

Whitehorse, Yukon
Monday, April 14, 2008 — 1:00 p.m.

Speaker: I will now call the House to order. At this time, we will proceed with prayers.

Prayers

DAILY ROUTINE

Speaker: We will now proceed with the Order Paper. Are there any tributes?

TRIBUTES

In recognition of Yukon Education Week

Hon. Mr. Rouble: Mr. Speaker, I rise in the House today to pay tribute to Yukon Education Week, which runs from April 14 to 18. This year's theme is "Opening doors to lifelong learning", because education opens doors to opportunities for individuals and strengthens communities. Education Week is a time for us to celebrate education and let Yukoners know what resources are available to becoming a lifelong learner or continuing lifelong learning.

Mr. Speaker, it is also a time to thank our educational professionals for their commitment and hard work. We appreciate the work that every single one of them does to ensure that Yukoners acquire knowledge and develop skills so that they can get the most out of life.

Mr. Speaker, education helps everyone get involved and participate more effectively in our family, in our community, and in our workplace. By being involved in education, whether as an educator or as a learner, today and every day, one is on the road to getting the most out of life.

I invite all members to take time to stroll through the halls of the Department of Education between 4:00 p.m. and 6:00 p.m. on Wednesday, April 16.

At this time staff at the Department of Education are hosting an open house, and it is an opportune time to see for yourself all of the first class resources that are available to the 5,000 students who attend our Yukon schools.

Mr. Speaker, opening doors to lifelong learning — it is exciting to see just how many lifelong learning opportunities are available to Yukoners of all ages and across the territory.

I encourage you and others to participate in some of the many activities that are being hosted at schools throughout the Yukon to celebrate Education Week.

As education is all about the sharing of information, I would like to share with my colleagues across the floor the latest copies of the NorthWind Books. These are a series of early childhood readers produced by the Department of Education. They are produced by Yukoners for Yukoners, and I would like to share them with the members opposite.

Mr. Fairclough: I rise on behalf of the Official Opposition to pay tribute to Education Week from April 14 to 18. Partnership in education is very important. Partnering with students, parents, professional educators, First Nations and all levels of government is critical for Yukon's future. Meaningful

consultation and partnerships, including parental and public participation, will result in the highest quality of education for Yukon students.

The academics of learning to read and write are important, but the nurturing of each child to unlock and develop their full potential is paramount. Each child is unique and we must develop that uniqueness, and give the essential tools and skills to help them become productive, responsible and self-reliant members of Yukon society. Our education system must ensure students experience the joy of learning while at school. It must instill in our students a respect for oneself, fellow students, educators, family and community.

To understand that education is a lifelong learning experience, and to be a lifelong learner, students must have ingenuity, creativity, and critical thinking skills. We must credit the important leadership role that teaching professionals play in our children's lives.

During Education Week, the tributes belong to those who make it happen: the students, the teachers, the staff, the parents, the volunteers and the citizens throughout the Yukon who contribute to education by their leadership or by example of lifelong learning.

I encourage all Yukoners to get involved and attend one of the many open house opportunities, or participate in one of the many available workshops being held throughout the Yukon. We celebrate teaching excellence and student achievement as they engage and embrace new technologies. Our students of today will become leaders of tomorrow. They are our future.

Thank you.

Mr. Cardiff: I rise on behalf of the NDP caucus to pay tribute to Yukon Education Week. We are all concerned with education on various levels and in many capacities. Some of us work in the field of education in elementary schools, high schools, colleges or non-governmental organizations. Some of us have children or grandchildren in these systems, and some of us are actively learning in an education system ourselves.

The importance of education to all of us cannot be overestimated. It is a demanding field to work in and forms the backbone of our society. The theme of this week is "lifelong learning". At one time, education and learning were meant only to be for children. Society believed that there comes a point in our lives where we can no longer learn. We are now more open to the idea that adults, while they may learn differently, are at least as ready to learn as children are. Sometimes they are better learners than children when they apply the skills they have gathered from parenting, working and coping with the stresses of life.

The reality of our work and the knowledge economy dictate that we must all be ready for multiple careers. We must be ready to take advantage of learning systems all our lives. Adult education systems are adapting to this need by more experiential learning, more basic skills training and adaptive scheduling.

The importance that we place on lifelong learning is reflected in the fact that there are many people in the territory who volunteer, not only in our schools, but with adult educa-

tion at the college, by sharing expertise in various skills and with adult literacy programs.

Thank you to the many volunteers for all those extra hours and for their devotion to lifelong learning. Thank you, as well, Mr. Speaker, to all those who work in our education system: the teachers, the educational assistants and the people in the department.

Thank you.

In recognition of National Victims of Crime Awareness Week

Hon. Ms. Horne: Günilschish, Mr. Speaker. I rise today to affirm that victims matter. This week is National Victims of Crime Awareness Week. The theme this year is "Finding the way together". It is a call for us to recognize the evolution of victim services and move forward together. That is why, today, we are here to find the way together.

In early March 2008, over 100 delegates who work with victims of crime gathered in Whitehorse to begin to examine ways to better respond to the needs of victims in the criminal justice system. This conference also provided opportunity for the delegates to exchange experiences, ideas and to build important relationships that will benefit victims.

This conference began the work toward developing a victims program model, a strategic approach to how we work with the victims of crime. This recent work brings balance to work already in progress through the correctional redevelopment strategic plan.

Sincere efforts are being made to give victims of crime recognition in this redevelopment process. We are here to support victims of crime, to listen to them and learn what they need and how we can help. We are here to think about how, as a society, we care for each other when we have been hurt or wronged.

Today we can take comfort in the fact that certain crimes, such as murder and abduction of children and youth, are declining in Canada. While we must take action to ensure that this trend continues, we also need to be there for those who are hurt by the crimes that do take place.

To move forward, we need to hear the stories of people who have been victimized. We need to help them find their voice, and restore the self-confidence and self-control that crime can so often take away.

We can begin by acknowledging that they have a role to play in the justice system and in our communities. Even if we have not been victims of crime ourselves, sometimes just talking about what is happening to others can make us feel vulnerable. Sometimes just the fear of becoming a victim is enough to affect the way we act, but we can overcome this fear. By working together we can do better. We can build Yukon's future together. We can create safer communities. We can find the way together. Indeed, we must because victims do matter.

Günilschish. Thank you. Merci.

Speaker: Are there any further tributes?
Are there any introductions of visitors?
Are there documents or returns for tabling?

TABLING RETURNS AND DOCUMENTS

Hon. Mr. Kenyon: I have for tabling today the annual report 2006-07 of the Yukon Lottery Commission, entitled "Winning in Our Communities".

Hon. Mr. Cathers: I have for tabling the Yukon Workers' Compensation Health and Safety Board 2007 activity report.

Mr. Mitchell: I have for tabling a letter to the Hon. Premier dated March 31, 2008, from the executive of the Yukon Métis Nation regarding consultations on the *Child and Family Services Act*.

Speaker: Are there any further documents for tabling?
Hearing none, are there any reports of committees?
Are there any petitions?
Are there any bills to be introduced?
Are there any notices of motion?

NOTICES OF MOTION

Mr. Nordick: I give notice of the following motion:
THAT this House congratulates the federal Minister of Industry, the Hon. Jim Prentice, for his decision to veto the takeover by a U.S. company of the space division of Richmond, B.C.'s MacDonald, Dettwiler and Associates Ltd. that is responsible for the development of the Radarsat-2, which is so important to safeguarding Canada's sovereignty in the Arctic.

Mr. Mitchell: I give notice of the following motion:
THAT this House set aside Bill No. 50 until a special sitting of the Legislative Assembly is convened specifically for the purpose of hearing witnesses and considering amendments to the bill that will address the outstanding concerns of Yukon First Nations and other interested parties.

I also give the following notice of motion:
THAT this House urges the Yukon government to take a stand against obesity by giving incentives for families to eat healthy foods and by encouraging more activity at home, in schools and at the workplace.

Mr. Fairclough: I give notice of the following motion:
THAT this House urges the Yukon government to proceed with the implementation of the education reform project report so all Yukoners may have input into the education system of their children and benefit from the recommendations contained in the report.

Mr. Cardiff: Mr. Speaker, I give notice of the following motions:
THAT this House urges the Yukon government to eliminate fees for requests for information under the *Access to Information and Protection of Privacy Act*, which act as a barrier for MLAs, the media and the public to obtain important information about government policies and procedures.

I also give notice of the following motion:

THAT in the interest of making government operations more transparent and understandable to the public, this House urges Cabinet to make departmental budget briefing books that are prepared for ministers available to all MLAs.

NOTICES OF MOTION FOR THE PRODUCTION OF PAPERS

Mr. Fairclough: I also give notice of the following motion for the production of papers:

THAT this House do issue an order for the return of

(1) all position papers submitted as part of the final report of the education reform project; and

(2) all correspondence from the Education minister to the education reform project team since the inception of the education reform process.

Speaker: Are there any further notices of motion?

Is there a statement by a minister?

This then brings us to Question Period.

QUESTION PERIOD

Question re: *Child and Family Services Act*

Mr. Mitchell: I have some questions for the Premier on his decision to shut First Nations out of the final stages of the *Child and Family Services Act*. We found out on Thursday afternoon that the Premier thinks Yukon First Nation leaders should be seen but not heard. He refused to allow their representatives to appear before this House to discuss the *Child and Family Services Act*. The Grand Chief described the Premier's actions as unacceptable. He said the government's actions are contrary to any sort of collaboration. So much for a partnership with First Nations.

What is the Premier afraid of? Why is he so reluctant to allow First Nation leaders to address the bill on the floor of this Legislature?

Hon. Mr. Fentie: Once again, the Leader of the Official Opposition fails to recognize the extensive process involved here, whereby all First Nation leaders, as agreed to through the chiefs health committee and the Council of Yukon First Nations, had a significant amount of input since 2003 — some five long years. This process included jointly informing the drafting of the bill. There has been a tremendous amount of input into this bill by First Nations across this territory.

The member has now stated that there is this issue of cooperation between the Yukon government and Yukon First Nations. I'm going to list the plethora of examples of cooperation.

I begin with the *Child and Family Services Act*; I go on with rural drinking water initiative, working with First Nations in cooperation; the local area planning for Ibex Valley, Mayo Road, Dawson City, et cetera, in cooperation with First Nations; YESAA and the consultations ongoing on projects through the YESAA process, in cooperation with First Nations; section 17 negotiations with alcohol and drug programming and aboriginal languages, in cooperation with First Nations; education reform in cooperation with First Nations; the Yukon

First Nation Education Advisory Committee — cooperation with First Nations; education curriculum working group — cooperation with First Nations; and I have 10 pages more.

Mr. Mitchell: There were years of consultations on the *Workers' Compensation Act*, but we still heard from witnesses. It's the Premier's job to act as a uniter, not as a divider.

Last year we brought forward an amendment to the *Cooperation in Governance Act* to ensure that First Nations are adequately consulted on new legislation. This is an example of why those changes are needed. The Premier needs to learn how to work more closely with First Nations, not read lists.

How does he respond to their requests? He dismisses them and says, "If you don't like our approach, then do it yourself."

The Grand Chief asked the Premier not to pass this bill until First Nations' concerns are addressed.

Why is the Premier ignoring this request from the Grand Chief?

Hon. Mr. Fentie: The Leader of the Official Opposition once again should be correcting the record. Nobody on the government side has said anything of the sort — if First Nations don't like it, then do it themselves.

The member should stand on his feet, if the strength of character is there, and correct the record.

But, I'll go on with the issues of cooperation conducted by this government. Yukon Chiefs Committee on Education — working in cooperation with First Nations; the implementation of the big game outfitter policy and all non-YESAA-related projects — working in cooperation with First Nations; the forest resources act — all the preliminary work on the act, in cooperation with First Nations; the *Fisheries Act* — and traditional knowledge on placer mining and the Yukon Placer Secretariat — in cooperation with First Nations; Mount Nansen closure planning, with Little Salmon-Carmacks First Nation, elders, citizens and their land resource departments — working in cooperation with First Nations; the Yukon oil and gas dispositions under YOGA — in cooperation with First Nations; the Carmacks copper mine development project — working in cooperation with First Nations; the *Wildlife Act* amendments — working in cooperation with First Nations; the harvest management strategy for the Porcupine caribou herd — working in cooperation with First Nations; the elk management strategy — working in cooperation with First Nations.

Does the member want me really to continue, or does he want to change his approach?

Mr. Mitchell: The member opposite just said I should have the courage to stand on my feet and correct the record. Last Thursday, from the Blues:

"Mr. Speaker, should any First Nation government want to go beyond where this bill takes us today, they have that right to occupy the authority as negotiated in their agreements."

The Hon. Premier said that.

Again I ask: why is it more important to hear from the chair of the Workers' Compensation Health and Safety Board than from the Grand Chief of the Council of Yukon First Nations and other First Nation chiefs?

It was very disappointing, last Thursday, to see all the members on the government side of the House vote last week

against First Nation people having a voice. Not one member on that side of the House had the courage to stand up and do the right thing.

This government is taking a very adversarial approach to its relationship with First Nations. It prefers litigation over negotiation. It is refusing to work on education reform in good faith, and its decision to shut First Nations out of the *Child and Family Services Act* is only the latest setback.

Why is the Premier pursuing this adversarial approach to First Nations relations?

Hon. Mr. Fentie: There is no point commenting on the member's assertions of "adversarial", because this is the member who is quite efficient and adept at being adversarial. And this is another approach that is very adversarial.

Let's look at the member's position. What that member is suggesting is that, even though public government remains responsible and liable for children in care, we should pass on the decision-making to others. That is not what this government is going to do. If the member opposite wants to do that, that is the member's business.

Let me continue with examples of cooperation: the bison harvest management strategy — working in cooperation with First Nations; the Richardson sheep management planning initiative — working in cooperation with First Nations; Kusawa park planning — working in cooperation with First Nations; Fishing Branch Wilderness Reserve and Habitat Protection Area and ecological reserve — working in cooperation with First Nations; Old Crow Flats special management area — working in cooperation with First Nations; the Marwell tar pit remediation — working in cooperation with First Nations; SMAs Agay Mene and Bonnet Plume — working in cooperation with First Nations.

The member has got it wrong. The member knows exactly what is at stake here; it is public jurisdiction. This government will not devolve public jurisdiction.

Question re: Education reform project

Mr. Fairclough: I have a question for the Minister of Education.

The education reform project was released by the minister several months ago, although the public had a draft copy much longer than that.

Respecting the depth and scope of this report, I have afforded the minister and his officials ample time and opportunity to review it and bring forth an action plan to deal with the many recommendations contained therein.

The minister is fully cognizant of the fact that Yukon First Nations and the Yukon government both have authority over education. The Yukon government exercises its authority, and the First Nations are in negotiations of devolving that down.

The report clearly states that it makes sense for both governments to prepare for change in the way education is delivered. In fact, Mr. Speaker, this was the essence of the mandate given to the project.

What implementation plans have been put in place, and what are the timelines?

Hon. Mr. Rouble: Mr. Speaker, education of Yukoners is certainly one of the highest priorities of this government.

Educating our citizens is fundamental to building happy, healthy, productive societies, and I am very relieved to finally receive a question from members of the opposition.

Here we are in the fourth week into the session. I've lost track of the hundreds of questions that have been asked, and we finally have an education question brought forward. I appreciate the member's interest.

I would like to thank the Education reform project team for the extensive, hard work that they did. This was a joint project run by the Government of Yukon and the Council of Yukon First Nations. I was very pleased to finally receive the report. It was signed off on November 23 as being a final document. After we had an opportunity to print it, to share it with the Council of Yukon First Nations leadership, it was released to the public. This was done after a meeting with the Council of Yukon First Nations early in February, when the approval to release the document publicly was given.

Mr. Fairclough: Four months and the minister still can't answer a question in this House. Let's try another one.

Under chapter 24 of the *Umbrella Final Agreement*, the following issues of "Subjects for Negotiation" are in the division and sharing of responsibility of education. They are student counselling, cross-cultural teacher/administrator orientation, composition of teaching staff, the curriculum for early childhood, special and adult education, curriculum for kindergarten through grade 12, and the evaluation of teachers, administrators and other employees.

The education reform project was created to facilitate the developments necessary to ensure that these two levels of government work effectively to make the education system more responsive to all Yukoners, particularly First Nations.

Will the minister be more specific in how those goals are to be met?

Hon. Mr. Rouble: Yes, the member opposite is correct; the education reform project was created to identify the goals that people had for education and to look at ways to increase the outcome for all Yukon students.

I'm proud to say that the Department of Education has been working very closely with its various stakeholders and partners in education in working on discussing and bringing forward many of the ideas, thoughts and concerns from the education reform document.

Mr. Speaker, I'll be honest; this is a very large, very in-depth document, and there are a lot of good suggestions in there. There are also some other suggestions and ideas and recommendations that will require much more consultation and much more work with our partners. I'm happy to say that we'll continue to work with all our partners, with the Commission scolaire francophone du Yukon, with the Catholic association, with the Yukon Association of School Councils, Boards and Committees. Right now, the Department of Education is working very closely with the Council of Yukon First Nations. We're continuing that relationship with a working group right now that is diligently working and meeting quite regularly to look at the best processes for bringing these issues forward.

Today, at the Pan-Canadian Interactive Literacy Forum, one of the topics on the agenda is education reform, and the themes of literacy are being discussed at that event.

Mr. Fairclough: Mr. Speaker, this is Yukon Education Week, and I can't think of a more appropriate time for this minister and this government to chart a new course for education. Now this government has, when convenient for them, resorted to consultation with stakeholders. Education has been extensively consulted on in the past years and now it is time to implement what they have heard and what has been reported to them by the education reform team.

What process will the minister take to implement the reports so that the new direction will reflect all Yukoners and is in keeping with the stated aspirations of the Yukon First Nations?

Hon. Mr. Rouble: Mr. Speaker, the Department of Education is going to go to work with partners and stakeholders in education to review the document and to look at strategies for implementing some of the recommendations and looking at which recommendations should not be implemented.

The work is continuing; it is called "New Horizons" and it is going on with the Council of Yukon First Nations right now. There have been many joint presentations between the Department of Education and the Council of Yukon First Nations. There is a presentation going on today at the literacy forum on addressing the literacy themes that came out of the education reform document. Also, this coming Friday we'll have a meeting of the Yukon Association of School Councils, Boards and Committees. Their agenda includes the education reform themes and how to go forward.

Mr. Speaker, there was a lot of very good work put into the education reform document and I'd like to thank all the people who put so much of their time, energy, heart and soul into it. Now we'll be working with all our partners to implement the best recommendations in order that we can improve the outcomes of our education system for our students.

Question re: *Child and Family Services Act*

Mr. Edzerza: Mr. Speaker, this government appears to be willing to work in cooperation with First Nations on all things but the most important issue to First Nations: their children.

Last week, the Council of Yukon First Nations called the proposed *Child and Family Services Act* "flawed". The council said it was deeply stressed that this government is not working with them to get the act right.

Let's look at some of the reasons. One of the key issues for First Nations is that the discretion of the director is paramount in many areas. One area in dispute is determining if intervention is called for before a child may have to be taken into care.

Will the minister look at expanding collaborative planning to include assessing the risk and deciding what intervention is needed right from the beginning, instead of waiting until a child has been apprehended?

Hon. Mr. Cathers: Thank you, Mr. Speaker. Again, if the member would read the act, he would see that it is in there.

The member should note — I have mentioned much of this in debate already — that one of the themes that is threaded

throughout the entire bill is inclusive collaborative planning and decision-making. That includes taking the steps, to start with the least intrusive approach, based on an assessment of the situation, and to take all steps to involve the First Nation and extended family in a cooperative planning process.

It is in the act; I would encourage the member to read it.

Mr. Edzerza: This minister continues to repeat that members on this side of the House need to read the act. Mr. Speaker, four different independent legal counsel gave opinions on this act. Maybe he should question them and say they don't know anything about what is in the act.

Another problem, not only with First Nations but with many Yukoners, is the provision for accountability measures in this act. The department has promised to work with First Nations to review the act after one year. Bill No. 50 allows for a review of the act every five years. If the *Education Act* review is any indicator, we may not see this action to review the *Child and Family Services Act* for a lot longer than five years.

There is no appeal system, Mr. Speaker. Will the minister consider establishing an independent body to conduct the five-year reviews and to hear appeals of decisions made by the director?

Hon. Mr. Cathers: Our debate would be significantly benefited if the Member for McIntyre-Takhini and his colleagues, and the members of the Liberal Party, would actually read the legislation. It appears that many of them —

Some Hon. Member: (Inaudible)

Point of order

Speaker: Leader of the Third Party, on a point of order.

Mr. Hardy: The member opposite continues to make accusations that we have not read the act, with no substantial proof that he can point to. We have read the act.

Speaker's ruling

Speaker: There is no point of order, it is simply a dispute among members. Minister of Health and Social Services, you have the floor.

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

Again, I would point out, in answer to the Member for McIntyre-Takhini's previous question, the section of the act, section 6, "Cooperative planning processes," in the bill, on page 18 of my draft: "The purpose of cooperative planning is to develop a case plan that will (a) serve the best interests of the child; (b) take into account the wishes, needs, and role of the family; and (c) take into account the child's culture and community."

This is a new provision in the act, a new reference — in fact, the focus on cooperative planning is entirely new in this legislation and is one of the many areas that, if the member would read the act and compare it to the current *Children's Act*, the member cannot help but see that the new *Child and Family Services Act* is a significant step forward to create increased involvement of the First Nation, relevant to the child — their First Nation — an increased involvement of First Nations, increased involvement of extended family and increased coopera-

tive planning and approaches to avoid taking intrusive measures such as apprehension, unless absolutely necessary for the safety of that child.

Mr. Edzerza: All at the discretion of the director, all the way through the act. One concession the Premier did make was to promise there would be a child advocate in place within a year. However, we need to know we're all speaking the same language here. A child advocate must be totally independent of the director and free to criticize government policies and processes. The advocate doesn't just act for the child in court. There is also the important role in public education on behalf of children. The advocate must be able to gain the trust of children in dealing with very complex circumstances, not just when the child is taken into care. The minister has promised there will be consultation on creating this position.

What specific guidelines will the minister be using for those consultations and how does he expect them to succeed in the current climate of mistrust he has helped create?

Hon. Mr. Cathers: If anyone is creating a climate of mistrust — or facilitating it — it is the members opposite. Again, I have to encourage the members —

Speaker's statement

Speaker: Order. One does it, the other one does it. Somebody make some sense here. You have the floor, honourable minister. Would members please conduct themselves accordingly.

Hon. Mr. Cathers: It's a pleasure to hear the voice of reason. Again, I have to point out and encourage the members opposite to please read the legislation. It's unfortunate they do not appear to have done so over this past weekend. Compare the new *Child and Family Services Act* to the existing *Children's Act*, and the members cannot help but see that it takes a significant step forward in involving First Nations, in involving the extended family, in recognizing practices such as custom adoption, which are important to First Nations but were not recognized before. As the member indicated, in the final stages of consultation it was identified that the one substantive issue that stakeholders and First Nations were asking for was the creation of a child advocate office. Therefore, the commitment is in the legislation to work with them — we will be working with First Nations, stakeholders and the public — to develop the role of the child advocate office and to table a piece of legislation governing that office.

Question re: *Child and Family Services Act*

Mr. Hardy: Consultations should not be used to compromise positions. The *Child and Family Services Act*, unfortunately, has brought this to the forefront. It's often how we do our consultation and what happens at the end of that consultation.

Frankly, Mr. Speaker, I believe a fundamental shift in attitude needs to happen within the Legislative Assembly and among elected members in order to work together, side by side, as equal partners, and that's from the beginning of any kind of endeavour or initiative or consultation, right to the end. We need to build on trust, collaboration and shared responsibilities.

I'm really trying to find a way to move forward on this in a non-confrontational way, but it's getting very difficult because there's such a roadblock here. My question is very simple: does the Premier not believe that public government and First Nation governments are capable of working cooperatively to create child welfare legislation that meets the needs of both native and non-native people in the territory?

Hon. Mr. Fentie: Yes, the government side and I believe that it is fundamental, Mr. Speaker, and that is why we embarked on the process that we did. It was all about ensuring that First Nations' concerns, when it comes to their children and those children who are in the care of family services, are being looked after in accordance with First Nations' views and desires. That is why this process was constructed in the manner that it was so that those concerns could be addressed. If one were to stand up here and debate the bill clause by clause, then we would all see and recognize that throughout this bill First Nations' concerns are being met.

I want to point out to the Leader of the Third Party that the government and family services branch are responsible for all children in Yukon, not just First Nation children.

Mr. Hardy: I can assure the Premier that I understand that, and I don't want to get into the rhetoric of name-calling and accusations and that. I want to move forward in a constructive manner. I believe that is what the First Nations want to do as well, and they want that final inclusion in this act. They want their voice to be heard and they want to be directly involved in shaping the legislation. I was very disappointed — like so many people in the gallery were — with what happened on Thursday and the position that was taken by the government. I don't know why it is so threatening to have witnesses before us. I don't know why the Premier has adopted a negative approach in this regard, especially when he has recognized their contributions and called them the "architects of the new act".

Is the Premier now saying that the only options available to First Nations to move on with their concerns about the new act are either learning to live with it or exercising their final agreement right to draw down authority for child welfare? Do they need to do that now?

Hon. Mr. Fentie: First Nations don't need to draw down the authority; they have negotiated the option and the right to draw down that authority. We have no issue with that. We encourage First Nation governments to fulfill what the spirit and the intent of the self-government agreements are all about. That would be taking on responsibility and liability for their children. That's why they negotiated it in the manner that they did. That's why it is in the self-government agreement.

First Nations, for five long years, have been witness to this process with respect to revisions and the development of a new *Children's Act*. Five years, which included — as the member just pointed out — the overall structure of the act itself and jointly informing the act.

I have to stress and emphasize for the Leader of the Third Party, in the spirit of cooperation, that what we should be doing here is debating the act clause by clause, so the members on the opposite side of the House will become more aware of what is in the act, instead of listening to those who have an agenda to

ensure that what they wanted to see happen is not being forgotten.

That is co-governance. We have no desire to go down the road of co-governance. We maintain the liability and the responsibility for all Yukon children, and we will not devolve it.

Mr. Hardy: It's a shame that the Premier looks at the First Nations' concerns as "an agenda". Eighty percent of the children in care are First Nation. Of course, they have a concern and a stake in this — but it is not an agenda to take down the government or to destroy this act; they know the work has been done.

The Premier promised cooperation, consensus and even compromise if necessary, but now, unfortunately, even with that language, it sounds like confrontation. We saw the same thing last year in a debate about education reform.

I think our system would work a lot better if the Premier followed his own advice about replacing confrontation with cooperation, consensus and compromise, and I believe he can do this.

Since the Premier seems determined to force the issue, unfortunately, will he at least guarantee that First Nations that do choose to draw down authority for child welfare will have the support and cooperation they need from this government to make a successful transition?

Hon. Mr. Fentie: Of course, Mr. Speaker; that is exactly what we are obligated to do under the agreements, and that would include the federal government.

I want to once again repeat and emphasize for the Leader of the Third Party the process that we embarked on, and we did that because 80 percent of children in care are First Nation children.

It began by agreement back in June 2003 with the development of joint terms of reference and the establishment of co-chairs. It went on to a major public consultation that commenced in April 2004 — consultation on proposed policy content of the new act and a series of policy forums were held. Elders forums were held. Technical meetings on proposed policy content of the new act; more policy forums were held. Process for jointly informing the drafting — targeted consultation on the draft act has been occurring and will continue on an ongoing basis because we will revisit this act in five years.

Ongoing briefings with CYFN leadership have occurred throughout the process. The act, months ago, was provided to the Yukon First Nations for their comment. There has been extensive consultation including community policy forums, jointly informing the drafting, and on and on we go.

Mr. Speaker, this process has been second to none in the country when it comes to involving First Nations and their concerns.

Question re: Education reform project

Mr. Fairclough: Mr. Speaker, I wish to return to the education reform project team's report. I believe the authors were very clear on the need for a partnership to exist between the Yukon government and the Yukon First Nations.

The education reform project team used the definition of the Royal Commission on Aboriginal Peoples in referring to partnerships, and I quote from the report: "relationships that are

worked out on the basis of nation-to-nation negotiation amongst equals who reach agreements by means of consent on both sides and no subordination on either side".

Will the minister confirm that this is the position being taken by this government as they move forward with this report?

Hon. Mr. Rouble: Education is certainly a priority of this government, and we will work with all our partners and stakeholders in education in order to achieve the best possible education system for our children and our learners. It's incredibly important in our education system to work with the students, parents, teachers, the school councils, school boards and other orders of government.

In our territory, the First Nations have negotiated self-government agreements. Those agreements are in place, and they do establish the relationship that we work within. As well, this government has gone another step further and put in place the *Cooperation in Governance Act*, where we meet on a regular basis with First Nation governments in order to discuss issues government to government.

The Department of Education and I will continue to meet with First Nation governments. The First Nations programs and partnership unit will continue to meet with the First Nation working groups we have established in the territory and we will ensure that our education system meets the needs of all Yukon students, including those of First Nation ancestry.

Mr. Fairclough: I want to get to specific recommendations made in the report itself but I feel we must clarify whether we are playing on a level playing field.

The Premier said in this House on November 29, 2006: "We must work in a climate of cooperation, collaboration and partnership..." He went on to say, "...our final agreements, and the Yukon self-government agreements were intended to form a collaborative approach in governments in the Yukon, where Yukon First Nation governments and public governments collaborated to build Yukon's future."

As recently as last week, the Premier's action regarding a request as simple as appearing as a witness in Committee of the Whole cast doubt on this government's sincerity on this matter. His words rang hollow to Yukoners.

Will this minister assure Yukoners that all recommendations of the report are open and on the table?

Hon. Mr. Rouble: I agree; working in cooperation with all our partners in education is incredibly important. I must also say that coming to a compromise on some of the issues is also very important. That's what happens when you have two different opinions. We both hear the cases that are being presented and find a compromise that best addresses all the interests possible. It's not one way or the highway. There has to be work and give-and-take by all parties. We're doing that work.

The education reform document was released to all the stakeholders and partners in education, and if anyone else wants a copy of it, they can download it from the Web or contact the Department of Education for more copies. We'll be working with the Council of Yukon First Nations on our "New Horizons: Honouring our Commitment to the Future" project

and how to develop an implementation strategy, to implement the recommendations that should be implemented. Many of the issues that have been brought forward, such as the creation of the First Nations programs and partnerships unit, the First Nation curriculum groups, the advisory groups, the relationship with the Chiefs Committee on Education, the relationships with many school councils and boards are already in place.

Mr. Fairclough: The minister is having a hard time answering that question. Now, the Minister of Justice said on the floor of this House on November 29, 2006, and I will quote: "I will work on developing partnerships between public government and the First Nation government, which is critical, and I will devote time to promoting and facilitating partnerships..."

Well, Mr. Speaker, the minister voted to deny First Nations the opportunity to appear last week as well. The Yukon Party government cannot have it both ways. So we have a credibility problem with this government. The Minister of Education can be as well-intentioned as he wishes, but he needs to have his team onside and at this point, I am suspicious that he doesn't.

Again, I would ask the minister: is this government committed to a full partnership with Yukon First Nations on this issue?

Hon. Mr. Rouble: Mr. Speaker, I can guarantee the member opposite that this Yukon Party government is onside. The education of our children is of the utmost priority, and we will all work toward accomplishing that goal — that will happen in the Department of Health and Social Services, the Department of Justice and the Department of Economic Development. Across the board there is a commitment to work toward the development of our students — our learners — to build a better, brighter future.

Mr. Speaker, we will work with all our partners, our orders of government and our structures. We will continue to respect the structures that we have in place. Those include the Commission scolaire francophone du Yukon and our school councils. We'll work with them so that they can deliver the type of programming and create the type of school that they want to see in their community. Mr. Speaker, will that involve compromises? Of course it will, but everything in life worth fighting for is also going to involve some compromises. What will not be compromised is the quality of education for our children.

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

Government bills.

ORDERS OF THE DAY

GOVERNMENT BILLS

Bill No. 46: Second Reading

Clerk: Second reading, Bill No. 46, standing in the name of the Hon. Mr. Kenyon.

Hon. Mr. Kenyon: I move that Bill No. 46, entitled *Act to Amend the Liquor Act*, be now read a second time.

Speaker: It has been moved by the minister responsible for the Yukon Liquor Corporation that Bill No. 46, entitled *Act to Amend the Liquor Act*, be now read a second time.

Hon. Mr. Kenyon: It is my pleasure to introduce Bill No. 46, *Act to Amend the Liquor Act*, for the Legislature's consideration. The purpose of the legislation is threefold: to modernize the legislation; to strengthen enforcement tools and penalties; and to streamline licensing categories. These changes are needed as Yukon's *Liquor Act* remains outdated and inadequate to respond to certain business and public safety needs.

The amendments proposed to the *Liquor Act* in this bill will provide several practical improvements to the act that reflect the wishes of Yukoners as expressed through a 2001 public consultation process and as reflected in the recommendations made by *Liquor Act* Review Committee.

The 2001 *Liquor Act and Regulations Review* report recommended 49 changes to the legislation. Twenty-eight of these recommendations have already been addressed, including the amendments made last spring to increase opportunities for economic diversification by allowing Yukon businesses to manufacture wines and spirits as well as to brew beer.

The amendments proposed in this bill address an additional seven key recommendations made by the *Liquor Act* and the regulations review committee: (1) minors should be allowed to entertain in cocktail lounges; (2) minors should be allowed to deliver food to patrons in cocktail lounges and to deliver liquor to patrons in other licensed premises; (3) the act should allow the RCMP to take intoxicated people into custody for 24 hours; (4) the act should streamline and modernize the licence classifications available, allowing for a diversity of licensed premises such as neighbourhood pubs and off-sales in RV parks; (5) you-brew products should be able to be served at permit events; (6) fines and penalties should be significantly increased; and (7) the fines and penalties for over-service should be significantly increased.

The amendments to the act will allow the RCMP to hold an intoxicated person in custody for up to 24 hours. It will increase fines and penalties for liquor-related offences. It will, with a reception permit, allow service of homemade wine and beer at private family events held in public places. It will permit RV park owners to sell beer and wine to registered overnight guests.

It will eliminate hotel-room requirements for bars. It will eliminate meal requirements to consume alcohol in a restaurant. It will streamline classes of liquor licences and it will allow minors to serve liquor in restaurants or enter bars for limited work purposes and to perform in bars.

The proposed changes provide safe alternatives and address concerns expressed by the RCMP, by our liquor inspectors and by local businesses.

The RCMP will be allowed to hold an intoxicated person in custody for up to 24 hours, correcting the long-standing matter of premature release for those under the influence of alcohol.

Fines and penalties for liquor-related offences will increase, particularly for selling and for supplying liquor to mi-

nors, bootlegging, over-service and the use of forged identification cards. Increasing the fines and penalties for liquor-related offences will enhance enforcement tools in areas such as bootlegging, over-service of alcohol and infractions of the *Liquor Act* involving minors.

Further, this amendment will enhance the opportunity to achieve the values desired in the SCAN legislation — or safer communities and neighbourhoods legislation — for situations relating to reducing bootlegging and selling or providing liquor to minors.

The proposed amendments will result in increased fines and penalties, which we hope will deter some from the practices and will provide tough consequences for those who are convicted of such offences.

The SCAN legislation, coupled with increased penalties, has the potential to remove the offender from his or her location and impose a financial penalty of some consequence.

Increased fines and penalties for liquor-related offences also support the Yukon substance abuse action plan. Its general goal is to establish policies and programs designed to reduce the harm from the abuse of alcohol and other drugs. It specifically commits to addressing bootlegging and other community concerns regarding infractions under the *Liquor Act*.

This act supports the economic development in the hospitality sector. Subject to regulations, businesses whose primary purpose is the operation of an RV park will be able to sell beer or wine to registered overnight guests.

Streamlining the class of licences will substantially reduce red tape for businesses involved in the industry.

Elimination of the hotel/bedroom requirement for bars will allow businesses to establish neighbourhood pubs.

Eliminating the meal requirement to allow alcohol to be served in a restaurant, and allowing a food-primary premise to change into a liquor-primary premise later in the day, will provide restaurant operators with more flexibility in providing food and liquor service to Yukoners.

Minors will be allowed to serve liquor in restaurants and enter bars to work at tasks that do not include the service of alcohol. This will provide young people with employment opportunities, particularly in rural communities, where staff options and jobs are limited. Employers will have a greater flexibility in hiring servers and kitchen staff.

This act promotes arts and culture, including assisting and promoting the emerging artists by providing young performers with the opportunity to participate in cultural and economic activities in venues that serve liquor.

The provisions providing more flexibility around minors are balanced with safeguards. The Liquor Corporation has established criteria and conditions within the proposed *Liquor Act* regulations to address conditions where there is a perceived risk to minors. For example, the underage person must be at least 16 years of age, have written parental consent, and must be closely supervised by the adult manager of the establishment.

In addition, the proposed legislation will provide a person of drinking age or older with a reception permit to serve

homemade beer or wine at a private family event held in a public place.

Mr. Speaker, the proposed *Act to Amend the Liquor Act* helps to fulfill this government's commitment to helping achieve a better quality of life. It supports economic development in the hospitality sector and promotes arts and emerging artists, balanced with increased fines and penalties for liquor-related offences. Enhanced enforcement tools in areas such as bootlegging, over-service and infractions of the *Liquor Act* involving minors are there.

With this legislation, we are providing a balance of strengthened enforcement tools and penalties with increased business opportunities that reflect the current Yukon business environment.

For these reasons, Mr. Speaker, I am pleased to present the proposed *Act to Amend the Liquor Act* for your consideration. We anticipate bringing the amendments into force this spring and are working on them at this moment in time. We will ensure that all Yukoners may benefit from the changes this summer.

Thank you.

Mr. Inverarity: It gives me pleasure and I would like to thank you for the opportunity to speak to this bill today. I'm not going to speak for long. I think that the Liberals are on record as supporting amendments to this particular act, considering the fact that we actually brought in most of the regulations through the *Liquor Act* review that we did back in 2001.

I guess the biggest single concern that I have at this point in time is that it has taken seven years to get from the act review to getting the act on the floor here so that we can debate it. I think that it has taken longer than the *Children's Act* to actually get to this point in the process. It strikes me that there must have been something wrong with the *Liquor Act* review to take so long that maybe we should have been looking at public debate on this particular subject. It is either that or just the efficiency of this particular government — perhaps they have been impaired by the topic that we are discussing today.

I find that the position that the government has taken over the past seven years has been interesting. They opposed it initially. They wouldn't discuss or debate it. They have sent letters to the B.C. and Yukon Hotels Association indicating that they would not be moving forward with amendments. Now they have done a 180 degree turn and here we are now debating this whole issue.

As a result, I am looking forward to the actual debate on the issue when we get into it. I may have a couple of amendments — I'm not exactly sure at this point — because there are a few things that I think might be required. I'll go into that a little bit later.

I find that some of the particular amendments that are coming into the act — the minister talked about seven areas and that 28 had been done — one, in fact, just a year ago, which we all know was very worthwhile, because it brought in increased business opportunities. I think my position on increased business opportunities has been well-documented in the House. I do have some concerns — only in that I'm not

sure where we will ultimately be going, but I think that the permit for RV park owners to sell beer and wine is, on the surface of it, very good, and I will support it.

However, I'm not sure whether or not we should be looking at the greater issue — which is either to go in the direction of opening up sales of beer and wine to all retail establishments, but I'm also concerned about the effect that may have on communities, for example, where there is no territorial liquor agent. How are the individuals there going to purchase liquor if they want? Perhaps we should be looking at — you know — if there is an RV park in the area, I can see issues around bootlegging happening — if that's the case in some of those communities. I'm also concerned about the overall negative impact — and these go to questions about government staff who are currently working in jurisdictions where, in fact, there is an RV park and there is a territorial liquor agent — and the effect it might have on employees in that community doesn't seem to be addressed.

However, overall, I think the act is welcome. I would have liked to have seen some of the additional amendments, which are still missing and were in the legislative review, being tabled at this particular time. They have not been, which means that we still have to go with this whole act in a piecemeal sort of way. We get an amendment here, we get an amendment there — let's do seven now — one last year.

It would be nice to get it all over and done with. All the hard work had been done; seven years ago, this could have been done; things could have been moving forward and they haven't been. So I would encourage the minister to perhaps even table some additional amendments while we debate this coming up in the near future. Thank you.

Mr. Hardy: It is interesting to see these proposed regulation amendments brought forward. I do have to agree with the Member for Porter Creek South that it would have been nice over the last few years to see all the amendments that were accepted by the government brought forward, and we could have dealt with this as a package. I'm not saying that every amendment that was part of the *Liquor Act* review is automatically a good amendment, because I do have some very serious concerns.

Maybe the minister could correct the record, but I don't think licensing distilleries was part of the recommendations seven years ago. He seems to have indicated that it was, but I don't think it was. Could he just clarify that, and we can make sure that it is on record. I haven't seen it — maybe it is written in a different way.

In the first one, the RCMP would be able to hold an intoxicated person in custody for 24 hours — I have heard the arguments why, and there seems to be some justification around that.

Fines and penalties for liquor-related offences will increase — I think we've been calling for that for quite awhile. I think people have to recognize the seriousness of what alcohol actually does to a person and to a society. Does this mean that we will be finally able to have more inspectors on the job? We are going to need them, just from looking at some of the other

amendments. Will more inspections be scheduled, and will there be more enforcement?

Increasing the penalties and fines will only work if you apply them. There hasn't been much action on that front nor have there been enough inspections and inspectors on the job to ensure compliance to the act we are bringing in. So that is a concern.

Licensing requirements will be streamlined to allow greater flexibility in the conditions of the use and sale of alcohol for the service industry. For example, a primary-food premise may become a liquor-primary premise later in the day. I think we need some more explanation around that. I am quite worried about that. Are we saying that if you serve breakfast in the morning, you can serve nothing but liquor later on and basically become a bar or a pub, and you don't have to serve food? As long as you can meet one small requirement, you can switch it over to a bar. Maybe I'm wrong in that area, and I'd like to have an explanation of that.

Minor — I have a big problem with this one. It might be my own personal philosophical issue, but I do not want to see minors exposed to alcohol at such a young age. It's just something I believe. They'll be allowed to serve liquor in restaurants, okay. If people are sitting down eating a full meal and having a glass of wine, okay. I can understand that; I've travelled around the world and that has not been that uncommon. But allowing them to work in bars? It doesn't really stipulate what limited work purposes are. Maybe that can be expanded upon. I'd like to debate that. Performing in bars: I understand you have young performers, but young performers are subject to a completely different audience in a bar. Most of them are not there to hear you. They're there for socializing and drinking and activities the bar has, but they're not coming out to listen to young performers.

Young performers have a lot of other avenues. Maybe we need to create more, but exposing them to that kind of element does raise serious concerns for me. It's like introducing them at such a young age to the world of the bar and drinking and all those elements that are part of it. I fundamentally and on principle haven't been convinced it's a good thing.

Also, we still don't have child labour laws in the territory. We don't have laws to protect the children, yet we're going to put them in an environment that is a lot more unsafe than a lot of other areas, and expose them to elements in our society that aren't generally good. Lots of things happen in bars, and we all know it. It's not just drinking, either.

I am really worried about that. The RV park owners and the homemade beer and wine: nothing has really jumped out at me in my look at this.

The meal requirement enabling consumption of alcohol in a restaurant, and the hotel room requirement for bars, will be eliminated. So what you are saying is that you can take a restaurant and turn it into a bar. You don't even have to serve the food, in the end.

How does this one work with the other one — licensing — to allow more flexibility for the service industry, which says a primary-food premise may become a liquor-primary premise later in the day? In other words, they may sell just liquor as

long as they serve a meal, and you get to this one and it says that you actually don't have to serve a meal to drink alcohol. So what is actually being said here? It's confusing to me. I am looking for some guidance and some clarification.

There are — as the Member for Porter Creek South had mentioned — a lot of recommendations that have not been brought forward. They are still outstanding and maybe the minister can explain why some of them were not brought forward at this present time. If not, should we expect to see them in the fall possibly, or maybe later in this sitting? Is there a reason why they are not being brought forward at this time and why just these seven were picked?

And finally, I guess, social responsibility: actually, it's one of the recommendations. I am just looking through the paper here. I see it jumps out. I will read it:

"The Yukon Liquor Act should direct profits of the Yukon Liquor Corporation either wholly, or in significant part, toward Yukon Government approved "socially responsible" alcohol education and/or treatment programs."

That one has not been brought forward.

We all know the impact alcohol has on our society. We deal with it daily and a lot of the budget is already eaten up in dealing with the health and social impacts that alcohol has on communities and our society. We are increasing access to alcohol with the changes that are made. I know that it is not the Yukon Party's *Liquor Act* consultations — this is based upon the 2001 Liberal initiative in this area — but it is an adoption of it. I think that it needs a very good airing. I don't like this piecemeal. As the Member for Porter Creek South said, I would have rather debated this wholly and maybe we could have made some amendments or changes ourselves within the Legislative Assembly to try to address some of the very serious concerns in regard to the tremendous negative impact that alcohol has.

I'm not going to get into how it is nice to have a glass of wine once in awhile or how it is nice to have a beer — we all know that. We also know that often it doesn't stop at that and there is violence attached to it; there is social unrest; there are family disruptions; and there are illnesses. This is not a good drug and yet we treat it like it is.

There are huge industries built around it. We don't have treatment centres to deal with it and we don't have good education around it. We don't have lots of programming at various stages of a person's life, as they become addicted to alcohol or have problems with it. We have failed in that area. We did have a substance abuse summit that I was a part of in initiating, and it didn't address enough, and we haven't addressed enough of the recommendations that came out of that summit before making changes like this.

I look forward to some very interesting debate around the changes that are being proposed. I don't think we're all in agreement that these are good changes. Unfortunately, piecemealing it makes it very hard to take a solid position around the recommendations.

I think one of the reasons it's being piecemealed is because of the one I read about regarding socially responsible alcohol education and treatment programs, and a significant portion of

the profits from the sales of alcohol going to that. Most governments don't like that; they don't like money being earmarked specifically for a program. They like the general revenue kind of approach, then they can use it where they want to. Unfortunately, we're making money off people whom we often have to treat in the end or try to help. Not ensuring that that money goes back to assist is counterproductive and doesn't make sense to me in this day and age.

I look forward to the debate on this at a later time.

Mr. Edzerza: I just wanted to put a few things on record also, because I do have some very serious concerns about making access to alcohol a lot easier for the public at large.

I want to start by just speaking a little bit right from the heart about how difficult a person's life can be when you have an alcohol addiction.

These amendments may prove to be not too bad for someone who doesn't have a serious addiction to alcohol, but for the ones who do have a serious addiction, this is like a gift from heaven. It's a lot easier to get; it's more available; you don't have to go to bootleggers; you can go here, there and everywhere and get it from now on. You can go sit in the café, order a sandwich and drink all day. It's making it too convenient.

In my own personal experience I have run into very difficult situations, and this was many years ago — 30, 40 years ago. Even at that time, it created a lot of family disputes or disruptions in my family — divorce and a lot of bitterness. There were a lot of times when I couldn't control the power of alcohol and drank up the rent money, for example. I had a very difficult time trying to find ways to make up for the money that I went and drank in the bar.

On a number of occasions, my children had to go short on some of their needs because I had drank up all the money that I may have put aside, as an example, for their winter clothing. They would have to wait until I was able to save enough money to replace it.

All of these examples I give you are very relevant to making changes to an act that would really assist all of the things that I mentioned. It is a very difficult addiction to deal with. It is unbelievable the power that it does have, and only those who have really suffered from this disease will know exactly what I am talking about. People who haven't should go and talk to some of these individuals who are suffering from drug and alcohol addictions, and I believe that would be a really good exercise for any minister to do. Sit down and talk to the people it really affects, and get some input from those people, not only the business people and the people who are going to make money off this — and it is going to be nice for their business to do all of these amendments.

I am going to be monitoring this pretty closely to see if there is an increase in social problems in future, from the date that this bill becomes law. I want to see what it really does to the public at large. Was it good for them? We should be able to find that out in a very short time. I would say before this government finishes its mandate, you will have seen some results from the liberalization of liquor laws.

I also have grave concerns about young people being able to go into these establishments to work. There are a lot of other places for young people to go, other than where they are subjected to the bar scene. They don't need it. They really don't need it. They should be discouraged from even going around the bar, period. I don't buy the fact that, if they're entertainers, we want them in the bar. I don't buy that. I think it's totally wrong.

I believe there needs to be more preventive methods to put in place to discourage young people from getting accustomed to the alcohol scene. We all know that it's evident — anyone can look at historical issues within the bar scenes and there are always drugs involved. It seems to be a place for the drug dealers to hang out, and it's almost like that is their headquarters.

What we are saying here now is that we're prepared to introduce young people to the drug scene along with the alcohol. I think it's a very negative move. I certainly don't support that part of this bill. I think the minister should really think seriously about taking that section out of this bill, because you don't need to be able to legislate young people to go into the bar. We're trying to help them deal with these issues as they get older, and it's not a good thing.

I also want to put on the record here that I find it a little bit disappointing that this government is so willing to liberalize the liquor laws and make alcohol more available but are reluctant to get busy and construct a land-based treatment centre for alcohol and drug addictions here in Yukon. I remember quite specifically the Premier standing on the floor of this Legislative Assembly saying that he would work with First Nations in partnership to establish land-based treatment centres.

Offhand, Mr. Speaker, I probably know of at least three and maybe as many as five who have all the infrastructure in place to be able to start a land-based treatment centre within a very short time. I would say that some of them would be right up and running within a month and maybe even less. All they need is a dedicated partnership, and this government has boasted on the floor of this Legislature for years about how they have such a marvellous working relationship with First Nations. Here is an opportunity for them to really shine and be sincere about dealing with the alcohol and drug addiction scene.

I know that they will say that we have the Sarah Steele Building — whoop-de-do. I think that a lot of people don't use it; therefore, they feel there is no need for it. Most of the people who go to the Sarah Steele Building are probably ordered by the court to go there. I know a lot of people, right to this day, who would take those first steps to start addressing alcohol addiction if they were able to go to a land-based treatment centre.

It has really been difficult to get this government and other governments before this to understand that there is a cultural difference. There is, but they won't admit it. They keep on saying things like, "Well, it is our responsibility. We are responsible for this and that, and if First Nations want to have authority then they had better start paying their own bills; they had better start taking responsibility financially."

It doesn't take a rocket scientist to look through the *Umbrella Final Agreement* and to realize there are no monies attached to anything. No money is attached to anything. Talk about all of these good things that could happen, like the land-based treatment centre — I certainly hope this government starts getting very serious about addressing those issues.

There is one unfortunate thing, Mr. Speaker, and that is when you deal with social problems or social programming, they are not money-generated programs. If they were, this government would be right out front doing all they could to ensure that there is infrastructure in place for alcohol and drug treatment. If they were going to get \$1,000 a day from everyone they brought in there, they would have people from all across the territory coming here to go to their big modern drug rehabilitation centre.

The fact is social programs are not revenue-generating programs. In the same breath, I think the government is making a big mistake by not looking at those areas more carefully.

We talk about a shortage of labour and a shortage of tradespeople in the territory, and I think that could change quite a bit if there was a rehabilitation centre here for alcohol and drug addiction.

Most First Nations are duped into believing that if you let us open a mine on your property, you are going to get lots of work. That is a myth, because right away the mining company that comes into the community puts into place policies and procedures so that if you have one indication whatsoever of any drug in your system, you don't get hired.

We talk about alcohol. Alcohol is a drug. So is marijuana. It just so happens that I know a lot of people who would smoke a marijuana joint, but they don't drink. The person who smokes a marijuana joint won't get a job; the one who drinks a gallon of whiskey will. I don't think it's fair. I don't think the work options are on a level playing field. They are all over the place. There is differential treatment of the two drugs, and I certainly hope that this government will really get serious about focusing on rehabilitation. In an indirect sense, the government is responsible for all these social problems that go on, because they are the only one with the authority to sell alcohol.

We talk about seeing an increase in fines; that could generate an awful lot of extra dollars for the government. I would be interested in knowing if that is just going to go into a slush fund where the government would get to spend it on economic development, or could they make some commitment that monies collected from such things as increased taxes and all the increased dollars collected from fines will be put into prevention, that it will be put into rehabilitation of people who are suffering from alcohol addiction.

It would be nice if that were the case, but I don't have much faith that it will be. I think it will become probably a pretty good money-generating avenue for the government. So, they will have a few extra dollars in the coffers, again on the backs of those who are suffering from social problems. In that sense, it is not a good thing.

I could probably go on and on with reasons why these amendments are going to increase the social problems, but I am not going to. I am going to sit down and let the minister get up,

knowing that, if the minister is true to form, he will give a good bashing for my comments, which I feel are constructive criticism. But I know I will get thrashed for that, and that is all right — at least my opinion is on the floor. Thank you.

Speaker: If the minister speaks, he will close the debate. Does any other member wish to be heard?

Hon. Mr. Kenyon: For the Member for McIntyre-Takhini, I don't remember ever bashing him on anything inappropriate. I would like, actually, to thank him on this one for answering the Member for Porter Creek South's question.

One of the delays in this is the safer communities and neighbourhoods legislation and the substance abuse action plan — all of these things and related topics had to be under control. That had to be done first.

So the Liberal position that it should have been done earlier is interesting and I do recognize that, in their short time in government — the shortest majority government in the history of the Commonwealth of Nations — that they were not able to do it. But I do give them credit for doing the consultation on this and having accomplished something in that very short time.

To move around on some of the comments on this, one of the comments came up in terms of inspectors. I would like to point out, for the record, that I expected that this would come up. Currently, I believe we have five inspectors and actually, with the RCMP members also being appointed as inspectors under this act, that leaves us with 126 inspectors, if you wanted to be really technical.

But when we were down to three inspectors, I did a little survey with British Columbia and found that left us with 11 times more inspectors than the Province of British Columbia. Inspectors are critical to this and we recognize that. That's why we have increased in this area and that is why we will be watching this very carefully.

In terms of a number of the things — and again, I'll jump around a little bit — the ability for beer and wine only — not hard liquor — to go to RV parks is for overnight guests only. I don't think that anyone would risk their licence to sell a bottle of anything to someone who is not a registered overnight guest. We are aware of that problem and that will be very carefully monitored.

The difference between food-primary and liquor-primary simplifies the number of licences. It simplifies the approach to this. What makes it very difficult in many cases is the fact that if we wanted to discuss this — and have mushroom caps and a glass of wine to discuss it — under the current act, that is illegal. You can't do that. We would have to go to one of the bars and have two or three beers to discuss it.

So I'm a little nervous when some members claim this makes alcohol more readily available. I suspect that it actually will cut down in some respects on that.

In the development of this, one group that certainly was heard loudly at the end of my phone was the number of women who would love to go out and have a drink after work, but they won't go to the bars. They're loud and they're noisy. The

members opposite have made the point that they have other social problems there. They don't want to do that. This will give them that ability. It will give people the ability to go to a neighbourhood pub, watch a ball game or a hockey game and have wings and a beer. Because in the liquor-primary, the comment one of the members had made was that food would not be available — that is not true. Food always has to be available in both. But it gives the opportunity for the business owners to change over at night. Even right now, under the current act, if you or someone wanted to bring their six-year-old to a restaurant, it's perfectly legal. If you wanted to bring your six-year-old to a restaurant — as long as you are the legal guardian or one of the parents — you could order that six-year-old a beer — perfectly legal.

But there is a point when most businesses want to not have children there. We've had challenges with that, for instance with some of the existing hotels. If the restaurant is part of what they consider as the bar then we would have to issue special licences to get around that until 11:00 in the morning so travellers can go down with their kids and have breakfast, because it would technically be illegal.

There were two instances quite recently of men who brought their children — one brought a 12-year-old girl and one brought a six-year-old girl — and they wanted to stay for dinner that night, but the licence had changed to what we would now call "liquor primary" and the restaurant, according to our current legislation, had to deny them dinner and throw them out — both were slightly horrified at this. We would leave that as a business decision for the business owner to do.

The Member for Whitehorse Centre brought up a couple interesting points. Again, I think he's not quite reading the act critically. For minors to work in bars — this is not to work in the bar, per se; I think that is an over simplification. We've had cases, for instance, where an 18-year-old working in the kitchen can't get to the freezer without going across a corner of the bar. In one case, he was fired because he could not do his job and he couldn't cross that little 10-foot strip to get to the freezer to continue cooking. That is a little bit silly and very limiting in smaller communities.

It is also a bit strange that when someone orders, say, wings or chips or something, that someone from the kitchen can't simply come out, give them the chips and walk away. That is what we're talking about with working in what we would now call "liquor primary".

At the same time, an 18-year-old server in a restaurant now has to drag someone out of the kitchen — potentially, in a small place — to bring a glass of wine or a bottle of beer out to the table. Under the proposed amendments, they cannot pour or mix a drink, and they cannot open that bottle of beer or wine. But once poured or opened, they could then simply bring it to the table. Again, this is an irritation in a large community and strongly limiting to a small place in a community.

One of the members opposite made some comments about performers. I think it was the Member for Whitehorse Centre. It is nice to say that they should be working in other venues, but I'd sure like to know what other venues are open.

We are in an interesting jurisdiction where there are few venues available, and we have been very heavily told by the music industry that this is of great concern to young performers. You could have a band that is booked to play, or more than willing to play, but the drummer is 18, in which case they can't be engaged to do that. The point was made by some that they wouldn't want their kid to do that. Well then, don't give the written consent, which would be necessary. Unless there is written consent available to the inspector when the inspector is there, that would not be allowed. It would also be mandatory under regulations that we are putting through that the underage performers would have to be escorted from the door to the stage or performing area, and then escorted away again, and not allowed anywhere near the place where liquor is being consumed.

What we are trying to do is remove the mystery involved with drinking, to demystify it. The Member for Whitehorse Centre made the comment about travelling around the world. Some parts of the world are a little more lax than others, I agree. But in many jurisdictions, suddenly alcohol isn't a real big issue, because they have at least seen it. They have had exposure to it. They have been to the pubs. Again, it becomes a business decision that if things were to get out of hand, as the Member for Whitehorse Centre thought, we have the inspectors and we have the ability to make sure that is looked after. It becomes a business decision where nobody is going to jeopardize their licence to put up with any shenanigans, for want of a better term.

A number of different things have come up in terms of us basically evolving and coming up with what I think is a very good amendment and a good way of doing it. A couple of members have asked about the recommendations that we're not following. First of all, if we look at the recommendations that have not been implemented on this — one was what the Member for McIntyre-Takhini had referred to of directing profits for socially responsible alcohol consumption, education and/or treatment programs. The profits made by the Yukon Liquor Corporation are substantially less than what currently goes in there. This recommendation would actually end up reducing the amount of money available and that is not something that I think is at all reasonable.

In terms of the fines — the Member for McIntyre-Takhini invited me so I'll say it — he feels that the fines are a money-making scheme. Well, first of all, if this works well, the amount of money generated will be quite a bit less because people are going to look at the increased fines — some of them quite huge — and say, "We're not going to do this. It is just too expensive. It is too ridiculous." In a perfect world, the fines would go to zero and we'd make nothing off of them, but I know that is probably not too reasonable.

Recommendation 9 was that the government should produce multi-purpose identification cards. This is underway in conjunction with the Department of Community Services. They are looking at a multi-purpose identification card for someone who has stopped driving or someone of the older persuasion who simply doesn't drive. What do you do? Get a driver's li-

cence in a community that has no roads? That would make very little sense and has been a huge problem in Nunavut.

Recommendation 14 is that we should work with other governments to resolve problems of loitering, panhandling and related activities. All of that relates to municipal issues, zoning issues and bylaw issues within the community. We are always willing to work with that, but there is nothing that we could put into this act that would do anything for that.

The Be A Responsible Server program or bar training should be mandatory for at least one supervisor. That would make sense in some of the businesses; it would make little sense in some of the others. Again, the liquor inspectors have the right to demand that at any point in time, so if they see a problem developing within one particular business, they have the right to say, "Okay, you're going to take the course." Since this was done, we have put that course on-line and made it free of charge. The business owner might actually have to pay someone to take it or pay them to take it live, but at least it's free from our perspective. Again, the liquor inspectors have that right at this point in time.

Recommendation 23 says that the act should provide the right for servers to refuse service to a pregnant woman. That is hugely problematic in terms of when you determine pregnancy and, if you follow that to its logical conclusion, you literally would say no woman of child-bearing age should ever consume alcohol. That's probably not a realistic approach but, again, a huge problem in there to make that determination, and a huge legal problem.

Recommendation 24 says that bar tabs should have to be paid on the same day. I remember when I first came to the Yukon, I was living out at Judas Creek. People had run bar tabs for months. On the surface, that seems pretty reasonable, but to do it would also mean that, when you have a tourist who comes in and stays at the hotel and calls down for room service, they would have to settle for the can of beer they were going to buy from the mini-bar. They would have to go downstairs or call downstairs and have someone come up and collect for it. Again, there are big problems with that.

Recommendation 38 talks about how non-payment of *Liquor Act* fines should be tied to a driver's licence renewal and income tax or other means. That involves so many different acts and so many different things in there that the legalities would take us years to develop. However, there are other ways to solve that problem and to look after that.

With those comments and those answers, I hope some people feel a little bit better in terms of answering those questions. With that, Mr. Speaker, that's all I have.

Speaker: Are you prepared for the question?

Some Hon. Members: Division.

Division

Speaker: Division has been called.

Bells

Speaker: Mr. Clerk, please poll the House.

Hon. Mr. Fentie: Agree.

Hon. Mr. Cathers: Agree.

Hon. Ms. Taylor: Agree.

Hon. Mr. Kenyon: Agree.

Hon. Mr. Rouble: Agree.

Hon. Ms. Horne: Agree.

Mr. Nordick: Agree.

Mr. Elias: Agree.

Mr. Fairclough: Agree.

Mr. Inverarity: Agree.

Mr. Hardy: Agree.

Mr. Edzerza: Agree.

Clerk: Mr. Speaker, the results are 12 yeas, nil nays.

Speaker: The yeas have it. I declare the motion carried.

Motion for second reading of Bill No. 46 agreed to

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

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: I will now call Committee of the Whole to order. The matter before the Committee is Bill No. 51, *International Child Abduction (Hague Convention) Act*. Is it the wish of the members to take a brief recess?

All Hon. Members: Agreed.

Chair: We will take a 15-minute break.

Recess

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

Bill No. 51 — *International Child Abduction (Hague Convention) Act*

Chair: The matter before the Committee is Bill No. 51, *International Child Abduction (Hague Convention) Act*.

Hon. Mr. Cathers: Thank you, Mr. Chair. It is a pleasure to rise here. I won't be too lengthy in my introductory remarks to Committee of the Whole as I covered much of this at second reading and would simply move on to allow members the opportunity to bring forward any questions, if indeed they have any.

Bill No. 51, *International Child Abduction (Hague Convention) Act*, is in reference of course to the Hague Convention on the Civil Aspects of International Child Abduction, which is a multi-lateral treaty that seeks to protect children from the harmful effects of abduction and retention across international boundaries by providing a procedure to bring about their prompt return.

The convention is part of the existing *Children's Act* but was removed from it to be re-enacted as a separate piece of

legislation for the purposes, twofold: one being of clarity, in that it deals with a different aspect of law than most of the *Children's Act*, and secondly to keep it separate from the public consultation process and not create undue confusion in the minds of any of the public and stakeholders who are participating in that process. Of course, the Hague Convention being an international convention, the choice is largely to adopt or not to adopt. It is not something where we can deal with individual lines and clauses in a separate manner, particularly since it is a lengthy international convention.

I should also mention for members that it is commonly enacted by Canadian jurisdictions as stand-alone legislation for those purposes of clarity.

One of the most difficult and frustrating elements for a parent of a child abducted abroad is that Canadian laws and court orders are not automatically recognized abroad and, therefore, not directly enforceable outside of Canadian borders.

The Hague Convention was drafted to recognize the need for cooperation between countries to address wrongful removals or retentions between countries of children.

The countries that are party to the Hague Convention have agreed that a child who is habitually resident in one party country and who has been removed from or retained in another party country in violation of the custodial or access rights of the parent who was left behind, shall be promptly returned to the country of habitual residence.

The convention applies throughout Canada and in approximately 80 other countries. The Hague Convention was incorporated into Yukon law as part of the *Children's Act* and came into force February 1, 1985.

Again, to clarify the difference in purpose from that and the rest of the *Children's Act* or the new *Child and Family Services Act*, there is an area that pertains to civil law and provides legal mechanisms to parents as a civil action and the parents — not governments — are party to that legal action.

Canadian cases involving signatory countries to the Hague Convention are managed through special offices or central authorities in each of the provinces and territories. In Yukon, the central authority is the Yukon government's Department of Justice. Action can be taken by the central authority to seek the whereabouts of a child, to ensure that the child is not harmed, to take steps to arrange the volunteer return of the child, to take legal steps in its own courts to obtain an order for the return of the child to his or her country of original residence, or to effective exercise of the rights of access.

The central authorities offer considerable assistance in the case of children abducted to signatory countries. Over 400 Canadian children have been returned pursuant to the arrangements provided under the Hague convention. The Yukon Department of Justice has also assisted in a handful of cases in the last decade.

The Hague Convention applies to children habitually residing in a contracting country prior to the breach of custody or access rights. It ceases to apply when that child reaches the age of 16. The Hague Convention attempts to ensure orders are respected. In exceptional cases the courts may not order the return of a child if it can be shown that the parent seeking the

child's return has consented to the removal or if it can be demonstrated that the child would be at risk of physical or psychological harm if returned.

That, Mr. Chair, covers the high points of the bill. I would be happy to answer any detailed questions that the members have during general debate or in line-by-line on Bill No. 51, *International Child Abduction (Hague Convention) Act*.

Mr. Mitchell: I thank the minister for his explanation. I won't be very long in addressing this bill, not because it's not important — because it's very important — but because the purposes of separating this bill from Bill No. 50, *Child and Family Services Act*, as opposed to, in the past, when it was part of the *Children's Act*, have been clearly laid out by the minister and we agree with the explanation that has been provided.

I cannot imagine anything that could be more painful for a parent than to be dealing with the abduction of a child and I'm sure it's a tremendously difficult situation to find oneself in. Having this as stand-alone legislation appears to be the way this is being done by most jurisdictions and it only makes sense for Yukon to do the same.

Looking at the convention itself, when it says, "The States signatory to the present Convention, firmly convinced that the interests of children are of paramount importance in matters relating to their custody, desiring to protect children internationally from the harmful effects of their wrongful removal or retention, and to establish procedures to ensure their prompt return to the State of their habitual residence..." that clearly lays out what this is all about — that we should always have the welfare of the child first in mind.

I am curious about a couple of aspects on which I would just ask if the minister would answer a question or two. There have been some very high-profile cases in Canada that have made the news in recent years, and they have in some cases involved children who are considered Canadian children by the Canadian parent and considered to be a citizen of a different country by the parent who has left with that child. In the eyes of the Canadian parent, the child has been abducted, and in the eyes of the parent from another country, the child is living with the rightful parent — and both countries are, no doubt, signatories to the Hague Convention.

How is this resolved? It seems it becomes a very difficult series of court cases and petitions and, invariably, the Canadian parents try to get the Government of Canada involved and it becomes a diplomatic issue. The minister mentioned there have been a dozen or so cases over the years in Yukon.

Can the minister provide any clarity on how that procedure works? As MLAs, I'm sure if such a case were to arise, we would be hearing from the Canadian parent who is resident in Yukon.

Again, we support the objective of this bill and we will vote for it. Obviously, as the minister has said, it's not up to us to change or modify any of the clauses of the international convention; rather, I just seek some clarity on that question.

Hon. Mr. Cathers: As the member will see in Chapter III, article 8 of the act, there is a process around this that requires, "Any person, institution or other body claiming that a

child has been removed or retained in breach of custody rights may apply either to the Central Authority of the child's habitual residence or to the Central Authority of any other Contracting State for assistance in securing the return of the child."

It goes on to list information that must be provided. Article 9 refers to the requirement of a central authority who "has reason to believe that the child is in another Contracting State, it shall directly and without delay transmit the application to the Central Authority of the Contracting State and inform the requesting Central Authority, or the applicant, as the case may be."

In article 10, "The Central Authority of the State where the child is shall take or cause to be taken all appropriate measures in order to obtain the voluntary return of the child."

Now, where it becomes complex, of course, is if it is disputed. As the member notes, when both parents claim that the child is habitually resident with them, it can be a complex matter since the courts in both countries do have jurisdiction over the matter; therefore, this can leave to lengthy wrangling.

I think that all signatories, including Canada — and Yukon as part of Canada — recognize that the Hague Convention is not a perfect mechanism. It does not always result in facilitating the early and simple return of a child. It is certainly better than nothing, which was the case without the Hague Convention. The central authority in the country where a child is located has the primary responsibility for processing the application, and there is a requirement for reviewing that and for forwarding it to the foreign central authority if the central authority determines that it complies with the requirements of the convention.

They are required to forward it to the foreign central authority and work with the authority until the case is resolved. In the case of it being voluntary and agreed, it is much simpler; however, if the abducting parent does not voluntarily agree to the return of your child, you may be required to retain an attorney abroad to — sorry, Mr. Chair, the part I was reading from was about issues around clarity and it seems to have been truncated in the printing.

However, I think that gives enough information to the member, hopefully, to make it clear that yes, it does create a situation that can be disputed. Potentially there could be court cases in both countries. This may lead to long and messy situations. It is in the area of voluntary returns where it is simpler or where, once a court process is underway in one jurisdiction it could, on presentation of similar evidence, come to a similar determination. All countries signing on to this recognize the importance of this process, and I think that, generally stated, all courts and judicial systems within the Hague Convention countries recognize the tremendous importance to parents of their children and that, for a child, a length of time that may appear to be reasonable to adults is a far less reasonable period of time. A period of months may be an eternity, and years certainly have a dramatic impact on that child's life.

I hope I have provided the member some clarity. The simple answer to it is there is no simple answer. It is largely in the hands of the courts in both jurisdictions, subject to honouring the provisions but, in both cases, the requirement is for a find-

ing of evidence in accordance with that nation's judicial system.

Mr. Mitchell: I thank the minister for that answer.

When I look at the cases that have been high profile in Canada in recent years, they have seemed to fall into two categories: one — and I am not going to single out countries, because they are all friends and allies, and I don't want to do it that way — but in the one case, or in several cases actually that I can think of, the custodial parent in Canada has voluntarily allowed for a family visit to the home country of the other parent, in the belief that it was to the benefit of the child to experience both cultures and that the child would be returning, only to find that, once the child was resident in the other country, that parent made petition to the courts of that country for custody, and it becomes very difficult.

There have also been cases where it has been more of an abduction, where children have actually been removed by a parent who is resident in Canada and taken to the country of birth of one of those parents. There have been issues where religious law has been quoted and other reasons. I guess all we can say is that parents in such situations need to be very vigilant.

I am curious about one thing. Of course, we know that since February 1, 1985, Yukon has been a signatory to the Hague Convention. But are there any legal opinions on what would occur if a self-governing Yukon First Nation were to apply to be a signatory to the Hague Convention? Do Yukon First Nations have the ability to make that sort of application? Or are they not seen as nations that could be party to the Hague Convention separately from Yukon and Canada, in that sense?

I could see that for a Yukon First Nation, there is a different kind of custodial dispute that could occur. I am just curious whether they have that ability or if laws of general application say, in this case, they do not.

Hon. Mr. Cathers: In answer to the member's question, particularly about self-governing First Nations and signatory rights, I would have to check on the details of that prior to making too strong of a statement on this topic. My understanding, however, is that because the Hague Convention deals primarily with borders of countries, that is the issue at hand.

Self-governing First Nations are a third order of government, of course, and they don't have the national borders, so my understanding is that would not pose an issue. I will look into that matter and let the member know if we find any interesting or surprising issues with that. I'm sure this is an area that our legal experts are familiar with. It's not something that I or the officials assisting me have at our fingertips right now.

The member was referring to certain countries and issues related to some of the challenges in getting children back. Without knowing which cases the member was referring to, I couldn't comment on the legal issues related to that. However, one thing is that parents in Canada — considering how many immigrants we have and how many situations where there are families with one parent perhaps being an immigrant and the other is not — these families and people come from all areas of the world. Remember that out of the nations in the world, only around 80 are signatories to the Hague Convention. There are

many others that Canadian citizens have as countries of origin or birth that are not signatories to that convention. That is an area the member is correct about — parents should be vigilant in such matters. They may see the matter as clear and straightforward and may assume that the Hague Convention applies, may assume there is some matter of international law that applies, without checking into it, as many people do. Of course, it's common for people to act based on their understanding of the law, which may or may not reflect what the law is, particularly when dealing with international travel and issues affecting other countries and jurisdictions.

It is wise for parents to be aware if their partner or former partner is taking a child to another country — or perhaps even not the parent or partner, it could be someone else; a family member could be allowed to take them to another country — they assume because they are clearly the parent and because Canadian law is clear that there will be no issues. In the first place, they may not be expecting a problem, and secondly they may assume that if there ever were one they would be well-protected and that the laws would assist them. They might then discover, rather unpleasantly, that without that country being a signatory to the Hague Convention, there exists no agreement between Canada and that nation as to what applies regarding child custody disputes.

That of course is a very sad and tragic situation that obviously is beyond the ability of any of us in the Legislative Assembly or anyone in Canada to prevent from occurring. We can only caution those who may have occasion to enter into such a situation to keep their eyes open and ensure that they protect their rights and the rights of their child.

Mr. Mitchell: If it will assist the minister in his research, the two high-profile cases I was thinking of involved Japan and France where I believe it was a voluntary visit and the return went bad. There was another high-profile case that involved a Middle Eastern country and I don't recall which country, so I certainly won't make any attempt to identify it here. I am not certain if that country was a signatory either.

Those are my questions for now. I am sure there are other members who want to address this.

Mr. Hardy: This is of course an extremely serious issue, and I appreciate the work that has been done in this regard.

I will say right up front that I have very little to discuss in this area, other than I am glad to see it going forward. I have a few concerns, but this is not addressing them, so there is probably a bigger area that needs to be addressed.

Child abduction is extremely serious and has unfortunately resulted in deaths and loss of family members. We've seen it on a national level, and it even happens within towns and cities. The Hague Convention deals with international child abduction, and regrettably I would say that it has probably been on an increase in some ways, partly through the use of Internet applications and people moving more. The access and the ease with which people can move from country to country have had a huge impact on that as well. Maybe it is just a sign of our times and a sign of our technology that has allowed something like this to grow.

Most of it involves families, of course, and unfortunately the Hague Convention doesn't necessarily deal with countries that aren't signatory to it, so when we are doing this we have to be concerned about the fact that the majority of countries are not signatory to the law. That puts this in perspective in that we have a long way to go to ensure that this serious issue can be dealt with.

One of the questions I had has been answered already, or the member was going to supply the information, and I would ask that he supply it to the third party as well. Thank you very much; he is nodding his head. That was the concern. As I have indicated, the NDP is in support of this, and we hope that it actually grows and includes many more countries, because 80 is not enough.

There are other efforts and other industries that have grown up around this to deal with the abduction issues. Unfortunately, if you don't have money and you don't have the ability to access some of these groups, you need something like this law, so this is good. I hope all members in the Legislative Assembly support it.

I have no questions other than to say that I am glad to see this being done.

Hon. Mr. Cathers: I thank the Leader of the Third Party for his comments.

Yes, of course we will provide that requested information to him, as well as to the Leader of the Liberal Party. I concur with the member's concerns with regard to the number of countries as signatories. We all recognize here that it's beyond the power of any of us to have any significant influence on that, but it is unfortunate that — with all the countries that have issues involving children and child abduction and unauthorized retentions occur — it is only 80 countries, and there aren't more that sign on.

Of course, that is more a footnote that we can all look upon with some regret as far as what those countries are choosing or not choosing to do.

I think that was all the member had asked for questions so, with that, I invite more questions.

Mr. Mitchell: I have one additional question for the minister: is he aware of whether or not the People's Republic of China is a signatory to the Hague Convention? I ask that with the ever-increasing number of Yukoners in mind who have adopted children born in the People's Republic of China.

Hon. Mr. Cathers: Yes, China is one of the countries affected. In fact, for the information of members, I can provide them with details on the countries to which the convention applied as of August 2007. It applied between Canada and the following countries: Argentina, Australia, Austria, the Bahamas, Belarus, Belgium, Belize, Bosnia and Herzegovina, Brazil, Burkina Faso, Chile, portions of China — Hong Kong and Macao special administrative regions only.

Colombia, Costa Rica, Croatia, Cyprus, the Czech Republic, Denmark except for the Faroe Islands and Greenland, Ecuador, El Salvador, Estonia, Fiji, Finland, France for the whole of their territory of the French Republic, Georgia, Germany, Greece, Honduras, Hungary, Iceland, Ireland, Israel, Italy, Luxembourg, Macedonia known as former Yugoslav Republic

of Macedonia in UN and other international bodies, Malta, Mauritius, Mexico, Moldova, Monaco, Montenegro, the Netherlands, New Zealand, Norway, Panama, Paraguay, Peru, Poland, Portugal, Romania, St. Kitts and Nevis, Serbia, Slovakia, Slovenia, South Africa, Spain, Sri Lanka, Sweden, Switzerland, Trinidad and Tobago, Turkey, Turkmenistan, United Kingdom of Great Britain and Northern Ireland including territories, the United States of America, Uruguay, Uzbekistan, Venezuela and Zimbabwe.

In some instances, the convention may not apply to dependent territories of those countries. Foreign Affairs and International Trade Canada has information on their Web site available to members and others who may be interested in that. That is available — it looks like they can find it from the main page and connect it through there. "International Child Abductions — a Manual for Parents" is the title of it. It also provides some advice noting that, since the convention may not apply to dependent territories of some of those countries, it's therefore important to verify whether the convention will apply to your situation. The number of countries to which the convention applies continues to increase and the Web site for the Hague Convention provides an updated listing.

That can presumably be Googled. It is also available in this document on-line that I am reading from, which was a link to the Hague Convention Web site.

Mr. Mitchell: I thank the minister for reading that into the record. We didn't have that information appended to our copy of the bill, and we didn't get it in the briefing.

To clarify, the only portions of the People's Republic of China that are covered are the former Crown colonies of Macau and Hong Kong. Is that what I heard?

Hon. Mr. Cathers: That is correct. It only applies to Hong Kong and the Macau area — as portions of China, that is.

Chair: Is there any further general debate? Seeing none we will proceed clause by clause through Bill No. 51, entitled, *International Child Abduction (Hague Convention) Act*.

Mr. Mitchell: Having had our questions answered by the minister, I request the unanimous consent of the Committee to deem all clauses, the schedule and the title of Bill No. 51, entitled *International Child Abduction (Hague Convention) Act*, read and agreed to.

Unanimous consent re deeming all clauses and title of Bill No. 51 read and agreed to

Chair: Unanimous consent has been requested to deem all clauses, the schedule and the title of Bill No. 51, entitled *International Child Abduction (Hague Convention) Act*, read and agreed to. Are you agreed?

All Hon. Members: Agreed.

Chair: Unanimous consent has been granted.

Clauses 1 to 6 deemed to have been read and agreed to
On Schedule

Schedule agreed to

On Title

Title agreed to

Hon. Mr. Cathers: Mr. Chair, I move that Bill No. 51, entitled *International Child Abduction (Hague Convention) Act*, be reported without amendment.

Chair: It has been moved by Mr. Cathers that Bill No. 51, entitled *International Child Abduction (Hague Convention) Act*, be reported without amendment.

Motion agreed to

Bill No. 50 — *Child and Family Services Act* — continued

Chair: Before Committee of the Whole continues with Bill No. 50, entitled *Child and Family Services Act*, and Committee of the Whole Motion No. 12, the Chair will rule on admissibility of that motion.

Chair's ruling

Chair: Last Thursday, members moved five motions in Committee of the Whole, each one more creative than the one before it. Three of those motions, including the one currently before the Committee, dealt in some way with the future business of the Committee.

Since last Thursday, the procedural authorities — *House of Commons Procedure and Practice*, *Beauchesne's Parliamentary Rules and Forms of the House of Commons of Canada*, and *May's Parliamentary Practice* — have been consulted regarding the proper matter for motions in Committee of the Whole.

This research has revealed certain facts about Committee of the Whole. First, Committee of the Whole has no independent power of inquiry. Motions may be moved in Committee of the Whole, but only in relation to a matter placed before it by the House. Second, Committee of the Whole does not schedule its own meetings. It meets only upon a motion moved in the House that the House resolve into Committee.

In combination, these two facts reveal a third fact about Committee of the Whole: it has no power to adjourn consideration of any matter to a future sitting. It is up to the House to decide when Committee of the Whole will deal with a matter.

This brings us to Committee of the Whole Motion No. 12, currently before the Committee. Mr. Hardy moved:

THAT Committee of the Whole report progress on Bill No. 50, with a recommendation that the bill be set aside until a special sitting of the Legislative Assembly is convened specifically for the purpose of hearing witnesses and considering amendments to the bill that will address the outstanding concerns of Yukon First Nations and other interested parties.

A motion to report progress is in order. However, the conditions attached to the reporting of progress mean the purpose of the motion is to adjourn consideration of Bill No. 50 to a future sitting. As stated, this is beyond the power of the Committee. The issues raised in the motion could be addressed during general debate on Bill No. 50. These issues could also be put before the House in the form of a substantive motion for which notice would be required. These issues cannot, however, be dealt with as a distinct motion in Committee of the Whole. The motion is, therefore, out of order and cannot be further proceeded with.

The Chair regrets having to end a debate that has already begun; however it is more important that Committee of the Whole deal with matters that are procedurally within its purview and not deal with matters which are not.

Is there any general debate on Bill No. 50, *Child and Family Services Act*?

Hon. Mr. Cathers: Thank you, Mr. Chair. It is a pleasure to once again rise here, and hopefully we will be given the opportunity today to engage in a substantive debate on Bill No. 50, *Child and Family Services Act*.

I will begin the debate by recapping some of my earlier comments as we have already had extensive debates on what consultation occurred, what it meant and when it happened. I would remind the members opposite that this process has been going on for nearly five years now, that the Yukon government launched into a process that was historic in the Yukon — for the first time creating the opportunity with Council of Yukon First Nations to go forward and jointly consult with the public and stakeholders, to jointly develop the policy, and to jointly inform the legal drafting.

Steps related to this have included a significant amount of history. I will relate some of the high points since 2003.

Some Hon. Member: (Inaudible)

Hon. Mr. Cathers: Mr. Chair, from some of the off-microphone comments of the members, I take it that they still have apparently not taken the time to look into this matter. That is unfortunate. If members will read and review the act, as I have continually encouraged them to do, and compare it to the *Children's Act*, they cannot help but see that this is a significant step forward, and that it is a significant improvement over the *Children's Act*, particularly with some of the themes that are threaded throughout the bill.

It provides increased support for families and extended families to care for their children and support for parents to fulfill their parental role including periods when their children may not be living with them.

It provides for inclusive collaborative planning and decision-making. It provides recognition of the importance of culture and community in the lives of children and families. It provides for the involvement of First Nations in planning and decision-making. I would point out to members that, contrary to assertions by some that this is only at discretion under clauses that use the word "may", that is not the case. It is quite clear that there is an obligation to do so and the only clauses where there is discretion is where there must be discretion to provide for either the safety of the children or for the protection of parents involved. In that case, there must be discretion for a director to allow in some things — such as cooperative planning processes — the ability regarding a certain individual appointed by a First Nation or a representative of the extended family where, although they are required to be informed and offered the opportunity to participate, if one of the parents raises an issue, such as a safety issue or concern with that individual, there is some discretion in not allowing that specific individual in the room.

However, the act does allow for another individual then to be appointed by the First Nation, and they do not lose their

right or opportunity to provide a person; but it is appropriate to provide discretion and take the steps to ensure the safety and comfort of both children and the parents involved in the process.

The act also provides for interventions to start with the least intrusive approach, based on an assessment of the situation. The bill is written in clear, straightforward language — or clearer and more straightforward language — using updated terminology and is written in a manner that will enable planning and service delivery of options that meet the unique needs of children and families.

I would point out to members, if they review their past comments, they have called for this to move forward. Particularly, as I referred to before, the Member for McIntyre-Takhini began this term back in November 2006 by moving a motion, encouraging the government to move forward, noting, in part, his motion from November 27, 2006 — which is in *Hansard*. It notes that the *Children's Act* is of tremendous importance to all Yukoners, especially First Nations. A working group was established many months ago to complete a review of this act and he noted, in his opinion, that the review was delayed beyond reason. He urged the Yukon government to assign the highest possible priority to expediting a review of the *Children's Act* so that recommendations from the working group could be embodied in a new act that reflects Yukoners' concerns, without any further delay.

In debate of that motion, which was debated April 25, 2007, the member noted that it is a very important piece of legislation that should be updated, and it should be done immediately. The member then, on February 15 of this year, expressed the clear position that consultation has been going on for five years now and the longer it is delayed, the more negative impact it would have on the citizens who really needed something in place 20 years ago.

Again, for members who have suggested they have some concerns with the legislation, I look forward to line-by-line debate. As I indicated, we can certainly satisfy the members that a significant number of the issues they brought forward and that were brought forward by others who expressed concerns are in fact in the legislation.

The act also provides the requirement for mandatory review in five years, with the commitment in fact that we will review it within the first year. We will review the operations and implementation of that act.

Chronology of events of the *Children's Act* revision history include that in October 2003, an agreement was reached between the Yukon government and Council of Yukon First Nations that the project would be co-chaired by the Yukon government and Council of Yukon First Nations, and the project team would report on a quarterly basis to the minister, the Grand Chief and the Chiefs Committee on Health.

The agreement also required that all key products of the project team would be approved by political leadership.

From December 2003 to March 2004, preliminary consultation with First Nations and key professional stakeholders on the process to be used for the project occurred.

April 1, 2004 was the official launch of the first stage of project consultation.

From April to July 2004, stage 1 consultation occurred, gathering views from the public, First Nations and professionals on concerns with the current law. That resulted in the *What We Heard* document and, as I indicated to members in Question Period, there is a very significant stack of 12 issues that were identified in the *Children's Act* revision that comprised the *What We Heard* document. They reflect that consultation.

Topic 1 is philosophy and principles; topic 2 is prevention and early intervention; topic 3 is child protection; topic 4 is child protection court procedures; topic 5 is child in care; topic 6 is adoption; topic 7 is custody, access and guardianship —

Some Hon. Member: (Inaudible)

Point of order

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

Mr. Hardy: More than anything else, this is really a point of clarification. I believe that the minister had tabled these. He has definitely —

Chair: Order please. Could the member please point out which Standing Order he is referring to? It is the Chair's feeling that there is no point of order, but could the member clarify which Standing Order may be being broken at this point in time?

Mr. Hardy: Needless repetition could be considered one.

Chair's ruling

Chair: Order please. There is no point of order. Mr. Cathers, you have the floor.

Hon. Mr. Cathers: Topic 6 is adoption —

Some Hon. Member: (Inaudible)

Point of order

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

Mr. Inverarity: Under 19(d), I believe that there is a point of order. We've had this situation in the past where members have repeated what they have said —

Chair's ruling

Chair: Order please. On the point of order, the Chair has ruled that there was no point of order and I expect all members to respect the ruling of the Chair. Mr. Cathers has the floor.

Hon. Mr. Cathers: I would encourage members to note that what I'm attempting to do is simply recap some of the elements. I look forward to them reviewing these documents in answer to what I understand to be concerns. For the Leader of the Third Party, these documents are on-line. I certainly can table copies for members if they would like, but in accordance with past practice, I am saving printing what is quite a stack of documents and using trees in that process, unless the members specifically request that we print it. I would be happy to do that, but we were not printing 20 copies just for the sake of that, particularly when some members — such as the Member for Kluane in debate on Thursday —

Some Hon. Member: (Inaudible)

Point of privilege

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

Mr. Hardy: On a point of privilege.

Chair: Mr. Hardy, on a point of privilege.

Mr. Hardy: All I want is — it's my understanding, when you are referring to a document in the Legislative Assembly, you have to make that document available to all members once you have referred to it. The member opposite is offering to do that; we have not received it yet, although he has introduced these documents.

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

Hon. Mr. Cathers: I think the member meant that as a point of order, not a point of privilege. However, the documents are on-line; if the members request it, I will happy to have someone print them off and provide them. They are all on-line, though.

Chair's ruling

Chair: On the point of privilege, there is no point of privilege.

On the previous point of order, there is no point of order.

During a debate between members, there is no obligation to table the documents they are discussing. Thank you — Mr. Cathers.

Hon. Mr. Cathers: Thank you, Mr. Chair, for the member's reference, I think there is a link on the department Web site; they can certainly review it quickly at <http://yukonchildrensact.ca>.

Moving on to some of the areas from the *Children's Act* revision topics: topic 7, custody access and guardianship; topic 8, child's legal status and who is a parent; topic 9, program quality monitoring; topic 10, First Nation governance; topic 11, service delivery; and topic 12, general issues.

Mr. Chair, I am pleased to see that the Leader of the Third Party appears to be expressing an interest in reading that. I gather that he either has not or is not certain that he has read those documents and I would encourage him to do so.

What I find unfortunate in this debate — considering how much time has been invested in this by officials of the Yukon government, particularly the Department of Health and Social Services, and by others who have participated in the process — is when I hear an assertion such as that made by the Member for Kluane on Thursday that not only clarified that he of course had not read these documents, but he seemed rather dismissive of the idea and the suggestion that he should perhaps do so.

I would encourage members to review those documents and the legislation. On the *Children's Act* documents, perhaps members missed it but I believe in a press release not that long ago, we indicated the Web site link and informed the media and members where they could find the details of the *What We Heard* documents.

Again, it's <http://yukonchildrensact.ca>, if the members have not had the opportunity to review that. If other members request we print copies for them so they can review them in the House, we would be happy to do that upon request.

Returning to the chronology of events for the *Children's Act* revision history, as I indicated, from April to July 2004 was stage 1 of the consultation: gathering of views from First Nations, professionals and the public, which resulted in the *What We Heard* document. In September 2004, that document was publicly released publicly. September 2004 to May 2005 was the third stage and the proposed policy content of the new law. In January 2005, the first policy forum was attended by 125 people who discussed government models, quality assurance, accountability, prevention and custody and access. That was by invitation, so it was targeted to First Nations and other stakeholders. 125 people participated and made their views known on the policy they felt should result from the *What We Heard* documents.

That policy forum in January was over three successive days, to discuss governance models, quality assurance, accountability, prevention, and custody access.

At the beginning of March 2005, the second policy forum dealing with matters of child protection, children in care, alternatives to the court process and adoption was attended by 110 people. In March 2005, later on that month, an elders forum was attended by 23 elders to discuss First Nation perspectives on children and family.

Again, I remind members, these are the discussions regarding the policy that should result from what we heard during consultations. So there were far more elders and others involved in that first stage of the process. But again, this is the list of numbers of those who participated at the policy development stage.

In April 2005, a technical meeting was attended by 35 people to discuss proposed policy content of the new law, including guiding principles, support for families, protective interventions and children in care.

I have just been handed a note to encourage me to remind members that the *What We Heard* documents that I was referring to were provided at the briefing for members of the opposition. Perhaps your staff members may have those documents — those 12 policy areas that I referred to — along with a number of other documents that were provided at the technical briefing provided by Health and Social Services staff to the opposition.

This goes on. There were further technical meetings. There were policy forums in 2006 that occurred. There is a long list here and I will truncate it for members opposite. I'm just trying to provide some of the content that this went on during a significant amount of time.

In one case, in June 2006, policy forums on the draft policy paper, which was to be used as the framework for drafting, were attended by 20 First Nation health directors and delegates, and representatives from the family and children's services branch.

There is also another highlight worthy of note, on October of 2006: a meeting with the Council of Yukon First Nations health commission and non-CYFN First Nation health directors occurred to provide an update on the legislative drafting and discuss family and children's services policy on First Nations and child welfare. As members may recall from previous legis-

lative sessions, I've indicated before there are some areas we have already implemented in policy, through the revised family and children's services policy regarding First Nation issues and children of self-governing First Nations, which occurred back in — I don't have the date in front of me but, as I indicated, we did already revise the policy to enact some of these matters. Thank you — in March of 2007, those changes were made to the policy.

In December of 2006, there was a meeting with the Council of Yukon First Nations health commission and non-CYFN First Nation health directors to review the draft outline of the legislation to date.

It goes on — in 2007, there were numerous meetings of drafting groups, also non-CYFN health directors, health commission and so on and so forth, and meetings with the working group in 2007 to review the draft bill. Despite what members are suggesting that it has only been a short amount of time where First Nations have seen the proposed legislation, the draft was made available at that time and in fact they had the same information presented to them as was presented to me with respect to the draft that was in place. Although the draft did evolve after that date to some extent, back in September of 2007, in large part the structure of the new bill was laid out.

So, Mr. Chair, I believe I'm running short of time for my introduction. I hope this has provided some context for the members. I would be pleased to answer their questions in general debate or as we go through the bill line by line. I hope today we will get to a productive discussion on the provisions in these areas.

There are other matters I would like to highlight in response to First Nation concerns that have come up in letters tabled by members opposite. As I indicated, many of these matters are in the legislation. I think if members look at them, they'll find they are quite satisfactory.

One issue was too much discretionary power for the director and social workers. As I indicated, this is not simply a YTG/First Nation disparity. There is a provision in the act that requires the government to enter into negotiations with any First Nation who wishes to establish a First Nation service authority. Then that First Nation's director would have the same powers as the director of the family and children's services branch under that legislation. That is why the act is generic in referring to a director rather than referring to the director of family and children's services, except in a few specific instances that apply only to YTG.

This does not diminish the ability of self-governing First Nations who wish to do so from occupying that jurisdiction and negotiating the powers they have under final agreements. We have provided the structure within this legislation that intends to give them far more ability to participate and engage within the Yukon government system than previously existed.

The issue of discretionary power for the director and social workers — as I pointed out, that power has been reduced in this act. In some cases, it does require that the director make timely decisions regarding protection and safety of a child, with the need to have those decisions be informed, accountable and in the best interests of the child.

The service delivery principles at the beginning of the bill also provide further context to how those discretionary decisions can be applied. Because the service delivery principles come earlier in the act, they do take precedence over those areas where discretion is provided.

The service delivery principles speak to the involvement of families, children, communities, and First Nations in the planning and delivery of programs and services. Clause 3(b) is an example that states that services should be the "least disruptive", yet provide the level of support and assistance that a family and child need at the time.

I understand that I'm out of time, Mr. Chair. I look forward to further discussion.

Mr. Mitchell: I will thank the minister for his overview. There are some comments I would make. First of all, the minister has made reference to the some five years of consultation and that is not in dispute. I'm not sure what we gain by referring to it again and again. What seems to be in some dispute between First Nations and the minister — or I should say between some First Nations or quite a number of First Nations and the minister — is the result of those consultations.

Mr. Chair, you earlier gave us some rulings regarding some of the motions that came forward Thursday afternoon. You used the words, I believe, "increasingly creative" in your overview.

Chair's statement

Chair: Order please. I know that the members are trying to debate productively in the House today but I encourage all members not to interject the Chair into debate. Mr. Mitchell, you have the floor.

Mr. Mitchell: Thank you, Mr. Chair. I will do this differently. I want to make clear for the record that, at least on the part of the Official Opposition, when we first had this bill called for debate in Committee of the Whole, our desire was in no way — nor should it be — interpreted as a desire to prevent debate but rather to redefine the conditions of debate. In doing that, we did bring forward a motion. The third party brought forward two or three motions. I believe that their intent was much the same as ours, which was to try to find a way to allow the First Nation leaders who have expressed concerns about this bill — and those First Nations are key players in the outcome of debate on this bill — to have their voices heard on the floor of this Assembly as witnesses.

We thought it was important to try to find a way to do that. There were several different ways discussed: one was to have them appear on that very day, much as the motion that came forward and did receive unanimous support to have the chair and the president of the Workers' Compensation Board appear as witnesses during the discussion of the *Workers' Compensation Act*. We feel that led to a more informed debate, having the expert witnesses.

Similarly, we thought that this would be a more informed debate. Earlier today, the Premier made reference to never being willing to accept co-governance, and I don't believe anybody asked for co-governance, Mr. Chair, rather to hear witnesses. At the end of the day, it would only be elected members

of this Legislative Assembly who would vote up or down, clause by clause, on Bill No. 50. So I don't think there would be any co-governance involved. I'm not sure what the purpose of raising that as some sort of issue or concern on the part of the Premier, or if he were to raise it on the part of the Health and Social Services minister, would be.

If we look at the *Cooperation in Governance Act*, which was passed by all sides of this Assembly — and I'll just make reference to a couple of clauses because I think they will specifically enlighten today's debate, Mr. Chair.

In the preamble, it says, "Recognizing the respective authority and jurisdiction of the Legislature, the Government of Yukon and self-governing Yukon First Nations;"

In section 3, it says, "Agreements Not Affected" "For greater certainty, nothing in this Act shall be construed so as to limit, or fulfill, an obligation of the Government of Yukon under a final agreement, self-government agreement or other agreement entered into by the Government of Yukon with the Yukon First Nation or the Council of Yukon First Nations."

Under the section 4, it says, "Jurisdiction Not Affected" "For greater certainty, nothing in this Act shall be construed so as to limit or otherwise affect any authority or jurisdiction of the Legislature or the Government of Yukon."

Since both the First Nations and Yukon are signatories to the *Cooperation in Governance Act*, I would think it would be clear to the Premier and to the First Nation leaders that appearing as witnesses in this Assembly would not in any way have delegated, abrogated or devolved any duties or responsibilities to First Nations. We would rather have heard their input and concerns.

I stated on Thursday in debate that listening to the minister speaking — and I will take him as speaking in good faith — and the Premier, and discussing the bill and then listening to First Nation leaders, it reminded us of the story of the two blind men describing an elephant. I think that's still the case because, in this case, we believe there is a genuine difference of opinion between the minister and First Nations on this legislation.

Unlike some times in the past, there are no lawyers currently sitting in this Assembly, so we could have perhaps benefited by having the First Nations who wish to be heard appear as witnesses. Those First Nations clearly remain unconvinced of the minister's position.

I will ask it again — this is a different format than Question Period, where it's more of a thrust-and-parry, so here, where we have the opportunity, I'll ask the minister: what possible harm could have been done in hearing witnesses speak? Perhaps the witnesses would have listened to the minister's explanations and become convinced of the minister's position. I think it would have benefited all of us in this Assembly to have that input because we're at a bit of a loss here, hearing these two different versions of what this bill does or doesn't accomplish.

I will again state for the record that the minister made reference to this being a significant step forward, and he has repeatedly said that, if we would compare this to the predecessor legislation, it is a step forward. I believe that the minister is correct. I believe that there have been improvements made.

Contrary to the minister's suggestions in the Question Period, as the officials will know, I did attend the briefing, as did my colleague, the Member for Mayo-Tatchun, and one or two staff members were there. We did thank the officials for their explanations; they were forthcoming. But then we also met with First Nation leaders and they had a different view of it. Our job here is to make sure that we pass the best possible legislation and that, when we have done that, we are seen by all Yukoners to have done that.

It was clear that quite a number of First Nation leaders did not feel that that is what we had in front of us now. They said, "Yes, we have consulted for a long period of time, but when we received the final draft — not that long before Christmas — we found that many of the issues that we had raised had not been addressed to our satisfaction." They then corresponded with the minister or the Premier in February and March expressing their concerns and wishing that the legislation could be held back in order to ensure that these issues were addressed. Again, let's go through some of them.

The minister has said that the discretionary powers of the director have been substantially reduced. From what I have seen, I think there are reductions in the discretionary powers of the director and the social worker. First Nations are telling us that, in their view, there is still too much discretionary power for the director and the social workers.

The draft bill they say must be amended to reduce the extent of discretionary powers of the director and the social workers. They say to render any remaining discretionary powers subject to effective supervision and accountability.

All that is at issue here is the extent and the supervision and accountability. I for one certainly recognize there are times when someone in authority — and that's the reference here to the director — has to have the ability to act and act expeditiously when a child's welfare is at risk. We don't disagree with the minister on that and I don't know that First Nations disagree. They disagree that this in fact has been accomplished by this version of the bill, that those powers exist only to the extent they need to and not any more than that. That is apparently what is in dispute.

It's quite possible that had the witnesses been able to appear, the minister, with the assistance of his officials, would have been able to, on specific clauses, when the witnesses made their representations, answer them, enlighten the witnesses and perhaps they would have re-evaluated their own position. That, to me, would have been beneficial and I can't for the life of me understand what that would have risked for this Assembly or for Yukon.

We've heard there is not a clearly defined role for grandparents. There are certainly roles defined for extended families, but we've heard from both the Grandparents' Rights Association of Yukon, from individuals, and from First Nations that they feel that grandparents have, in particular, a special role that they didn't feel was well enough defined, as well as the difficulty of acquiring financial support for grandparents who find themselves called upon to look after their grandchildren, as opposed to going through the process of fostering.

I know there is some specific mention in the bill of the possibility of funding being made available. These representations made to us were that it's not sufficient.

Support for First Nation involvement — we've heard there is not sufficient provision in the bill for involvement of First Nation governments in key decisions that involve First Nation children. There are certainly references to it in the bill. I mean, I'm well aware — before the minister says again that we haven't read the bill — that it does appear within the bill. And I know that, in part 2, division 1, "Cooperative Planning", there are references — in section 6(2): "A Director shall offer the use of a family conference or other cooperative planning process," and then it makes reference to subsections 44(1) and 18(2). And in section 3, it says they "may offer the use of a family conference or other cooperative planning process in any other situation when developing a case plan for the safety or care of a child or support services to be provided to a family." And later on, there are certainly references to the First Nation in the referred to sections.

So, we're simply debating — and we're raising these on behalf of First Nations that have asked us to raise these issues, since they cannot raise them directly as witnesses. We are stating that there are First Nations that feel that the changes that have been made, while a step in the right direction, are not sufficient. They feel that with respect to the references to First Nations — in some cases it says "shall" and in others it says "may" — and they feel they would like those to be stronger.

In particular — I believe it's in sections 38 and 39 — I'll just refer to it in the bill to be certain that I'm referring to it properly in the numbering. In section 38(1), where it says: "If a director or peace officer has reasonable grounds to believe that a child is in need of protective intervention, the director or peace officer may apply to a judge for a warrant to authorize bringing the child into the care of the director."

Subsection (2) says that the application for the warrant may be made without notice to any person. Now, we can certainly understand why it might be made without reference to the parent if, in fact, the parent may be the person who is putting the child at risk. First Nations are stating to us that they believe that here there should be a stronger reference made to notifying the First Nation.

There are times — and I believe that it comes up in section 39 — where it refers to "If a director or peace officer has reasonable grounds to believe that the life, safety or health of a child is in immediate danger, the director or peace officer may, without a warrant, bring the child into the director's care."

That is an example where time is so urgent, it is of the essence for the safety of the child that, if you're not going to go through the court process, you're probably not going to notify the First Nation, because time is of the essence. In section 38, there would appear to be — since there is a warrant that has to be applied for in front of a judge — an opportunity to go forward and inform the First Nation as well. Yes, if there are other members of the First Nation that might be putting that child at risk, then that would obviously have to be a very limited or specific notification — perhaps to the highest levels, perhaps it would be to the chief himself or herself.

The other issue — and the minister talks about five years of consultation — the idea of a child advocate has been around for some time but this bill seems to have, at the eleventh hour, put it into the bill only as an intent on the very last page in section 211(1) and (2) to develop an act down the road to address this.

What we are hearing from many people, not only First Nations, is that it leaves them in a situation of not knowing what that child advocate will do. What will be the role of a child advocate? Will the child advocate be responsible to the director or independent of the director? Will the child advocate report directly to someone in government or will that person be more independent, as is, for example, the Ombudsman? Without knowing what the definition of child advocate will be, we don't know whether this promise will in fact be kept in a meaningful way, because we don't know what is being promised; it's just a title. That did not give much comfort to the First Nations who we met with.

In clause 41, there is a reference to after a child is brought into custody that there will be reasonable attempts to contact the First Nation: "(1) If a child has been brought into the care of a director under sections 38 or 30, the director shall make all reasonable efforts to notify as soon as practicable (a) the child's parents; and (b) if the child is a member of a First Nation, the child's First Nation."

The questions would include: what is considered reasonable? Would that be one attempt at a phone call? Is it a hand-delivered or registered letter? Again, these are things that could have been clarified very readily, and perhaps the First Nations who have objected to this bill coming forward in its present form would have changed their opinion, and we would have all benefited, as we did when we had questions answered by the chair and the president of the Workers' Compensation Health and Safety Board.

To carry forward with that analogy, no one expected that we were devolving powers to the chair and the president of the Workers' Compensation Health and Safety Board that they did not already have under the legislation.

Nobody expected that they were going to then be co-governing in a different way, but rather that they would inform debate.

I know my time is running short. I've asked a few specific questions; I really do want to hear the minister explain why he felt it would not be advantageous to this Assembly to have witnesses appear.

Thank you, Mr. Chair.

Hon. Mr. Cathers: First of all, the member asked a number of questions. I would like to touch upon, first and foremost, the member's reference to section 38, "Warrant to bring child into care". In particular, section 38(2) says: "The application for the warrant may be made without notice to any person."

I recognize that in fairness to the member he may not be familiar with provisions in other Yukon legislation, but this is, across the board in Yukon legislation, a standard thing that when an application is made for a warrant, there is no requirement to notify any order of government or any individual. That

is an application made to a judge under circumstances defined in each applicable portion of legislation, and that of course also ties in with the fact that there are other sections that are relevant. That issue pertains specifically to applying for a warrant, and it is the application for that warrant to which it refers.

As has already been spelled out in the current First Nation child welfare policy, new sections of the act bring this into force in the legislation, or will at such point as the legislation is passed. Those provisions include provisions in sections 6 and 7, sections 44 and 98. Those provisions all note that First Nations must be included in planning at the earliest time possible whenever a concern about a child is identified unless there is an immediate danger to the child's life, safety or health.

Although it allows for an application for the warrant to be made, there are a couple of things the member should be aware of First and foremost, typically that stage where a warrant is applied for, to bring a child into care — in most situations, the director of family and children's services and staff would already have had a history with that child and their family, including involvement of the First Nation. Although there are a few situations that may unexpectedly occur, in most cases there would already be a record and history with First Nation involvement in processes leading up to that. The act requires very clearly that steps must begin with the least intrusive steps that are appropriate to provide for the safety of the child at that point. Interventions must start with the least intrusive approach based on an assessment of the situation.

That speaks to the issue of warrant. Noting other issues — again, there has been some debate from some members of the issue of “may” versus “shall.” As the members will see — now that it appears some have read through sections of the act, which I am pleased to hear — there are references in here — some of the cases of “may” versus “shall” refer to when there is discretion. That typically is in clauses dealing with things such as the potential for an emergency situation or the need to create the possibility to not involve a specific individual in a cooperative planning process. There is discretion, and that would be at the risk typically of a family member who felt that a specific individual would be disruptive to the process. So there is discretion in those areas. There is also discretion — references to the word “may” apply in a number of areas. Members will see that applies to areas that speak to what a judge “may” consider to do. I think members would agree that it is reasonable, appropriate, and ultimately very necessary to leave the court discretion.

That is typical of all legislation; it leaves some discretion for the courts rather than attempting to create a piece of legislation that addresses each and every situation and provides for the potential facts and scenarios that might apply in each and every one. So that addresses much of that issue.

The member has referred to specific issues such as the issue of witnesses. I would remind the member about witnesses appearing in the House — despite assertions that have been made by some on the opposite side. One member in particular said that it was not uncommon to have witnesses appear. I would hope the member would review his statement and correct the record, because that is not accurate.

The Yukon Legislative Assembly has a practice of hearing witnesses in very certain, specific and select instances, such as the representatives, the chair and the president/CEO of corporations like the Workers' Compensation Health and Safety Board and the Yukon Development Corporation and the Yukon Energy Corporation. These are arm's-length bodies of the government that are ultimately responsible to the Legislative Assembly.

In dealing with debate on legislation — if the members take a wander back through Yukon history and the practices of the Legislative Assembly, they will have no choice but to recognize that it is not the practice to bring in witnesses to the Assembly who represent other governments, other stakeholders, the public, et cetera. Witnesses have appeared during debate of legislation in specific and select instances, such as when we brought forward the *Workers' Compensation Act* when the chair and president/CEO were brought forward as they are the ones who will bear the responsibility, liability and cost for implementing that act. It is appropriate that they be accountable to Members of the Legislative Assembly for how that will be done.

As well, I remind the members that the individuals holding those positions are obligated by law to appear in the Legislative Assembly to be accountable to members on an annual basis. It is very specific in the provisions of the act that they have that relationship and are required to come in, not just in to the minister, but to come in directly to the Legislative Assembly and speak to members. Therefore, in amending that act, we believed it to be appropriate to bring them in, although in fact I don't think it has always been the case when the act has been amended that members have been afforded that opportunity. However, it is a very unique relationship in that structure and, in accordance with past practices and traditions, we felt it would be appropriate and I think members agreed that it was helpful in that situation.

Another situation of a body that is of government, but separate from the government offices, and directly responsible to the Legislative Assembly is the Elections Office. When the *Elections Act* was amended, witnesses came in. I believe, at that time — although it was prior to my election to this Assembly — that it was the Chief Electoral Officer and the Assistant Chief Electoral Officer who came in to answer questions from members. Again, a very special, unique reporting relationship in that they are accountable to members of this Assembly, they are part of the government structure but, by nature of their unique semi-independent, arm's-length structure, it is more appropriate that they answer to members collectively than simply to the minister, as is the case with government departments.

The members try and suggest — as one did, and I hope to provide him the opportunity to correct his comments — that it's not uncommon to bring in witnesses; that is not accurate. It is only in these specific, select situations.

We value, as I am sure members opposite do, the input of First Nation governments and other levels of government, including municipal governments and the federal government, in areas of legislation and policy that affect them. However, the opportunity, tradition and practice within the Yukon for their

involvement in the legislative process is through consultation that does not occur on the floor of this Assembly.

They have additionally had the opportunity, as does any member of the public, to engage with members of the opposition in their offices. So for the members to suggest that we were somehow breaking with past practice is quite inaccurate, and I would encourage them to correct that record.

As well, the members also proposed a very interesting structure whereby only certain First Nations would have been invited, by virtue of their motion, to engage in that process, and that is not very respectful to all the other First Nations — which in fact is the majority of the 14 First Nations in the Yukon who were involved in the process and the five years of review and planning, as were the others who chose to participate. Through this process they engaged in the joint public consultation, joint policy development and jointly informing the legal drafting. We have, as the Yukon government, exactly followed the process that we laid out and committed to in offering the Council of Yukon First Nations an opportunity to engage in amendment to a piece of public legislation.

As I have made clear to members in the past, this does not eliminate the ability for First Nations nor reduce in any way the ability for self-governing First Nations to exercise the powers afforded them under their self-government agreements to occupy that jurisdiction; however, as the Premier has made very clear in past debates, we will not devolve public jurisdiction. For those who suggest that, if that is their position, they are free to make it their position. We do not concur.

I would also remind the members opposite, in terms of those who suggested a delay of this act would be appropriate, that we have First Nations who have indicated that they feel the work has been done, that it is time to move forward, and that further delay would not be in the best interests of their children.

I note to the member that there are always differing opinions on major policy matters such as this. Of course there are differing opinions. We provided a process, which we followed, for jointly working on these matters, jointly consulting with the public and stakeholders, jointly developing the policy, and jointly informing the legal drafting.

I'd also note for members that the November 6, 2007 consultation draft of the legislation that was made available to First Nations by the government as part of this process was agreed to by the Council of Yukon First Nations health commission. No substantive issues with that draft were identified, except for the issue of the desire for a child advocate to be included.

That is why the provision to establish an act — to establish a child advocate office — is separate from there. Also, it is appropriate in our opinion, based on other jurisdictions, to have the act establishing the child advocate separate from the *Child and Family Services Act* because the roles, responsibilities, obligations and reporting are different from that which is typically under the *Child and Family Services Act*.

Let's see, what else did the member raise? The member also raised the issue of grandparents. And, in fact, if the member looks under "Definitions," he'll see that grandparents are included under "extended family". It's not specifically referenced, but it does provide for the ability to address the needs or

special interests of grandparents. It also provides the ability for others. It's not always easy to define who might be significant to a child — perhaps a godparent, an aunt, uncle or friend of their parents who took care of them and might be significant to them and might be worthy of consideration in that process. It's very difficult to provide for all of these things in legislation. That is why that clause is permissive, rather than restrictive.

Again, on the issue of "may" and "shall" and the debate on that brought forward by members, I note one area of reference to providing discretion is "Adjournments and Interim Orders," section 79(1): "A judge may, upon the request of a party, adjourn a presentation hearing, a protective intervention hearing or the hearing of an application for a subsequent order under section 60 one or more times

"(a) to allow a family conference or other cooperative planning process to plan for the safety and care of the child to proceed;

"(b) to allow for an assessment or examination to be completed, if the judge considers the assessment or examination is necessary, or

"(c) for any other reason the judge considers appropriate in the circumstances."

79(2) "Without limiting the principles set out in paragraphs 2(a) or 3(a), in deciding whether to grant an adjournment, the judge shall consider the interests of the child in having an early disposition of the matter and take into account the child's sense of time," noting the reference to the child's sense of time being the fact that, as we discussed during debate on the previous legislation, Bill No. 51, for children, what may to adults be a few moments in time, may be much more significant, whether it be weeks, months or years. To a child, that can be an eternity.

It goes on — 79(3) "If the judge grants an adjournment, the judge may make one of the following orders:

"(a) that the child be returned to or remain with a parent apparently entitled to custody under the supervision of a director on an interim basis until the conclusion of the hearing or such other time as the judge may order;

"(b) that the child remain in or be placed in the care of the director on an interim basis until the conclusion of the hearing or such other time as the judge may order; or

"(c) that the child be placed in the care of an individual other than a parent, with the consent of that other individual and under the director's supervision, on an interim basis until the conclusion of the hearing or such other time as the judge may order.

79(4): The judge may attach terms or conditions to the order that the judge considers appropriate."

So again, this is an example of why permissive language "may" versus "shall" is necessary. It is critical that a judge be provided with those key options and not have their ability to consider the circumstances limited by an attempt to develop legislation that spells out each potential scenario.

Again, I would note that, moving early in the act under "Cooperative Planning" 6(2) — after spelling out previously the purpose of cooperative planning — notes: "A director shall offer the use of a family conference or other cooperative plan-

ning process.” Again, I hope this provides some context to members opposite, noting, I think they will have to conclude, upon reviewing it, the legal drafters have done a good job of striking an appropriate balance of accurately reflecting the intent and providing for necessary emergency power without reducing the ability provided through the act, in particular, under service delivery, principles and guiding principles that spell out what is to be taken into account.

Under the use of family conferences, of course, that conference is required to involve the child, the child’s family, extended family and, where the child is a member of a First Nation, a representative of that child’s First Nation must also be invited.

The family and child can also include someone who acts as a support and or advocate for them in the planning process. Further references to this includes section 44 and section 98

My reference to section 79 notes that the purpose of that clause is intended to make it clear that the court is required to promote the use of cooperative processes, and if the matter comes to court, a judge is required to determine if the family conference was held and the outcome of the conference. If the family conference was not held, then the court can be adjourned so a family conference can be held.

If a director and a family are unable to resolve an issue relating to a child, they may agree to mediation or to another alternative dispute resolution mechanism at any time during the provisions of services. I refer the members to section 8 of the act in that area. I note again for those who suggested there was not sufficient support for such processes that if the members compare this legislation to the *Children’s Act*, they will see that it is significant step forward from that legislation in even providing for these processes.

When matters are taken to court, the court provides oversight and review of the director’s action, and part 3, division 4, and division 5 set out the court procedures.

When a child is ordered into the care of the director, the director is accountable to the court for the term of the order. The sections I would refer the members include sections 52, 57, 62, 63, 64 and 65. Parents continue to maintain their role to the extent possible.

The director shall file a case plan for the child and provide a copy to the other parties at least 10 days before the date set out for the protective intervention hearing. No later than three days before the date set, the parties may respond to the plan filed by the director and file an alternative plan, if they so choose, and they shall provide copies of any such plans to other parties — section 55.

Again, this is referring to the issue of the discretionary power for the director and social workers, making it clear, I hope, for the members, that these areas, along with the service delivery principles and guiding principles, provide a very clear process that makes it perfectly clear that the involvement of First Nations in planning and decision-making is to occur at the earliest opportunity.

Mr. Chair, a child also has the right to separate representation in court procedures appointed through the official guardian as set out in section 76. A child in care and custody of a direc-

tor has rights based on the UN *Convention on the Rights of the Child*, as set out in section 88. In addition to the above, the accountability measures, which I’ll address later, apply to such matters.

I understand that I am out of time.

Mr. Mitchell: Let me respond to a few of the assertions made by the minister. First of all, the minister made a great number of references to when a member opposite talks about past practices with witnesses. The minister used a great deal of his time making the case that it was far from common for witnesses to appear. It had not happened frequently but just uncommonly. I really don’t know which member on this side of the House the minister is referring to, but I’m quite certain that I haven’t stated that it is common practice. I don’t know why the minister felt obliged to spend so much of his time addressing those comments to me. It confuses the debate when the minister refers to some other comments made by some other member at some other time rather than the specific questions that I just asked.

Since I am the first member from this side to have been on his feet in Committee during general debate of this bill, I would prefer if we could keep it to those topics. Again, he went down the path of stating that his government was not going to accede to co-governance. I think that the minister is apparently a better talker than he is a listener, because had he been listening when I was last on my feet, I indicated that we had no interest in endorsing co-governance on this or any other issue. That is not our position and we don’t see how the appearance of these witnesses would be co-governance any more than we would for any other witnesses who appear.

I quoted from the *Cooperation in Governance Act*, which makes it quite clear that neither the First Nation governments, who are signatories to that act, nor the Yukon government, believe that it is doing anything to change the authority of the respective governments and the jurisdictions of the respective governments involved. Again, I don’t know why the minister feels he has to draw this line in the sand other than the Premier has been drawing it lately as well. They are shadow-boxing, because no one on this side is raising that as an issue or as a goal or an objective.

The minister made a great deal out of indicating that it was not all First Nations but only some that were invited. In fact, when we tabled notices of motion prior to last Thursday afternoon, we did indicate any and all First Nations that “wished” to appear, and we recognize that not all First Nations may wish to appear.

The Grand Chief did wish to appear, and generally speaking he represents the vast majority of First Nations, and I think in this case he does represent the majority of First Nations on this issue, but not necessarily all. I know at least one First Nation indicated that he wasn’t speaking for them.

The minister made reference to generic wording. I think his words were “across the board in Yukon legislation” — the wording in section 38(2) is the wording that is used. Again, that may be the wording that commonly has been used in Yukon legislation. This is new legislation that we are looking at — that is legislation unlike the predecessor legislation, the *Chil-*

dren's Act. This is new legislation that is being drafted to deal with a post-land claim era, post-final agreements and post-land claim agreements.

Perhaps that's why First Nations thought the wording might be different here. The minister said that First Nations must be included in planning at the earliest possible date. It is something that appears in the policy manual and, in most cases, he said — and I'm paraphrasing — there would already be a history with that First Nation.

I guess I would say that the corollary to that is that certainly not in all cases would there be such a history. Whether there is a history or not, it certainly doesn't address the First Nation's stated desire for an actual formal notification of the intent to remove a child from the family in a custody case. He answered a different question. He didn't really answer that question.

I'm not going to stand on my feet for 20 minutes and go back and forth with this minister. I'm going to ask this minister — and the Premier seems interested in getting into this debate — because he's also apparently eager to hear the minister's response to this question. So I'll ask the minister again if he can simply explain or state for the record what harm — without stating how common it is or isn't — in this case, where First Nations are saying that this bill, more than perhaps any other piece of legislation, is one that they take to heart as having a huge impact on their families.

We know what the historical antecedents to this are — the fears and concerns that go all the way back to the *Indian Act* and all the way back to removals from families. We had one First Nation tell us that currently 22 of their children are involved in custody outside of the Yukon. I'm not going to name the First Nation. Excuse me. There are 22 children from one First Nation who have been placed for adoption outside of Yukon.

This is something that the First Nations take to heart. We have heard that. We've heard it from the Member for McIntyre-Takhini and I'm sure that he will be speaking to it when he is on his feet.

Again, can the minister explain the harm that he felt would have been done to the Legislative Assembly in hearing from these witnesses and why he feels there would have been no benefit, either in the ability to directly answer questions to the witnesses, to the First Nation leaders, and convince them of his position, or perhaps to learn from their positions, by having them appear as witnesses on the floor of this Assembly, without telling us how often it has or hasn't happened? It has happened before. Why not in this case?

Hon. Mr. Cathers: Again, the Leader of the Official Opposition knows this process has taken almost five years. The member ought to realize, if not from general awareness of the media and other discussion of this and meetings being called, that there has been significant public discussion, significant advertising of this process, and a significant opportunity for First Nations and indeed all Yukoners to be involved in this process of reviewing and amending the *Children's Act* and replacing it with the new *Child and Family Services Act*.

We followed the process that we laid out and agreed to with First Nations. Again, as I indicated to the member, in the consultation draft dated November 6, 2007, the only substantive issue identified in the process was the lack of a child advocate. That is why that was added into the bill in the manner in which it was. As I indicated to the member, it is more appropriate anyway to proceed with that as a separate piece of legislation.

Mr. Chair, the member is trying to make an issue out of something that really is a matter for SCREP to discuss. We know the procedures that the Official Opposition House leader has brought forward at SCREP, and the desire to try and completely reinvent the Yukon Legislative Assembly process — or perhaps, more importantly, the member may have an interest in having a lot of meetings to discuss the topic. That is a matter most appropriately dealt with at SCREP.

I would note again for those who may be listening or reading, that the government remains interested in working with the opposition to improve our Legislative Assembly Standing Orders and make any sensible changes, but we're not interested in spending many months and many meetings engaged in debate for the sake of debate about procedural matters and issues. We would like to focus on working with Yukon citizens on legislation, on involving them in processes, policies and changes, et cetera, that are important to them.

Chair's statement

Chair: Order please. The Chair has given a fair bit of latitude already today with regard to debating the *Child and Family Services Act*. I would like to remind members to focus the debate on Bill No. 50, please.

Hon. Mr. Cathers: Yes, I appreciate your correction on that matter.

Returning to the act at hand, as far as process goes — I am attempting to illustrate to the members — we have followed the Yukon practices. We have, with this process, taken a step far beyond what any previous government was willing to do in working with First Nations on developing this important piece of legislation. We appreciate the work that has been done, the good work from all involved and, as I indicated to the member, regarding the issues that the member refers to as substantive issues brought forward, at the end there was an opportunity to encompass those and, if the member looks at the issues they have brought forward — claiming that they are lacking in the act — they will see they are addressed in that area.

I'd like to provide the member some clarity with regard to the process in the act. The first priority, of course, has to be the safety of the child. A warrant is required to bring a child into care, and First Nation policy states that the First Nation must be included at the earliest time possible and the legislation supports this process and model. Unless a child's life, safety or health is in immediate danger, there is a requirement to inform the First Nation. However, the proposed legislation includes — as it must — the discretion under emergency circumstances for the director to act without notice.

I remind the member opposite that the legislation does provide that power to a director, and that same power would

apply to a director of a First Nation service authority. Under the legislation they would have the same powers as would be accorded to the director of family and children's services. That is because this legislation strikes an appropriate balance between the need for involvement, the need for all appropriate steps to be taken whenever possible to ensure that the least intrusive measures are used to provide for the safety of the child while not taking any unnecessary steps in terms of bringing the child into care or involving the department or a First Nation service authority in the lives of that family. The steps are there and the provisions are there — as they must be.

Historic adoptions — the member claimed that there are 22 children of one First Nation alone who have been placed Outside for adoption. That is not correct. The number that I have is that there has been a total of 20 adoptions of First Nation children in care between 1990 and 2000, and I believe the total number that we have any record of is 26.

I'm just getting the number here. We have the statistics here. The number of adoptions is not as high as the member might suggest. My understanding is that the total of out-of-territory First Nation adoptions are roughly 26 since records were kept.

I'm not minimizing that situation, but I would encourage the member, in debating the bill, to recognize that one factor we all must face in dealing with public debate on these matters, and from those who are concerned — and genuinely concerned — with the act is that this is a very emotional matter for some. Unfortunately, in public debate, not everyone always gets their numbers accurate.

Accountability measures are another issue brought forward by the members opposite. Accountability measures — I addressed some of them in my previous response, but I would go on to note that the director will have obligations under the act to report and be accountable for the administration of the act.

An advisory committee shall be established by the minister to review the operation of the act every five years — section 183(1) of the act.

A director shall establish a complaints procedure for reviewing decisions made under the act to ensure that the information about the review procedure is public — section 184.

The director shall provide a report every three years demonstrating compliance with the minimum standards of service that are set out in regulations — section 185.

A director shall conduct an annual review of a child's case plan if the child has been in the custody of the director for one year or more. The review will include participants in the original case plan and any other people whose involvement would be important to the planning — section 186.

Section 187 says, "A director shall prepare and submit an annual report to the Minister relating to the provision of services by the director under this Act."

Section 167 says that the minister may establish advisory, investigative and/or administrative committees. Again, regarding permissive language, as I referred to earlier if the members were paying attention, there is a requirement to establish an advisory committee to review the operation of the act, but the

act also enables other such committees as may be deemed appropriate to be established by the minister.

A director may also establish advisory committees in accordance with section 175, and the minister shall develop an act to establish a child advocate independent of any director appointed under the *Child and Family Services Act*.

The bill is to be presented to the Legislative Assembly no later than one year after the proclamation date of the act.

There are also provisions to make regulations that would add to the accountability measures already identified, including family conferences or other cooperative planning processes or alternative dispute resolution mechanisms, services and programs provided and standards for such services and programs, the designation, composition and mandate of an administration of services by a First Nations services authority, and for directors, provisions for standards and qualifications to be met.

Powers, duties and functions: review powers, duties and functions, as well as for residential facilities, service providers, adoption agencies, First Nation service authorities and other groups and authorities, there are provisions applicable to qualifications and standards of care and accommodation, licensing, registration and inspection of facilities and records; responsibilities, functions and duties and any other matter necessary for proper management, administration and accountability, as well as inspection of records and reports, and any other matter that the Commissioner in Executive Council considers necessary to carry out the act.

Again, there are a number of examples of provisions related to service quality. As I noted, there are always, on significant policy matters, some differing opinions. I would encourage the members to review this legislation, to compare it with the previous act. They also may wish to review the *What We Heard* documents. I think that the members will see that this is a significant improvement. They cannot help but see, if they compare act to act, that this is a significant step forward in creating more involvement for First Nations, more involvement for extended family, more permissive provisions to allow grandparents and other members of extended family to be considered in court procedures and provisions such as foster care or adoptions, and so on and so forth.

Another issue was an assertion that there was no support for First Nation involvement. New in this act are guiding principles and service delivery principle sections that apply to the entire act and are to provide guidance to those interpreting that legislation on the meaning of the act and the context in which it is to be considered.

The guiding principles and service delivery principles require the act to be administered and interpreted with the early involvement of First Nations, the involvement of First Nations in communities in planning and delivery of services, and in collaboration with First Nations and communities.

I would note, for the record, the guiding principles include, "(a) the best interests of the child shall be given paramount consideration in making decisions or taking any action under this act; (b) a child has a right to be protected from harm or threat of harm; (c) knowledge about family origins is important to the development of a child's sense of identity; (d) the cul-

tural identity of a child, including a child who is a member of a First Nation, should be preserved; (e) family has the primary responsibility for the safety, health and well-being of a child; (f) a child flourishes in stable, caring and long-term family environments; (g) the family is the primary influence on the growth and development of a child and as such should be supported to provide for the care, nurturance and well-being of a child; (h) extended family members should be involved in supporting the health, safety and well-being of a child; (i) a child, a parent and members of the extended family should be involved in decision-making processes regarding their circumstances; (j) First Nations should be involved as early as is practicable in decision-making processes regarding a child who is a member of the First Nation — right up front in the guiding principles and laced throughout the act; (k) the safety and well-being of a child is a responsibility shared by citizens; and (l) prevention activities are integral to the promotion of the safety, health and well-being of a child.”

So, again, I would point out to members some of the areas where members have referred to “may” versus “shall”, and discretion, are bound within that, that they must be interpreted within the context of the guiding principles and service delivery principles that are right up front at the beginning of the act.

Moving on, further areas in support for First Nations’ involvement: there are other areas where it’s referred to in the act in specific sections that I noted. First Nations must be included in planning at the earliest time possible whenever a concern about a child is identified unless there is an immediate danger to a child’s life, safety or health. Sections 6, 7, 44 and 98 are the ones that make reference to this.

The process of cooperative planning at the onset encourages collaboration and avoids the need to proceed to adversarial court situations.

It is a process where extended family, the applicable First Nation, informal community supports, service providers and professionals join with the family in developing a plan that meets the needs of the child and family.

Cooperative planning shall be offered when a child is in need of protective intervention and when the child is leaving custody of a director and may be offered at any other point.

Applicable sections include sections 6, 7, 44 and 98.

There is flexibility in how First Nations are able to deliver services, including establishing a First Nation service authority or authorities that would have full administrative and policy-making powers under its own director. A First Nation could also choose to deliver services under a delegated authority. These applicable sections include sections 168 to 172 and section 176.

There is also a provision for the minister to enter into an agreement with a First Nation, for purposes under this act. That is in section 166.

Also under this act, a director may transfer or accept the care or custody of a child to or from another director — an example is a First Nation service authority, or if a First Nation with child welfare legislation under their self-government agreement. This provides the ability for transfers from director to director, between First Nation service authority and the di-

rector of family and children’s services, or the director of another First Nation service authority. It also provides the ability that, if a First Nation chooses to occupy its jurisdiction in this area under their self-government agreement, there are the abilities to transfer a child between jurisdictions, from one to another.

The operation of the legislation, pursuant to section 183(1) “...shall be reviewed every 5 years...” and a committee, including First Nation representation, will oversee that review.

There are provisions that require the involvement and/or notification of First Nations, including cooperative planning, initial contact and investigation, reporting back to a First Nation, court involvement as a party, and rights of a child in care. These include sections 6, 7, 44, 27, 28, 32, 41, 47, 48, 60, 88 and 98.

Another issue brought forward — inadequate support for alternative dispute resolution. The new act, particularly when compared to the old act, promotes the use of cooperative, collaborative and inclusive processes through the guiding principles. This will reduce the adversarial and confrontational nature of court proceedings. The requirement to offer family conferencing will reduce the need to go to court. As I noted before, the court is required to promote the use of a cooperative planning process and, if the matter comes to court, a judge is required to determine if a family conference was held and the outcome of that conference. If a family conference was not held, then the court can be adjourned so a family conference can be set up prior to a court hearing — section 79.

A director will work with the family to achieve agreement on a plan and, if a child requires out-of-home care, then the family and the director can enter into a voluntary care agreement, which is another alternative to taking the matter to court — again, this is a new provision of the act, section 13.

Even in instances where court proceedings have been started, an agreement can be reached on a plan before the hearing and the matter can be withdrawn from court — which is not currently the case. It provides the ability, if the agreement is reached before the hearing, to not go through what has then become an unnecessary, lengthy and adversarial process. The provision related to that is section 56.

Part 2 is the foundation for providing services to families so that children would not need to be removed from their home and to help families readjust if a child has been in care and returned home — that includes sections 10 and 11.

Mediation, as an alternative dispute resolution process, is provided for in section 8 and a family can use mediation or any other alternative dispute resolution process at any time when receiving services under this act.

Again, these are new provisions in this legislation. Compared to the old legislation, the members cannot help but recognize that this is a significant step forward.

Mr. Chair, I understand that I’m running out of time for my response here, so I look forward to continued debate.

Mr. Mitchell: Just to respond to some of the statements made by the minister — he indicated that it would be better to be raised at SCREP regarding the appearance of witnesses. I don’t think anyone on this side wanted to wait until

the government showed some interest in legislative reform, which they have not shown a great deal of interest in to date, considering the promises that were made when we agreed to a truncated 12-day session following the 2006 election.

I believe there were supposed to be some strides made in the spring of 2007 to bring SCREP together and deal with a whole list of issues. That hasn't happened yet. I think this was simply a request to have these witnesses appear at this time. The minister has still not answered the question, even though it has been asked several times, and I'll ask it again: what harm would have been done and would we not have been better informed?

The minister suggested that we might have inaccurate numbers on the children of one First Nation who are now placed outside Yukon — or have been placed for adoption. We received those numbers from the First Nation in question. I'm not going to name the First Nation here, because I think this is something that is very sensitive, and we certainly don't want to use them in any way that would make the First Nation uncomfortable. They raised the issue with us.

If the minister wants to ask me at some other point — after I've had a chance to talk to the First Nation — as to which First Nation I'm referring to, I might be able to answer him. But I will assure him that 22 is the number we were given, and that number was repeated to us today.

Perhaps some of the disparity, when the minister says he's not certain of those numbers, might be because, prior to the Yukon government holding this responsibility, I believe the responsibility was held over the years by DIAND, and perhaps the First Nation is making reference to historical numbers that the minister doesn't have available to him.

In any case, whether it's 22 or 18 or 21, it was certainly of concern to the First Nation and they felt that these numbers were significant.

The minister made reference to grandparents being included as part of extended family, and it being difficult to know who in an extended family might be a caregiver. We certainly recognize that caregivers can be people other than grandparents, but the Grandparents' Rights Association of Yukon have told us that they were looking for some special recognition of the important role that so many grandparents play, and can play, and in fact the role they wish to play, and the fact that it is grandparents who most frequently end up in an extended family raising the children.

I've raised it in this House before that, more than a year ago, I was called by a constituent who said to me that she and her husband had inherited responsibility for raising their grandchild because her adult child was not, for personal reasons, in a position to do that at that point in her adult child's life, due to severe personal issues. She was not able to get financial assistance without going through the formality of the foster parent application, didn't feel that she should need to go through that process as she already was the caregiver, and she was methodically cashing in her RRSPs in order to afford to provide care for the minor child which, at this point in her life, she had not anticipated needing funding for, having already raised her own children.

She was very concerned for her future, but obviously, loved her grandchild and was going to go forward and expend her financial resources. The wording in this bill is again an example of "may" — "may" offer financial assistance. That person and others would like to see that strengthened and clarified to "shall" rather than "may" when someone is acting as the parent. That's why we raise these issues; First Nations, NGOs and individual constituents raise them with us.

I want to say to this minister that he has been very general in the statements he has been making. He continues to say that if we look at this act compared to its predecessor legislation that it is an improvement. I don't disagree with the minister. I have said that all along; we believe it is an improvement. However, we're suggesting that perhaps in some areas, it doesn't go far enough. I guess that's a difference of opinion. It's a difference of opinion based on the input that we're getting from First Nations and also from non-First Nation people about the legislation. That's our job here. The minister seems to take some great offence at the fact that we would say that, because he believes that every act he would bring forward would be perfect in every way, would not be subject to any amendments on the floor of this House and that we should simply say, "Thank you, minister — agreed." It doesn't work that way. We're here to ask questions; hopefully, we'll get answers, and in some cases, perhaps we can agree together to improve the legislation.

Several times the minister read out the history of consultations that have occurred. In particular, he has made reference to when the final draft went out for consideration in November 2007. On this list of consultations that has been provided to us, thanks to the department — and we do appreciate having it; it certainly is extensive — the targeted consultation on the language of the draft bill occurred in 2007-08. It appears to have started on December 12, 2007, and that included the Women's Directorate and women's groups, the Victoria Faulkner Women's Centre, Les EssentiElles, Yukon Advisory Council on Women's Issues, Filipino Women's Association, Kaushee's Place, and the Catholic Women's League. The balance of it occurred commencing January 7 after the Christmas holiday season, carrying through to February 15 of this year. That's not very long ago when these First Nations had their opportunity to provide feedback on the actual draft of the bill that is largely before us now, with the exception of the add-on change in the very end that promises, down the road, that there will be a child advocate position created by a separate act.

What we're hearing from the First Nations is they then made representation directly to the Premier in February and March of this year — at least some First Nations did — that they had concerns. Now that they had had an opportunity to review this legislation with their legal counsel, they had specific concerns.

We've heard some of those concerns. We know the Premier has received a series of letters from individual First Nation leaders, from groups of First Nations and from the Grand Chief expressing these concerns.

That is why we are asking these questions, Mr. Chair, because it is possible the minister didn't quite get it right as far as some of these First Nations are concerned, and it is possible

that it can be improved additionally. As has so often been said by the Premier and by other members opposite, it is more important to get it right than to get it done quickly.

One would think that after five years of consultations referred to by this minister, there would be a desire not to end the process prematurely and short-circuit it, but make sure that this minister had heard the concerns expressed by First Nations and had satisfied himself that they were going to be addressed in the legislation. What I believe we have heard today is that the minister is convinced that this legislation answers all these concerns, but the First Nations are telling us that they are not convinced.

Again, I am looking at the letter from Chief Taylor of Tr'ondëk Hwëch'in First Nation. When it comes to consultation — and I know because I can look at this document — on January 18 there was targeted consultation with the Tr'ondëk Hwëch'in and Han First Nations.

Chief Taylor says, “In our view, your officials failed to consult adequately with the Tr'ondëk Hwëch'in citizens with respect to the bill. As we indicated to your officials, we did not have a sufficient opportunity to review the draft bill before the consultation meeting. Moreover, due to a variety of circumstances, the Tr'ondëk Hwëch'in representation at the meeting was inadequate.”

We've heard this from a number of First Nations. The minister shrugs his shoulders and said, “Well, we held a meeting.” Well, if he held a meeting and the First Nation said, “We didn't have enough time to prepare for that meeting between the time we got the draft bill, we needed to consult with legal counsel, we needed to meet within our own First Nation” — because what we've been told by the First Nations is that they too have a process. They too have to call together members within their committees and within their assembly to discuss this before they can respond. And they said the timelines were too tight. That's why they asked for it to be deferred to the fall. That's why we wish to see it deferred to the fall and, failing that, to a special sitting, because then we would have had the time to do this justice — to do it in the best possible way and to make sure that all these voices were heard and there would be buy-in by these First Nations.

I don't know why this minister is so lacking in patience about this. He has not been the minister for five years; he has been on watch for less than two years, and one would think that he would want to get it right as well. He spoke about the claim by First Nations of inadequate support for alternative dispute resolution processes, and he said that it's all there in the bill. The First Nations are telling us that it doesn't provide any other specific means to resolve the child protection matter other than through the courts. The minister cites sections of the act that talk about family conferences, but the final resolution is still a court activity.

We've heard about the issues of discretionary powers being those that are not considered, on the scale of where they have gone, satisfactory to at least some First Nations.

I guess we would have had a better answer, had there been witnesses here to hear the minister's explanations because then

those witnesses would have had a better way of knowing that their points had been answered.

Mr. Chair, seeing the time, I would move that we do report progress.

Chair: It has been moved by Mr. Mitchell that we report progress on Bill No. 50, *Child and Family Services Act*.

Motion negatived

Mr. Mitchell: It's interesting to see how on some days the members want to go to the last possible second and on others, they want multiple five-minute breaks to bring in witnesses that they themselves know will need to be here when we move on.

In terms of custom declarations, we've been told that the wording is vague and we would ask how that will work. Again, the wording on the cooperative planning agreement has been described to us as overly vague by several First Nations who feel that while it exists in the new act, it's not clearly enough spelled out. I will go to section 6, which makes the reference to that, I believe. Talking about cooperative planning processes, in section 6(2), it says: “A director shall offer the use of a family conference or other cooperative planning process (a) as set out in subsection 44(1), when developing a case plan for a child who the director believes is in need of protective intervention; and (b) as set out in subsection 18(2), when developing a case plan for a child leaving the custody of the director.”

Then when you go to the respective sections — I don't have these tabbed, Mr. Chair, so I have to flip through to find them. I know I asked these questions during the briefing.

It refers again to yet other sections. It talks about the purposes of the family conference or other cooperative planning processes to develop an interim case plan for the short-term safety and care of the child, where applicable, and a case plan for the long-term safety and care of the child.

And it gives conditions under which the use of the family conference or other cooperative planning process will be used.

The First Nations are telling us that the way it has been described is overly vague. Again, the issue that I've raised of no clearly definable —

Chair: Order please. Seeing the time, the Chair will rise and report progress.

Speaker resumes the Chair

Speaker: I will now call the House to order. May the House have a report from Chair of Committee of the Whole.

Chair's report

Mr. Nordick: Mr. Speaker, Committee of the Whole has considered Bill No. 51, *International Child Abduction (Hague Convention) Act*, and directed me to report it without amendment.

Mr. Speaker, Committee of the Whole has considered Bill No. 50, *Child and Family Services Act*, and directed me to report progress on it.

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 p.m., this House now stands adjourned until 1:00 p.m. tomorrow.

The House adjourned at 5:32 p.m.

The following filed documents were tabled April 14, 2008:

08-1-53

Yukon Lottery Commission 2006 – 2007 Annual Report
(Kenyon)

08-1-54

Yukon Workers' Compensation Health and Safety Board
2007 Activity Report (Cathers)

08-1-55

Child and Family Services Act revision consultation: letter
(dated March 31, 2008) to Premier Dennis Fentie, from Yukon
Métis Nation (Mitchell)