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HANSARD

Tuesday, November 7, 2017 — 1:00 p.m.

Speaker: The Honourable Nils Clarke

YUKON LEGISLATIVE ASSEMBLY

2017 Fall Sitting

SPEAKER — Hon. Nils Clarke, MLA, Riverdale North
DEPUTY SPEAKER and CHAIR OF COMMITTEE OF THE WHOLE — Don Hutton, MLA, Mayo-Tatchun
DEPUTY CHAIR OF COMMITTEE OF THE WHOLE — Ted Adel, MLA, Copperbelt North

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Hon. Ranj Pillai	Porter Creek South	Deputy Premier Minister of Energy, Mines and Resources; Economic Development; Minister responsible for the Yukon Development Corporation and the Yukon Energy Corporation
Hon. Tracy-Anne McPhee	Riverdale South	Government House Leader Minister of Education; Justice
Hon. John Streicker	Mount Lorne-Southern Lakes	Minister of Community Services; Minister responsible for the French Language Services Directorate; Yukon Liquor Corporation and the Yukon Lottery Commission
Hon. Pauline Frost	Vuntut Gwitchin	Minister of Health and Social Services; Environment; Minister responsible for the Yukon Housing Corporation
Hon. Richard Mostyn	Whitehorse West	Minister of Highways and Public Works; the Public Service Commission
Hon. Jeanie Dendys	Mountainview	Minister of Tourism and Culture; Minister responsible for the Workers' Compensation Health and Safety Board; Women's Directorate

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New Democratic Party

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**Yukon Legislative Assembly
Whitehorse, Yukon
Tuesday, November 7, 2017 — 1:00 p.m.**

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

Prayers

DAILY ROUTINE

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

Tributes.

TRIBUTES

In remembrance of Jessica Simon

Hon. Mr. Silver: Mr. Speaker, I rise today to acknowledge the passing of local author Jessica Simon. Jessica was born in Quebec in 1964 and moved to the Yukon in 1986 to work for a newspaper. Jessica left us on September 8 of this year. She is survived by her husband, Mike Simon, who is with us today here in the gallery.

When she met Mike, she was visiting the territory as a tourist and later married at Kusawa Lake in September 1989. Jessica was what her husband would like to call “a fierce Canadian” and “a proud Yukoner”. She would defend what she considered high Canadian values anytime, anywhere. She believed in literacy, universal health care, multiculturalism, and human rights, and these beliefs were reflected in both her personal and her professional life.

As a member of the arts and literary community, she was a driving force behind bringing stories to Yukoners. She was known as a prolific writer and journalist, contributing to many magazines and newspapers, including *Yukon*, *North of Ordinary*, *Outdoor Edge*, and the *Yukon News*. From 2006 to 2012, she regularly wrote the column “World of Words” for *What’s Up Yukon*. She would travel to communities and give readings of her stories to the public. She promoted Yukon through all levels of activities — local and abroad. She established a little library on the Hot Springs Road. Jessica was also the founder of a popular writing group, Cramped Hand, in 2009. This Whitehorse-based group encouraged countless new and experienced writers. Her latest project was to ensure that the Yukon was prominently represented at the world’s largest book fair in Frankfurt, Germany.

Much of Jessica’s fiction is set in the Yukon and she was probably most well-known for her 2009 novel, *From Ice to Ashes*, which is set against the backdrop of the Yukon Arctic Ultra, a race that she supported as a volunteer.

Fellow writers described her as a dynamo of the literary community, but Mr. Speaker, she was so much more than that. To help promote healthy lifestyles, she taught first aid for almost 20 years. She was very proud of this accomplishment and she often joked that she was perfectly safe in the Yukon because if anything happened to her, then her first responder would probably have been trained by her.

When Mike first met Jessica she was an active member of the Yukon NDP and she helped get Audrey McLaughlin elected as national leader of that party.

When I first met Jessica in 2011, Mike ran as a candidate for the Yukon Liberal Party. She was energetic, enthusiastic and she was also a writer — what more could a candidate ask for in his partner?

She volunteered for the city transit board and worked for the Victoria Faulkner Women’s Centre for several years. She promoted Yukon during her work as a wilderness guide. Her volunteer work in the adventure racing community in the Yukon made her northern hospitality well known in places as far and wide as Spain, Germany and Italy. There was a hardly a dog-mushing event in the last 20 years that Jessica was not involved in. Not only did she help out with events, she organized, promoted and administered events wherever she saw the need.

Last year, Mike and Jessica built a new home on their property on the north Klondike Highway. It was a new beginning and Jessica’s sudden passing certainly came as a shock.

On behalf of the Official Opposition and the Yukon Liberal Party government, our hearts are out with you, Mike, your family and your friends at this difficult time.

Thank you very much, Mr. Speaker.

Applause

Ms. Hanson: I rise on behalf of the Yukon New Democratic Party to also pay tribute to Jessica Simon, whose life was much too short. Our deepest sympathy goes out to Jessica’s husband Mike, her relatives and many friends in the Yukon and around the world.

Jessica lived a full life for the last 31 years here in the Yukon. From when she was a child, Jessica had a passion for writing, and it was in the last 20 years that she was able to follow that dream. Through groups like the popular writing group, Cramped Hand, that she started in 2009, she was able to help not only herself and her writing but other aspiring writers. She was determined to help others in their writing struggles as well as get the support and encouragement that she herself needed.

Jessica also wanted to share with others the joy of the written word. She organized readings at the Walmart parking lot, where many motorhomes and the travelling public came to rest for a day or two. Where some of us are discouraged by the campers there, Jessica saw an opportunity and an invitation to visitors in our territory.

Jessica left us much too soon, Mr. Speaker. We give our condolences to the family.

Speaker: Introduction of visitors.

INTRODUCTION OF VISITORS

Hon. Mr. Silver: I do want to ask everybody in the Legislative Assembly to help me in welcoming to the gallery Jessica’s friends and family. Mike Simon is here. Judy Fortin, Kyrn Evans, Kathy Monroe, Tina Burkitt, Gail Roberts,

Elisabeth Weigand, Arthur Mitchell, Nancy Mitchell, Tina Brobby, Jo Lilley and Devin Bailey. Thank you all for being here today to help us.

Applause

Speaker: Are there any further introductions of visitors?

Are there any returns or documents for tabling?

Are there any reports of committees?

Are there any petitions?

Are there any bills to be introduced?

Are there any notices of motions?

NOTICES OF MOTIONS

Mr. Adel: I rise today to give notice of the following motion:

THAT this House urges the Government of Yukon to engage the Yukon Liquor Board, the business community, consumers and civil society in assessing whether the *Liquor Act* meets current needs and provides an appropriate balance between economic opportunities and social responsibility.

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

THAT this House urges the Government of Canada to support Bill C-384, *An Act to amend the Bankruptcy and Insolvency Act and the Companies' Creditors Arrangement Act (pension plans and group insurance programs)*, to protect workers' pensions in the event of a company declaring bankruptcy.

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: Tire recycling surcharges

Mr. Hassard: Yesterday, we raised concerns with the level of consultation the government has conducted on their *Designated Materials Regulation* that will raise taxes on a whole host of products, including tires and iPads.

Before I go any further, Mr. Speaker, I think it's important to quote the Premier on this. Last summer, he called these regulations a — and I quote: "... \$200 tax increase on a set of 4 tires..."

Mr. Speaker, again, those are the Premier's words, so it is quite clear that he believes this is a tax increase. Yesterday, the Minister of Community Services claimed that he worked with the electronics industry in the territory on these regulations, so we're curious if the minister could please tell us which local technology companies he consulted with on these regulations and, while he's up, maybe he could also tell us which trucking companies he consulted with as well?

Hon. Mr. Streicker: I'm happy to rise to talk about this, and I thank the Leader of the Official Opposition for the question. I'll work to get some specifics about trucking companies and retail companies. I would also like to note it's

not necessarily me specifically — it is the department. I thank the department for the work they're doing.

We are working to provide more time on this and to continue to hear from and engage with industry. Over the weekend, we met with the chambers and yesterday I spoke with them as well. We're listening to industry and we will provide more time on these proposed regulations to reach out again to talk to industry.

As the minister, I just want to make sure that they have enough notice and that we can work with them. We'll connect with them through open houses and meetings. Yesterday, I spoke with the chambers and we'll work with them to conduct some of those meetings.

There still seems to be some confusion around the proposed regulations. In a supplementary, I'll try to respond to the Leader of the Official Opposition. We want to be sure that industry understands what's being proposed and we want to hear from industry about how to make this all work. There is a lot of information out there right now, but we would like to take the time to clarify with industry exactly what is being proposed. There is strong support for a change in the way we manage waste and to be more sustainable.

Mr. Hassard: I certainly hope that the minister would be the one who approved the consultation plan. We have reached out to a number of folks representing technology companies here in town and, similar to representatives of trucking and tire companies, the technology companies we spoke with say they were not properly consulted. It appears that once again, we may have a minister who has dropped the ball on the consultation process and it could have very significant impacts on local businesses.

I'm curious if the minister could provide a list of everyone who was consulted on these regulations and maybe some timelines on when this happened?

Hon. Mr. Streicker: Yesterday when I stood in the Legislature, what I talked about was working and reaching out with the tire companies. When it came to the electronics companies, we had not reached out further with them. So I will ask the member opposite if he can share across with us how, as a party, they consulted with the electronics firms?

These regulations have been proposed since 2013, although when I look at the numbers for the electronics regulations, they are very similar to what is charged at the landfill for tipping fees right now. I am happy to work with the electronics industry and for the list that they are asking for. I will take responsibility for talking with them — that is totally fine. As I said yesterday, we are interested in hearing from industry and happy to get that feedback.

Mr. Hassard: As you know, this Liberal government did campaign on the slogan of "Be Heard". We certainly have heard from representatives of the local tech industry who say they were not heard on these regulations. We have heard from representatives of local tire shops, saying they were not heard. We don't recall any public advertisements on consultation on these regulations either. This morning, I took a look through the much-bragged-about engagement website and definitely didn't see any mention of the regulations there, so it seems as

though there really wasn't any major engagement on this at all.

I'm wondering if the minister believes that there has been adequate consultation to this point or not.

Hon. Mr. Streicker: The website came up in the past week. The work that was done — speaking with the tire industry — was over the past several months.

I will be happy to provide some more information, although I did stand up in my first response to the Leader of the Official Opposition to let them know that we are planning to continue to engage with the industry and I have done some media on that this morning. We absolutely want to hear from industry and we thank the members opposite — if they are hearing from industry, by all means, please pass it across. I know that we reached out to the tire industry and sought their input. There wasn't a lot of feedback at that time, but we always welcome that feedback.

Again, we are totally happy to hear from industry, but we want to hear from all Yukoners on this. It isn't just industry; it's about how we make sure the system is more sustainable for all of our communities.

Question re: Procurement policy

Mr. Kent: I have some procurement questions for the Minister of Highways and Public Works. The *Canadian Free Trade Agreement* allows the Yukon to issue 10 contracts per year of less than \$1 million, either by direct award or restricted to Yukon businesses. When we asked about this earlier this fall, the Minister of Highways and Public Works said that his officials were working on the criteria for this allowance. Can the minister tell us if they plan on doing this in this fiscal year and, if so, which projects are they considering? Are projects that receive funding from Canada eligible for this exemption?

Hon. Mr. Mostyn: I thank the member opposite for the question. It is a good one. Procurement is a very important issue to the people of the territory in both the business community and in the private sector, and in society as a general rule. How we buy things for this government has to be efficient, it has to be good, and we are working very hard to improve that process.

The department has been working for the last eight months on a number of different initiatives to improve the procurement process in the territory. We are working with First Nations on projects such as the Nares River bridge. We are working with the business community. I have been meeting with the business community and trying to improve the forms and the way that we actually tender the documents so that they are clearer, more precise and more consistent. All that work is coming together very well, and I am happy with the progress that the department has made on this front, and we will have more to say about this in the near future.

As for the \$1-million contracts, the member opposite is correct. We do have 10 disbursements under the *Canadian Free Trade Agreement* that we can give to companies — sole-source them on \$1 million. That process — making sure that we get those sums of money before the business community

— is important to this government, and we are working through criteria — as I said to the member earlier that we would do that and we are working on that. We will inform the member when that has been done.

Mr. Kent: We had hoped that those projects and that criteria would have been developed already. The *Canadian Free Trade Agreement* came into effect on July 1 of this year, and I can tell members of the House that industry is quite interested in what these 10 projects are going to be.

Moving on, Mr. Speaker, when contractors go on the tender management system, they have the opportunity to view the tender forecast as well as current and closed bids. The Yukon government contracting directive states that all contracts in excess of \$75,000 will be made public for each fiscal year prior to the beginning of that fiscal year. As of yesterday, there were 36 projects listed on the tender forecast. Can the minister tell us if these are all of the contracts that Yukoners can expect will be issued for the balance of this fiscal year?

Hon. Mr. Mostyn: I thank the member opposite for the question. I will endeavour to get him an answer to that question. I will let him know.

I do want to say that this government wants to make sure that these contracts are available and that we do have a long-term plan for the business community so they can start planning for the future. We have committed to having large, seasonally dependent contracts tendered by March 31, making sure that the business community knows what those projects are. I know that, as a government, we have been talking recently about getting contracts before the business community earlier so that they have a chance to know what is coming down in the coming year and can actually plan their year out — they have a little bit more time to prepare for their year. It is difficult right now. The unemployment rate is currently a little bit over 2.5 percent — it is unbelievable. That complicates matters for our business community. It is a good problem to have, but they have to plan to make sure that they have the labour in place so they can actually start to execute on these jobs.

In order to do that, we have to get more information before the business community ahead of time on the procurement front. We're working on that. We will certainly have better information for the business community going forward and that information is going to progressively get better and better. That's the plan, Mr. Speaker, and I look forward to more questions from the member opposite.

Mr. Kent: In my previous question, I did ask about the tender forecast and I will mention to the member as well that it is part of the contracting directive that those projects over \$75,000 will be made public for each fiscal year.

Mr. Speaker, the minister touched on this in his previous response, but I will just get a firm commitment from him that all seasonally dependent contracts for the 2018 construction season will be tendered by March 31 of next year.

Also, Mr. Speaker, when we talked about procurement earlier in this session, I mentioned the fact that the Yukon experience necessity had been replaced with a northern

experience, which caused problems for some of the local contractors because they felt that they could move their operation to Vancouver and still get the same points. Has the minister had an opportunity to consider whether or not to change that back to the way it was and ask for Yukon experience rather than strictly northern experience?

Hon. Mr. Mostyn: It's a wonderful finesse plan on the part of the member opposite. I like the nuance in his question. I'll run it back to the department and probe that nuance; however, I will say, Mr. Speaker, he did touch on a very important point. We have started to get value-driven contracts — not price-driven contracts. We have started to give some recognition to northern experience and try to make sure that people in the territory who live here and who are building our economy have an ability to bid on that contract and get a little bit of benefit for their local knowledge and experience and their investment in our community. That's important to this government, Mr. Speaker, and that's what we have done.

We have more value-driven contracts coming out. We're going to refine that process as it goes forward. We're going to take a look at it as we do this — as we roll these benefits out. We're going to take a look at how they work and then come back and report back and refine them and make them better. That's how this government is going to work through evidence and through trial and refinement. It's important to keep moving and keep improving and make sure that the people of the territory have better procurement practices.

We're committed to Yukoners. We would increase the ability of local businesses and First Nations to secure government tenders through changes in how government processes work and that's what we're doing.

Question re: Yukon legislation and tax avoidance

Ms. Hanson: Mr. Speaker, the Paradise Papers revealed earlier this week show how tax havens cost governments billions of dollars every year. Most Yukoners are not surprised to hear that financial elites will go the extra mile to avoid paying their fair share. What Yukoners will be surprised to hear is that Yukon laws appear to play a part in this process. Katanga Mining Limited is a company listed on the Toronto Stock Exchange. Radio-Canada reports that through a network of subsidiaries registered in tax havens like the Isle of Man and the British Virgin Islands, it operates the mine in the Democratic Republic of the Congo. Believe it or not, Katanga mine's head office is right here in Whitehorse. The so-called head office doesn't employ anyone and consists of a local mailbox.

Can the Minister of Finance tell this House what benefits there are for Yukoners to have companies like Katanga Mining based out of Yukon?

Hon. Mr. Streicker: I'll begin by responding to the Leader of the Third Party's question. This government is aware of the publicity around the Panama Papers. We are unaware of any circumstance where full compliance with Yukon law has been associated with tax evasion. In the media report in this area, careful review of the story shows that the

purported tax evasion resulted from failure to comply with existing Canadian law, rather than flaws in the law.

This government is committed to reducing red tape and regulatory burdens for small business while maintaining standards for business operations. Various statutes and regulations, such as business, securities and tax legislation, include provisions to prevent tax evasion. The territorial *Business Corporations Act* and the *Partnership and Business Names Act* are examples of such legislation. Yukon's business legislation is designed to provide an attractive business environment while ensuring that appropriate safeguards are in place for the protection of public interest. In the Yukon, control of all business entities is traceable to individual persons and cannot be hidden.

Ms. Hanson: It's provisions in the Yukon's *Business Corporations Act* that allow this kind of nonsense where a Congolese mine is, on paper at least, owned by a Yukon company with no staff and no office in the Yukon. Yukon was one of the first jurisdictions in Canada to allow corporations to register here without requiring any director to be Canadian. Other Canadian jurisdictions have since followed suit.

More recent changes made to the act allow a corporation to serve as a director of another corporation, further blurring the accountability lines. Experts have expressed concern that, once again, Yukon could trigger a race to the bottom among Canadian jurisdictions. The financial arrangements revealed in the Paradise Papers are complex, but it appears that, in some cases, Yukon laws are part of the puzzle.

Will the Premier commit to reviewing Yukon's *Business Corporations Act* to ensure it doesn't facilitate tax avoidance?

Hon. Mr. Streicker: First of all, I would like to thank the member opposite for the question. I think that, here in the Yukon, we have to ensure that we are doing our part nationally and territorially, and ensure that we have safeguards in place to ensure that taxes are being paid fairly, whether that is here in the Yukon or nationally.

The member opposite asked whether the Premier will be committing to a review or whether we will be committing to a review. I thank the member for that question. I don't have an answer at this time. What I can say is that we want to ensure that corporate and related law ensures that the identities of those who operate and control business entities are traceable all the way back to the individual people.

It's important that we have that to ensure that when we're dealing with these situations, we're taxing fairly here within the territory and nationally. I have been in correspondence with the federal minister on this as well just to ensure that we are supporting the national efforts toward this.

Ms. Hanson: I'll admit that I'm no international business governance expert and the tax schemes revealed in the Paradise Papers are extremely complex. Tax havens are costing Canada billions every year, yet the federal government doesn't seem in any rush to take action with many key federal Liberal figures directly identified in the Paradise Papers. It's clear that, in certain cases, Yukon's laws are part of the puzzle.

Why else would a company operating a mine in the Democratic Republic of the Congo be registered in Yukon? Is this government at all concerned that the reputation of Yukon as a centre of mining excellence is now linked to one of the most corrupt regimes in the world — a regime whose mineral wealth is sustained by corruption, massive civilian deaths and exploitation of child soldiers?

Hon. Mr. Silver: It's good to hear the member opposite commenting positively on our mining industry. We do agree that this is a great place to invest in mining on a national and international basis.

To answer the question specifically about what we're doing — we're always having ongoing analysis to make sure that our tax regime is fair and it's meeting the financial needs of Yukoners. I will engage to meet with the member opposite if she wishes to talk further about specific allegations that she has put on the floor of the Legislative Assembly today. I look forward to having that conversation with the member opposite.

This is the first I've heard from her on this particular issue, but we have made a lot of strategic financial investments in this department — my Department of Finance — to take it from a budgetary consideration to an office that can actually do more scrutiny pieces. The role and the mandate of the corporate department of the Ministry of Finance is very important in this because we want to provide that strategic direction that we need to make that evidence-based decision-making that we promised Yukoners.

We made a commitment to that evidence-based decision-making, and we continue to keep that commitment. If this is a situation where we find that there is a problem with our tax regime, we will address it. Until then, I implore the member opposite to reach out. She knows my door is always open.

Question re: Public airports legislation

Mr. Cathers: Two weeks ago, we asked the Minister of Highways and Public Works which municipalities, if any, were consulted on his *Public Airports Act*. In response, he suggested to the House that the Minister of Community Services consulted the Association of Yukon Communities at their September 23 meeting, and the Minister of Highways and Public Works claimed they were asked for feedback on the act.

Fortunately, the Association of Yukon Communities posts the minutes of their meetings online so we can check the accuracy of the minister's claims. The minutes of that meeting contain no mention of the *Public Airports Act*. My question is simple: Why did the minister claim that AYC was consulted on the *Public Airports Act* on September 23 when, according to their own minutes, that is clearly not the case?

Hon. Mr. Streicker: I thank the member opposite for the question. My recollection of what I said here in this Legislature was that, when I met with the Association of Yukon Communities on September 23, I listed off a range of topics that we were consulting and engaging with Yukoners on. That list included the *Public Airports Act*. There were many things on that list because there is a lot of work that

we're doing. We've been building a foundation, we're looking forward as a government, and there was a lot to engage on.

What I recall talking about at the Association of Yukon Communities meeting — I put the agenda to them and the number one topic that we discussed was cannabis; number two on the list was infrastructure; number three on the list was the comprehensive municipal grants. There were a few side conversations on a couple of other issues, but airports didn't arise.

After the members opposite asked about consulting with municipalities, I made the point of — each time I went to a municipality to raise the topic. So far I have heard no concerns, although I have raised it with every municipality that I have been to since. I appreciate the question.

Mr. Cathers: This Liberal government has a growing credibility problem when it comes to consultations and their election promise that Yukoners would be heard.

First, they misrepresented the level of consultations with the aviation industry on the *Public Airports Act*. Next, the Minister of Highways and Public Works made false claims about levels of consultation with the City of Whitehorse. Then he was forced to pull down his press release all together that claimed that he consulted on the *Public Airports Act*, and I won't even get into the way the government dropped the ball on the *Designated Materials Regulation* consultations.

But now that we find out that the minister incorrectly stated that the Association of Yukon Communities was consulted on the *Public Airports Act* at their September 23 meeting, and the number of topics that the Minister of Community Services just listed were referenced — but again, there's no mention of the *Public Airports Act*.

My question for the Premier is: Is he still proud of his government's work on the file, or will he press the "pause" button on the *Public Airports Act* and consult with stakeholders before using the Liberal majority to ram it through?

Hon. Mr. Mostyn: I thank the member opposite. I really will never turn down an opportunity to talk about the *Public Airports Act*. I think it is an important piece of legislation. I'm very proud of the work that we have managed to do on this. We've got an airports act in the house. It's in second reading right now as general debate. Throughout that process, we've had, I think, almost 10 hours of discussion about this piece of legislation. Far be it from us to ram it through. We've been subjected to forensic scrutiny in this House, and I'm very happy with the efforts we've done on that regard. Actually, the bill is better for all the input that we've had from industry groups and from industry itself.

We've amended the act, as per the instruction from industry. They have a suggestion for us and we took them up on their suggestion. The member opposite for Copperbelt South, actually, was also in favour of the amendment that we made and I'm very happy for his input on this. The bill is stronger for it and I am happy to do it. What industry wanted was certainty that they would have an advisory committee that would actually have some teeth and be mandated to exist because they were worried about future governments pushing

things through without their scrutiny. I'm more than happy to do that, Mr. Speaker.

Mr. Cathers: I do have to remind the Minister of Highways and Public Works that we proposed a list of constructive amendments to the act, based on what we were hearing from upset stakeholders and the government voted down every one of them.

The minutes of the September 23 meeting of AYC are available to the public online. The government previously claimed that the Minister of Community Services consulted AYC at that meeting on the *Public Airports Act*. The minutes do not support this claim and the Official Opposition has talked to a number of people who were there who also say it wasn't discussed. It is unfortunate that the government has gone from a "Be Heard" slogan to effectively becoming a punchline.

Will the Minister of Highways and Public Works apologize to the Association of Yukon Communities for misrepresenting consultations with them and agree to press the "pause" on the *Public Airports Act* and do proper consultation before using the Liberal majority to ram this legislation through?

Hon. Mr. Mostyn: I thank the member opposite for the opportunity to correct his record. The fact is that this House has not rammed through any piece of legislation. As a matter of fact, we have allowed it to be scrutinized by the members opposite in forensic detail. They have asked hundreds of questions on this piece of legislation. We have amended the legislation to make it better after the suggestions from industry and the member opposite. I am happy to have done that because it protects industry, which wanted protection from future governments because they knew that we had committed to not bringing in the fees that had been fear-mongered in society about airport improvement fees. We stated publicly that we would never do such a thing and now industry has a mechanism to prevent them from having those things imposed on them in the future, and I am happy to have done that.

The members opposite mentioned their amendments to the act. Some of the amendments that they proposed would have actually crippled the act from being able to license the air operators who currently operate at the airport. I thought that was a really wrong-headed approach to actually strip the ability of our air partners to actually operate out of the airport, so we actually turned down that legislation. But I thank the members opposite for trying. The legislation is still before this House in general debate and I am sure — well, I know — that it's a better act for all the scrutiny it has had over the last several weeks.

Question re: Hospital bed shortage

Ms. McLeod: Yesterday, I asked the minister what this government is doing to address the hospital bed shortage in the territory. As we know, the Whistle Bend care facility is currently set to open up 150 beds by 2020. Certainly we can all agree that something must be done in the short term before the doors open at the Whistle Bend care facility.

The previous government undertook a number of actions to address this in the short term, but today we're interested in what this government is doing. I didn't receive a clear answer from the minister yesterday, so I will ask this question again.

Outside of the Whistle Bend care facility, can the minister tell us how many continuing care beds her government is planning to add over the next two years and if any of these beds will be outside of Whitehorse?

Hon. Ms. Frost: I am happy to respond. The questions that have been asked with respect to continuing care, aging in place, collaborative care models, health care models — we have done some really good work over the course of the year building a foundation for this government and building our relationships with the First Nations.

Expanded scope of care, rural care — as the Member for Watson Lake would well know, there are heightened pressures in our communities in rural Yukon.

The question was asked of what we were going to do in the Yukon. Clearly we are looking at our partnerships. We are looking at working with the Hospital Corporation. We are working with Health and Social Services. We are working with non-profit organizations. We care about what is happening in Yukon. We care about Yukon people and we care about our patients. We are taking the necessary supports and the necessary cues from our partners. We are working toward addressing the long-term needs of Yukoners.

With respect to what we are going to do on identifying numbers of beds and addressing the pressures, through Committee of the Whole we heard from the Hospital Corporation that there are pressures. I said yesterday that this is a long-term pressure on the hospital and on health services and we are working to resolve that.

Ms. McLeod: Again, I did not hear answers to the questions. Yesterday, when I asked the same question, the minister suggested that there was a continuing care facility that was just built in Carmacks. I would like to hear a little bit more about that. Continuing care beds are reserved for those who require full-time, comprehensive care and assistance. Those who require this level of care are currently occupying beds in Whitehorse General Hospital, which the Yukon Medical Association has flagged as a cause for the bed shortage.

Can the minister tell us how many continuing care beds are there in the Carmacks facility that she referenced yesterday? Is she opening more continuing care beds in other communities?

Hon. Ms. Frost: The question around aging in place I think was associated with yesterday's response. Aging in place is certainly important, health care is important, as is working with our communities and working in collaboration with Yukon Housing Corporation to address the housing pressures. The seniors residence in the community of Carmacks is available. I have provided the information and would be happy to do that again. We are actively addressing the urgent and critical needs for long-term care beds through a variety of programs and services.

Ms. McLeod: Yesterday, I also asked the minister what her government is doing to address the bed shortage at the hospital and she said that her government is looking at an aging-in-place model. I was wondering if the minister can elaborate on this: How exactly will this aging-in-place model reduce the demand for beds at the hospital? How many beds will the minister's aging-in-place model free up in the hospital over the next two years?

Hon. Ms. Frost: I would be happy to respond. Through the provision of home care services throughout the Yukon, we are looking at enabling Yukoners to remain in their homes while providing supports to be healthy and vibrant in their own communities. That addresses some of the long-term pressures.

What can we do at Health and Social Services to provide services to our aging population? As we well know, the population by 2030 is going to triple — the aging population over 55. So really starting to think long term — not thinking about this year or next year, but what we are going to do in that time frame and still be able to provide the services that are much needed in our community. I think the more critical thing is — our home care program and our dedicated supports — is around trying to balance a budget, balancing a health budget, an infrastructure budget and provide O&M services and supports to our community. It's about finding the partnerships, working with our communities and building a really solid foundation for success.

Speaker: The time for Question Period has now elapsed.

Introduction of visitors outside of the time provided for in the Order Paper.

INTRODUCTION OF VISITORS

Ms. Hanson: I would just like to ask the House to join me in welcoming Lillian Nakamura Maguire. She is a well-known writer, playwright, historian, and a very active seniors' advocate.

Applause

Speaker: Are there any further introductions of visitors?

Notice of opposition private members' business

Ms. White: Pursuant to Standing Order 14.2(3), I would like to identify the items standing in the name of the Third Party to be called on Wednesday, November 8, 2017. They are Motion No. 184, standing in the name of the Member for Takhini-Kopper King, and Motion No. 132, standing in the name of the Member for Whitehorse Centre.

Mr. Kent: Pursuant to Standing Order 14.2(3), I would like to identify the items standing in the name of the Official Opposition to be called on Wednesday, November 8, 2017. They are Motion No. 88, standing in the name of the Member for Watson Lake, and Motion for the Production of Papers No. 1, standing in the name of the Member for Watson Lake.

Speaker: We will now proceed to Orders of the Day.

ORDERS OF THE DAY

Hon. Ms. McPhee: 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 (Mr. Hutton): Order, please. Committee of the Whole will now come to order.

The matter before the Committee is general debate on Bill No. 14, entitled *Legal Profession Act, 2017*.

Do members wish to take a brief recess?

All Hon. Members: Agreed.

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

Recess

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

Bill No. 14: *Legal Profession Act, 2017*

Chair: The matter before the Committee is general debate on Bill No. 14, entitled *Legal Profession Act, 2017*.

Hon. Ms. McPhee: I would first like to take opportunity to welcome Lawrence Purdy and Tyler Plaunt, who are here from the Department of Justice and have worked extensively and for many long hours on the bill that is the *Legal Profession Act, 2017*. They are here to assist me in answering questions today, and I thank them for being here and for all their hard work.

I have a few words to say with respect to this piece of legislation before we proceed to answering some questions about the new *Legal Profession Act, 2017*. In my earlier remarks in second reading, I reviewed the changes that we have made to the *Legal Profession Act* and its structure.

Today I want to take some time to discuss the engagement process and the more-than-one stream in which detail was gathered. Yukoners had the opportunity during that process to tell us what they think and their concerns, if any, and their ideas about a new *Legal Profession Act*. Our engagement efforts were carried out between June and September 2017, specifically, although there has been much input as you heard at second reading into the changes that are being presented to this Legislative Assembly.

The engagement efforts that took place between June and September, 2017 can be divided into three separate streams. The Department of Justice officials began meeting with the Law Society of Yukon representatives in June on a

nearly weekly basis to review policy issues, and the society had proposed changes and they presented those, as you know, over a number of years. Weekly meetings allowed them to delve into those details and policies more in-depth.

I would like to thank the Law Society of Yukon and its representatives for their role in these respectful and productive meetings as we laid the groundwork for the structure of this new statute and established instructions for the drafting of the bill that we have before us today.

A second stream of engagement activities consisted of sending letters, along with a short discussion document that attached questions to targeted legal stakeholders and to First Nation governments. While some of these organizations, such as the Canadian Bar Association and the Court Watch Yukon program chose to answer the discussion document questions and submit them directly to the Department of Justice, other groups, such as the Yukon Law Foundation, the Council of Yukon First Nations and the Tr'ondëk Hwëch'in First Nation, requested meetings either with me or with officials from the department. Of particular focus for the Council of Yukon First Nations and the Tr'ondëk Hwëch'in First Nation were the provisions concerning indigenous courtworkers and the role that they play in Yukon's justice and court systems.

As I mentioned during second reading, the updated *Legal Profession Act, 2017* also ensures that indigenous courtworkers can continue to deliver the valuable service that they provide to individuals navigating the justice and court systems. The act also contains new provisions for indigenous courtworkers that would allow for their services to be described in a regulation that would be authorized to be made after consultation with all Yukon First Nations and the Law Society of Yukon.

As the *Legal Profession Act, 2017* is also the guiding legislation of the Yukon Law Foundation, the organization had some specific requests in terms of updating the provisions of the act that deal with the foundation's objects clause, terms of office for directors on the foundation's board, audit requirements, and avenues for foundation revenue. The act addresses these various concerns by reorganizing the foundation's objects clause to put more emphasis on public legal education and access to justice, creating a biennial audit requirement for the accounts of the foundation, extending a director's term from two to three years to provide better continuity to the foundation's board, and the introduction of a regulation-making power that could impose assessment on non-resident members of the Yukon law society who do not send trust account interest to the Yukon Law Foundation. This provision would provide the Yukon Law Foundation with augmented, grantable revenue for legal education programs and initiatives if that regulation is made.

A small group of concerned Yukoners and organizations took the time to respond to our discussion document questions or online survey. In total, 45 responses were received by the Department of Justice.

We asked if an updated *Legal Profession Act* should provide a framework for the regulation of the legal profession, leaving operational procedures to be fully articulated by the

rules of the society: 77.8 percent of respondents agreed that this was the correct course, with only 6.7 percent disagreeing; the remaining 15.5 percent stated that they were unsure.

We also asked if the government's oversight of the rules of the society should be removed in order for the profession to regulate itself, as is the case in most all other jurisdictions in Canada: 54.5 percent of respondents agreed with this assertion; 25 percent disagreed with that change; and 20.5 percent of respondents noted that they were unsure or had no opinion.

We asked Yukoners if an updated *Legal Profession Act* should expand its definition of the practice of law to the broader provision of legal services, and set out which categories of members can engage in the full provision of those services and which categories can provide a more limited scope, such as paralegals: 71.1 percent of respondents agreed that this should be the case, and just 11.1 percent disagreed with that approach.

Yukoners were asked for their opinion on whether or not the law society should be able to seek an interim order to stop unauthorized legal practice without a charge having been laid.

Currently, a charge must be laid to stop illegal or unauthorized practice. Precisely two-thirds of the respondents believe that this amendment should be made, with 27.6 percent of respondents disagreeing with that proposed change.

In looking at providing for stiffer sanctions to deter unauthorized practice, we asked Yukoners if, for second or subsequent offences, Yukon should follow the Nova Scotia model and treat each day that an offence continues as a separate, fineable offence up to the amount of \$250,000. While 42.2 percent of respondents agreed with that assertion, 35.6 percent of the respondents were unsure and many accompanying comments stated that this maximum amount was too steep, while others still noted that the amount was not a problem to them, but treating each day as a separate offence was not the best tack to take.

Mr. Chair, we heard what they had to say, as there was very little evidence of the overall consensus, except that penalties for unauthorized practice should afford a more suitable deterrent than it does in the current act. To that end, we have significantly increased the maximum fine amounts to \$10,000 for a first offence and \$25,000 for a second or subsequent offence and/or imprisonment of up to six months, providing a significant deterrent for unauthorized practice and bringing Yukon more in line with the penalties that are found in other jurisdictions.

Lastly, we asked Yukoners if the new act should differentiate between matters of incompetence and matters of incapacity, such as alcoholism or mental health difficulties, in order to deal with members who are having difficulties and otherwise not contributing to the unauthorized practice in relation to complaints and to the discipline process. We talked to them about whether or not these two categories would be appropriate. Sixty percent of respondents noted that there should indeed be different streams or remedies for dealing with matters of incapacity versus matters of misconduct or

incompetence. Just 17.8 percent of respondents disagreed with that.

As members can see from my remarks from second reading and today, we are pleased to see the amount of interest and participation by Yukon citizens about the contents of the new *Legal Profession Act*. We are confident that this multi-streamed approach to engagement allowed us to gain the essential feedback of stakeholders and the Yukon public so that we could deliver this bill to the Legislature under a compressed timeline. I look forward to further comments and to questions from members of this House, and I appreciate the opportunity to speak to this matter today.

Mr. Cathers: I will not spend long in speaking to this legislation, as I made reference to it during second reading. I appreciate the work put into this by the Yukon law society as well as the members of the working group who did the legal drafting as well as the work done by the staff of the Department of Justice and legal drafters. We acknowledge that this legislation is something that emerged from a request from the Yukon law society and are pleased to see their support for it. I have discussed the content of this legislation with the Yukon law society and read through it myself and the Official Opposition has no concerns with the content of the legislation. We will be supporting it, and have no questions that have not already been addressed by officials during the briefing on this legislation.

Ms. Hanson: I reiterate the comments I made on October 30 at second reading with respect to Bill No. 14, *Legal Profession Act, 2017*. I will have a number of questions for the minister more to the issues around how the purposes section of the new legislation is achieved, and in particular how sections of the legislation achieve the purposes of acting in the public interest. That is one of the underlying rationales for the move to self-regulation. It's absolutely imperative from a good governance point of view to ensure that this objective is being achieved through the legislation we are debating here.

Although I may have a number of questions — as I said before, I'm not a lawyer, and I'm not coming at this from a legal point of view. I'm coming at it from a citizen's point of view — one who wants to be assured that a self-regulated entity will be operating in the public interest and not in the interest of its members.

I raise that because we've had a number of experiences in Canada and in this jurisdiction, as well, where we have seen the interest of professional entities serve themselves and not serve the public. That is worrisome. When I raise questions, it will not be necessarily negative, but to simply say that these are legitimate concerns of the public in granting — and it is a granting — of the right to self-regulate your profession, as opposed to having government oversight to ensure the interests of the public.

The minister referenced that there are eight other jurisdictions that are self-regulating. In reviewing the background papers, we're all aware that it's not universal and that, in some cases, governments have stepped in. I think it's the law society's paper where they note that, in England, the

government of England decided for a number of controversial reasons it was no longer appropriate for that law society to be self-regulating.

Overall, we appreciate the enormous amount of work that has gone into drafting this. As I said at the outset, we have supported the movement toward the realization of the *Legal Profession Act, 2017*, and the nature of the kinds of questions we raise are to clarify that the stated intent is being achieved. We look forward — as I said at second reading — probably learning more than we ever intended or thought we could possibly learn about the legal profession as we move through this act.

Chair: Is there any further general debate on Bill No. 14, entitled *Legal Profession Act, 2017*?

Seeing none, we will proceed to clause-by-clause debate.

On Clause 1

Ms. Hanson: I just wanted to confirm that clause 1 is definitions. I do have a question, Mr. Chair.

I'm just trying to make sure — there are a lot of pages here. In the minister's comments and in the briefing, it was my understanding that the legislation provides for the recognition of paralegals and I don't see a definition for paralegals. So my question is: Why is there no definition?

There is also reference to indigenous courtworkers with, again, an "if" kind of thing, so there is a definition of indigenous courtworkers, but there is no definition of paralegals. If that is going to be made pursuant to regulations after the legislation passes, why is there no definition? It is curious.

Hon. Ms. McPhee: I will get to the Leader of the Third Party's question in just a moment, but I would like to just touch on a couple of things that have been said prior to getting to this stage of review.

One of the comments was that the Leader of the Third Party is not a lawyer and is coming at it from a citizen's point of view.

That's exactly what we should be doing with respect to this legislation, because this legislation speaks to the public about how the legal profession is regulated in the public interest. It is about how lawyers are to be licensed, how they are to be governed, how they are to be disciplined, how there is a discipline process and, in the event that there are difficulties with practice, how they are to be sanctioned — all in the public interest. As a result of the concepts of a self-regulating profession, it must be in the public interest.

There is no place in this piece of legislation that says that this section is about serving the public. The entire piece of legislation is about serving the public and how the legal profession is to be regulated in the public interest. This is the authorizing legislation, the disciplinary process, the sanctions and the governance, all to be held up to public scrutiny and for those of citizens and their point of view, and how the legal profession serves the public interest. There is nothing in this piece of legislation that indicates anything other than that.

As a matter of fact, the role of a law society — by its very definition here in the territory, across the country and across the world where law societies are of the same ilk as they are

here in Canada — is to regulate the legal profession. At no point do they have any activity that involves supporting their profession or advocating on behalf of their profession. They clearly support their profession if there are difficulties with practice or disciplinary matters, of course, but it is about regulating the legal profession in the public interest, as opposed to — by way of an example — the Canadian Bar Association, which is an association of professionals for the purposes of dealing with professional issues, advocating often on behalf of lawyers or on behalf of some of their smaller groups within the legal profession, and advocating different points of view on different topics as they come up. That is not the role of a law society; it never has been and it doesn't exist here.

There have been, in the past, amendments made here and there to the *Legal Profession Act*, one which inserted a clause — actually in this definition section, if I remember correctly — about how the last version of that section also said "... and to act in the interest of its members." It seems pretty innocuous. It does not exist in this piece of legislation because there is no role for the law society to act in the interest of its members. It only acts in the public interest.

To your specific question about the definition of "paralegals", it does not exist in the interpretation or the definition section at the beginning of the bill or the piece of legislation because the practice of paralegals is not currently permitted in the territory. Section 19, which would allow for a broader definition of scope of practice or types of practice, is there as an enabling section only. Paralegals are not defined here because it's simply not something that is, at this point, permitted by this legislation.

It is in there — section 19 — for the purpose of not requiring a change in future if the legal profession in the territory develops to the point that there are paralegals who are properly licensed and supervised for the scope of practice in what they may be able to do at that point, but at this point there is no definition because it is not permitted for them to practise. By way of example, I think the indigenous courtworkers program, for instance, does exist and there are jobs — employment opportunities — employment positions with the territorial government and with First Nation governments where somebody does have the job of being an indigenous courtworker and therefore the definition is appropriately included here in the legislation. I hope that answers the question.

Clause 1 agreed to

On Clause 2

Ms. Hanson: Again, going back to just clarify. I found myself, in discussing this with other people, falling into a trap that made me question — if I am falling into this trap, why aren't we making this clearer? We have a *Legal Profession Act* and when you talk to most people in the Yukon, or most citizens, they will refer to lawyers and they will think about the bar association, which is an advocacy group. We understand that. Then you have the Law Society of Yukon, which is not supposed to be an advocacy group. Why isn't the *Legal Profession Act* governing a legal professions society as

opposed to a law society? I understand there are traditions — Upper Canada, blah, blah — going back to Britain. The issue is that if we are talking about legal professions, why are we talking about continuing on with a confusion of names? I just want to know if that was debated and if that was part of the consultation.

Hon. Ms. McPhee: Thank you for that question, which I actually did not anticipate, and I have lived in the law society world for a long time, so I do appreciate it. Thank you very much to the member opposite.

There was no anticipation of changing the name of the law society. Across Canada — partly, I guess it has to do with tradition. The Law Society of England and Wales is the so-called mothership of law societies of the British tradition upon which Canadian law societies are built. The law societies across the country have the name of "law society". I am sure it is historic in its nature, with the exception of Quebec, which known as the Barreau du Québec, and with the exception of Nova Scotia, which is known as the Nova Scotia Barristers' Society — but is a society nonetheless. We didn't consider changing the name; it is the name that the Law Society of Yukon has chosen for themselves based on the traditions of the law societies and, as I have said, they are the same across Canada.

Clause 2 agreed to

On Clause 3

Ms. Hanson: So with respect to the purpose of the societies section, to me, this, in any legislation, is sort of like the spine around which this legislation is built — the purpose of the society is to uphold and protect the public interest with (a) to (f) enumerated statements. So (e) says: "... promoting access to justice and engaging in public outreach...", and the minister just said that section 19, which deals with paralegals, is enabling only to allow for the law society to make changes in the future, should they wish to countenance the paralegals being recognized in the territory.

I guess I'm concerned that an enabling provision with respect to paralegals fails to recognize the real situation in terms of the very inequitable access to legal services that exists in this territory right now. It is my understanding — and the minister can correct me if I'm wrong — that some jurisdictions — I think Ontario — do regulate paralegals under the law society. So why would we put "enabling" at this stage of the game when we know that many people are finding it very difficult to access legal advice and support and that oftentimes it's not a full-fledged court case or whatever, but it's assisting and understanding the legal process, or understanding some of the issues that are associated with something that has a legal aspect to it?

I fail to understand how the purpose of the society is reflected in this legislation — this legislation is giving it that self-regulating gloss — and how it's going to be doing that if it is "maybe someday in the future". What will be the trigger? What will trigger the opportunity? I go back to the concern that I expressed at the outset, Mr. Chair. We have seen other professional associations circle the wagons and say, "We don't want X, Y, Z in this territory."

I will use the reference of international medical graduates — those of you who recall the crisis that we faced not five years ago in accessing family physicians or any physicians in this town. It turns out that the association that governed their ability to practise in this territory had established two different bars as discriminatory.

My question is: If it's enabling only and we're trying to ensure that the public interest is being served, how is this achieved in this legislation by not having something more prescriptive with respect to the ability of the practice of paralegal — somebody who has that kind of training — and the recognition of the training for somebody to be a paralegal?

Hon. Ms. McPhee: First of all, I completely agree that the core of this piece of legislation is set out in — I want to call it a section, but it's a clause in this room — clause 3.

It is the purpose of the act. It is, as I stated earlier, to protect the public interest in the delivery of legal services by doing the (a) through (f) there. I will come back to that in a moment.

With respect to the specific question about paralegals and why section 19 is enabling — I hesitate to say this because I'm not 100-percent sure, but, at this point, I think the member opposite is correct that only Ontario regulates paralegals. Of course, they do so through their legal profession act, or the equivalent, and pursuant to the law society activities. If that were an issue here in the territory, at some point clearly we would do that. We have the provisions to do that here.

While I appreciate the comments about inequitable access, at this point and for all of the years that I've been involved in the law society here in the territory — and we have gone around on this question a number of times — there simply has been no organized representation by paralegals for the purpose of practising. They would practise under the supervision of someone from the legal profession and there certainly is some work being done, but, as far as providing the kinds of legal services that I think the member opposite is thinking about, there simply has not been that case.

The second part of the question that I find to be absolutely critical is that the provisions in section 19 do not allow the law society to put up barriers, if I can say it that way. In fact, it is a decision of the Commissioner in Executive Council. Of course, there is consultation with the law society, but it is a decision by government and by Cabinet, through the Commissioner in Executive Council, as to whether or not the expanded scope of service is permitted.

It's not a matter of being not scrutinized, if I can say it that way, for the purpose of keeping a legal profession's doors closed. There are some people here in the territory with what we would consider to be paralegal training, but there simply has not been the uptake to provide the services that you may be considering.

In addition to that, it's important to clarify that the independence of the legal profession is fundamental to the rule of law — which is why we have law society acts, which is why we have law societies — because there must be someone to represent an individual who wants to challenge, wants to seek justice, wants to challenge a government

decision, for instance, wants to have their voice heard in a court of law or in a matter to challenge the status quo or the powers that be. In order for that to be the case and in order for that to be a foundation of our Canadian society — which it is — the rule of law must be upheld. In order for the rule of law to be upheld — for lack of a better explanation, the rule of law being that the law applies equally to every citizen, to everyone, for all purposes — the independence of the legal profession is absolutely required, as is the independence of the judiciary, separate from influence by government, separate from influence by lawyers — to be separate from influence by government or by other forces so that everyone can be represented as they choose and determine their own path to justice.

Ms. Hanson: I absolutely agree with the comments made by the minister with respect to 3(c) — upholding the independence of the legal profession. I guess my question would be: How is that given effect in this legislation and how is it given effect practically in a jurisdiction like Yukon? I can't count the number of times where I've been told, "No, we won't take that on because I work in this town and I'm not taking on this or that case". Where in this legislation is the independence of the legal profession — how is it manifest in this act?

Hon. Ms. McPhee: I do want to come back to making reference to part (e) before we move off of this clause, but I will come back to that in a moment and answer the question by the member opposite first.

There are two provisions that are in the current *Legal Profession Act* that do not exist in this piece of legislation. I'm sorry — I don't have it front of me so maybe one of my colleagues will be able to give me the section if it's necessary, but there is a provision in the current piece of legislation that provides for quite a bit of oversight by the Minister of Justice — Responsibilities of the Minister, 106(1) — in the current legislation that does not live in this new piece of legislation.

In addition, there is the ability in the current legislation for the government to scrutinize the rules and rule-making authority for the Law Society of Yukon — again, an opportunity in removing that clause to further the independence of the profession and of the Law Society of Yukon. Of course, individuals who are lawyers and who are licensed under this piece of legislation cannot represent both sides or cannot act in a conflict of interest, and as such, need to, on occasion, make choices.

With respect to the comment from the member opposite about individuals making choices about not wanting to represent one party or another, I can't really comment on that. The integrity — this is something I've worked on for a long time, Mr. Chair.

I was the president of this law society here in the territory for a length of time longer than any other president — for six years. I was chosen by my peers to be the president of the Federation of Law Societies of Canada, an umbrella organization that represents 14 law societies in Canada with over 90,000 practising lawyers and notaries. The law society world is somewhere I live and I have lived and, while it harms

me to hear the comment like “I wouldn’t take that case in this town” — or something that you paraphrased — the integrity of the legal profession is something I truly believe in. I believe this piece of legislation will, in the public interest, require our lawyers to be of stellar integrity to represent their profession well.

Unfortunately, that is an individual decision and is something that is outside the boundaries of this legislation, which I believe puts in place all the rules that we can possibly put in place for individuals to act appropriately and to be properly regulated — and disciplined when they don’t — but it’s not something that can always be controlled.

Ms. Hanson: I do share the minister’s aspirations there when we get to that section of the act that speaks to how discipline — how the public or if the public’s interest is reflected in those disciplinary aspects and then we can discuss that further.

Clause 3 agreed to

On Clause 4

Clause 4 agreed to

On Clause 5

Ms. Hanson: Again with respect to the overarching objectives in terms of the public interest, could the minister clarify how clause 5 works? There are a couple of components of 5(1). You have the two individuals who are going to be appointed and then you have some changes if the executive changes later in the act. It says that the minister must appoint and it’s my understanding — is the minister required to consult with the law society’s executive before they appoint a public member? Or is it the intention that the public members on the executive are in fact independent and so not vetted by the law society?

I’m trying to get at the nature of the kinds of people who are trying to get on to this. If they are truly members of the public, they may or may not be best buddies with those guys who are lawyers and who are on the executive of the law society. Must the minister consult and get public members vetted or is the minister free to appoint based on objective criteria that have been established to achieve the objectives of this act — those objectives that we talked about in clause 3?

Is that the minister’s overarching mandate with respect to appointing public members? If not, could she clarify who and how — not individuals, but the kinds of qualities that are being sought when a public member is being appointed?

Hon. Ms. McPhee: Parts of this clause do require the minister to consult with the executive before the appointment or the reappointment or the removal of a public member, but at that point they have no authority other than consultative. There is no authority for them to approve or to deal with the criteria. Ultimately the decision remains with the minister. I don’t know whether this will answer a question that you might be going to ask, but you made reference to the reference later on. The executive is required to be no less than eight members and 25 percent — in this case, two members set out here are members of the public, public representatives. Later, it allows for the number of people on the executive to be higher than eight, and the public representative must still be 25 percent.

So if the work of the law society was to expand in future and they wanted to have 10 members, they would still need 25 percent to be public. That is the change that can be made later on, but no less than eight members of an executive and no less than 25 percent of public representation.

As far as the characteristics go, I can speak from my own experience in that. First of all, the law society usually seeks public input. The minister’s office seeks public interest — who is interested in being a member of the law society executive — and applications come through that process. It is not my experience, by any stretch of the imagination, that individuals who have friends who are lawyers — that is not what happens. I can think of a number of public representatives with whom I have worked over the years, and all have been interested in the legal profession, interested in justice issues perhaps, and are outstanding members of society who are keen to read a lot, which is often one of the requirements of the executive roles. In addition to that, because of the role that might have a public member of the law society executive be on a board of adjudication — for lack of a better term — or a panel, by which they would need to make decisions — an interest in administrative law, the principles of natural justice, the principles of fair adjudication of matters, and those kinds of things generally. People with those interests come forward.

The law society has been lucky, I think, to have amazing public representatives who often stay for more than one term because of their interest and the learning curve in getting up to speed — as the member opposite has done, Mr. Chair, in learning the details of this piece of legislation and the other details of how that plays out. Of course, there are an extensive number of rules that will accompany this piece of legislation and that accompany the current piece of legislation. Those tend to be more detailed or practical about the operations of the law society.

I hope I have answered that question but, while there are no set criteria, it’s something the law society takes very seriously, as does the minister, in making sure that those appointments are people who understand and have interest in the issues that will be before the law society.

Ms. Hanson: If the minister misunderstood me, I was not challenging whether or not persons were friendly with lawyers. It’s whether or not the minister had the discretion, should there be — some legal professions, some groups of legal professions can be rather staid and may not be that much interested in change, may not be comfortable with activists or policy advocates for change — for example, when we talked earlier about the issue of what would trigger the move or the recognition of paralegals. So if you had somebody who comes from a poverty law background or a poverty community activist background, would the minister be able to say, “You know what? I think we need to put some people into this mix who will liven it up, perhaps.” I don’t know, but I’m just saying: Does the minister have the ultimate say in appointing the public members, or does the law society?

My last question on clause 5(3) is a question with respect to public representatives entitled to any prescribed

remuneration — prescribed according to what schedule and paid by whom?

Hon. Ms. McPhee: I think I left out of my last answer that I completely understand the question, Mr. Chair. Of course, diversity is a criterion that I personally would seek, and I know the law society would seek gender representation and representation from the community, so there's a broad spectrum of skillsets represented there. The public representatives at the law society are a critical piece of how they do their work.

The answer to the question with respect to prescribed remuneration is an interesting one. At this point, the public representatives on the law society executive do not receive remuneration for their work. In my view — this is not something that I haven't said publicly before, and I said it before I was here and I'm working on changing that now — it is because the law society is not properly characterized in the program for government remuneration of individuals on boards and committees and tribunals across the government.

The executive members of the law society would not receive any remuneration for their work, but the public representatives would. It is a matter that I have personally tried to change in the past and hopefully, now that I sit in this chair, I will be able to sort that out. It is paid pursuant to the categorization of Yukon government remuneration for boards, committees and tribunals, and the separate classifications of those boards into a group of boards. The law society executive falls into one of those categories, which, at this point, says that no remuneration is appropriate.

In my view, that is not the correct one and that will be worked on, but, in answer to your question, it's about the government boards and committees and paid for by the government for individuals who participate in public committees.

Clause 5 agreed to

On Clause 6

Clause 6 agreed to

On Clause 7

Ms. Hanson: I'm not trying to belabour it, but I just want to make sure — in the self-regulating entity, the executive director position, which is a paid employee, will be paid for by the Law Society of Yukon.

Hon. Ms. McPhee: Yes, Mr. Chair, it is paid for by the Law Society of Yukon.

Clause 7 agreed to

On Clause 8

Clause 8 agreed to

On Clause 9

Clause 9 agreed to

On Clause 10

Clause 10 agreed to

On Clause 11

Clause 11 agreed to

On Clause 12

Ms. Hanson: When the minister was at second reading, I believe — and I may have skipped 11, but I am trying to understand the difference here — if this is the section of the

legislation — and she can correct me, no doubt — there are different kinds of memberships for people to be Law Society of Yukon members, as I recall. I have my notes from the briefings too. Going back to some of the concerns expressed by members of the association who are not resident in the Yukon, but are eligible to practise in the Yukon, can the minister clarify the different kinds of categories of members here for people who are recognized as lawyers able to practise law? It is my understanding that some people — and we see this — from outside the Yukon have a category of membership that allows them to represent clients. Could the minister explain if that is covered by this clause 12 about members?

Hon. Ms. McPhee: At this point, there is only one category of members in the legislation. You are either a member of the Law Society of Yukon here in the territory or you are not; however, you could be a member who is a resident in the territory or a non-resident.

You can also practise law here in the territory if you come with what I'm told will be known as interjurisdictional practice. In my old world, you would have a certificate to attend here in the territory and act on a particular matter — usually only one matter at a time — and a certificate would be issued for you. If you were a lawyer, for instance, in Saskatchewan and you wanted to come here to work on a particular case, you could be issued a certificate to work on that case and on that case only. The rules for the categorization of interjurisdictional practice — how certificates are issued, whether you're a resident or a non-resident member, et cetera — will be of course in the rules where they currently exist and the details of those.

In answer to the question about what category of members you are, really you are a member. You could be a retired member, or there is a provision in this piece of legislation for an honorary member, which caused a bit of a stir in the old act because there was no real provision to do that.

In order to clarify, they should also indicate that articling students or articulated students as they are referred to are also members under this piece of legislation. I know that's a bit complicated as far as an answer goes. The subcategories live in the rules or will live in the new rules, but really resident and non-resident isn't of concern because in order to practise law here in the territory you must be a member of the Law Society of Yukon.

Clause 12 agreed to

On Clause 13

Clause 13 agreed to

On Clause 14

Clause 14 agreed to

On Clause 15

Clause 15 agreed to

On Clause 16

Ms. Hanson: With respect to clause 16, which speaks to reviews, it suggests that there may be occasions when an applicant doesn't feel that their application has been dealt with appropriately. Can the minister explain what kinds of

circumstances would lead to a review of an application for admission as a member of the Law Society of Yukon and what kinds of criteria would lead to somebody being denied membership to the Law Society of Yukon?

Hon. Ms. McPhee: The member opposite is correct. Section 16 sets out the provisions for a review. If the credentials committee determined that somebody's application should be denied, there are a number of ways in which that can happen. There is the constitution of a review panel and then ultimately, after that panel, there could be an application to the Supreme Court if that were the case.

As far as an example of what might determine someone not obtaining a membership here at any of those stages — it might be someone, for instance, who has attended a law school outside of Canada with maybe foreign credentials, which is clearly not an automatic issue, but it might be that their application is not complete in that they haven't done the equivalencies here in Canada. There are some exams that can be done so that you could transfer your law degree. Another example might be somebody who is not in good standing at another law society and that information had been considered by the credentials committee, or later by the review panel, but they may wish to challenge that because the information might be incorrect or there might be an interpretation of the information that they want the credentials committee or the review panel or, ultimately, the Supreme Court to take into account. Those are just a couple of examples that I hope answer the question.

Clause 16 agreed to

On Clause 17

Clause 17 agreed to

On Clause 18

Clause 18 agreed to

On Clause 19

Clause 19 agreed to

On Clause 20

Clause 20 agreed to

On Clause 21

Clause 21 agreed to

On Clause 22

Clause 22 agreed to

On Clause 23

Clause 23 agreed to

On Clause 24

Clause 24 agreed to

On Clause 25

Ms. Hanson: I find the wording of this one seeking clarification — that's what it basically causes me to do. As I understand the structure of this, the executive has to take into consideration any resolution in respect of the rules that is passed, so a resolution "... that is passed by a majority of the voting members who vote at a general or special meeting of the Society, but no such resolution is binding on the executive."

So we have this distillation of power. We have members delegating to the executive a number of powers, but these members — are we looking at here a vesting of absolute

power in the executive? Is that what this is purporting to do? I don't see the democratic dimension of it.

Hon. Ms. McPhee: I completely understand the pause and the question here. At first blush, that might be the case.

It actually does exactly the opposite in that it requires the executive to listen to the membership when they bring forward matters that maybe are not being considered by the executive members. I should note that there are annual elections for members of the executive. Certainly "Member resolutions", which is the title for this clause, permit the participation by the membership in a way that might not otherwise be provided for if this section was not here.

Ms. Hanson: I believe I understand that, but what it basically says is that because of the fact that your executive — well, it does not say that they have to take them into consideration. How is an executive bound by its members? What mechanism exists for members to give direction to their executive or does the executive have a power over and above and separate from its membership? That brings back into question the purpose of section 3.

Hon. Ms. McPhee: To be clear — and I understand the member opposite certainly understands this and has observed this through working with this piece of legislation, but most of the rule-making power is in the executive. The executive of the Law Society of Yukon faces elections annually, so most of the authority lies with the membership and their opportunity to say that this executive is not listening to us, they are not taking our direction, and the provisions for the members to come forward with resolutions that must be taken into account by the executive.

Like most things in the Yukon Territory, it is a small place, and there is opportunity for the executive to be responsive — must be responsive — and responsible to their members. This permits that to be the case. We are just looking because my recollection — and it is not anywhere near what it used to be and maybe it is not even very good anymore — is that there is no such provision in the current legislation, but I stand to be corrected on that.

Ms. Hanson: It is just that it is curious that you would say that "a majority of the voting members" pass a resolution, but the executive is not bound by the voting members to act on the resolution passed by its members. It seems to put it outside. You have the members over here and the executive over here, and how does that jive, Mr. Chair?

Hon. Ms. McPhee: I guess the not-so-short answer is that the executive is not bound by the decision of such a member resolution, but they are guided by their membership, and they are required in my view and in the view of this piece of legislation to listen to their membership. By the same token, they are not bound by it because they are the elected individuals for the purposes of making the decisions about how the law society will be governed or the rule-making powers within the year in which they have authority to be there.

I appreciate that this might not satisfy the question, but I guess the flip side of that is that the executive members are granted the authority by virtue of their election by the other

members of the Law Society of Yukon to take on this responsibility and so the rule-making lies with them. I suppose it is possible, based on the way the wording of this clause is, that members could bring forward something that is simply not palatable to the rest of the membership or to the executive. I'm not going to forage into a bad example of what that might be, but the responsibility lies with the executive. They are elected to do that job. They will be un-elected to do that job if they are not listening to their members.

Ms. Hanson: I question why this provision is in this legislation at all, if it is intended to have no force or effect. If you just simply say that you can have a general meeting or a special meeting or you can pass a resolution. Isn't that kind of guaranteed to vex members? Why irritate people if you don't need to?

Hon. Ms. McPhee: I think I will take issue with the fact that it has no force and effect, but I do appreciate the concerns raised by the member opposite. The old equivalent of the current section allowed for, at a general meeting — so there was that provision; it had to be a general meeting — “active members”, which wasn't well-defined, to make, amend or revoke any rule. As we discussed earlier, the rule-making authority in this piece of legislation has been vested and been moved primarily to that of the executive, so the new section 25 is consistent with that authority while giving the membership a path — and in my view and in my submission to this House, not only a path — one that, if it is actually meaningful, they must take into account because there is a membership speaking. I think that is critical in this case.

While I appreciate the point of view being taken by the member opposite, I think it's important that section 5 be read in supporting the new rule-making authority for the executive.

Clause 25 agreed to

On Clause 26

Clause 26 agreed to

On Clause 27

Clause 27 agreed to

On Clause 28

Clause 28 agreed to

On Clause 29

Clause 29 agreed to

On Clause 30

Clause 30 agreed to

On Clause 31

Ms. Hanson: As I understand it, clause 31 says the following — so they're not legal services and that includes the prescribed services of an indigenous courtworker, and then (c) is the lawful practice of a prescribed regulated profession. What services are being exempted? Because we talked about the importance of indigenous courtworkers earlier and I'm presuming that (c) is going to cover paralegals, so are those then going to be set out in regulations — 31(b) and 31 (c)?

Hon. Ms. McPhee: I will deal with the question of the indigenous courtworkers first. Yes, there will be a regulation that describes carefully and specifically the indigenous courtworkers' responsibilities. The discussions that I have had involve including portions of a job description so that, if

someone is doing this, this and this as an indigenous courtworker, they are, therefore, by virtue of this piece of legislation, not practising law. Those are the exceptions here.

In addition to the other practice of prescribed regulated professions, examples of that would include perhaps surveyors, accountants or other individuals who are doing work that, depending on the kind of advice they are giving, could be considered to be practising law if this section was not clearly exempting them from that process by virtue of the professional advice they give.

Clause 31 agreed to

On Clause 32

Clause 32 agreed to

On Clause 33

Clause 33 agreed to

On Clause 34

Clause 34 agreed to

On Clause 35

Clause 35 agreed to

On Clause 36

Clause 36 agreed to

On Clause 37

Clause 37 agreed to

On Clause 38

Clause 38 agreed to

On Clause 39

Clause 39 agreed to

On Clause 40

Clause 40 agreed to

On Clause 41

Clause 41 agreed to

On Clause 42

Clause 42 agreed to

On Clause 43

Clause 43 agreed to

On Clause 44

Clause 44 agreed to

On Clause 45

Clause 45 agreed to

On Clause 46

Clause 46 agreed to

On Clause 47

Ms. Hanson: I'm just curious if the minister could explain where the phrase “holding out” comes from.

Hon. Ms. McPhee: I thought I knew the answer to that, Mr. Chair, but I just wanted to check. It's a reference to otherwise holding yourself out as, or representing yourself as, a member of the profession when you are not.

Clause 47 agreed to

On Clause 48

Clause 48 agreed to

On Clause 49

Clause 49 agreed to

On Clause 50

Clause 50 agreed to

On Clause 51

Clause 51 agreed to

On Clause 52

Clause 52 agreed to

On Clause 53

Clause 53 agreed to

On Clause 54

Clause 54 agreed to

On Clause 55

Clause 55 agreed to

On Clause 56

Clause 56 agreed to

On Clause 57

Clause 57 agreed to

On Clause 58

Clause 58 agreed to

On Clause 59

Ms. Hanson: This whole area of the process — and I haven't looked it up because I can't leave. I know we have just quickly run through this whole area, but this is one of the key areas where the public interest is potentially to be served. My question sort of centres around the issue of how the public accesses the complaints aspect here.

If the minister could distinguish between the internal sanctions and the internal disciplinary processes versus "I have an issue with a lawyer and I want to know who do I complain to?" What I don't understand from all of these various committees, structures and processes that are being set up, how my interests are being served by this particular area, and how I, as a citizen, am going to be able to understand who I am going to call when I am not getting well served or I have not been well served by somebody who is a member of the Law Society of Yukon.

Hon. Ms. McPhee: The changes to this piece of legislation will, in my submission to this House, serve the public in the following ways.

The public has always been able to come forward with an individual complaint or a complaint about an individual practitioner. This act will help them to proceed through a process where their complaint will be dealt with through the complaints investigation committee or other means. This certainty does not exist in the current piece of legislation. It is quite — I guess I will use the word "vague" as to what that process is. Of course there are rules that have tried to shore that up for the public as to how complaints are dealt with, but let me just say that here, and in the current legislation, the public has a process by which they can bring complaints to the law society about individuals.

The changes here will allow for a far broader scope of complaints to come forward. For instance, in the current legislation, there was really no provision for the law society itself or for the executive director to come forward. Individual lawyers could complain about a colleague, which is obviously permitted here as well, but information sometimes comes to the law society or to the executive director — for instance, someone could call up and not want to make an official complaint, but say, "Look, this is what has happened." Or they might leave a message or send an e-mail — something that does not identify them — but the executive director and the

executive of the law society might still want to look into that matter because they operate in the public interest and all complaints must be taken seriously. None of those provisions exist — or to the broad extent that I am explaining them here — in the current legislation. This does permit that to be the case — and for complaints to be initiated at a number of places or by a number of means that do not currently exist.

In my submission to this House and in answer to this question, it actually protects the public more broadly than it has in the past by permitting those matters to be considered through the complaint process.

Clause 59 agreed to

On Clause 60

Clause 60 agreed to

On Clause 61

Ms. Hanson: I'm just going through my notes from the briefing. In that briefing, we were talking about the disciplinary aspects of the legislation. I'm wondering if, under "Powers of investigator", where it says that an investigator "has the power to do anything that a board of inquiry under the *Public Inquiries Act* may do in an inquiry under that Act" — my understanding is that most disciplinary hearings would be made public. Is this what the intention of section 61 and the following is?

Hon. Ms. McPhee: With respect to section 61, this is really about the investigation stage rather than the hearing stage. The investigation stage won't be a public one, obviously, but the provisions here in section 61 provide the powers of the board of inquiry under the *Public Inquiries Act* to an investigator who has been assigned to a particular matter. For instance, this is the appropriate way to draft it so that the reference is to another law that already gives that power here in the territory, but things like compelling evidence and compelling documents requiring witnesses to participate or those kinds of things — and that is a critical update as well, because there have been situations in the past where individual members of the law society have indicated, for instance, that at the investigation stage they couldn't provide information because of solicitor-client privilege. But this, and a number of other provisions here in this act now, have answered that question — if I can say it that way — to be most clear that authority works and is vested in an investigator, but also that it is not an appropriate bar to participating in the governing body of your profession and you must answer.

Clause 61 agreed to

On Clause 62

Clause 62 agreed to

On Clause 63

Clause 63 agreed to

On Clause 64

Clause 64 agreed to

On Clause 65

Clause 65 agreed to

On Clause 66

Clause 66 agreed to

On Clause 67

Clause 67 agreed to

On Clause 68

Clause 68 agreed to

On Clause 69

Clause 69 agreed to

On Clause 70

Clause 70 agreed to

On Clause 71

Clause 71 agreed to

On Clause 72

Clause 72 agreed to

On Clause 73

Clause 73 agreed to

On Clause 74

Clause 74 agreed to

On Clause 75

Clause 75 agreed to

On Clause 76

Ms. Hanson: Just out of curiosity, 76(2) — who appoints the member who is not a member of the society to the hearing panel?

Hon. Ms. McPhee: The discipline committee has a responsibility under this section to convene a panel of three members. One is a public member and therefore not a member of the law society. It might be the public members who are on the executive, but there are also public members appointed to the discipline committee specifically, so it could be one of those persons as well. When a discipline matter proceeds to this stage, the discipline committee convenes a panel.

Clause 76 agreed to

On Clause 77

Ms. Hanson: I realize that this is the section that I was thinking about when I asked my question about section 61 in terms of conduct and how it occurs.

So 77(4) says — because I was asking the question about disciplinary hearings being open to the public — that they will be and they must be — a hearing must be open to the public, except if a hearing panel considers that the public interest, or the interest of any person — in preventing information outweighs the public interest. I'm just curious — in terms of a disciplinary hearing, has the minister experienced what matters might outweigh the public interest with respect to this particular provision?

Hon. Ms. McPhee: The member opposite, the Leader of the Third Party, is correct that 77(5) is an exception to 77(4). It provides an exception in the event that the public interest will be safeguarded by excluding the public from a hearing, and I appreciate that question. It weighs two things: public interest, or the public being excluded from that hearing, while preventing the disclosure of certain information is required. There's a balancing there.

It might be, for instance, that the subject of the complaint deals with information involving a minor, for instance, or that there could be a case that continues to be ongoing, of which there are perhaps details of business interests or details of which there is no interest in making them public and could adversely affect one of the parties or one of the complainants.

We also don't want individuals to not come forward, because there is the possibility that it must be a public hearing and their own personal interests — it might involve sensitive information or privacy concerns, and that provision would permit somebody to make that request so they could come forward or may be comfortable in coming forward, knowing that there are certain situations in which all information must not be public.

Clause 77 agreed to

On Clause 78

Clause 78 agreed to

On Clause 79

Clause 79 agreed to

On Clause 80

Ms. Hanson: A matter of curiosity — what does the law society do if somebody has to pay a fine of not more than \$50,000? If you get a \$50,000 fine levied, what's the disposition of those funds?

Hon. Ms. McPhee: I don't know that I know anyone who can answer this question because, in my 25 years and in the 15 or so before that the law society has existed, it has never happened. I could be corrected, but that's my recollection.

It would be funds of the law society. They charge membership fees; there's the administration with respect to the law society that it could be used for, as they direct, but it could be used for public education and other kinds of things they undertake and/or will undertake.

Back in section 3(e), which is an addition to this legislation that did not exist in the last one, which involves public education and broader public engagement — I didn't comment on that earlier, Mr. Chair, but I will take just a second to do so now because I know that this is an evolution of the law society here in the territory and other places where, for instance, the executive members have travelled to communities to reach out to individuals to say: "What are your access to justice issues? How can we be responding to those?" This is a bit of a stretch from the question you've asked, which is what they would do with the funds, but it would be a decision of the Law Society of Yukon.

Clause 80 agreed to

On Clause 81

Clause 81 agreed to

On Clause 82

Clause 82 agreed to

On Clause 83

Clause 83 agreed to

On Clause 84

Clause 84 agreed to

On Clause 85

Clause 85 agreed to

On Clause 86

Clause 86 agreed to

On Clause 87

Clause 87 agreed to

On Clause 88

Clause 88 agreed to

On Clause 89

Clause 89 agreed to

On Clause 90

Ms. Hanson: I didn't understand this section, so I would appreciate if the minister could explain it. I understand that there should be a compensation fund to reimburse people who have had something that they're aggrieved by — that they can source compensation.

Are all members of the Law Society of Yukon obliged to pay the same? How is a compensation fund established? It is a long section. Could the minister do a "Coles Notes" on the compensation fund? Who pays it? How is it determined? Does everybody have the same kind of pro-rated kind of assessment for members? How is it determined? Are all members equal? If you are a private member or a government-employed member, are you treated equally?

Hon. Ms. McPhee: I am so glad that this question was asked, Mr. Chair. The legal profession is the only profession in Canada, certainly that I am aware of anywhere, that provides for this kind of compensation. In addition to the fact that all practitioners are required to carry insurance — extensive amounts of insurance — all practitioners are required to participate in funding what used to be known as the "special fund", which is now known as the "compensation fund". It is for the purposes of compensating members of the public who have been harmed in some way by the actions of a member of the Law Society of Yukon outside of the concept of what their insurance would cover. So not a mistake, not an inadvertent issue, not missing a limitation period or having their files burned in a house or office fire or something like that, but an inappropriate activity — inappropriate actions like theft, fraud, et cetera.

As a result, there are situations that have happened across Canada — British Columbia and Ontario are the two that I can think of — where the compensation fund did not have enough money in it to compensate the individuals who came forward and had been harmed by the fraudulent activity of a member. Every single member of the law society needed to provide funds to make sure that there was enough money in that fund up to — in the case I am thinking of in Ontario, it was \$10,000 a member. The one in British Columbia, I think, was higher than that because the ultimate claim was somewhere in the range of \$80 million with respect to some real estate fraud.

All of which is to say that this compensation fund is required by this profession, required by the regulators of this profession, be it the law societies across Canada, for individuals to pay annually into this fund. I can also happily say that no claim has ever been made against this fund in the Yukon Territory, but it is a rainy day and we never really know. The fund continues to grow and is managed by the law society executive and by specialized members of the Law Society of Yukon who are responsible for making sure that the investment is properly managed.

In this piece of legislation, generally the levy for that is \$100 annually from each member. In the past, government lawyers have been exempt from that payment. They are not any longer in this piece of legislation. They will be required to

pay into the compensation fund and the argument has been in the past that there is a reduced likelihood of the fraudulent kind of behaviour that might give rise to a claim here. Nonetheless, the Law Society of Yukon and this government have made the determination that equality is important, that all members should take on that burden and that they should all participate. That is consistent with other pieces of legislation across the country.

There is the authority here in the act for certain classes of members to be exempt. For instance, I don't want to speculate, but if paralegals became members, maybe it would say that the law society and the government would determine that's not a levy that should be on them — but at this point, the assessment is at \$100 annually. I'm looking to make sure I have that right; I don't think it has changed. It's \$100 annually and it's applied across the board.

Clause 90 agreed to

On Clause 91

Clause 91 agreed to

On Clause 92

Clause 92 agreed to

On Clause 93

Clause 93 agreed to

On Clause 94

Clause 94 agreed to

On Clause 95

Clause 95 agreed to

On Clause 96

Clause 96 agreed to

On Clause 97

Clause 97 agreed to

On Clause 98

Clause 98 agreed to

On Clause 99

Clause 99 agreed to

On Clause 100

Clause 100 agreed to

On Clause 101

Clause 101 agreed to

On Clause 102

Clause 102 agreed to

On Clause 103

Clause 103 agreed to

On Clause 104

Clause 104 agreed to

On Clause 105

Clause 105 agreed to

On Clause 106

Clause 106 agreed to

On Clause 107

Clause 107 agreed to

On Clause 108

Clause 108 agreed to

On Clause 109

Clause 109 agreed to

On Clause 110

Clause 110 agreed to

On Clause 111

Clause 111 agreed to

On Clause 112

Ms. Hanson: When I look at this, the title talks about books, records and accounts. I use this parallel experience: You have seen a general practitioner for X number of years, the general practitioner leaves town and then you try to find your records.

When I go through this, it mostly talks about money and trust accounts and those kinds of records, but I have other records. I may have a will or other dealings that I have done with this professional. Does this section cover the situation where the said lawyer leaves town? What recourse do you have to access your records with that professional in terms of the public interest aspect?

I'm just not sure. When I followed this through, it looked to me like it was mostly about money and I just didn't see any other place that talked about any other kinds of records that might pertain to me as a citizen.

Hon. Ms. McPhee: The member opposite is correct — the Leader of the Third Party. This is the section about financial records, about trust accounts, about books and those kinds of things.

The kinds of records that you are making reference to — an individual's files, the divorce papers, the letters they may have brought on a landlord and tenant dispute and those kinds of things — are dealt with by virtue of the standards of practice and by the code of conduct, and are particularly detailed in the rules that will come as it relates to this piece of legislation. The rules I know refer to things like wrapping up a practice. You can't just walk out and leave your files in your basement and those kinds of things. There are strict rules with respect to file retention, destruction and those kinds of things.

Lastly, there are requirements even in the forms that are filed annually by members of the law society to indicate if you became incapacitated for some reason or something drastic happened, who is the custodian of your files. It requires individuals to think about a friend or a colleague — especially here in the territory we have lots of sole practitioners. When I was a sole practitioner, I would reach out to a colleague and say: In the event that this occurs, will you be the custodian of my files, can they come to your office, et cetera? The law society has requirements for notification of that transfer. Those kinds of things would have to happen and they come under the rules.

I guess the last piece I will add to that is just that the documents that come into the possession of an individual that are not created by that individual belong to the person from whom they got them. If you're a client and you bring those, you should get those back. There wouldn't be any question. There may be copies in a file, but certainly the sole copy doesn't belong in a file of an individual practitioner because they don't have ownership of those documents. What they create for you might be different, but those records and all of the details with respect to that should be and are properly dealt with in the rules.

Clause 112 agreed to

On Clause 113

Ms. Hanson: I just want to clarify how the mechanisms of section 113(2) relate to the Yukon Law Foundation, because it talks about how the member of the law society who receives money to be held in trust for a client, puts the money into the trust account of the member? Am I understanding it correctly that whatever interest is raised goes into the Yukon Law Foundation, which is covered later in the act? Then there are objects about how the foundation can spend the money?

Hon. Ms. McPhee: Yes, that's correct. Trust accounts for the most part are paid interest by the bank, and the banks are directed through this provision to, if I have a trust account, to send any interest that would be on my trust account directly to the Yukon Law Foundation, and this is a requirement for me to give direction to the bank to do that, and the authority for the bank to do it.

Clause 113 agreed to

On Clause 114

Clause 114 agreed to

On Clause 115

Clause 115 agreed to

On Clause 116

Clause 116 agreed to

On Clause 117

Clause 117 agreed to

On Clause 118

Clause 118 agreed to

On Clause 119

Clause 119 agreed to

On Clause 120

Ms. Hanson: Just for the record, I would like the minister to put into English what it means when it says a lawyer must not enter into a champertous contract, and no champertous contract is enforceable by a lawyer.

It sounds good; what does it mean, Mr. Chair?

Hon. Ms. McPhee: I don't think we could take out every reference to old English, so this still lives here, but it's also the word that best describes the situation. Thank you for the question.

Champerty is an illegal agreement in which a person with no previous interest in a lawsuit finances that lawsuit with a view to sharing the disputed property if the suit succeeds, or the proceeds of what that may be — it could be either property or money.

This section prohibits these agreements and sets it apart from the contingency fee agreements from champertous contracts, which are for the purpose of illegal activity, and contingency fee agreements, which of course are not.

Clause 120 agreed to

On Clause 121

Clause 121 agreed to

On Clause 122

Clause 122 agreed to

On Clause 123

Clause 123 agreed to

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Ms. Hanson: Just out of curiosity — it says in clause 164(1): “The Executive may make rules in relation to professional corporations, including rules that (a) govern the names of professional corporations.” In what way would an executive make a rule governing the name of a professional corporation?

Hon. Ms. McPhee: This clause provides the executive with rule-making power about creating rules governing names of professional corporations. An example might be that the executive could require that the words “law corporation” be in the title, for instance, so that citizens would know what the business of the corporation is as opposed to Coca-Cola or something that does not really describe what the business might be. They might require them to have certain words in the title so that the public is protected and understands what the core business is — just as an example.

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Ms. Hanson: This is probably obvious, but I am just going to ask it anyway. In previous situations when there was a disciplinary matter, the fine of up to \$50,000 went to the law society. In this case, it is payable to the Government of Yukon. Is this because saying that you are something that you are not is an illegal act under some Yukon law, other than the *Legal Profession Act*?

Hon. Ms. McPhee: This is an important question — not that they aren’t all important — but it is an important one with respect to drawing attention to this situation. Pursuant to this piece of legislation, an offence would be prosecuted by virtue of the rules in the *Summary Convictions Act*. A penalty would be payable to the government for that reason. The other

piece, although not directly related to this — and I think we have made it clear — is that, under the current act, it is almost impossible to deal with someone who is practising law unauthorized. These provisions have been placed here in this new piece of legislation — let me be clear that it is not rampant, but certainly in the concept of protecting the public, those provisions in this act have been updated and strengthened, in my view, so that the protection of the public is key and that individuals either holding themselves out or improperly practising law can be dealt with.

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Hon. Ms. McPhee: Mr. Chair, I move that you report Bill No. 14, entitled *Legal Profession Act, 2017*, without amendment.

Chair: It has been moved by Ms. McPhee that the Chair report Bill No. 14, entitled *Legal Profession Act, 2017*, without amendment.

Motion agreed to

Chair: I would like to ask members if they wish to take a brief recess.

All Hon. Members: Agreed.

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

Recess

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

Bill No. 203: Second Appropriation Act 2017-18 — continued

Chair: The matter before the Committee is continuing general debate on Bill No. 203, entitled *Second Appropriation Act 2017-18*.

Hon. Mr. Silver: It's nice to be back. I would like to welcome Katherine White from the Department of Finance here again today. I do have some outstanding questions that we worked on from the last day that I would like to answer before I take my seat and continue here in general debate.

There was a question from the member opposite about our current cash position and also for an explanation on why the short-term investments had been moved from GICs to term deposits.

I have a couple of different answers. We have \$25.96 million more cash in the bank — and that's including temporary investments — than we did as of March 31, 2017. This is largely because, when we get our TFF payment at the beginning of the month, the cash balance will fluctuate daily.

The other part of that answer is that, as far as the GICs, short-term investments have been moved to term deposits from GICs because the term deposits are paying a higher rate these days. It's a good financial practice to switch to the higher rates. Also, there was a question from the member opposite about the 202 full-time equivalent positions throughout the government.

The member asked how many of these positions are currently vacant and whether we're expecting any lapses in personnel dollars this fiscal year. Mr. Chair, in most cases, the positions have been filled. Of those 202 positions, 136 were extra teachers and education assistants that were already hired last fiscal year. This government ensured that there was a budget to cover those costs. There were also 25 FTEs required for the opening of new facilities or the operationalizing of new assets. These positions are also filled.

As already discussed this session, there is a delay in staffing the 11 additions and mental health workers, and not all of the finance positions are fully staffed yet. However, the

estimated FTEs included in the financial budget reflect it — the fact that it would take some time to implement the reorganization, complete new job descriptions, and also to recruit for these positions.

The member asked whether the FTEs hired from Dr. Parson's clinic in Dawson City were part of the 202 FTEs, and the answer is no, they were not, and we did confirm we were correct — the answer was four, not five positions.

The member opposite asked about amounts owed to Canada, and specifically about amounts owed for type 2 mines. As this is an arrangement whereby the Yukon government carries out the work of the reclamation and the cleanup for those mine sites, the member opposite questioned why the Government of Yukon would owe money to the federal government. He wanted an explanation of the \$6.6-million line item and wanted an update on the current status at this point in the current fiscal year.

The answer is yes, this amount is correct. Last year, we received more money from the federal government than we were able to spend on the work at the mine sites. As of March 31, this amount was owed to the government. This year, the work is continuing and we will no longer owe that money to the federal government. We have met our obligation, Mr. Chair. As you know, work will continue for many years on these mine sites, and there will always be some differences in the work that we have undertaken and the amounts that we receive from the federal government for these purposes. At any given time, there may be an amount that is either owed from, or to, the government because the money isn't reimbursed from the federal government at the same time that it is spent, so there is no disagreement.

In the last round of questions from the member opposite, he spoke about the Dawson City recreation centre. He wanted an explanation for an increase of \$1,350,000 in funding and where the decision was made and who made it. The answer really is that his government made it. The references to the 2016-17 fiscal year — the 2016-17 mains included \$1,027,000 for the Dawson City recreation centre. In Supplementary No. 1, an additional \$1,350,000 was added, for a total budget of \$2,377,000.

So, to answer the question, the Yukon Party made a decision on the \$4 million and the \$1,027,000 that was first introduced in the 2016-17 mains. This government, through Management Board, made the decision to honour the rest of the commitment under this agreement and included it in the Supplementary No. 1 for the last fiscal year. As we can remember having that dialogue about the millions of dollars that started in safety concerns for the recreation centre, the previous government decided that the municipality could use that money to try to make the recreation centre whole; but, as we looked at the budget — and you can check Hansard for this debate as well — back when I was in the member opposite's position, we asked why the full amount wasn't accounted for, and the answer at that time — from the Community Services minister, I believe — was, I believe: "We didn't think that Dawson would be able to spend all that money that we promised." The answer from the mayor at that

time was: "Oh, yes we can, and we will." So we had the obligation to make sure that the money was accounted for.

Mr. Cathers: I appreciate the answers from the Premier on that, and I do appreciate his explanation around the transfers to Dawson for the recreation centre. Of course I would agree with him that the commitment had been made in the previous fiscal year to, over the course of the period of the agreement, provide up to \$4 million to Dawson.

What I can't agree with the member on is his characterization of his choice to increase it from \$1 million to in excess of \$2.3 million in the 2016-17 fiscal year. I don't think the member can wash the current government's hands of that decision by saying that a commitment had been made because — as of the main estimates in the spring — the plan was to transfer that full amount to them in a subsequent fiscal year.

I do appreciate the explanation that it was part of a commitment that was made, but I do think that we have identified another \$1.3 million on top of the \$2.3 million in pension adjustments that we came up with yesterday, which shows that, of the Premier's asserted \$5.4-million deficit for the fiscal year, clearly \$3.6 million of that is at least due to choices made by the government around booking the new information that came from the actuarial evaluations of the college and hospital pension plans done respectively in June 2016 and December 2016 and the decision of the current government to provide an additional amount to Dawson City within the scope of an overall long-term commitment — but an increase of \$1.3 million over the mains.

Again, I would note to the Premier that, as we deconstruct the Premier's deficit that we believe was due to the choices made by the current government, some of the new spending choices they have made — we have given examples such as Naloxone kits, which were clearly new spending — and we don't take issue with the decision and, in fact, see this as a useful initiative — were choices to increase spending in a particular area in the 2016-17 fiscal year. The government should be transparent about the choice that it made to increase the budget.

To that end, I would also note that the Minister of Health and Social Services — and Minister responsible for Yukon Housing Corporation — is on record on more than one occasion in this House during the Fall Sitting acknowledging, stating and, in fact, proudly proclaiming the fact that the government has changed the scope at both the Whistle Bend continuing care facility and at the Salvation Army facility. The minister also made specific reference to a new commitment for operational funding made under the Liberal government.

Again, to recap a question I asked the Premier yesterday, we would appreciate information about how they have changed the scope and how much of the O&M costs that the Premier has cited for Whistle Bend are due to that change in scope. How much of the change in O&M costs for Salvation Army are due to that change in scope?

Accordingly, I would also like to request a copy of the memorandum of understanding signed between the

Government of Yukon and the Salvation Army regarding the new Centre of Hope facility. We would like that information so that we can better understand exactly what the fine print is on that facility. As the Premier knows — and without spending too much time recapping what has already been addressed in the media and by my colleague in the Third Party, the Member for Takhini-Kopper King — the Minister of Health and Social Services has made several contradictory statements about the scope of the Salvation Army Centre of Hope facility and has been contradicted by people, including the Member for Takhini-Kopper King and a number of members of the Yukon's NGO community, who have taken issue with the minister's assertion that the model at that facility is a Housing First model and clarification that it was not a Housing First Model but somehow it was, which seemed, if anything, to muddy the water.

Again, in the interest of transparency, we would ask the Premier to provide us with it and I will take the liberty of assuming that the Third Party would also appreciate a copy of that contract between the Salvation Army and the Government of Yukon so that we can see what is in that MOU.

Looking at the supplementary budget and trying to understand the new costs committed to in this area, we would appreciate more information about the ongoing costs related to the Salvation Army, both in the Department of Health and Social Services and through the Yukon Housing Corporation, as well as if they are receiving funding from any other different pot.

I would also like to just briefly return to the question I asked the minister when I asked the minister to provide information about the transfers and contribution agreements between Yukon government and First Nations and municipalities. I would also like to add to that a question for the minister: Are there currently any secondments of Yukon government staff to any other level of government, including First Nation, municipal or the federal government? If so, could we get a listing of the total number of those secondments, the purpose of those staff secondments and whether the Government of Yukon is continuing to pay the salary for those secondments — and if so, what that is?

I just want to note — to prevent the Premier from suggesting that we're saying that this should never occur — in fact, we're simply saying that at a time when the Premier is talking about the costs of government and asking Yukoners for their input on the government's finances, it's appropriate to be fully transparent with taxpayers on the total costs of contributions to have other levels of government, especially where those contributions may not be strictly required. Again, in that specific area, I'm not asking for a breakdown of the gas tax funding. I would exclude that from that area since I believe that's tabled through other matters.

With regard to another area, as we're going through the current supplementary estimates for 2017-18, we're trying to understand the amounts of money that are included in this year's budget through either the mains or the supplementary estimates and the amounts that were committed to previously, and we noticed a press release by the Government of Yukon

citing the Minister of Energy, Mines and Resources on January 24, 2017 — "Government of Yukon provides financial assistance to mineral sector organizations" — and it refers to funding totalling \$360,000 for the Klondike Placer Miners' Association and \$375,000 for the Yukon Chamber of Mines. Because that press release does not contain the standard disclaimer that is included in pre-budget announcements, these funds are subject to legislative approval. It does appear that this contribution began in the 2016-17 fiscal year and I believe would be included in this government through the mains probably rather than Supplementary No. 1, but I would appreciate information from the Premier on which fiscal year those funds began being transferred in and where they are currently shown within this year's budget and/or Supplementary No. 1.

I would also note for the Premier's reference and for officials that when we were looking at the Public Accounts to try to determine this for the 2016-17 fiscal year, we noticed from the main estimates to the Public Accounts that there was an increase in the transfers to the Yukon Chamber of Mines — a difference showing of \$45,000 budgeted in the spring to actual spending of \$100,000 in the 2016-17 fiscal year. I would ask the Premier to let us know whether this is the same money referenced in the press release or is additional funding, when that funding was authorized, which government authorized it, and what the purpose of that agreement is — again, just noting that we're not saying the decision shouldn't have been made. We're just asking what it's for, who made it, and why.

In looking at this supplementary estimate, there appears to be an increase of staff related to youth justice. According to my notes, it was an \$869,000 increase for staff related to youth justice and a half-million dollar increase to insured health, as well as new Family and Children's Services positions in communities. Could the minister explain what the total cost of those areas is and confirm whether those are dealing with any of the 202 new FTE positions that he referenced, which I guess is now 206 FTEs, or whether those positions are either on top of that number or in addition to it?

Hon. Mr. Silver: I don't want to belabour this point too much but, to be very clear with the Dawson City rec centre — any money that has been spent on the rec centre to date has been commitments by the Yukon Party government, and those commitments are either going to be honoured by the member opposite or they're not. What we see today is the Member for Lake Laberge now saying that the commitment to take that safety money — it was their government that made that decision, money that was supposed to be for stairs to upstairs and fire systems and the safety component of the building. Their government made a good decision, in my opinion, to allow the city to use that money to complete the rec centre as much as possible, knowing full well that \$4 million — or whatever that number was — was not enough for the completion of the stairs upstairs and the upstairs area and all that. It was a good move by the previous government to allow the City of Dawson, the community, to use that money to be

whole, as far as the rink and some repairs and some tests for some helical piles — that whole thing.

If the member opposite is telling me now that, no, it is now a Liberal commitment, I beg to differ. Timelines, again — beg to differ — because that money was spent in the fiscal year in which it was supposed to be spent.

When the last Yukon Party budget came out, we saw that this money wasn't there. When they were claiming a surplus, we said, "Where's the money that you promised Dawson?" — and not just the money promised to Dawson this year, but the money that was promised to Dawson for, I believe, four years in a row. This is the money that you have to spend — and, yes, in previous years, the city did not spend a lot of that money because they had to figure out how to spend that money, how to pivot with the limited resources that they did have. How do you spend money that was earmarked for one thing and is now going to be spent on another thing?

It was an interesting conversation to watch happen in Dawson. I think the city, the mayor and council, are owed our accolades to say that they did a good job with the limited amount of funding that was offered and the pivot of how that funding was supposed to be spent.

But that money was promised by the Yukon Party government, and that money was spent in that year, even though in that year, the Yukon Party only budgeted about \$1 million — I don't remember the complete numbers, but it wasn't the amount. When we asked, the rationale was, "Well, we didn't think Dawson was going to be capable of spending that money in the fiscal year." They did — and then some. So that money was spent on the recreation centre before we were sworn in on December 3. You know the construction season around here, Mr. Chair, and you know when ice gets in and doesn't get in, so that money was spent.

I will take this commentary to the mayor and council in Dawson. I will get them to weigh in and maybe I will table that later on in the Legislative Assembly. But again, if this is how the Yukon Party says: "There, we got you — that was your money and not our money." I beg to differ, respectfully, with the member opposite. That was money committed not just in the last fiscal year of the Yukon Party government, but probably for four years in a row, that money was on the table for them to spend.

There was a question about there being any change of scope in Whistle Bend. Any change in scope has not yet changed the fiscal framework. We still at this point expect the costs to run Whistle Bend facility to be the \$35 million from the original design. So no, again — not correct.

The next one is the solvency issue that the member opposite brought up as well. The need to make contributions due to solvency deficits was not a new thing, as the member opposite would have you believe, as a result of the updated actuarial reports. So no, that's not it; that's not correct.

Regarding the Chamber of Mines' funding — this is on page 179 of Public Accounts, in schedule 9 — any further questions on that very specific issue would be best directed to the Minister of Energy, Mines and Resources.

The secondment question would be a question for the Minister responsible for the Public Service Commission, but I will say — what a great idea to second to governments. As we have First Nation governments building capacity on responsibilities and as they draw down on specific chapters of the self-governing agreements, this is a good way of working together in partnership with First Nation governments to make sure that we can help along the way until capacity is met. We have had lots of conversations with First Nation governments, asking them specifically what areas they would be interested in, and it's anything from education to mining to lands departments — this type of thing. We believe that a secondment piece would be great. To say that a lot of work has been done on that file — no, it hasn't, but specific questions on secondments would be great questions for the Minister responsible for PSC.

The Klondike Placer Miners' Association — that, as well, was a mining question.

The member opposite asked about the \$869,000, but it wasn't for youth justice; it is actually for children's treatment services. So that question could be directed to the Minister of Health and Social Services when it's her turn to speak specifically to her lines in Committee.

Mr. Cathers: I appreciate the parts of the answer I got from the Minister of Finance on this, but, for starters, I asked the Premier a question about secondments to other levels of government and I would point out that those have occurred in the past. The Premier made reference to it suggesting that it was a specific question — too specific for him. We've heard another minister in the past suggest that a question was above her pay grade. In his case now, we've heard a number of questions he says are below his pay grade, effectively.

I would note that, in looking at Supplementary No. 1, the minister suggests that I should ask a question of the Minister responsible for the Public Service Commission in debate, but it appears that there's a reduction in O&M and no change in capital for the Public Service Commission. To my understanding, that department isn't even going to come up for debate; therefore, our opportunity to ask it is in general debate with the Premier.

Secondly, I would also note that, because it relates very closely to the financial pressures upon the Government of Yukon and the financial choices made by the Premier and his Cabinet, asking for the corporate number on how many are transferred, which departments are affected, where are you seconding staff to and have you continued to pay their salary while they are under secondment — because those decisions would likely affect a number of departments, I think this underlines the reasonability of asking the minister for what choices have been made and where.

In the case of the decision to provide that type of assistance to another level of government, whether First Nation or municipal or to the federal government, it would likely involve some discussion, including departments such as the Department of Community Services in the case of a municipality, or in the case of a discussion with a First Nation government, an agreement to provide such assistance — they

would probably directly fall within the Aboriginal Relations branch or under Intergovernmental Relations within the Premier's own department of Executive Council Office. Those are several reasons for directing those questions to the Premier.

If he is not able to provide it here today, then we will certainly look forward to receiving that as soon as possible. Again, I do have to underline the fact that with all of these matters, including the additional funding for the Yukon Chamber of Mines that the Premier declined to provide an answer on, when we are talking about new spending, about the overall fiscal pressures and about issues related to decisions made by this current government, both in the current fiscal year and in Supplementary No. 1 before us as well as in the previous fiscal year, the overall questions of total numbers, total costs and a breakdown of those decisions across departments are, we believe, perfectly reasonable to ask the Premier and something that the public deserves an answer on.

I am going to move on to another area. In tabling the Public Accounts, the Premier, on October 31, read a ministerial statement — and I quote: “There is \$2.2 million in unpaid construction bills for the hospitals in rural Yukon and for the Crocus Ridge residence construction.” What I would ask the Premier in referencing that number — and just understand the basis of where this year's budget flows from — the Premier mentioned that number in his ministerial statement and in his press release on October 31, he mentioned that \$8 million had been paid back in 2017. Yesterday, we did get a confirmation from the minister that almost all of that \$8 million was to pay down loans of the Hospital Corporation, although the Premier was either not able or not willing to provide a breakdown on which loans or answer the very specific question of whether government had sped up any of the loan payments to retire debt earlier.

I would ask the Premier whether the \$2.2 million in unpaid construction bills, which he referenced in this House a week ago today, is included in any of that \$8 million that is referenced in his press release issued the same day or are we dealing with different items of money in that. If we are dealing with different areas of money, can he provide a more detailed explanation on his assertion that \$2.2 million was paid for construction bills for hospitals and the Crocus Ridge residence?

Last but not least, I would ask whether the \$1.8 million in additional funding for the Salvation Army building that he referenced in his ministerial statement — whether that money is due to project delays that crossed over in the fiscal year. Last but not least, I would again ask if he could provide this House with a copy of the MOU between the Government of Yukon and the Salvation Army regarding the new Centre of Hope facility that was signed by this government, so that all members of the Assembly can understand what was included in that as well as any changes to scope, since we specifically heard from the Minister of Health and Social Services that there have been changes to scope under the current government.

Hon. Mr. Silver: The member opposite is phrasing it as if we are refusing to answer his questions. We're trying to find the best way to answer his questions in that sometimes he is wrong in his approach and sometimes he's quoting things that are a little bit off.

We're doing our best job to identify the publicly offered information in the Public Accounts first and foremost, making sure that he has seen those and then to see if he wants a further breakdown than the publicly accounted way that his government in the past has done things and the way that we are doing things as well with the Public Accounts. The member opposite is then asking for more than his government has given in the past and we have endeavoured to do so. I'm not really sure how the narrative continues where he's saying that I'm somehow holding information from him, but that's up to him. That's his prerogative.

With the PSC reductions — again he is confusing things and somehow assuming that this is some kind of secondment piece. The PSC reduction is in the employment future benefits liability. That is \$1.492 million and it is a change that has been made due to an actuarial report. If that's us denying him information, we're trying our best, based upon the way that the questions are being phrased. We budget for what we knew at the time of the mains. Then when the actuals come in, as the member opposite knows, we update through the supplementary budget.

The \$2.9 million isn't part of the \$9 million. The \$2.9 million, as the member opposite knows, is to deal with the half-built buildings that his government left us and we finished them. That's what that money is.

The Sally Ann question was again due to construction delays. Maybe we can improve that with better planning. Maybe we can improve that with knowing what kind of programming is going to go into those buildings and working with the stakeholders who have a different vision of how we are supposed to be working with our most marginalized community. This government is very proud of the work that we have done to fill that building with — well, the Centre of Hope, to fill it with hope — hope for a change in the future.

With that being said, we always have to give credit to the Salvation Army as well for the amount of work that they have done in this community with our most marginalized population. For the longest time, they were the only game in town, for better or for worse, and I think that they have done a fantastic job over the years.

To hear them now saying that they want to work with this government on a larger scope concept involving things that the Salvation Army, in other jurisdictions, just is not willing to do — that's a credit to the local Salvation Army crew. We owe them a lot.

Yes, a building was built by the previous government, but the heart and soul of what's going to be in that building is going to be based upon the good work of a whole large group of stakeholders, from the Anti-Poverty Coalition to the First Nation governments in this town, who have to deal not necessarily just with their citizens — the marginalized people in their community — but also every community in the Yukon

comes to Whitehorse and is living on the streets in their traditional territory. To work in partnership with them, we will definitely be working with those stakeholders because they have done the lion's share of work in this field.

I believe those are the questions so far. If I have missed anything, I'm sure the member opposite will remind me.

Mr. Cathers: While I certainly wouldn't disagree with the Premier that the Salvation Army deserves credit, I think the minister is selling short the work done as well by government staff within Health and Social Services and the Yukon Housing Corporation who have also worked hard on the Centre of Hope.

I do have to point out that when we're engaging in debate with the government, just as we take issue with the fact that while running on a campaign promising Yukoners they would "Be Heard" and claiming they would be more transparent and more forthcoming with information, the choice in this year's budget to strip the highlights down from 11 pages to four pages with some pretty pictures is watering down the details, not providing more.

The Premier's comment that he just made in standing up — to take the Centre of Hope and fill it with hope — while that makes a great platitude or tagline or maybe a campaign slogan, this is the first anniversary of the 2016 election — congratulations again to the Premier and his colleagues for being elected to government — but a year into the mandate, possibly as much as a quarter of the way into the government's mandate, depending on when the election is called, people are wanting action, not platitudes like "fill it with hope". We want the details of the MOU, not platitudes about the MOU with the Salvation Army.

I won't presume to speak for the Third Party, but I think it's fair to say that members of the Third Party, including the Member for Takhini-Kopper King, in recent days have also been pressing for details and specifics on what exactly government is planning to do, what the details are of the arrangements and what services will be offered. The platitudes only take you so far once you're a year into office. Sorry to say it, but the honeymoon is over and people want to know what the government is actually planning to do.

Mr. Chair, I'm just trying to find my next question here. I just want to note that we didn't get an answer and we did not quite get a commitment to actually hear information on secondments with other levels of government. I'll add another question for the Premier, because this is a cross-departmental one that has impact on several areas of the budget, including whether there's a need to table another supplementary estimate — a second supplementary — in this fiscal year.

With regard to the federal government's impending legalization of cannabis, we have stated very clearly in the House that we believe that governments across the country will simply not be ready to responsibly regulate it by the deadline that the federal government has indicated. My question for the Premier — since, again, this is a cross-departmental initiative that has financial effects on departments ranging from Justice to Highways and Public Works to Health and Social Services, and potentially

Community Services as well as through the Public Service Commission and Occupational Health and Safety. There could be implications, depending on what steps government needs to take to regulate it to provide for OHS regulations and to enforce those regulations.

The Minister of Justice — in voting against the amendment that we proposed to a motion back awhile ago indicating that the summer 2018 was simply too fast — told us, well, that's when the federal government said they are going to do it. The question for the Premier is: Did he, or did the Minister of Justice or any one of his ministers, go to the federal government and tell them that they did not believe the territory can be ready for legalization by the target date and request an extension? If so, who did they talk to? When did they do that? What, basically, did they say on behalf of the Yukon government? Did they work with any other provinces and territories to attempt to present a united front encouraging the federal government to take things a little slower, get the massive regulatory packages right, and listen to the specific concerns, such as the ones that I read earlier this Sitting from the Ministry of Justice in the Province of Saskatchewan, where officials, in presenting to the federal committee, spoke to the sweeping scope of changes the Saskatchewan government would need to take, affecting a number of departments?

Again, did they ask for an extension? How much of an extension did they ask for, or did they simply just accept that the federal government had spoken and not even make the attempt to make the case for an extension?

I would also just like to correct the Premier. He seemed to think that I was confusing the reduction in the Public Service Commission budget with secondments, and that is certainly not the case. I am assuming the Premier simply misheard me on that one, or that others listening and attempting to provide him with the information misheard me. What I was pointing to is the fact that, because the budget contained within Supplementary No. 1 for the Public Service Commission does not show an increase in either capital or O&M and only shows a reduction — unless the rules of this House have changed recently, we have been advised in the past and followed the practice that departments that don't have an increase in either O&M or capital don't get debated in the supplementary budget. We have the opportunity to talk to officials, but we don't have the opportunity to stand in the House with the Minister responsible for the Public Service Commission having officials beside him and debate the items contained within his section of Supplementary No. 1. Our only opportunity to do that is standing in general debate and asking that question, which is one on the list of reasons why I asked the Premier the question about secondments and believe that this is information the government should share with Yukoners in the interest of transparency.

In response to my question, the Premier made a statement about secondments being potentially a positive thing, and again I don't disagree with that theory and that statement — again, for lack of a better term, "platitude" — that secondments can sometimes be a good thing. However, the

devil is in the details, as the Premier has often said himself in the House, and we believe that if government believes that secondments to other levels of government are a good thing, they should not be hesitant to share the details of the costs with the public and, even if they are required in some cases to be a little bit sensitive about the names of individuals involved, to at least show those high-level numbers and costs and information about the number of secondments that are occurring, especially if those secondments are being paid for still under salary paid by the Government of Yukon. Again, we are just asking the government to follow through on their own campaign commitments to improve transparency and accountability to Yukoners by sharing this information.

Mr. Chair, I am going to move on to some other questions. I know that constituents of my colleague, the Member for Kluane — members of the contracting community — have asked about the method used to procure and award the work on two bridges up the Aishihik Road. My understanding, from talking to my colleague, is that contractors were aware that these bridges were going to have work on them. They were expecting those tenders to be released on the tender management system, and they believe that those projects were never listed and the work was done by one Yukon company.

The question in this case is: Is that understanding correct or did they simply miss that notation on the tender management system? How was the work procured? Was it the result of some other method of awarding or procuring that contract? Can the Premier provide information now — or at a later date, if he doesn't have it at his fingertips — on what occurred in that situation?

Another question is — the Minister of Community Services earlier in this Sitting acknowledged — I believe he said in this House that the delay in tendering and work done on phase 1 of water and sewer was in part because of the government's speed of handling it and their delay with Building Canada money. As a result, I understand that the Village of Haines Junction is being told that work will start next year. I believe that the Member for Kluane actually asked this question of the minister either in this House or via letter whether this puts everything behind a year, or whether phase 2 will be tendered early in the spring and commence work on phase 1 and 2 next summer. I appreciate that it is a project within the Department of Community Services, but I'm raising it on behalf of my colleague since he didn't get an answer to that question earlier. We're attempting to get that answer for his constituents and other Yukoners who are concerned.

Hon. Mr. Silver: I'll start with the comments on the budget. We've heard quite a few different times the member opposite talking about the pictures, the picture graphics, and how he believes that, by drawing our attention to one specific part of our budget process, were somehow showing less information.

I will direct his attention to, the first time ever, 27 pages of economic outlook being added to that Budget Address and to that budgetary process, which involves the economic

forecasting and risk — brand new — the world in brief — brand new, as well — new information not previously provided by the last government, a closer look at Yukon, significant strengths in the economy, despite the flat GDP growth — really getting into, for the consumer of this, which is the taxpayer, where we are, where the growth is, even down to very specific information on sector performance variances in mining, energy potentials, tourism information, as well as construction gains with public sector spending, strong gains in retail trade — all of this explained in a detailed manner, information previously omitted or just not given in that process.

Again, if the member opposite will agree, it's a different way of doing things. We believe that, overall, the way we did our budget process is more open and more transparent, shows more information, and I would absolutely endeavour to sit down with the member opposite and discuss his concerns about whether or not he believes that enough information was given or if, over the next four years, that trend doesn't increase so that we are more accountable and more open to the financial decisions.

One of the main things, right away — a five-year forecast. Never before — at least not in the Yukon Party's budgeting process — have we seen five-year forecasts like that. I would argue that there's probably more information if you take a look at it as a whole. I believe that the way we did our budgeting process, the mains, how we're doing our supplementary budgets as well, I believe these are improvements, and yet we keep hearing about one section of pictures that the member opposite wasn't too happy with. That's okay.

I tell you, with the changes to the financial department, with the Financial Advisory Panel coming out, we're just going to get better and better at this each time.

Mr. Chair, as far as secondments, secondments are not going to be a line item. When we say that 25 percent of public representation should be aboriginal and when we talk about secondments to aboriginal communities, these are obligations under chapter 22. That's why I'm saying that the member opposite should direct his questions to the Public Service Commissioner, not in a line-by-line consideration for a supplementary budget, but in a bigger debate about drawing down on self-governing agreements and moving forward in the Yukon on a governance stratus, on a methodology that is hopefully going to show other jurisdictions in Canada a way forward — these are important pieces. They're not line items in a supplementary budget.

If the member opposite likes — he's right that, because there's not an appropriation here in the supplementary budget for PSC, the member opposite, in practice, has not been able to stand to his feet, but absolutely, for general debate, I will offer up all of my ministers here for general debate. I asked him, as the member opposite was doing his remarks, if he has that information at his fingertips and the answer is that, no, he doesn't have that information at his fingertips but he will endeavour to get back to the member opposite with it — I'm happy that the member opposite is in agreement that

secondments are an important piece of governance here in the Yukon and that his government, in the past, has done so, according to his word here today.

Maybe I would endeavour to ask him as well. It would be great to know what secondment pieces has his government done as well in the past with First Nation governments. Maybe we can learn something from the previous government's approach in that capacity. I would love to hear from him about it under his government, because this information is embargoed as far as us looking underneath the carpet. If the member opposite would like to, I would love to have that conversation here today — their endeavours and secondments that he mentioned earlier because I do agree that it's a good way of moving forward.

There are also specific questions to the Village of Haines Junction. There was a question on the bridges, but there were also questions on the lift station. I believe the question on the bridges is something that we will have to defer and get back to him on. That's very technical and very specific information that is, again, not in a supplementary budget. I do agree that general debate is a time to ask a whole bunch of questions in general. That's pretty specific, so we will get back to him.

I believe the Minister of Community Services can speak to the lift stations now if the Chair would entertain that.

Hon. Mr. Streicker: I will say that, on October 19, I went to meet with the Village of Haines Junction — with the village council — and spoke with mayor and council. They did put a request into me informally at that time about asking whether the department could proceed with phases 1 and 2 of the underground water infrastructure next year. I would have to check my notes from that meeting, but I believe they are also sending me a letter to formalize that. I have the department looking into that to see the implications about whether that is feasible or not and have let the municipality know that, as soon as I get a response, I will be following up with them.

Mr. Cathers: I appreciate the answers from the Premier and the answer from the Minister of Community Services to that question about projects. I know my colleague, the Member for Kluane, appreciates his interest in it and his commitment to follow up with more information as soon as he can. I'm only raising that on his behalf because I know this is something that he hears from constituents. They've asked him to look into different questions so that is why I asked that specific one there.

I'm not going to spend a lot of time talking about the format of the budget highlights since it will be a factor next year, but primarily here while I've asked some specific questions about Public Accounts, I'm also going to be focusing on additional content contained within the revision to the mains Supplementary No. 1, the budget bill we're dealing with right now.

I do just need to point out for listeners and viewers that, in referring to the change in the budget highlights of stripping it from 11 pages down to four, the pictures that are shown in the budget highlights, which I have right in front of me, are not helpful graphics — like the one I pointed out to the

Premier yesterday on page 4 of the Public Accounts, which contradicts his rhetoric about the trajectory of spending and shows, in fact, that, for most years within the past decade, revenues have exceeded expenditures. The graphics which are contained in the budget highlights are, in short — because there is not much here — a picture of a bridge and hillside, a picture of power lines, four apples, a picture that appears to be a stylized health centre, a picture of construction, and a picture that, I guess, is maybe supposed to be — I am not even sure what it is supposed to be — something linked together that looks a little bit like atoms or DNA, but not quite like anything I recognize.

I am not going to spend much time belabouring that — but noting that the economic forecasts have always been done — putting them in the budget was a style choice, rather than a choice of increased transparency — but the highlights have always been a good source of information for Yukoners. In fact, five-year capital plans have been done for many years — contrary to the Premier's reference there.

I am going to move on to another specific question related to the money in the Community Services budget. I am again asking for my colleague, the Member for Kluane, on behalf of his constituents. There was money allocated in the Community Services budget for street upgrades in Destruction Bay that were to be done, they had understood, through third-party rentals within Highways and Public Works. When contractors were contacted that their equipment would be needed, they started putting money into their equipment, such as new tires and maintenance work. I should note, of course, tires are yet another thing that will get more expensive if the *Designated Materials Regulation* is put into place.

I will again just note that, because of this cost that people have heard of, my colleague, the Member for Kluane, was contacted by constituents with concerns. They understood the Government of Yukon was bringing equipment from other parts of the Yukon — like dump trucks — and the Member for Kluane brought that concern to both ministers but, shortly after, the work was cancelled and his constituents were told that it would be done next year. The question would be: Why was that project delayed? What was the money spent on?

It is, of course, something that people rely on — receiving that in the current fiscal year. When people make decisions for their own budgets, they don't have the same luxury as government does in terms of just delaying it for another year. For them, if they are planning on something, if they expect that work is coming out, they may be depending on that income. It is certainly something that would have a negative financial effect, even if they can manage without it. I would just ask that question, either from the Premier or the Minister of Community Services.

One question I meant to ask earlier that I missed in my notes — and I am just looking for where that specific reference went earlier. Just briefly touching back on the Public Accounts and looking at spending, we see an increase to the Tourism Industry Association in Public Accounts — changes in the O&M funding — in the 2016-17 fiscal year from \$144,000 to \$244,000. What composes that \$100,000

increase? Who made the decision? One other area within that budget that we see is an archive project with KDFN on page 89 of the Public Accounts, which appears to be new spending amounting to a total of \$180,000.

To the best of my knowledge from checking our information, we don't believe that funding was planned for or known of by government prior to that so, at first blush, in the absence of an explanation, it looks like additional spending under the Liberal government.

I also asked — and the minister did not provide an answer — about cannabis and whether the government actually even asked for an extension from the federal government or made the case that they were concerned about the ability to meet the federal government's artificial political timeline, noting that there are areas like increased resources for impaired testing, cost of occupational health and safety and simply the regulatory suite — many areas challenging Yukon and provincial governments as well.

I will just wrap up my current remarks by asking again, since I have asked twice and not gotten an answer: Can we get a copy of the memorandum of understanding between the Government of Yukon and the Salvation Army regarding the new Centre of Hope facility?

Hon. Mr. Silver: I don't know if I'll have enough time to answer all the member opposite's questions before we adjourn debate today. I will endeavour to do so, though, as much as possible. Again, there are some issues.

We keep on hearing "in the Budget Address" and the "budget documents" and how the budget highlights have been decreased from 11 to four pages. That is true. The overall budget highlights have been reduced from 11 pages to four, but, again, 27 new pages of an economic outlook have been added in, so if you do the math, Mr. Chair, it is not actually a reduction in pages. It's actually more information, not less information.

I guess what we're getting from this though — and we've heard it a few times — is that the member opposite doesn't like the pictures. On page 4, I believe the infographic on that page reminds me of a schematic design. This is how a person's brain works and it is also how communities work. From the perspective of someone's brain, this would be called the myelination of dendrites. What it means is that as information gets transferred, the more conduits of communication that you have, the easier it is to communicate.

That is my interpretation of this as I look at it. I mean, the title right there, Mr. Chair, is: "Building Relationships through Reconciliation". It is one thing to meet at a community level once or twice in a year or maybe the Yukon Forum once or twice in five years, but to actually build relationships through reconciliation you need to continue to myelinate. You need to continue to have those conduits of communication being used so that those pathways are pure and trustworthy.

So noted — the member opposite does not like the pictures in the Budget Address and doesn't like that the budget highlights portion has gone down from 11 to four. Really — I mean, if you think of it, with all the graphics in

there, it's not even really four because it's not completely pages of information — it has a lot of pictures in it as well.

Again, to direct his attention to the economic outlook, which is 27 pages of more content — that is the first issue.

Mr. Chair, the member opposite does go back quite often to the growth and revenue expenditures. We had this debate yesterday — it was page four of the Public Accounts and he was getting into the specifics of one bar versus another bar as opposed to looking at the overall trend. For those folks who are listening, it's really worth your while to take a look at the Yukon Financial Advisory Panel's draft report dated September 2017, page 47, where the average annual growth in key revenue and expenditures categories over a 10-year period are outlined — in real per capita dollars, total revenue of 1.7 percent increase; total expenditures of 2.5 percent increase. Again, the information contained in here and the explanation given by the Financial Advisory Panel — fascinating information for the general taxpayer, as we debate how we are to use the taxpayers' money to run the government.

The member opposite did also talk about cannabis. It was interesting to see, when we debated in the Legislative Assembly, the support of whether or not we should legalize cannabis in the Yukon. Five of the members opposite in the Yukon Party voted against it and one voted for it — a little bit of a division in messaging from the Yukon Party as far as whether or not they do support the legalization of marijuana or not. I'll give them a grain of salt on this. I believe what we're seeing across the nation is that the conservative piece on this was: "We're not ready; we're not ready; delay, delay, delay." I would counter with that: The longer we delay, the longer the criminal element solidifies their hands on the market. To me, that's what this is about.

When we meet as premiers — the member opposite just needs to read the communiqué — all premiers agreed that we needed the federal government to answer five questions on cannabis before we could do our work, before we can answer the question that member opposite begs of will we be ready or not. We got an answer to those five questions the last time we met at the Conference of the Federation.

I believe the work done by Bill Blair is the — he was the top cop in Toronto. His work and his answers to the questions that we had — the questions that Saskatchewan had, the questions that Manitoba had, the questions that all the Maritime provinces and all the territories had — they were answered.

To me and to the members on this side of the House, if we are going to delay any further, all we're going to do — because it has already been announced that we are legalizing; this country will have legal cannabis. If we delay this further, and further and further, this allows the criminal element to really sink their teeth into this market and that's not something that we on this side of the House believe is the right way to go. We want to eliminate and reduce the amount of pressures that this unlegislated, unregulated industry would have on our youth and on our citizens.

I believe the conversation — most of the premiers right away were ready to get going on this and were ready to make this legalization happen. There were a couple who were really concerned and we, as a group of premiers, worked together on those concerns.

We can't speak too much about those meetings, but I will say that we all got together — and the communiqué is there and it says very specifically that the federal government has to answer these five questions in a very timely fashion. They did, and now it is up to the different jurisdictions — the sub-regions — to get to work, because this will be legal. The member opposite from Lake Laberge will be able to purchase in the mail marijuana from the federal government as of July of the upcoming year — whether or not we are ready. It is up to us to make sure that we prepare for the member opposite a local source, as well, for this legislation and for this product.

Some Hon. Member: (Inaudible)

Point of order

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

Mr. Cathers: I think that the Premier might mean it in a lighthearted manner, but I believe he is imputing false or unavowed motives to another member in contravention of Standing Order 19(g) in implying that any member — and me, in this instance — in a discussion about cannabis is just after buying it by mail order. I would ask you to call him to order and have him refrain from imputing motive.

Chair: The Premier, on the point of order.

Hon. Mr. Silver: On the point of order, every member in this House is a Canadian citizen who will have access to marijuana. The member opposite is a Canadian citizen.

Chair's ruling

Chair: I am going to rule on that point of order. It is a dispute among members. There is no point of order.

Hon. Mr. Silver: Thank you Mr. Chair.

Seeing the time, I move that you report progress, Mr. Chair.

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

Motion agreed to

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

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

Motion agreed to

Speaker resumes the Chair

Speaker: I will now call the House to order.

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

Chair's report

Mr. Hutton: Mr. Speaker, Committee of the Whole has considered Bill No. 14, entitled *Legal Profession Act, 2017*, and directed me to report the bill without amendment.

Committee of the Whole has also considered Bill No. 203, entitled *Second Appropriation Act 2017-18*, and directed me to report progress.

Speaker: You have heard the report from the Chair of Committee of the Whole.

Are you agreed?

Some Hon. Members: Agreed.

Speaker: I declare the report carried.

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

The House adjourned at 5:30 p.m.