phases of transitioning Yukon College to become the University of Yukon. The land is protected at the present time. It has not formally been turned over to the college, but I envision that happening at some point in the future.

We can't jump ahead without going through the phases in a very careful and logical manner, thereby protecting all those involved in the process.

Mr. Silver: I am going to move on to another issue at the college. It hasn't been up in the air for as long as the future of the endowment lands have, but the college has been under an order from Workers' Compensation to fix a leaking roof and a mould problem in the main campus building envelope since early 2014. The Government of Yukon owns this building and is responsible for the repairs and remediation. Although there has been progress made, it has still been at least 18 months since the order came in from WCB to remediate the building, including the root cause of the mould, which is a leaky roof. Now I understand that the immediate problem with the mould has been addressed, but when can the college expect that this project, including fixing the roof, will be completed?

Hon. Mr. Kent: Thank you very much, Mr. Speaker. I'm responding as Minister of Highways and Public Works, as this falls under the Property Management Division. Design work has been completed for repairs to the college and construction is planned for the summer of 2016. I think that answers the question that the member opposite asked.

HPW has contracted for snow removal to ensure that snow and ice does not build up on the facility's roof to reduce the potential for water infiltration until the repairs can be completed.

Mr. Silver: Thank you very much, Mr. Speaker. The roof leaks and the promise of the endowment lands are just promises that bring me to another outstanding promise from the Yukon Party government. Remember this is the party that the Premier did get up and say that after four years in government, all the work has been done; that the campaign commitments had been completed — so again it does beg the questions that we're asking here about the Yukon College.

Let's go back to the platform commitment from the Yukon Party: "Create a Yukon university by developing Yukon College into a northern university."

Mr. Speaker, we have hit the four-year mark of this government's mandate and it is obvious that this commitment will not be fulfilled within the next year. We've had an announcement; we've now got a name, but that's about it — so this a broken promise; no doubt about it.

Why did the government make this commitment and then fail to make this happen?

Hon. Mr. Graham: Mr. Speaker, it is absolutely amazing to me to sit here and listen to such a question and see the member opposite with a complete lack of understanding about what is happening between this government and Yukon College. All you have to do is take a look at some of the things we have done with Yukon College over the last few years.

We have created a master plan, we have done a new trades facility, and we've worked out an agreement for the Northern Institute of Social Justice. The first-ever degree from Yukon College is expected to be offered in the next year or two, but Mr. Speaker, there are some things that must be done in order to become a university. One of those things is to become a member of Canadian universities association, but also you must go through a quality assurance process in order to ensure that any newly created institution in this territory is accepted throughout Canada.

Mr. Speaker, the process that we are currently in is seeking an Outside agent to provide that quality assurance. We are working very closely with the college and with the Board of Governors to ensure this happens, not only for government, but for all Yukon people.

This is not something that you rush into and declare yourself a university overnight in order to satisfy the whim of a member in this Legislature.

Question re: Veterans transitioning to civilian life

Mr. Tredger: Thank you, Mr. Speaker.

Mr. Speaker, Remembrance Day is an important annual ceremony to honour and remember the brave men and women who have dedicated so much to our country. Beyond this annual recognition, governments can do practical things to help serving members and veterans transition to civilian life, including employment.

Many Canadian jurisdictions are recognizing the Department of National Defence 404 driver's licence training and testing requirements as meeting, if not exceeding, standards for commercial vehicle licensing. Mr. Speaker, will the Government of Yukon also recognize military driver qualifications for commercial driving to help veterans find work when they return home?

Hon. Mr. Kent: Thank you, Mr. Speaker. I would like to thank the MLA for Porter Creek Centre, as well as the MLA for Kluane, for bringing this to my attention. It is something that I've committed to both the members of this House, and I'll extend that commitment to members opposite, to look into.

I don't have a definitive answer right now on the floor of the House, but it's something I'll get back to, not only the members on the government side who brought it to my attention, but also to members opposite.

Mr. Tredger: Thank you, Mr. Speaker. We on this side of the House would encourage the government to support our veterans. Yukon men and women in the military are stationed in many different locations around the world. As a consequence of the requirements of serving, these Yukon men and women may not meet the residency requirements for a

Yukon resident's hunting licence. In recognition of the sacrifice made by people in service, governments can make exemptions.

Will the Government of Yukon ensure that Yukoners who can't meet residency requirements due to their service in our military are considered for residency exemption in their application for a Yukon resident's hunting licence?

Hon. Mr. Istchenko: Thank you, Mr. Speaker, and I do thank the member opposite for the question. Mr. Speaker, this issue has come up before and I believe we have dealt with it. If there is a new issue that I'm not aware of, I please ask the member opposite to get hold of me and we'll look into it and see if we can find a solution.

Question re: School bus contractor obligations

Ms. Moorcroft: Mr. Speaker, after years of questions about Yukon's former school bus contractor, last week the Education minister told this House some disturbing things about how much his department knew about the problems. In July 2014, the Deputy Minister of Education wrote to its school bus contractor detailing some breaches of contract. Yet in December of the same year, my colleague for Mount Lorne-Southern Lakes asked if the terms of the school bus contract were being respected, and this government continued to pretend that everything was fine.

Mr. Speaker, it turns out the government knew about these safety issues and contract breaches all along, so why did the government withhold information about its school bus contract when we asked about it in this Legislature?

Hon. Mr. Graham: Mr. Speaker, I have no idea what information the member opposite is talking about that was withheld. We said that we were working with the contractor each and every time we identified a concern with the service being provided by the contractor in question. In fact, we even went so far as — when we had a bus driver who hadn't received an updated criminal records check, we made sure that an educational assistant from the school rode on that bus because we were concerned primarily with the safety of our children.

Mr. Speaker, we attempted for a number of years to work with the contractor. A number of the issues that had arisen over time were resolved, but Mr. Speaker, there were some underlying basic difficulties. We make it a habit to work with the contractor to make sure that they're providing the service requested in any contract.

Other than that, all I can say is that, in the spring of last year, we made the decision to go with a new contractor and that's what happened.

Ms. Moorcroft: So much for zero tolerance for misinformation — I guess that doesn't apply to withholding information.

The Minister of Education has again just told this House that they had a bus driver who didn't have a criminal records check and they had an educational assistant ride on that bus every day to ensure the safety of the students. Aside from the fact that the department had to assign valuable education staff time to cover for its contractor, their July 2014 letter states

that eight drivers — not one — were missing relevant records checks.

Let's be clear — this is not about the hard-working drivers. This is about a contractor who did not demonstrate due diligence. How many educational assistants were assigned to ride school buses day after day while the government fumbled yet another major contract?

Hon. Mr. Graham: This is one of those old things that — if you tell a specific story, even though it may not line up with facts, in enough time it eventually becomes a fact in somebody's mind.

To the best of my knowledge only one EA was assigned.

I guess the member opposite thinks that, when a contract of this nature is negotiated with the company, with the first breach you should get rid of the company at great expense and probably a great deal of legal expense, which they then would bring back to haunt us with over the next little while.

We make a valiant effort to work with contractors to ensure that the terms of the agreement are upheld. That's all water under the bridge now. We now have a new contract in place because the old one was given up. The drivers are fully qualified, they have the proper security clearances, they're assigned to drive specific bus routes, we haven't had the complaints that we have had in the past, and we're very happy with the system the way it has worked out.

Ms. Moorcroft: What was missing from what the minister just described as his story is the fact that the Official Opposition had to file an access-to-information request to find out about the several breaches that the department was monitoring and got a copy of a letter from July 2014. Government failed to respond to questions in this House about that in December 2014 — some months later.

It's reassuring to note that the Yukon government, after years of inaction, has finally taken action to ensure that Yukon students are being safely transported to school, but the Yukon Party government fumbled the contract for years and needs to tell us that it's not going to repeat the same mistakes.

Our question is simple: Is Yukon's new school bus contractor currently fulfilling all of the terms agreed to in its contract with the government?

Hon. Mr. Graham: I'm not sure what the member opposite thinks the minister's job is, but I do not monitor every contract that is done by the Department of Education. For the member opposite to say that we withheld information is simply not correct. That member has never asked me a question about the former bus contract. Had she asked me a question, I would have provided that information only too readily.

This new contractor is an excellent contractor. They are a contractor across this country. Their buses are very new — they are 2015-2016 — and they are equipped for the Yukon winters. They are COR certified, so they meet the requirements of the contract that I am aware of to date. They have been an excellent contractor, and if the member opposite has any questions about the Department of Education, all she has to do is write me a letter. I have been perfectly open and honest. That is why I tabled the legal costs for the French

school commission legal battle, and I would be only too happy to provide her with information if she only had the wherewithal to ask it.

Question re: *Municipal Act* review

Mr. Barr: Mr. Speaker, the Yukon Party government's *Municipal Act* review has been getting mixed reviews from Yukon's communities. Just last week, the Association of Yukon Communities took the government to task for failing to clarify the process for future reviews of the act and specifying the terms under which municipalities can generate revenue. The AYC has been clear: the government should table amendments to the *Municipal Act* changes before third reading so that Yukon communities can have more clarity on these two important issues.

Will the government listen to the AYC? Will they table amendments that clarify these two outstanding questions?

Hon. Mr. Dixon: Thank you, Mr. Speaker. The amendments to the *Municipal Act* that are before the House currently are the result of considerable and extensive consultation with the public, municipalities and the Association of Yukon Communities. The proposed changes make the act more functional and consistent with other acts and, importantly, simplify and clarify the act.

Since the tabling of the bill, however, the president of the AYC has written to me requesting clarity on two specific matters in the bill — the first being the process for review and the second being the issues related to municipal revenue generation. On the first matter, I have indicated to the president of the AYC, and will do so in writing later this week, that of course we will be conducting a review of the *Municipal Act* in the years to come and that the AYC will most certainly be involved in that review to the extent that they determine is appropriate. I indicated as well that we didn't believe it was necessary to put a fixed date in the legislation for review of the act, but would rather allow a more flexible approach that seeks input from the AYC moving forward. On the second matter, on the issue of revenue generation, it's my belief and my officials' belief that the legislation in its current form provides a full set of revenue-generating tools for municipalities, although I do understand that there have been some further questions about this so I have scheduled a meeting with the AYC executive for later this week to review that aspect of the legislation.

Mr. Barr: There are more aspects of the *Municipal Act* review that remain bones of contention, Mr. Speaker. The findings report from "Our Towns, Our Future" underscored frustrations over a lack of transparency at the Municipal Board, which is composed of government appointees with indefinite terms. During the consultation on the *Municipal Act* amendments, municipalities expressed interest in either supporting transparent, fair and financially efficient Municipal Board operations or removing its requirement altogether.

Why haven't communities' requests for more transparency at the Yukon Municipal Board been included in the government's *Municipal Act* amendments?

Hon. Mr. Dixon: Thank you, Mr. Speaker. In the member opposite's question, he neglected to point out a very important aspect of the Municipal Board, and that is the fact that it has representatives from AYC on the board. As well, it also has representatives from CYFN. The Municipal Board provides an important function in the territory, although we acknowledge that some of the roles that it previously took in the legislation should have been amended and are amended in this legislation that's before us. Now, Mr. Speaker, the review of an OCP, for instance, will no longer be put forward to the Municipal Board, as it was deemed to be an unnecessary step.

There are still some roles and functions for the Municipal Board — I think that everyone understands that — but it's important that we acknowledge that the Municipal Board isn't just made up of Yukon government appointees. There are appointees from CYFN, the AYC and from Yukon government.

Mr. Barr: Mr. Speaker, I appreciate that these amendments cover a wide variety of issues in a complex piece of legislation, but as more people digest the *Municipal Act* amendments tabled by this government, it has become clear that amendments need to be made to better reflect the findings report that followed "Our Towns, Our Future". We have to take the time to get this right instead of rushing through the amendment process.

Will the Yukon Party government press pause on these *Municipal Act* amendments so that they can be updated to reflect what our municipalities are actually saying?

Hon. Mr. Dixon: Thank you, Mr. Speaker. I'm not sure what the member opposite means when he says "press pause", and I would have to seek further clarity on what exactly he means in the context of the passage of legislation. But, Mr. Speaker, what I should note is that earlier this year, we were prepared to table a *Municipal Act* bill in the spring at the request of the AYC. We delayed that and conducted a further review and further discussions throughout the summer. We did that and have now tabled the bill in this Sitting of the House.

As I've said, there are some further questions — requests for clarity about certain aspects of the bill. That's why I'll meet with the AYC executive later this week to provide information about how I see the current act providing a full set of revenue-generating tools for municipalities and how those can work. As well, Mr. Speaker, we'll offer further training and further assistance with the implementation of the new act for municipalities by way of perhaps a workshop or forum on revenue generation in the coming months, Mr. Speaker.

To conclude, Mr. Speaker, I think that this is an excellent step forward. We have one of the best municipal acts in the country and these amendments — I think, Mr. Speaker — only improve the current framework legislation that we have for municipalities. I think that a lot of other jurisdictions will look to us for guidance with regard to their own municipal acts and that the amendments that will be brought forward this Sitting will enhance the good standing that we have here in the territory.

Speaker: The time for Question Period has now elapsed.

We will now proceed to Orders of the Day.

ORDERS OF THE DAY

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

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

Motion agreed to

Speaker leaves the Chair

COMMITTEE OF THE WHOLE

Chair (Ms. McLeod): Order. Committee of the Whole will now come to order.

The matter before the Committee is general debate on Bill No. 90, entitled *Land Titles Act, 2015*.

Do members wish to take a brief recess?

All Hon. Members: Agreed.

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

Recess

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

Bill No. 90: *Land Titles Act, 2015*

Chair: The matter before the Committee is general debate on Bill No. 90, entitled *Land Titles Act, 2015*.

Hon. Mr. Cathers: Thank you, Madam Chair.

I won't be overly long in introducing the *Land Titles Act, 2015*. I spoke to this during second reading and in the interest of not being overly repetitive, I trust that members, in preparation for today's debate, reviewed the Blues and, if not, I would be happy to recap any of the high-level explanation of this legislation.

As I mentioned in my speech at second reading, and for anyone who is listening to this, this bill is the first major redraft of the legislation in over 100 years. I would like to again acknowledge and thank all of the stakeholders who participated in this, particularly those who served on the working group, for their advice in helping to develop this bill. I would also like to introduce the officials joining me here today and ask members to join me in welcoming to the Assembly and thanking for their many hours of work on this project, Lesley McCullough and Marlaine Anderson-Lindsay.

With that, I think I will just turn it over to the member for questions here. I would also just add that, as I mentioned to members previously, there were two minor errors, which unfortunately were identified after the tabling of this bill. One is a very minor one that references the wrong section. It's primarily a numerical error. The second is one is an adjustment to wording regarding the filing of paperwork in the

Land Titles Office. I will be moving those amendments as we get to those particular clauses in the bill.

Ms. Moorcroft: The reason the Land Titles Office review came about was due to inefficiencies and poor service delivery to Yukoners, as we discussed during the second reading speeches on Bill No. 90. There was an inspector's report that identified that the office was too slow and that was affecting the Yukon public and Yukon businesses. At that time, there were delays of eight to nine weeks. At its core, the land titles modernization process was intended to improve the service delivery. I would like the minister to indicate what benchmarks and goals the department has set for improving services and ultimately what timelines Yukoners will be able to expect when registering title. I understand title can now frequently be registered within a week or less. Is that time frame going to shorten?

I also had asked the minister at second reading to speak to the issue of developing regulations for Bill No. 90. In section 213, there is a provision that allows up to five years to make regulations, so I would like the minister to speak about what regulations will be developed in the short term. Will there be some that come forward soon? What will take longer and how long will that take?

I had also referred to the need for training and what the plans would be for staff training and for providing training to other parties — property owners, lawyers, real estate agents and the like. One of the biggest problems identified was the current land information management computer system. I would like the minister to speak about what the government's plans are for acquiring a new computer platform. How long will that take?

I had made some remarks at second reading about the fact that the LIMS, or Land Information Management System, is used by other government departments or organizations, including the Department of Energy, Mines and Resources, the Department of Community Services, Yukon Housing Corporation and a number of agencies that are outside of Yukon government. Specifically, will other departments of the Yukon government be jumping on board with the Department of Justice's new acquisition of a computer system? How is the procurement of that new system going to take into account the use that other government departments make of the current LIM System?

The other agencies that are not within the Yukon government are the Indian and Northern Affairs Canada land disposition branch — I don't have the current name — which was just changed with the swearing in of the new federal Cabinet, but the Canada lands disposition branch — the City of Whitehorse and the Natural Resources Canada Surveyor General branch. The other issue that I had mentioned in second reading was dealing with the assurance fund. The new legislation has provisions that allow the minister to apply the assurance money to improving the land titles system or to move it into general revenue. I had questions about that. We want to know if this government is going to maintain that assurance fund, whether they're going to want to move any of

it into general revenue or whether they're considering using it to cover improvements to the land titles computer system.

I can come back to those one at a time, although I did mention them at second reading, but those are the nature of most of my questions for this act.

Hon. Mr. Cathers: I thank the Member for Copperbelt South for her questions. I'll try to address them, although I think I'm coming back to them in a different order than she asked them. With regard to the speed that she noted correctly, one of the things that had prompted the change to the system and the initiative to modernize the land titles system was prompted in part by the length of time it was taking to do the processing in the office. Some of that has already been significantly improved through internal measures and through the policies within the Land Titles Office.

I understand that the current processing times are typically two to four weeks. The goal is to get it down to five days or less in terms of processing. As I'm sure the member will recognize, taking it down to between two and four weeks for typical processing currently is a significant improvement to what it was at before, and improving those systems while transitioning to a new electronic system does take some time to fully achieve.

The member asked what regulations would be first for coming in to implement the *Land Titles Act, 2015* — because, of course, the act does not come into force until the regulation package has been brought in. The first regulations that would come in, which would also bring the act into force, would include general regulations — regulations pertaining to filing a plan within the Land Titles Office and regulations that would give further structure to the provision for First Nations — particularly for Kwanlin Dün First Nation as the one that we know is interested in using the modernized *Land Titles Act* for their land. Those are the three portions of the regulations that are intended to come in. While there is some pressure from a timeline perspective, the target completion date is for spring 2016 — but again, there's a lot of work still to be done so those timelines will be challenging to make, but we have asked officials to do everything they can to ensure that we meet that target. I do want to note that there will be a lot of work on their part before we're able to finalize the first three portions of the regulatory package and bring the act into force and effect at that time.

The implementation plan is being worked on right now as it pertains to the electronic registry and implementing the new *Land Titles Act*. There is currently a request for proposals for a new system, which I believe is to be — I just need to clarify a point, pardon me. Let me correct myself. The development of an RFP for the electronic registry and computer platform is being developed and is intended to be out for March 31, 2016. Any new system will channel info to other government departments and is planned, as I mentioned in my remarks at second reading, to be publicly accessible once it's fully functional so that Yukoners can view it in their own homes, although the issue of filing plans — there's currently discussion about how to structure that to enable access but also ensure quality of documents. It may require only certain

registered users to be able to file documents in the land titles registry but, as I said, that's still under discussion.

For ordinary Yukon citizens, once the system is fully operational, it will allow them to go on to the land titles registry website and to access documents within the comfort of their own home, and so will improve public access to information about lands.

My understanding is that the LIMS — Land Information Management System — that is used by Energy, Mines and Resources and other departments is intended to still be kept functioning, and the two systems are intended to interact with each other because, as the member will, I am sure, be aware, the LIM System contains information about land that is not titled as well. So there is a need for it, from our perspective, to be separate from the system that speaks only to titled land, but the thinking, if I understand it correctly, is that data from the land titles system would be used to add to the LIM System, which provides information about both titled and not-titled land from the territory.

I am just trying to see what else the member asked that I may have missed.

The member also asked about the assurance fund. While the act does contemplate the ability to review the funds and to use a portion of them for other purposes, at this point in time I believe that is currently being considered for use in terms of computer systems investments.

I was being written a note relevant to that, but it was a different topic.

There is some consideration to potentially using it for investments in the system. There is no plan to put that money into general revenue, but the act does allow that the Minister of Finance could, after review, choose to move some of that money into other areas, including potential general revenue, but, as I indicated, that is not our intent at this point.

Ms. Moorcroft: I would like to thank the minister for the answers that he provided. I want to follow up on the request for proposals for a computer platform that would support an electronic registry and the Land Information Management System being kept functioning because the two systems will be compatible.

I believe that what I heard from members of the community who were involved in submitting to the public discussion document, and who were involved in identifying the needs for this system to improve, had indicated that the LIM System itself was old and not particularly good. There was some concern about that system. I just want to ensure that the government is making the best use of contracting dollars. The minister indicated that LIMS is used for different purposes by different departments and that it can accommodate both titled and untitled properties, whereas the Land Titles Office only deals with titled properties.

My question is: Is there not a need to improve the LIM System, and could improving the system for the Department of Justice for the Land Titles Office be an opportunity to look at what is needed elsewhere in other government departments so that you don't end up spending money twice for similar work to be done?

Hon. Mr. Cathers: The member asked a question about whether this process could be used to deal with some of the issues that had been referenced by stakeholders with the LIM System. To the hypothetical question — could it? Yes, it could, but it would be a broader scope than developing the land titles electronic registry system. That is already a fairly large task. One of the things I mentioned in the second reading is that the intention is, as the electronic registry is brought in, to keep a paper backup for the first parts of the system.

There are a number of issues that do need to be determined prior to putting in place a system. That includes security measures around the electronic registry and what measures are in place to prevent the risk of hacking or of data loss. Some of those questions still do need to be answered through the work that is being done by government departments and stakeholders as well as being somewhat dependent on the response to the request for proposal developed that pertains to the electronic registry.

My understanding is that the LIM System does, at this current time — at least from a departmental perspective — meet the needs of many departments, but where it was clearly not strong is in providing information about land titles. That is in part due to trying to update an electronic system based on paper records when they are maintained by different departments. Whether there are issues with the LIMS platform or not, I am not technologically expert enough to be able to speak to that. I will have to refer that question to the minister responsible — to consider whether there are issues with the platform that require modernization. Based on the information that I have, I think it was not seen as needing any significant updates or changes to that system at this point in time.

As I mentioned, the intention is that, once the electronic title registry is in place in the Land Titles Office, information from that would help populate the LIM System and LIMS would continue to provide that broader scope of information about land, both within the land titles system and outside of the land titles system. For reasons including security around access and the types of data that would be included within land titles that might or might not be included within LIMS, my understanding is that looking at this and getting into a review of the LIM System was seen as an unnecessary complication that would add cost and time delays to the system. Therefore, it was not seen as a prudent step at this point in time, but I will pass on the member's comments to others. If there are issues with the LIM System itself, I trust that those will be considered by the lead departments in managing that system and that, if there is a need to do any software updates there, they will consider that and determine what is necessary in that area.

Madam Chair, I think there was something else that the member had asked. Training for people on how to use the system is also part of the implementation plan, and that's one of the things to be consulted on with stakeholders on the implementation plan work.

Ms. Moorcroft: I certainly can appreciate that it is a large task to put together a request for proposals. The reason I was asking those questions in relation to the LIM System was

to determine that Justice had been discussing with EMR and Community Services and, for that matter, Yukon Housing Corporation whether there was a need to look at a system that could accommodate all of their information needs.

The minister's response indicates that they did look at that and that they felt that it wasn't a prudent step at that time so I'm going to leave it at that.

I do have a couple of follow-up questions related to how long it will take to phase in a new computer platform. The intent right now is that the request for proposals will be ready by the spring of 2016. Can the minister tell the House how long he anticipates the procurement process would take from the time of issuing a request for proposals to reviewing them, to assessing them and awarding a contract, and then how long would it take to implement the new system?

Hon. Mr. Cathers: In terms of the amount of time to respond to the RFP, I would advise that's a bit of a challenging question to be sure on because, depending on the nature of detail of the RFP and since it allows for negotiation with the successful bidder, there is expected to be a bit of back and forth. The best guess at this point in time is that it will probably be four to five months to award that contract and finalize that.

The implementation timelines will depend on the bid, so at this point it's a bit of an educated guess rather than a clear sense. At this point, the expectation is that it would probably take three years or more to have the electronic system fully functional and to the stage that it's intended to ultimately reach, including that ability for public access from their homes and full integration and access to the system.

Again, that is, at this point, a bit of a prediction rather than something that we can say as definitively as we like until we receive a more detailed understanding from the successful bidder of timelines for implementation.

Unfortunately, right now I am in the position of having to pass on the best guess rather than something we can be 100-percent sure about in terms of timelines for implementation, but of course this remains an important project and very high on the list for officials from Justice, in particular, but also supporting departments, including the ICT branch in the Department of Highways and Public Works. I recognize the value of moving to a fully electronic system, but some of the questions around interaction and security of the system are ones that, until we have the answers to those questions and the answer to how long it takes to develop that, we're in the situation of predicting rather than being able to say with precision how long something is likely to take.

Ms. Moorcroft: This then would be an opportune time for me to say that I wholeheartedly endorse the plan to retain a paper backup.

The minister has indicated that it would take up to two and possibly three years to have a new computer platform capable of supporting an electronic registry in place. Looking at the report that the inspector of land titles did in March 2012, can the minister indicate what measures have been taken and can be taken to speed up the process of registering titles at the Land Titles Office in the meantime? We obviously

don't want to have delays occurring for another two or three years.

Hon. Mr. Cathers: What has been done to improve the timelines and processing — as I noted earlier, it has been shortened significantly from some of the longer timelines that were a problem at the outset of this process. Changes that have been made at Land Titles Office already include adding more staff, streamlining the business processes — and there's a policy manual that is still in draft form, but my understanding is that the development of the draft policy manual has helped streamline and make more consistent the business practices at the Land Titles Office and there has been input from stakeholders, I believe, in the development of that draft policy manual and, once that is finalized, it is hoped that will lead to further speeding up the process even while the electronic registry itself is under development.

I should also note just for clarification for the member that the estimate we have was three years or more to fully implement the electronic registry system.

The answer to whether there will be parts of that in place beforehand and exactly when — again, at this point we are relying on predictions and best guesses, rather than being able to clearly announce some of the timelines in the implementation of the electronic registry, until we have answered some of the questions about the structure of the platform, security of the platform, access to it and have a contractor in place that indicates how long they think it will take them to actually develop those specific parts of the system.

Ms. Moorcroft: The minister has indicated that, in response to the inspector's report and through involving interested parties in the community — surveyors and realtors, among others — they have a draft policy manual and have worked to streamline the business processes. Hiring more staff would also contribute to speeding up the work that can be done.

If someone is purchasing a property and they need a mortgage and it takes four weeks to register a title, this could conceivably be a somewhat lengthy and troubling delay. I see the official may have some information. Can the minister respond to that please?

Hon. Mr. Cathers: I have an answer for the member. If she requires further detail, I am going to have to ask for more information. It is a bit of a complicated response, but my understanding is that provisional information about the registration is typically provided within 24 hours, with the final process typically taking between two to four weeks. That allows a lawyer or other agent acting on behalf of a buyer or purchaser to deal with some of the banking around it, assuming they are comfortable with the fact that it is provisional information, not the finalized information at that time. Again, to the member's point, I am not going to disagree with the fact that the timelines right now — though significantly better than they were at one point — are still not as fast as we would like. That's why more work is being done in addition to developing the registry and why there is work

on the policy process and procedures within the office to keep working on trying to get the average processing time down.

We recognize that having that final information available at the earliest possible date is beneficial for everyone who is dealing with the system. It makes a positive difference in the lives of those who are depending on the system. I will not disagree with the member — more work needs to be done, and that is what staff are continuing to do. Our target number is to get that final processing down to five days or less from its current level of two to four weeks. Again, I want to acknowledge the work of staff at the Land Titles Office that has been done to date to get the numbers down to half of what they were a few years ago in terms of the processing timeline. It's a significant improvement, but yes, we do need some additional effort in this area to get that number down to the five-days-or-less target.

Ms. Moorcroft: The follow-up question that I would have, since the minister has indicated that they anticipate it will be three years before they have the computer platform fully functioning to allow for electronic registry, is: How much more improvement is feasible without the electronic registry? The minister spoke about streamlining business practices and hiring more staff. Is there an ability to maybe cut that time in half before there is actually a new computer platform in place?

Hon. Mr. Cathers: I have been advised that they think that the processing speed can be brought down further in advance of the electronic system being active. At this point, they think that it can be brought down by about a week, which would take the typical processing time to one week to three weeks. That is a bit of a work in progress, and getting it down to that target of five days or less is expected to not be possible until the electronic registry is fully functional. Hopefully that answers the member's question.

Ms. Moorcroft: Another question related to the request for proposal for the new computer platform to move toward electronic land titles registry: What procurement measures will the department take to ensure local businesses are able to compete for this work?

Hon. Mr. Cathers: The simple answer to that is that the department is attempting, along with Highways and Public Works, to ensure that the contract is structured in a way that increases the chance as best they can of local companies being able to bid on it, but, ultimately, with that type of specialized work it is really hard to guarantee that it would go to a local company or a more qualified bid might come from a company that had experience with that type of system elsewhere. The simple answer is that it's not simple.

Departments are attempting to structure it in a way that is focused on getting a quality end result, increasing the chance that the companies in the Yukon knowledge sector of the economy can submit bids in this area, and we will ultimately have to see which one receives the bid, because of course we also have some restrictions imposed on us by the *Agreement on Internal Trade* on how much government is legally in a position to tailor contracts for local bidders or exclude Outside companies. I don't know if that's an answer to the member's

question, but the simple answer is that it's not simple, but departments are trying.

Ms. Moorcroft: I thank the minister for his response. I'm glad to hear that the department is working with Highways and Public Works to structure the contracts to provide opportunities for local contractors to submit bids. Government spends a lot of its funds on contracts and we do want to support economic development in the Yukon for Yukon contractors where we can.

I want to return to the question of regulations. The minister, in response to the first question I asked, indicated that some would be developed in the short term and some would take longer. He referred to different elements being up first and others coming later. I want to ask him specifically about the ability in this new *Land Titles Act, 2015* to allow Yukon First Nations to bring category A and category B settlement lands under the *Land Titles Act, 2015* and have certificate of title issued for it even when it is on leased land. This ability to register settlement land in the land titles registry doesn't extinguish aboriginal rights and title, but I would like to ask the minister when the government anticipates that they will have the regulations in place to register category A and category B settlement lands.

I know Kwanlin Dün First Nation leadership has indicated that they want to proceed with being able to generate revenue on the valuable land holdings that they have in the Whitehorse area. What can the minister tell us about how long that will take to implement?

Hon. Mr. Cathers: I have answered that before, but I may not have explained it clearly, so I will recap. The regulations related to allowing First Nations to register category A and category B settlement land in the Land Titles Office, should they choose to do so, which, as the member correctly noted, Kwanlin Dün indicated that they are very interested in doing that with some of their parcels. That is one of the three components of the first regulations that are planned for this act. The intention is that the first package of regulations would be: general provisions necessary to bring the bill into force; provisions for First Nations to register category A and category B settlement land; and provisions related to registering a plan, which is also necessary before that First Nation provision that could come into effect. I am informed that there are specific parts relating to registering a plan that needs to be defined in regulations before we could proceed with that part.

The timeline for all of that is spring, 2016. As I mentioned, that is a challenging target to meet from a drafting perspective, but we have asked and staff have assured us that they will do everything they can to complete it by that time. We, at the elected level, will do everything we can to ensure that we're meeting that timeline if at all possible, recognizing that Kwanlin Dün, in particular, has expressed a strong interest in getting this in place at the earliest possible date. That is what we're endeavouring to do.

Chair: Does any other member wish to speak in general debate?

Hon. Mr. Cathers: If I can just add for members, too, as they have noticed that the provisions relating to regulations under the act itself are themselves quite long. The standard regulatory provisions are on pages 107, 108, 109 and the top of page 110. I will not read through them all, but they are quite lengthy in that area. In addition to that, there are additional provisions on page 110 relating to application and transition that allows for a period of five years, following the coming into force of the section regulations that are necessary to transition from one act to the other, to ensure that nobody is losing any existing rights or obligations under the current act after the new one is brought into force.

Chair: Does any other member wish to speak in general debate?

We are going to move on then to clause-by-clause.

Ms. Moorcroft: I have a couple of questions under part 1, interpretation, before we go into the clause-by-clause reading.

On Clause 1

Ms. Moorcroft: I did have a question in relation to part 1, which is the interpretation and the definitions under the act. There are a number of new provisions here. One of them is for an air space plan, including an air space parcel. That was something that seemed to get some people jazzed up.

I would like the minister to indicate what the impetus was for including this. Was there anything specifically envisioned in Yukon? Was there high-rise protection? Perhaps the minister can indicate what led to this inclusion of the new term.

Hon. Mr. Cathers: I'm advised that was a request that came from the surveyors, and I think that's based on what has been done in a number of other jurisdictions that allows for registering air space parcels. One of the examples that I think was given is that it allows for the potential of things like the walkway over Third Avenue between the Shoppers' building and the Hougen's building. It allows for that type of thing and, I believe, makes it clear when it comes to an apartment building that has a condo structure — for the ability to do that. Yes, it helps to better define some of the provisions relating to apartment buildings that are sold through a condo structure, and it does, of course, deal with things like walkways to other buildings. It is a bit of a new one, I think, for all of us. I had some questions as well when that came forward of what exactly an air space plan was, but the regulations pertaining to that are among the things that speak to the need for the regulation package related to registering a plan to clearly describe what you have to describe and what information is recorded within the land registry for the development of parcels including, but not limited to, air space parcels.

Ms. Moorcroft: Could the minister please provide an outline of what the significant changes are in part 1 of the act — if there is anything further that he may have had questions about in this section that he hasn't spoken about?

Hon. Mr. Cathers: Some of the new significant provisions in this section include: provisions related to an air space parcel, the certificate of title, and the provisions related to doing electronic filing. A new portion is the ability for a

lessor title for a lessor estate that includes leasehold or life-estate interests, and that is when a leasehold is backed by the fee simple title or category A and B settlement land. This section also pertains to the registration of category A and B settlement land.

The provisions for a plan of survey to be filed — there's a new section pertaining to a survey authority, which includes the surveyor general of Canada and any successor. It also provides for the surveyor general or any successor to the surveyor general appointed under Yukon legislation, and it includes the provisions for a utility right-of-way, which allows the potential for a titled easement, which is not unlike the long-standing northern pipeline right-of-way that has been in place for years. It can also accommodate things such as an easement for power lines, water, sewer, et cetera. Those are some of the new, significant parts in this area.

To the member's question about what part I had questions with, I must confess that in this area, not being intimately familiar with the land titles registry or dealing with it on a daily basis, there were a lot of parts that I had questions about that were due to having to learn more about how the system functions because my limited contact with the land titles system had largely been from dealing with it personally in purchasing a home, registering a mortgage, et cetera. I don't have the same depth of knowledge as those who work within the Land Titles Office or deal with the Land Titles Office as part of their business. Within the total size of this legislation, which, in my version, is some 118 pages in length, there were a number of parts in which I had to get terms explained to me.

Clause 1 agreed to

On Clause 2

Clause 2 agreed to

On Clause 3

Clause 3 agreed to

On Clause 4

Ms. Moorcroft: At clause 4 is the beginning of part 2 of the act, which deals with administration, registration districts and the Land Titles Office. What I would like to ask the minister to do — if he has with him an overview — is to just provide some information related to part 2, which is clause 4 to clause 22. Just a signal to the minister — if he has some general public information on that section, I don't have many questions and would be prepared to move unanimous consent to deem the clauses of that section agreed to after I hear from the minister.

Hon. Mr. Cathers: Part 2, "Administration", sections 4 to 5, deals with the concept of land registration districts in the Yukon. It confirms there will be a land titles office in each district and continues that the only existing district, Yukon, and the currently existing Land Titles Office, Whitehorse — while allowing the ability, at a future point in time if it was deemed necessary or appropriate, to create additional districts or additional offices. The act would not be an impediment to doing that. Pardon me — I have to correct myself.

I misread that note. Let me correct that. The act itself does define that there is one district, Yukon, and confirms the Land Titles Office is in Whitehorse.

Contrary to what I had incorrectly said, it would require a change to the act if there is a desire to expand that to allow for other offices. I apologize for that error and misreading on my part.

Sections 6 to 7 establish that there must be a registrar for each district. The registrar is the person who makes all the decisions under the act unless their decisions are appealed to a judge. There must be at least one deputy registrar who can carry on the registrar's work if she — or in future, potentially he — is unable to be there — but the current registrar is a lady.

Section 8 deals with the inspector provision. It allows for the potential to appoint an inspector, which is not a typically operational matter, but it allows the ability to appoint an inspector if the Commissioner in Executive Council chooses to do so —

Chair's statement

Chair: Order. As we are in clause-by-clause discussion of this bill, Mr. Cathers is now speaking to other clauses other than clause 4, which is what we're discussing right this second.

Ms. Moorcroft: I have a procedural question for you then. It was my understanding that, when we deal with a bill in Committee, if there is general debate on the whole of part 2 or on the whole of part 3, I could ask a question and the minister could provide an answer that might deal with more than one clause as long as they were all clauses within that one part of the act.

My request is that, if that is possible, I think it would expedite the debate. I'm happy to hear the minister finish providing those remarks and then deem all those clauses carried.

Chair's statement

Chair: The group discussion that the member is referring to is something that was best undertaken while we were in general debate.

Because we are in clause-by-clause, we need to clear each clause. There is a potential, I suppose, if the member wishes to ask for unanimous consent to consider several clauses together — procedurally I don't know if that works but we're willing to try.

Ms. Moorcroft: Thank you, Madam Chair. That's helpful.

I request the unanimous consent of Committee of the Whole to debate clause 4 through clause 22 at one go.

Unanimous consent re debating clauses 4 through 22

Chair: Ms. Moorcroft has, pursuant to Standing Order 14.3, requested the unanimous consent of Committee of the Whole to engage in debate on clauses 4 through 22.

Is there unanimous consent?

All Hon. Members: Agreed.

Chair: We have unanimous consent.

Hon. Mr. Cathers: Continuing on with the last part of clause 8 that I had been referencing is — there is the provision in there for the inspector provision and it sets the qualification that if an inspector is appointed, they can have the powers of the registrar. They must be a lawyer for at least three years' standing.

There is also in this section the provisions related to terms of appointment, oath of office. Under section 11, there are certain activities prohibited to prevent conflict of interest, including making it clear that a registrar or deputy registrar, inspector or person employed in a Land Titles Office cannot also act as the agent for a person who is investing money in land or taking on securities in land in the Yukon. That of course is to prevent conflict of interest or the appearance thereof. It also specifies and clarifies that in the Land Titles Office, they can't carry on personal business or other business other than that which is their duties specified under the act and regulation.

Under sections 12 and 13, there are provisions that make it clear the registrar is not personally liable for decisions made in the position and cannot be compelled to appear in court. Similarly, original records cannot be compelled and a court must accept a certified true copy of documents in the Land Titles Office rather than being able to demand the original, although there are provisions that do provide for a court to compel the registrar to produce a certified copy of any certificate of title, instrument, et cetera, that is registered.

In division 3 under this part, which is sections 14 to 18, there are provisions relating to the records to be kept by the registrar, provisions relating to the daybook, to the register of titles, and clarifying the provisions for assigning a record number to certificates of title.

Under section 16, there are general register provisions. In that section, it clarifies the requirements for information contained on an instrument and how an instrument is described in the register. There are provisions under 17 that speak to form of records, and it allows for the ability for the registrar, subject to the regulations, to keep a record, issue a certificate of title or make a note in any form the registrar considers appropriate, including in writing or electronically.

There are provisions under section 18 pertaining to their seal of office.

Division 4 then speaks to the production of a request for records and copies, and it provides for — clarifying the provisions, pardon me — of the registrar producing for a person the certificate of title or instrument.

It also speaks to the certified copy of a certificate of title, and that's about it in that section.

Ms. Moorcroft: Thank you, Madam Chair.

Pursuant to Standing Order 14.3, I request the unanimous consent of Committee of the Whole to deem clauses 4 to 22 of Bill No. 90, entitled *Land Titles Act, 2015*, read and agreed to.

Unanimous consent re deeming clauses 4 through 22 read and agreed to

Chair: Ms. Moorcroft has, pursuant to Standing Order 14.3, requested the unanimous consent of Committee of the Whole to deem clauses 4 through 22 of Bill No. 90, entitled *Land Titles Act, 2015*, read and agreed to. Is there unanimous consent?

All Hon. Members: Agreed.

Chair: Unanimous consent has been granted.
*Clauses 4 to 22 deemed read and agreed to
On Clause 23*

Ms. Moorcroft: Madam Chair, I request unanimous consent to debate clauses 23 to 49, which is part 3, dealing with registration.

Unanimous consent re debating clauses 23 through 49

Chair: Ms. Moorcroft has, pursuant to Standing Order 14.3, requested the unanimous consent of Committee of the Whole to engage in debate on clauses 23 through 49. Is there unanimous consent?

All Hon. Members: Agreed.

Chair: We have unanimous consent.

Ms. Moorcroft: Madam Chair, this part deals with registration provisions and I do not have a lot of questions related to this, but for the general public who are interested in land titles and who may engage with the Land Titles Office in registering their properties, could the minister just provide a brief outline on the effect of registration and what, if any, significant changes there are to the registration provisions between the former *Land Titles Act* and the new *Land Titles Act, 2015*?

Hon. Mr. Cathers: This section — some of this is modernization of language. It does include some new provisions allowing the registrar to review and make minor adjustments to something that is found to have been in error. There are provisions related to the electronic registry and provision for the registrar to decide to keep documents in electronic form, including certificates of title. The electronic document could become the document of record if we move fully to an electronic record.

It allows the ability that there could, in future, be a decision to not continue the paper backup, so I appreciate the member's comments on that and frankly have the same questions personally of whether we would reach the point any time within the foreseeable future where it would be prudent to destroy paper backup because of risk of hacking, et cetera. Again, the act does allow that this could potentially occur at a future date in that it specifies that the electronic registry can become the document of record.

Section 34 creates the ability for hooked parcels, which are parcels that are separate from each other and connected through what they refer to as a hooked-parcel structure, which is somewhat of an informal way to refer to it, but I believe that is the technical term — it allows the registrar to make minor corrections to plans.

I am going to walk through some of the more significant specific parts in this section. There are provisions related to the time of receipt being recorded, provisions related to the examination of instruments under section 24, and the ability for a request of the review of a determination by a deputy registrar to occur under section 25. Section 26 lays out the ability for appealing a determination by the registrar and the ability to apply for a judge to review the determination of the registrar in accordance with section 189 of the act.

There are provisions under section 27 for notations in the daybook. Under section 28, there are provisions relating to registration, recording a record number and issuing one or more certificates of title based on the filing. Section 29 speaks to the details stated, subject to the regulations, which must be recorded. There are provisions for identification of a trustee under section 30. Provisions under section 31 are for the deemed time of registration in determining priority between certificates of title or registered instruments.

There are provisions related to electronic copies of instruments under section 32. Section 33 speaks to the parcel identification number. Section 34 speaks to hooked parcels specifically: “A parcel created by a plan may be composed of land segments that are not contiguous if (a) the land separating the segments is owned by a public authority and used for highways, lands for public utilities or reserves; (b) the plan indicates, by the use of a hook or other technique, that the segments together form one parcel; and (c) the registrar is satisfied that the plan would result in a viable parcel.”

Section 35 speaks to the correction of a registered plan by a registrar. Section 36 relates to the powers of correction to register plans made by a judge. Section 37 speaks to correction of instruments other than plans. Section 38 speaks to the effect of the registration of an instrument. Section 39 makes it clear that unregistered instruments have no effect. Section 40 speaks to a person not being bound by an unregistered interest. Section 41 speaks to the evidence of registration. Section 42 speaks to priority determined by time of registration.

Section 43 — as far as significant questions, I did ask about this section, and in answer to the member’s questions, “Title by prescription abolished” is something that I’m advised is currently the law of the land, but, in modernizing the act, this section was one that stakeholders, including lawyers, advised that it would be helpful to explicitly state.

Section 44 is clarifying again what I am informed is currently the common law provision, which is that the doctrine of adverse possession is abolished effective January 1, 1887. I did ask a few questions about that one and I was assured that is currently the legal state and it was put in for clarification rather than policy change.

Section 45 speaks to the effect of an execution of instruments submitted for registration. Section 46 speaks to execution by a body corporate. Section 47 speaks to the affidavits for filing.

Section 48 — I would ask the member to not move that this one be cleared until I have the opportunity to move on amendment to it. There was an error, as I noted, that

unfortunately was not discovered until after it was tabled. We will see it once I get to section 48. The replacement of the expression: “The witness must be”, with the expression: “The affidavit must be sworn or affirmed before” and in the second clause, replacing the expression: “The witness must be”, with the expression: “The affidavit must be sworn or affirmed before” — that is clarifying the ability for the affidavits to be filed rather than having prescriptions related to a witness, which I understand would limit the number of people who could actually deal with the execution of such an instrument and create a problem.

Section 49 is not quite the last section here. It is the last section in this division, but not in this part. Section 49 speaks to failure to comply with execution requirements. Section 50 speaks to the ability to change the name of an owner or person on the records.

Chair: Order. We have unanimous consent to discuss up to clause 49.

Ms. Moorcroft: I thank the minister for providing that information to us. It was interesting to note that the provisions to ensure that until an electronic registry is established there cannot be a provision to dispense with the paper records and, after such time as there is an electronic registry will be another question for another time.

I also appreciate the minister giving us copies of the amendment in clause 48.

Pursuant to Standing Order 14.3, I request the unanimous consent of Committee of the Whole to deem clauses 23 to 47 read and agreed to.

Unanimous consent re deeming clauses 23 through 47 read and agreed to

Chair: Ms. Moorcroft has, pursuant to Standing Order 14.3, requested the unanimous consent of Committee of the Whole to deem clauses 23 through 47 read and agreed to.

All Hon. Members: Agreed.

Chair: Unanimous consent has been granted.

Clauses 23 to 47 deemed read and agreed to

On Clause 48

Amendment proposed

Hon. Mr. Cathers: I believe we’re on clause 48 now, Madam Chair. I will, of course, copy for Hansard. I apologize to any Yukoners who are francophones for what will probably not be the most elegant pronunciation on my part.

As I indicated in my remarks previously, I move:

THAT Bill No. 90, entitled *Land Titles Act, 2015*, be amended in clause 48 at page 29 by:

(1) in the English version

(a) in subclause (1), replacing the expression “the witness must be” with the expression “the affidavit must be sworn or affirmed before”; and

(b) in subclause (2), replacing the expression “the witness must be” with the expression “the affidavit must be sworn or affirmed before”; and

(2) in the French version

(a) in subclause (1), replacing the expression “doit être :” with the expression “doit prêter serment ou faire une affirmation solennelle devant :”; and

(b) in subclause (2), replacing the expression “doit être” with the expression “doit prêter serment ou faire une affirmation solennelle auprès d”.

Chair: It has been moved by Mr. Cathers:

THAT Bill No. 90, entitled *Land Titles Act, 2015*, be amended in clause 48 at page 29 by:

(1) in the English version

(a) in subclause (1), replacing the expression “the witness must be” with the expression “the affidavit must be sworn or affirmed before”; and

(b) in subclause (2), replacing the expression “the witness must be” with the expression “the affidavit must be sworn or affirmed before”; and

(2) in the French version

(a) in subclause (1), replacing the expression “doit être :” with the expression “doit prêter serment ou faire une affirmation solennelle devant :”; and

(b) in subclause (2), replacing the expression “doit être” with the expression “doit prêter serment ou faire une affirmation solennelle auprès d”.

Does any member wish to speak on the amendment?

Amendment to Clause 48 agreed to

Clause 48, as amended, agreed to

On Clause 49

Clause 49 agreed to

On Clause 50

Clause 50 agreed to

On Clause 51

Ms. Moorcroft: Could the minister provide some information on this clause?

Hon. Mr. Cathers: Section 51 speaks to changes of names for Commissioner’s land and allows for the cancellation of a certificate of land issued in the name of the Yukon government, Government of Yukon, government of the — let me restart that section — cancel a certificate of title issued for land in the name of the Yukon government, Government of Yukon, Government of the Yukon and a Commissioner of the Yukon, and it provides for the ability of a new certificate of title to be issued in the name of the Commissioner of Yukon, which is the current legal phrasing in that area.

It also speaks to — that if an instrument is submitted for registration and the name of the party to the instrument is Yukon government, Government of Yukon, Government of the Yukon, Commissioner of the Yukon or Commissioner of Yukon, the registrar must record a note for the instrument on a certificate of title that clarifies — and I am not going to read all of that section for the member, but it clarifies that it has to be in the proper legal wording and must name Commissioner of Yukon in any note recording the instrument on a certificate of title.

Clause 51 agreed to

On Clause 52

Ms. Moorcroft: Pursuant to Standing Order 14.3, I request the unanimous consent of Committee of the Whole to deem clauses 52 to 66 read and agreed to.

Unanimous consent re deeming clauses 52 through 66 read and agreed to

Chair: Ms. Moorcroft has, pursuant to Standing Order 14.3, requested the unanimous consent of Committee of the Whole to deem clauses 52 through 66 in Bill No. 90 read and agreed to. Is there unanimous consent?

All Hon. Members: Agreed.

Chair: Unanimous consent has been granted.

Clauses 52 to 66 deemed read and agreed to

On Clause 67

Ms. Moorcroft: Clause 67 allows for an application by an eligible Yukon First Nation to bring category A settlement land or category B settlement land under this act and have a certificate of title issued. We have had some debate about the interest that Kwanlin Dün First Nation has in registering its category A and category B settlement lands. I would like to ask the minister whether there are any other Yukon First Nations that have indicated that they may have an interest in registering land under these provisions.

Hon. Mr. Cathers: In answer to the member’s question, Kwanlin Dün is the only First Nation that has formally indicated an interest. I am advised that there are others who have expressed an interest and are considering it, but at this point in time I am not sure if it would be appropriate for me to make any announcements on the part of who has been inquiring into it. It does broaden the ability for others, and I am advised that there are others who have unofficially indicated an interest and have been asking questions and are monitoring the work that has been done, primarily between Kwanlin Dün and the Yukon government since KDFN has been very interested and active in working with us in this area. This is also an area where there was an error in this section referring to the wrong paragraph. This is the second of the two minor errors that were identified, unfortunately, after tabling. Therefore, I am going to read this and take another shot at French pronunciation — again with apologies to any francophones who are listening to me. I will do my best.

Amendment proposed

Hon. Mr. Cathers: Madam Chair, I move:

THAT Bill No. 90, entitled *Land Titles Act, 2015*, be amended in subclause 67(3) at page 39, by:

(1) in the English version, replacing the expression “paragraph (2)(a)” with the expression “paragraph (1)(a)”; and

(2) in the French version, replacing the expression “de l’alinéa (2)a)” with the expression “de l’alinéa (1)a)”.

Chair: The amendment is in order.

Mr. Cathers has moved:

THAT Bill No. 90, entitled *Land Titles Act, 2015*, be amended in subclause 67(3) at page 39, by:

(1) in the English version, replacing the expression “paragraph (2)(a)” with the expression “paragraph (1)(a)”; and
 (2) in the French version, replacing the expression “de l’alinéa (2)a)” with the expression “de l’alinéa (1)a)”.

Is there any debate on the amendment?

Amendment to clause 67 agreed to

Ms. Moorcroft: Madam Chair, just before we leave this clause as amended — this is the clause where, subject to regulations, eligible Yukon First Nations can apply to register category A or category B settlement lands. It also indicates that there will be regulations made with regard to the rules for that registration. I wanted to put on the record that this does not extinguish aboriginal rights and title. I know that has been made mention of, but it’s a significant fact in being able to reach agreement on these provisions.

Hon. Mr. Cathers: The Member for Copperbelt South is correct in that this section allows First Nations to apply to the registrar to bring category A — and that is for First Nations that have entered into an agreement with Yukon government. It requires Government of Canada as well to allow them to become considered an eligible First Nation of that section. Once they’ve entered into that appropriate agreement, they may apply to the registrar to bring category A settlement land or category B settlement land under this act, and have a certificate issued for it. It provides for the land to be referred to as a certificate of category A settlement land title or a certificate of category B settlement land title, as the case may be. It clarifies that the issuance of a certificate of title under paragraph 2(a) is not a registration of fee simple title for the land described in that certificate of category A settlement land title or certificate of category B settlement land title, as the case may be.

That should answer any questions that may have been there. Yes, this is the section that has been developed in partnership with Kwanlin Dün and their legal counsel to provide for the structure that category A and B settlement land can be added to the land titles registry and can have a certificate of title issued for it, but it clearly distinguishes that this is not a standard certificate of fee simple title and they have not lost the aboriginal rights and title associated with category A and B settlement land.

Clause 67, as amended, agreed to

On Clause 68

Clause 68 agreed to

On Clause 69

Clause 69 agreed to

On Clause 70

Clause 70 agreed to

On Clause 71

Hon. Mr. Cathers: This division title is Applications to Withdraw Lands from Under this Act. Section 71 is “Application by eligible Yukon First Nation” and it allows for a Yukon First Nation named in a certificate of category A settlement land title or certificate of category B settlement land title to apply to the registrar to withdraw the land from under this act and cancel the certificate of title. But, as the next clause, section 72, speaks to, it only allows that

withdrawal if there are no current registered encumbrances against the title filed in the Land Titles Office.

That, of course, is to protect both the First Nation’s rights to unregister land from the Land Titles Office as well as protect and provide certainty for banks or others who might invest in or take financial actions regarding a parcel for which a land title has been issued — that they’re ensured that if there are any encumbrances on that title, those encumbrances must be cleared before that land can be withdrawn from the land titles system by the applicable Yukon First Nation.

Ms. Moorcroft: Thank you to the minister for that information.

Would this clause then deal with pieces of settlement land that had been incorrectly titled? Is there a process to ensure that there is a correct title of all of the Yukon First Nations’ settlement land?

Hon. Mr. Cathers: This section here relates to the ability of the First Nation that has signed on and has filed title in accordance with an agreement to allow them to access the land registry system — they can withdraw it. It doesn’t relate to other corrections and, actually, I’m not sure if I quite understand the member’s question. We were all sitting here trying to understand exactly what the member was asking for. I may have simply misheard her or misunderstood the question. Typically, Yukon First Nations with category A or category B land — that would not typically have a certificate of title issued for it. But this section is the other side of enabling a First Nation to add land to the land registry. It allows them to pull it out of the Land Titles Office as long as there are no current encumbrances against it by another party.

Clause 71 agreed to

On Clause 72

Clause 72 agreed to

On Clause 73

Clause 73 agreed to

On Clause 74

Clause 74 agreed to

On Clause 75

Clause 75 agreed to

On Clause 76

Clause 76 agreed to

On Clause 77

Clause 77 agreed to

On Clause 78

Clause 78 agreed to

On Clause 79

Clause 79 agreed to

On Clause 80

Clause 80 agreed to

On Clause 81

Clause 81 agreed to

On Clause 82

Clause 82 agreed to

On Clause 83

Clause 83 agreed to

On Clause 84

Clause 84 agreed to

On Clause 85

Clause 85 agreed to

On Clause 86

Clause 86 agreed to

On Clause 87

Clause 87 agreed to

On Clause 88

Clause 88 agreed to

On Clause 89

Clause 89 agreed to

On Clause 90

Clause 90 agreed to

On Clause 91

Ms. Moorcroft: Clause 91 is No registration of builders lien. I would like to ask the minister to provide an explanation for that clause.

Hon. Mr. Cathers: Section 91 says that, “Despite any provision to the contrary in the *Builders Lien Act*, the registrar must not register a builders lien against land for which a certificate of title has not been issued.” That relates to the integrity of the *Land Titles Act, 2015* and the principles of the Torrens system that when we see a title, we know what is registered against it. It clarifies that a builders lien can only be registered in respect of a parcel of land that is titled, and that is necessary because the *Builders Lien Act* just says it will be registered in the Land Titles Office, and this has led to liens being paper-clipped to plans for land for which title has never been raised to title and filed in the *Land Titles Act*.

The intention of this is to ensure that there can be no discrepancy about whether someone can file a lien to a parcel that is currently not yet titled. That would include lands under application and lands under an agreement of sale that haven’t actually met the requirements to be raised to title.

I hope that has answered the member’s question.

Ms. Moorcroft: That does answer the question that I had.

Pursuant to Standing Order 14.3, I request the unanimous consent of Committee of the Whole to deem clauses 91 through 121 read and agreed to.

Unanimous consent re deeming clauses 91 through 121 read and agreed to

Chair: Ms. Moorcroft has, pursuant to Standing Order 14.3, requested the unanimous consent of Committee of the Whole to deem clauses 91 through 121 read and agreed to. Is there unanimous consent?

All Hon. Members: Agreed.

Chair: There is unanimous consent.

Clauses 91 to 121 deemed read and agreed to

On Clause 122

Ms. Moorcroft: Madam Chair, I request the unanimous consent of Committee of the Whole to debate part 5, which is clause 122 through to clause 164, as a whole.

Unanimous consent re debating clauses 122 through 164

Chair: Ms. Moorcroft has, pursuant to Standing Order 14.3, requested the unanimous consent of Committee of the Whole to engage in debate on part 5, clauses 122 through 164.

Is there unanimous consent?

All Hon. Members: Agreed.

Chair: We have unanimous consent.

Prior to doing this, would members like to take a brief recess?

All Hon. Members: Agreed.

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

Recess

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

We are going to start with debate on clauses 122 through 164 of Bill No. 90, entitled *Land Titles Act, 2015*.

Ms. Moorcroft: Madam Chair, clause 122 is the beginning of division 5, which deals with mortgages and financial encumbrances. I understand from the information that was provided to us at the briefing from the department officials that these provisions are mainly taken from the previous act.

I requested unanimous consent of all members to deal with a number of clauses at one time so that I could ask the minister just to indicate for the divisions of the bill that deal with mortgages what any notable changes were in these provisions. Was it simply a matter of reframing and rewriting the provisions in the previous act?

Hon. Mr. Cathers: I am informed that most of the section is from the existing act, primarily sections 122 to 165. Most of it is unchanged in terms of its effect. There are changes relating to the powers of attorney being updated to allow enduring powers of attorney and some changes pertaining to caveats that clarify that caveats are not interests in land and are not interests, but are claims to an interest. It sets out the process for how caveats may lapse or be discharged and how a caveator may be liable for costs if the caveat does not hold up.

There is also a new provision in respect of the registrar’s prohibition — which is not really a caveat, although it is called that in some jurisdictions — that allows the registrar to put a hold on dealing with the property if she or he thinks it is appropriate to do so. The simple explanation for that is that if the registrar had cause for concern, it provides the powers that previously didn’t exist for a registrar to place a hold on processing any transactions related to title for that property. That is not something that is expected to be used regularly, but it would be allowed for if there was a concern about a transaction occurring. It enables the ability for the registrar to prevent somebody fully completing a transaction because, as I’m sure the member knows, since the Torrens system for land titles is based on the principle that title is indefeasible — or title is king, for lack of a better characterization — unless it

says there is an encumbrance on something, or a caveat that doesn't explicitly exist — if there was a problem or if the registrar believed there may be a problem, there was seen to be a need to provide for the ability for the registrar to halt any further transactions until there was a chance to fully determine how things should be dealt with, with that particular transaction.

These sections here do speak to the provisions for forms of mortgage or encumbrances, registrations of mortgages and financial encumbrances, implied covenants, short forms of covenants, standard form mortgages, the use of a standard form mortgage, the registration of discharge, extinguishment of annuity, proceedings to enforce mortgage or financial encumbrance, an order for payment into a bank, which provides the ability for a judge — “if the mortgagor becomes entitled to pay off the moneys due in the mortgage, a judge, on application and proof of the facts and of the amount due for principal and interest on the mortgage, may direct the payment into a bank having a branch or agency in Yukon, of the moneys due on the mortgage, with all arrears of interest then due, to the credit of the mortgagee or other person entitled to the mortgage money...”

There are provisions as well in this section for the transfer of mortgages or postponement of registered encumbrances — the

“Partial transfer of sum secured”, the “Effect of registration of transfer” and provisions relating to the mortgages and financial encumbrances of leases.

On to the area of caveats, the grounds for registering a caveat, clarification about how that operates, the form that it must be submitted on, the registration of a caveat and notice to an owner that a caveat has been registered and the effect of a registered caveat are described under section 139. Notice to caveator to prove a claim is detailed in section 140. Provisions related to the lapse of a caveat are under section 141. Provisions relating to the withdrawal of a caveat are detailed under section 142. Provisions relating to the registration of an order of a judge in connection with a caveat are described under section 143. The effect of registration lapse or withdrawal of an order is described in section 144. Section 145 makes it clear that no more than one caveat may be submitted to the registrar for registration in respect of the same claim.

Section 146 speaks to compensation and costs. Section 147 speaks to the transfer of a caveat. Section 148 speaks to requiring an agent to be duly authorized. Section 149 is the ability for a prohibition by the registrar in respect of dealing with lands described in the certificate of title, if in the opinion of the registrar, an error has been made or prohibition is necessary to prevent fraud; “(c) if the land is covered by an indefeasible title, a person empowered to administer an Act has produced satisfactory evidence of a contravention of that Act and a prohibition is necessary to prevent improper dealing in the land”; and in clause “(d) if the land is owned by or alleged to be owned by the Crown or a person under a disability, the land might be improperly dealt with” and “(e) any other circumstances require it”, giving some discretion of

course to the registrar — recognizing of course that, as with other sections of the act, a decision of the registrar can be appealed to a judge.

Section 150 speaks to the powers of attorney. Section 151 speaks to the general powers of attorney. Section 152 speaks to the enduring powers of attorney. Section 153 relates to the registration of the certified copy of a document. Section 154 provides the ability of the revocation of someone who has been appointed with powers of attorney. Section 155 relates to the irrevocable power of attorney given by a corporation. Section 156 relates to the registration of a writ submitted by a sheriff. Section 157 speaks to satisfaction or withdrawal of a writ. Section 158 speaks to confirmation and registration of a sheriff's sale. Section 159 relates to the time limit for the registrar to register a transfer under 158(2) and that is relating to a sheriff's sale. Section 160 speaks to the application for confirmation of sale and costs.

Section 161 relates to the registration of certificate and notice to owner, and this is relating to pending litigation — requirement to register a certificate of pending litigation. Section 162 speaks to the effect of such a registered certificate. Section 163 speaks to compensation and costs related to the submission of a certificate of pending litigation and the determination of a judge in accordance with section 163(3). Section 164 speaks to the cancellation of a certificate of pending litigation. I believe that may have run to the end of the sections that are being deemed considered as a group at this point.

Ms. Moorcroft: I'm aware that the department did work extensively with interested parties on this legislation. Just in relation to the provisions dealing with mortgages and caveats, have the realtors and the legal community and financial institutions had any comment on these particular sections of the act, and what issues were addressed or resolved?

Hon. Mr. Cathers: I've been advised that the wording in these sections was shared with stakeholders and that the meetings where they dealt with that did not include any realtors but did include members of the real estate bar who have been very actively involved in the drafting working group and that no one raised any issues with the provisions that had been laid out in the sections. I hope that answers the member's question.

Ms. Moorcroft: Yes, thank you.

There are sections in here dealing with confirmation and registration of sheriff's sale and also with pending litigation. I just want to ask a question from a layperson's perspective — that if a property owner were faced with circumstances where there may be a sheriff's sale or a pending litigation to do with what is most peoples' largest asset, what kind of notice and protections are in place to do with their interests in the land?

Hon. Mr. Cathers: I have been informed that writs are covered in detail under the *Executions Act*. A writ requires an order from the court. A writ is an order of the court. The answer to how a property owner's rights and interests would be protected and how they would be informed is that would be the result of a court process that they would have had to have

been duly notified, served and provided with the ability to have their side of the situation considered in a court of law and for a judge to make a decision based on the facts of the case.

I'm just getting some clarification.

Again, a writ of a court would be as a result of a court process. There are timelines. My officials are just in the process of trying to locate exactly what it states in the act, but there is a time limit specified that requires notification of someone by the Land Titles Office related to a pending sheriff's sale, so there is protection in those cases through both the standard court process and additional provisions related to notification. We're just trying to come up with the exact reference here.

Pertaining to sheriff's sales, under section 158, confirmation and registration of a sheriff's sale: "A sale of land affected by a writ registered under this Act is of no effect until the sale has been confirmed by a judge."

In subsection (2) it says: "Subject to subsection (3), if the sale of land is confirmed under subsection (1), a registrar must, no sooner than four weeks after receiving a court certified copy of the order and a transfer of land in the prescribed form, register the transfer."

Thirdly, "If registration of a transfer has been stayed by the order of a judge, the registrar may only register the transfer in accordance with the terms of the order." That would be the order of the court.

Largely in this, most of the onus is placed on the court and discretion given to a judge to determine what would be included within that court order.

Ms. Moorcroft: Pursuant to Standing Order 14.3, I request the unanimous consent of Committee of the Whole to deem clause 122 to clause 164 read and agreed to.

Unanimous consent re deeming clauses 122 to 164 read and agreed to

Chair: Ms. Moorcroft has, pursuant to Standing Order 14.3, requested the unanimous consent of Committee of the Whole to deem clauses 122 to 164 read and agreed to. Is there unanimous consent?

All Hon. Members: Agreed.

Chair: Unanimous consent has been granted.
*Clauses 122 to 164 deemed read and agreed to
On Clause 165*

Hon. Mr. Cathers: I believe the Member for Copperbelt South was asking me to explain this section, so I will. This relates to transmission of title on the death of an owner. It provides for the ability, "Subject to this act and regulations, a person's interest in land vests in their personal representative if the person dies and is (a) the owner of land for which a certificate of title has been issued; (b) an owner whose interest in land has been recorded on a certificate of title..." — that would include someone who has a caveat or other interest — "or (c) an encumbrance holder. (2) The personal representative in whom an interest in land vests under subsection (1) must, before dealing with the land, apply to the registrar to be named as owner of the land..." Then it

details how that is done. I won't jump much beyond this clause, but I will just note that this whole part 6 that relates to that transmission of title and encumbrances and details things including transmission of interest, nature of title of personal representative, applications to a judge, the provisions of application by a surviving joint tenant as well as lands belonging to religious entities and congregations — detailing how those are described, registered and who is their representative.

Ms. Moorcroft: When we had a chance to sit down with the officials from the Department of Justice to discuss the *Land Titles Act, 2015*, one of the questions I asked at the beginning was why there was no definition of "spouse" in the act. The officials explained that the definition of "spouse" is found in the *Family Property and Support Act*. The definition of "spouse" is found in the *Estate Administration Act*. The clause we are dealing with right now about the transmission of title on the death of an owner speaks to a person's interest in land — vests in their personal representative if the person dies. There are different definitions of "spouse" in different statutes in the Yukon. There are provisions that include in the definition of "spouse" same-sex couples and include common-law spouses. However, as I understand it, we do not have the same definition of "spouse" applying consistently across all of our legislation.

This becomes an issue where a couple own property together, and if they are legally married as husband and wife, then the surviving spouse would inherit the land, as I understand it, but I am not certain what would happen if the surviving spouse was of the same sex. I am not certain what would happen as far as the transmission of the title on the death of one owner to the other owner if they were in a common-law relationship. So can I ask the minister if he is able to untangle some of that for us?

Hon. Mr. Cathers: To clarify for the member, in this section, the *Land Titles Act, 2015* deals with title and interest in land. Someone who is listed jointly on the title, which is part of the provisions under this section — it wouldn't matter what the relationship was. Whether they were a husband, wife or common-law partner, it would not matter. The respective gender of the individuals at hand — whether it was as a same-sex couple or not — would not be affected by this section. The *Land Titles Act, 2015* allows that you might have someone jointly listed on the title who is your cousin or your business partner, et cetera.

If someone's name is not specifically listed on the title, then other acts come into play regarding who would be the inheritor after a person is deceased. The primary act that would be involved in that case would be the *Estate Administration Act*. The number of acts that I understand will need language cleaned up or adjusted at some point to fully recognize the current legal rights and common law around common-law couples — and same-sex couples, in particular — is — I believe there are 16 pieces of legislation that require either large or minor amendments. I would remind the member that, in the interim, current court rulings in terms of that do protect the rights of same-sex couples, so it's a case of

needing to clean up the language to reflect court rulings rather than the acts themselves currently interfering with the rights of same-sex couples. Again, we do recognize that there are a number of pieces of legislation that do need to be cleaned up to reflect the modern reality in terms of acknowledging same-sex marriage.

I hope that has answered the member's question. I will note that I have heard concerns from a constituent and from others as well.

There were some comments at the Yukon women's forum that both the member and I attended that relate to this area and suggest a need to consider changes to legislation. The primary piece of legislation where the change might be necessary is the *Estate Administration Act*. While I am not in a position right now to make any commitments about changes to it, I can tell the member that we are currently considering that and reviewing the concerns we have heard from Yukoners, including people at the Yukon women's forum, jointly hosted by YACWI and Women's Directorate this fall. We're taking a look at the specific concerns we have heard and are considering whether and what legislative changes should be considered and what would be appropriate in terms of stakeholder and public consultation at such time as that act is reviewed.

Ms. Moorcroft: I thank the minister for referring to the panel discussion at the women and justice forum at the Kwanlin Dün Cultural Centre earlier this fall. I was raising this question because of what one of the panelists said — who was a representative from the family law and perhaps property law of the Yukon bar — expressing a concern that the definition of “spouse” was inconsistent and that there were some — what are currently considered unfair — provisions in some statutes related to the definition of “spouse” and how that then applies to the disposition of land, among other areas.

The minister has indicated that there are 16 pieces of legislation that they're aware of that need some amendments — some of them minor, some of them larger — and court rulings will obviously require a quicker response to update the legislation.

The question I want to add for the minister is: In looking at the *Estate Administration Act* and the *Family Property and Support Act*, has the department already started research into the concerns that have been expressed that common-law couples do not have, in Yukon statutes — to do with estate administration and family property — the same rights as married couples?

Hon. Mr. Cathers: We began looking at the issue, including feedback that we have had both from participants at the women's forum this fall and, as I mentioned, I had a constituent contact me about a personal circumstance that brought this issue to my attention this summer. One thing I should note is that the provisions that relate to someone passing away and the rights of common-law spouses, both in cases where they are people of the opposite gender and when it is a same-sex couple, those are provisions that apply in the absence of a will. That is the driver behind why we made this November the first Make a Will Month.

All of those provisions — I should emphasize that common-law couples should understand that the current legislation — the provisions of the *Estate Administration Act* — relate primarily to the default provisions that apply when someone dies without a will. They can very clearly protect the rights of their partner, whether legally married or whether living common law, by developing a legal will and having it appropriately witnessed, et cetera. That is the best measure they can take to protect the rights of their loved ones, including common-law partners, but also protecting the rights of their partner if legally married to them — and additionally for protecting the rights of their children and other heirs. There is a lot of benefit for people in taking that step and developing a will, putting it in place and ensuring that this is dealt with.

They may wish to seek advice from places like the Family Law Information Centre, but the member and anyone listening will currently find information as part of the Make a Will Month campaign that we have launched online, providing people with information about how they can start the process to develop a will. I would note that while we are considering whether and what legislative changes should perhaps apply in the absence of a will when they pass away without a legally binding will, I just want to take the opportunity to encourage all who are listening and have not developed a will to take the time to do so, because that is probably the single best way to provide for the rights of a spouse, whether legally married or living common law. It allows them to clearly describe what assets they wish them to receive upon their passing.

Ms. Moorcroft: Well, I would like to thank the minister for that. I think that one of the critical points he made is that if people are in a common-law relationship, they don't have the same protections when it comes to their survivor rights and property if there is no will in place. I appreciate the minister designating November as Make a Will Month. It's important to make a will. Many people don't. Sometimes cost is a barrier. In particular, common-law couples could be caught by statutes that impose provisions that are not in their interests.

I will leave it at that. I will no doubt be following up with the minister on the question of definitions of spouse, family law, property law and estate administration law at another time.

Hon. Mr. Cathers: I thank the Member for Copperbelt South.

I should also note that for someone dying without a will, there still are provisions that someone — and that doesn't limit it to family members; it could be someone who has unregistered interests unrecorded in a will, such as a business relationship for example or outstanding debts to someone — can apply for standing in court when a will is going through the process of being probated via the court.

There are currently abilities for a common-law spouse, when their spouse has died without a will, to seek standing in court — recognizing that this is a more cumbersome and costly process than having it laid out in legislation. Again,

because of the potential for a dispute in court over an estate, that is another reminder of why having a clear will does — I know it's an unpleasant subject for many. People don't really like to think of the prospect of their own passing and get their affairs in order. Personally, I suspect that many people put it off, not due to the complexity but because of a desire to not think about a subject that they really don't want to think about — their own mortality — but doing that can avoid or reduce the chance that children, spouses or other heirs get into a fight after your death that ends up in court. If you're not doing it for yourself, please consider doing it for your family.

The other thing I should just note to the member for her information is that when it comes to how common-law spouses are treated under legislation in different jurisdictions, there is probably, I would suspect, an assumption by most people that the rules are fairly similar across the country. In fact, they are not. Different jurisdictions define it differently. I believe in Ontario, if memory serves, it doesn't specify the length of time that somebody has been living together, but specifies if they're living in a conjugal relationship at the time of someone's passing. There are a number of other jurisdictions that use a period of years — after a certain number of years, a common-law spouse is deemed to be married under their versions of the estate administration act or comparable legislation.

There are different lengths of time in different jurisdictions, so it's not a uniform model across the country. That is one of the reasons why personally I believe that, at whatever point Yukon formally reviews and brings forward changes in that area, public consultation would be appropriate to seek the opinion of Yukoners for what model would be most appropriate, including considering whether there should be the ability for couples to choose to live in a common-law relationship, but choose not to reach a point where they would be considered legally married and sharing all of their assets, but choose to — for lack of a better term to clarify it — deliberately enter into a relationship where they're considered to be just friends living together who have kept their assets fully and completely separate and are keeping them to be willed to their respective heirs. Examples of situations where this could potentially be something that I would speculate that some might be interested in is if you have people who have had previous marriages or children previously, whether married or not, who might choose at a later stage in life to strike up a conjugal relationship where they're living together, but might wish to keep their property separate to go to their children or others. But that's a bit of speculation on my part.

I hope that has been informative for the member. Again, I'm sure we will discuss other pieces of legislation at a future point in time. I thank the member for bringing forward the perspective of people she has heard from on this issue.

Clause 165 agreed to

On Clause 166

Clause 166 agreed to

On Clause 167

Clause 167 agreed to

On Clause 168

Clause 168 agreed to

On Clause 169

Clause 169 agreed to

On Clause 170

Ms. Moorcroft: This section on an application by surviving joint tenant — does that deal with properties that are held as tenants in common? If not, is there another section that deals with tenants in common?

Hon. Mr. Cathers: I am going to attempt to explain this. What this relates to is the difference between whether title is held jointly or whether it is held in common. If there is a joint tenant, that would relate to — if there is a piece of land that two people jointly own and it is described by the terms of their title and their mortgage so that in the death of one, the other inherits, they would inherit that person's provisions. If they are tenants in common, then each would have their respective heirs inheriting their specific portion.

Clause 170 agreed to

On Clause 171

Ms. Moorcroft: Could the minister provide an explanation of how lands belonging to religious entities and congregations are dealt with? I am also interested in knowing whether there are provisions here or elsewhere to do with if a religious entity or congregation ceases to exist.

Hon. Mr. Cathers: What this section relates to — which is a bit of a complicated one and one that I had not personally been aware of before — is that the practice, as I understand it, has been that a number of churches operating in the Yukon are not themselves corporate entities. They are a religious institution that has not incorporated and operates in the same manner as a standard corporation. What this section relates to is the ability to maintain the status quo structure, which has been common and has been practice for churches that are not themselves incorporated to have a senior official — such as an archbishop — be the holder of the land on behalf of their congregation and religious institution. This provides for the ability that if the archbishop — or bishop or whoever was the holder — then retires, passes on or moves elsewhere, their successor in that office would be considered the person to whom the land devolves — to the successor and office appointed by law or by the entity or congregation. It lays that section out, and the net effect of this is basically that it treats religious entities and congregations in a manner similar to how corporations are treated but only for the purposes of this act, the *Land Titles Act, 2015*, and it again refers to the office holder as the person to whom the title is recorded. It treats them as a trustee for the religious entity or congregation.

Clause 171 agreed to

On Clause 172

Ms. Moorcroft: This clause is the beginning of part 7, which encompasses the fees and the establishment of the assurance fund. We have had some discussion of the assurance fund in general debate. The assurance fund is used for compensation if there are going to be any costs or damages, which is a fairly low risk, as we understand it.

I do want to ask the minister whether he thinks — and whether during the course of the discussion of this act with interested parties — there is a sufficient amount in the assurance fund. Payments are made by the Minister of Finance. Is there a need to make more payments? Is the assurance fund adequate as is? The other matter we were discussing on this section was whether the ability to take payments out of the assurance fund would be something that the government might look to in making improvements to the Land Titles Office.

Hon. Mr. Cathers: With the regulations pertaining to the act, the expectation is to widen the range of instruments that a fee can be charged for, to provide some additional revenue for the fund and in recognition of the liability for all of those instruments that exist. There is also looking at doing an actuarial review at some point to assess the amount but, fundamentally, what should be pointed out to anyone concerned about this section is that this area — anything that government is found at fault for and if the assurance fund was inadequate, it would then still be something that the Government of Yukon would be liable for.

I believe there has only been one substantial payment out of the assurance fund since its inception. Yes, only one substantial payment in 117 years. This is an area where officials are not concerned about the current amount. We are also not envisioning making use of surplus amounts elsewhere, and an actuarial review is contemplated at some point to consider whether the amount is appropriate. But the bottom line, for anyone concerned about it, is that the Government of Yukon stands behind this area if the assurance fund is not sufficient, so people do not need to worry about the exact amount in the fund, so much as the fact that the Yukon territory and the Yukon government safeguard the land titles system and are liable for any errors that government would be required to pay out of the assurance fund.

Clause 172 agreed to

On Clause 173

Clause 173 agreed to

On Clause 174

Clause 174 agreed to

On Clause 175

Ms. Moorcroft: The question that I have is whether there have been any instances in the Land Titles Office where there has been a fraudulent transaction and a need for the provision here about how to deal with the certificate of title where a person has been deprived of land in some way in error.

Hon. Mr. Cathers: My understanding is that there was a case in recent years of a fraudulent transaction that was caught, and the parties worked together to resolve it before it was fully executed and compensation was not required. This type of situation is exactly the type of thing for which the powers of the registrar are being expanded to put on hold a transaction — or intended to prevent. If someone tries to sell land and commit fraud — to try to sell it to someone who is purchasing in good faith — and they are selling land that isn't theirs, it is intended to expand the protections and allow the

ability that if something looks suspicious or questionable, the registrar has the clear power to put it completely on hold while the matter is being investigated. I think that answers the member's question.

Clause 175 agreed to

On Clause 176

Clause 176 agreed to

On Clause 177

Clause 177 agreed to

On Clause 178

Clause 178 agreed to

On Clause 179

Clause 179 agreed to

On Clause 180

Clause 180 agreed to

On Clause 181

Clause 181 agreed to

On Clause 182

Clause 182 agreed to

On Clause 183

Clause 183 agreed to

On Clause 184

Ms. Moorcroft: Could the minister explain this section please? I am trying to understand exactly what it means.

Hon. Mr. Cathers: The member is right — this is quite technical — and I definitely had to seek clarification before I could fully describe this section. What this relates to is the ability of a judge to dismiss a court case. There is the reference: "...to the satisfaction of a judge before whom the action is tried..." — basically, what this does is — if somebody isn't actively pursuing their court case, meaning they fail to comply with court deadlines or show up for a court appearance, it clearly stipulates the power of a judge to be able to dismiss the case if a person fails to take the required actions during a court proceeding, including showing up. That is what the term "non-suited" is in reference to.

I understand why the member was quite understandably confused by the overly technical language, which — just for those who may be listening to this, and for Hansard, I'm quoting directly from section 184. The very legalistic wording here says, "The plaintiff in an action for the recovery of damages resulting from deprivation of land, or in an action for the recovery of land, is non-suited in any case in which it appears, to the satisfaction of the judge before whom the action is tried, that the plaintiff or the person through or under whom the plaintiff claims title had notice by personal service, or otherwise was aware, of delay, and willfully or collusively omitted to submit a caveat for registration or allowed the caveat to lapse."

That, for anyone listening, is why the member understandably asked me for clarification on what this section meant.

Clause 184 agreed to

On Clause 185

Clause 185 agreed to

On Clause 186

Clause 186 agreed to

On Clause 187

Clause 187 agreed to

On Clause 188

Clause 188 agreed to

On Clause 189

Clause 189 agreed to

On Clause 190

Clause 190 agreed to

On Clause 191

Clause 191 agreed to

On Clause 192

Ms. Moorcroft: The debate here is in part 9, which is Legal Proceedings. The clauses that we just cleared had to do with decisions of the registrar. This next division — division 2 — is Evidence and Procedure, and this particular clause deals with notice to interested parties. My question for the minister is whether this is new — how much of this is new or different from the previous *Land Titles Act*?

Hon. Mr. Cathers: This is another case where the answer is going to be a lot more complex than the question.

So in this section, the current *Land Titles Act* considered it a longer and more comprehensive section about notice. Most of those provisions either duplicated or were perhaps in conflict within some cases with the rules of court, which are largely under the control of judges to update and modernize as time goes on. The provisions that were either duplicating or conflicting with the rules of court as they pertained to notification of interested parties were therefore removed from the act and the provisions that are in here are, I understand, reflecting the current provisions within the act, which are not covered by the rules of court.

Going from a *Land Titles Act* that spelled out a lot of notification provisions, evidence and procedure, much of that was rendered redundant or conflicting with the current rules of court. In the current act that is in force, prior to when this one is hopefully passed and proclaimed, sections 165 to 180 pertain to notification procedures around evidence, et cetera.

So yes, just to recap for the member and anybody listening and attempting to sort through this, the current *Land Titles Act* that is in force has sections 165 to 180 pertaining to evidence and notification, et cetera. Many of those sections are either rendered redundant by or in conflict with the current rules of court, which are under the control of the judiciary as they relate to evidence, procedure and notification, et cetera.

The provision related to — some of the provisions that in here were ones that were not duplicated in the rules of court or required for clarity within the *Land Titles Act* to enable things like notice to interested parties, implied covenants, use of name by beneficiary, proceedings not to abate on death, et cetera, evidence related to valuable consideration, evidence by affidavit, summons to appear, security for costs and so on and so on.

That's the reason for the difference between that and the *Land Titles Act, 2015*.

Ms. Moorcroft: I would like to thank the minister for that answer.

It does lead to a follow-up question. The target date for the first general regulations is the spring of 2016. The minister has just identified some of the reasons for the changes that we are debating here regarding notice to interested parties and dealing with evidence and procedure. My question is whether there is an ability for the Land Titles Office to change procedure to reflect what the new act sets out so that there are no inconsistencies between the 100-year-old statute and current rules of court. If there are areas where there is a conflict, is there an ability to change that procedure while the department is putting the regulations together and before this act is proclaimed into effect?

Hon. Mr. Cathers: I have been informed that the rules of court now are currently being followed — because, of course, the powers of judges to issue a court order and clarify how something should be read. So they are currently being followed by the Land Titles Office in procedure, but this change to the act as it relates to any inconsistencies — things like modernization, forms or notifications, et cetera — will then be addressed through this change to the act.

I should also note, Madam Chair — without jumping ahead too far here that — that, as the member will see and is, I believe, aware of, there are provisions under section 213 — during five years after coming into force of the new act, that if there are areas where it is necessary to make regulations to effectively bring the act into operation and facilitate transition from the operation of the former act to the operation of this act, then regulations can be dealt with in that matter. It also clarifies that no right or obligation that existed under the former act, immediately before this act came into force, is derogated by the coming into force of the act.

Clause 192 agreed to

On Clause 193

Clause 193 agreed to

On Clause 194

Clause 194 agreed to

On Clause 195

Clause 195 agreed to

On Clause 196

Clause 196 agreed to

On Clause 197

Clause 197 agreed to

On Clause 198

Clause 198 agreed to

On Clause 199

Clause 199 agreed to

On Clause 200

Clause 200 agreed to

On Clause 201

Clause 201 agreed to

On Clause 202

Clause 202 agreed to

On Clause 203

Clause 203 agreed to

On Clause 204

Clause 204 agreed to

On Clause 205

Clause 205 agreed to

On Clause 206

Ms. Moorcroft: Clause 206 is the beginning of a new part 10, which is a general section dealing with offences, penalties and regulations. The offence provision is a new provision, as I understand it, and I would just like the minister to provide an explanation for this. How did they come up with the offence provisions that they have come up with? Why wasn't it different? What does it cover?

Hon. Mr. Cathers: I understand that this section was developed based on taking a look at other jurisdictions and best practices from them. It is to clarify offences and make it clear that it is an offence to, without lawful authority, destroy, alter or remove from where it is stored or recorded a certificate of title, a registered instrument or other record of a Land Titles Office. It is also an offence to knowingly and with intent to deceive make a material false statement in an affidavit, to suppress or conceal from a judge, the registrar or person in a Land Titles Office, a material document, fact, matter or information, or to participate or collude in such a fraud. It makes it clear that it is an offence to fraudulently procure or participate or collude in fraudulently procuring an order of a judge affecting the ownership of land or an encumbrance, directing the entry of a note on a certificate of title, and directing the issue or cancellation of a certificate of title.

That is the origin of that. The references to the penalties under section 207 — to \$50,000 or imprisonment for six months — is based on looking at other jurisdictions because our previous fine amount was, if memory serves, \$10,000 or \$15,000. Pardon me — I have been corrected on that. There previously was no specific offence under this section. It would only be the offences for fraud under the *Criminal Code* and civil liability for actions — so this adds an additional offence provision similar to what is done in other jurisdictions, and \$50,000 was from the higher end of offences in other Canadian jurisdictions.

The thinking behind that is that when you are dealing with fraud involving not only someone's home or business and large financial interests, a lower offence — such as, I think, \$10,000 or \$15,000 had been contemplated at one stage during the development of the legislation, but the concern was that it could be seen as a cost of doing business, whereas a \$50,000 fine is toward the higher end of what other Canadian jurisdictions can prescribe and, ultimately, that is a maximum penalty that requires an order from a judge. It expands the range of a judge's discretion to levy a maximum fine and clarifies that this is an addition to their liability under the *Criminal Code* or any other law. It provides the additional ability for a judge under this act to sentence someone to up to six months in jail for fraud or for another offence committed under section 206.

Clause 206 agreed to

On Clause 207

Clause 207 agreed to

On Clause 208

Clause 208 agreed to

On Clause 209

Clause 209 agreed to

On Clause 210

Ms. Moorcroft: Clause 210 is the application of the *Access to Information and Protection of Privacy Act*. The section indicates that ATIPP does not apply to records kept by the registrar. That is because these records are public records.

Until such time as an electronic registry is in place, which is a ways away, if a person wanted to have access to the records kept by the registrar they would have to go into the *Land Titles Act* and ask to look at those titles or at those records. This is a period of transition. The Land Titles Office is working to improve their service and to shorten the amount it takes to register titles, along with other improvements to business practices. What is occurring now when someone does want to apply to view records that are kept by the registrar in their current state as a paper registry?

Hon. Mr. Cathers: The Member for Copperbelt South is correct; this section does not apply to the records kept by the registrar under part 2, division 3, because that part is the public registry, which is publicly accessible.

The simple answer to the member's question is that this continues the right under the new act that Yukoners currently have to go into Land Titles Office and to find out information about land titles and to view either the original record or a certified true copy of that record. Currently, my understanding is that someone who is not in Whitehorse or who doesn't wish to go to the office can apply to receive a certified true copy of documents in the Land Titles Office.

That is currently enabled, albeit through a paper system. The right to access it publicly is there without ATIPP, but the difference with moving to an electronic registry is the ability to access it in your own home versus the current situation where you have to contact the Land Titles Office or have a representative, such as a lawyer or real estate agent, contact the Land Titles Office and ask for copies of those documents, which would then likely be provided in paper form or through fax or PDF. They would not be electronic records; just a copy of the current paper copies.

Ms. Moorcroft: The minister made reference to having a lawyer act as a representative on someone's behalf. At one time, any person could go into the Land Titles Office and ask to view a document or view the documents that were related to one particular title. I was not aware that any person could request and receive a certified true copy of title. I just wanted the minister to confirm that.

I also wanted to ask if a person who has an interest in a particular property can still go into the Land Titles Office and ask to view a document or title. How long would it take if someone did want to come in and ask questions related to a particular parcel of land? How long would it take to accommodate that request for access to that information?

Hon. Mr. Cathers: I'm informed that typically if someone comes in, they are usually able to accommodate them right away in looking at a copy of whatever documents they want to look at. If they're asking for it remotely or asking for copies of it, that really depends on how much they're

looking at and how many documents are related to it, as well as the volume of other things that they're dealing with. It would be relatively quickly but subject to the administrative pressures within that office.

I think that has answered the member's question and, Madam Chair, seeing the time, I move that you report progress.

Chair: It has been moved by Mr. Cathers that the Chair report progress.

Motion agreed to

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

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

Motion agreed to

Speaker resumes the Chair

Speaker: I will now call the House to order.

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

Chair's report

Ms. McLeod: Mr. Speaker, Committee of the Whole has considered Bill No. 90, entitled *Land Titles Act, 2015*, and directed me to report progress.

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

Some Hon. Members: Agreed.

Speaker: I declare the report carried.

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

The House adjourned at 5:30 p.m.

The following sessional papers were tabled November 9, 2015:

33-1-177

Yukon Development Corporation 2014 Annual Report
(Cathers)

33-1-178

Yukon Energy Corporation 2014 Annual Report (Cathers)