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LEGISLATIVE ASSEMBLY OF THE NORTHWEST TERRITORIES

Speaker

The Hon. Richard Nerysoo
Fort McPherson, N.W.T.
X0E 0J0
(403) 873-7629 (Office)
(403) 873-5788 (Home) (Yellowknife)
(403) 979-2668 (Home) (Inuvik)
(Mackenzie Delta)

Allooloo, The Hon. Titus, M.L.A.
5024 - 57th Street
Yellowknife, N.W.T.
X1A 1Y6
(403) 873-7113 (Office)
(403) 873-4813 (Home)
(Amittuq)
Minister of Culture & Communications
and Renewable Resources

Arlooktoo, Mr. Joe, M.L.A.
General Delivery
Lake Harbour, N.W.T.
X0A 0N0
(819) 939-2278 (Office)
(819) 939-2363 (Home)
(Baffin South)

Ballantyne, The Hon. Michael, M.L.A.
P.O. Box 1320
Yellowknife, N.W.T.
X1A 2L9
(403) 873-7658 (Office)
(403) 920-2963 (Home)
(Yellowknife North)
Government House Leader
Minister of Finance and Justice

Butters, The Hon. Tom, M.L.A.
P.O. Box 1069
Inuvik, N.W.T.
X0E 0T0
(403) 979-2373 (Office)
(403) 979-2373 (Home)
(Inuvik)
Minister of Municipal & Community
Affairs, Government Services and
NWT Housing Corporation

Cournoyea, The Hon. Nellie, M.L.A.
P.O. Box 1184
Inuvik, N.W.T.
X0E 0T0
(403) 873-7128 (Office)
(403) 977-2405 (Tuktoyaktuk)
(403) 979-2737 (Inuvik)
(Nunakput)
Minister of Health, Energy, Mines &
Petroleum Resources, Public Works and
NWT Power Corporation

Crow, Mr. Charlie, M.L.A.
General Delivery
Sanikiluaq, N.W.T.
X0A 0W0
(819) 266-8940 (Home)
(Hudson Bay)

Ernerk, Mr. Peter, M.L.A.
Box 182
Rankin Inlet, N.W.T.
X0C 0G0
(819) 645-2800
(819) 645-2500
(Aivilik)

Gargan, Mr. Samuel, M.L.A.
General Delivery
Fort Providence, N.W.T.
X0E 0L0
(403) 873-7999 (Office)
(403) 874-3230 (Hay River)
(403) 699-3171 (Home)
(Deh Cho)
Deputy Speaker and Chairman, Committee
of the Whole

Kakfwi, The Hon. Stephen, M.L.A.
P.O. Box 1320
Yellowknife, N.W.T.
X1A 2L9
(403) 873-7139 (Office)
(403) 873-8215 (Home)
(Sahtu)
Deputy Government Leader
Minister of Education and Personnel

Kilabuk, Mr. Ipeelee, M.L.A.
General Delivery
Pangnirtung, N.W.T.
X0A 0R0
(819) 437-8827 (Home)
(Baffin Central)

Lewis, Mr. Brian, M.L.A.
P.O. Box 1320
Yellowknife, N.W.T.
X1A 2L9
(403) 873-7999 (Office)
(403) 873-5549 (Home)
(Yellowknife Centre)

Marie-Jewell, The Hon. Jeannie, M.L.A.
P.O. Box 1051
Fort Smith, N.W.T.
X0E 0P0
(403) 873-7959 (Office)
(403) 872-2940 (Home)
(Slave River)
Minister of Social Services and Safety &
Public Services

McLaughlin, Mr. Bruce, M.L.A.
P.O. Box 1320
Yellowknife, N.W.T.
X1A 2L9
(403) 873-7999 (Office)
(403) 873-6220 (Home)
(403) 874-2884 (Hay River)

Morin, Mr. Don, M.L.A.
General Delivery
Fort Resolution, N.W.T.
X0E 0M0
(403) 394-3471
(Tu Nede)

Ningark, Mr. John, M.L.A.
General Delivery
Pelly Bay, N.W.T.
X0E 1K0
(403) 769-6703
(Natilikmiot)

Patterson, The Hon. Dennis, M.L.A.
P.O. Box 310
Iqaluit, N.W.T.
X0A 0H0
(403) 873-7112 (Office)
(819) 979-5993 (Office)
(403) 873-2802 (Home)
(Iqaluit)
Government Leader,
Chairman of Executive Council,
Minister of Executive

Pedersen, Mr. Red, M.L.A.
General Delivery
Coppermine, N.W.T.
X0E 0E0
(403) 982-5788 (Coppermine)
(Kitikmeot West)

Pollard, Mr. John D., M.L.A.
Box 1095
Hay River, N.W.T.
X0E 0R0
(403) 874-2345 (Office)
(403) 874-2600 (Home)
(Hay River)

Pudluk, Mr. Ludy, M.L.A.
P.O. Box 240
Resolute Bay, N.W.T.
X0A 0V0
(819) 439-8898 (Arctic Bay)
(819) 252-3719 (Home)
(High Arctic)
Deputy Chairman,
Committee of the Whole

Sibbeston, Mr. Nick, M.L.A.
P.O. Box 560
Fort Simpson, N.W.T.
X0E 0N0
(403) 695-2452 (Fort Simpson)
(403) 873-6215 (Home)
(Nahendeh)

Whitford, Mr. Tony, M.L.A.
P.O. Box 2772
Yellowknife, N.W.T.
X1A 2R1
(403) 920-8010 (Office)
(403) 873-5328 (Home)
(Yellowknife South)

Wray, The Hon. Gordon, M.L.A.
Baker Lake, N.W.T.
X0C 0A0
(403) 873-7962 (Office)
(819) 793-2914 (Baker Lake)
(819) 793-2700 (Home)
(Kivallik)
Minister of Transportation and Economic
Development & Tourism

Zoe, Mr. Henry, M.L.A.
P.O. Box 1320
Yellowknife, N.W.T.
X1A 2L9
(403) 873-7999 (Office)
(403) 873-4136 (Home)
(Rae - Lac la Martre)
Deputy Chairman,
Committee of the Whole

Officers

Clerk
Mr. David Hamilton
Yellowknife, N.W.T.

Clerk Assistant
Ms Rhoda Perkison
Yellowknife, N.W.T.

Law Clerk
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Yellowknife, N.W.T.

Editor of Hansard
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Yellowknife, N.W.T.

Sergeant - at - Arms
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Yellowknife, N.W.T.

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YELLOWKNIFE, NORTHWEST TERRITORIES

MONDAY, OCTOBER 15, 1990

MEMBERS PRESENT

Hon. Titus Allooloo, Mr. Arlooktoo, Hon. Michael Ballantyne, Hon. Tom Butters, Hon. Nellie Cournoyea, Mr. Crow, Mr. Ernerk, Mr. Gargan, Hon. Stephen Kakfwi, Mr. Kilabuk, Mr. Lewis, Hon. Jeannie Marie-Jewell, Mr. McLaughlin, Mr. Morin, Hon. Richard Nerysoo, Mr. Ningark, Hon. Dennis Patterson, Mr. Pedersen, Mr. Pollard, Mr. Pudluk, Mr. Sibbeston, Mr. Whitford, Hon. Gordon Wray, Mr. Zoe

ITEM 1: PRAYER

--Prayer

SPEAKER (Hon. Richard Nerysoo): Orders of the day for Monday, October 15, 1990. Item 2, Ministers' statements. The honourable Member for Kivallivik.

ITEM 2: MINISTERS' STATEMENTS

Ministers' Statement 9-90(2): Northwest Territories Transportation Strategy

HON. GORDON WRAY: Thank you, Mr. Speaker. Mr. Speaker, later today, on behalf of my colleagues on the Executive Council, I will table the Northwest Territories transportation strategy. This is the first ever comprehensive long-term plan for transportation in the Northwest Territories. It presents a blueprint for future transportation development in the North.

You will recall, Mr. Speaker, at the beginning of its term, that this government made transportation a priority. In "Direction for the 1990s", we noted that "Our transportation infrastructure lags far behind that anywhere else in Canada and must be improved" and that "Our lack of adequate roads, airports, docks and harbours handicaps our economic growth. A better transportation system will create opportunities for mining, tourism, fishing, trade and travel between communities." Early in our term, I was given the honour of becoming the Minister responsible for the newly created Department of Transportation. The department was given as a first priority, the task of preparing a long-term transportation strategy. There has been increasing awareness in the North of just how critical transportation is to our economic, social and political well-being and development.

As Minister responsible for Economic Development and Tourism, I have seen how high costs and lack of access to reliable transportation facilities and services persists in frustrating opportunities for economic development in virtually every sector in our economy. In developing the economic strategy, this point was brought home time and time again. Everywhere we turned, transportation was the issue. As a resident of the Keewatin, I have seen the social impacts of inadequate transportation systems and services: the sense of isolation, the restricted access to goods and services and the lack of access to education and employment opportunities. I have seen how isolation reduces the effectiveness of public programs in health care and social services. As a Minister of this government, I have seen that the per capita costs of delivering programs in housing, health, education, recreation and social services are the highest in the country. Every government program includes high direct and indirect transportation costs. Without improved transportation systems, Mr. Speaker, a viable self-supporting northern economy will never develop. Without a strong economic base, our self-determination and a fully responsible government seem highly unlikely.

Problems To Be Faced In Development Of Strategy

In developing the transportation strategy, we held extensive consultations. We talked with community leaders, with transportation companies, with resource companies and with chambers of commerce. We also talked to territorial, provincial and federal agencies representing transportation, economic development, tourism, renewable resource, non-renewable resource and social service mandates. What did we find, Mr. Speaker? We found five basic problems, most of which are not new to us. First, the great distances and lack of transportation systems and services contribute to high costs as well as inequities within the Northwest Territories. For example, a bag of groceries in Yellowknife is about 30 per cent more expensive than it would be in Ottawa. But that same bag of groceries costs more than twice as much in Iqaluit. Similar comparisons can be made for building materials, fuel and air travel. For the roughly one half of our population with highway access, the cost of living averages about 30 per cent higher than in the South. This jumps to 70 per cent for the other half, who do not have highway access.

Second, we found that many of our airport facilities are inadequate. No other province or territory must rely so heavily on air transportation. In fact, we fly more than four times as often as the average Canadian. Yet many of our airports cannot be certified, others are in conflict with community development and we are fighting against federal cuts in air navigation services.

Third, the Northwest Territories highway system is underdeveloped. Less than 10 per cent of the Northwest Territories land mass is within 100 kilometres of a highway. Covering more than 600 times the area of Prince Edward Island, we have less than half the road length of that province. Even the Yukon Territory has 14 times the road density than that of the Northwest Territories.

Fourth, our few existing highways are largely inadequate. Fully 60 per cent of our existing primary highways are substandard. Only 14 per cent of our highways are paved.

Finally, our marine facilities are almost non-existent. Forty per cent of our population relies solely on the annual marine resupply for fuel and dry cargo. At most locations, terminal facilities fall short of any standard. Ninety per cent of our population lives on navigable waters. The majority of our people rely, to some extent, on these waters for food. Yet few communities have protected moorage or wharves to support local marine harvest. We have no harbours or ports capable of handling commercial fishing fleets. Some 8000 tonnes of shrimp are taken annually in the Davis and Hudson Straits, yet none of this catch is processed or even landed in the Northwest Territories.

Strategic Objectives

These are the challenges we face, Mr. Speaker. In meeting these challenges we have set a goal and four strategic

objectives. Our goal is "To ensure the safe, accessible and reliable movement of people and goods to meet the economic, social and political needs and aspirations of the people of the Northwest Territories and Canada."

Our first strategic objective is improving what we have. We must upgrade our existing facilities to a reasonable standard of safety and reliability. This means upgrading our airport facilities and services, upgrading our existing highways. It means improving our wharves and harbours to support resupply, local marine harvest and commercial marine harvest. It also means providing or improving local community roads and trails to access tourism, recreation and local resource opportunities. This government will spend about \$60 million on our existing transportation facilities this year. Various federal departments will spend about half this amount. However, most of this spending will be on operating and maintaining what we have. Over the next five years a combined federal-territorial increase of some \$35 million per year would have to be spent just to bring our existing facilities and services up to standard.

Our second objective is pushing back the economic frontiers. We are proposing major new highway construction projects to put more communities on the highway map and to provide access to vast areas for tourism and the responsible development of renewable and non-renewable resources. Proposed projects include extension of the Mackenzie highway from Wrigley to Inuvik and Inuvik to Tuktoyaktuk, a road to the Central Arctic coast, access to the Keewatin and a link from Fort Smith to the South. Some of these projects will require the participation of our neighbours to the South. All of these projects will be subject to detailed environmental, engineering, social and economic studies before they can proceed. This process will take years. We are proposing that the dialogue and study commence now so that the first of these projects which prove viable can commence in three to five years. Mr. Speaker, this is an ambitious objective. The total cost of constructing all of these roads would be over three billion dollars. To make real progress, expenditures on new road construction would have to rise steadily to a level of \$125 million per year.

Our third objective, filling the gaps, aims at establishing a rational and balanced approach to northern transportation subsidies. We know that upgrading and expanding our infrastructure cannot solve all our problems. There will still be regional inequalities in access to, and costs of, transportation. However, the issue of transportation subsidies is a sensitive and complex one. The work that we have already done confirms that we must undertake a thorough and careful examination of all of our options prior to proceeding. It will therefore be at least a year before we will be in a position to make a program recommendation to the cabinet.

Our fourth objective is excellence in transportation programs. This objective is more about how we do things than it is about what we do. It includes increasing our efforts in the areas of transportation safety and environmental protection. It includes contracting practices which will maximize opportunities for northern business. Through training programs and hiring policies, we can promote local and northern employment in construction, maintenance and operation of transportation facilities and services. We must also continue efforts to research and develop better ways of designing, constructing and maintaining our facilities.

Transfer Of Responsibility To Territorial Government

Mr. Speaker, these are our four strategic objectives. This is an ambitious plan. We estimate that implementing this transportation strategy will cost an additional \$2.7 billion over the next 20 years; that is \$2.7 billion over and above what is

currently being spent on transportation. Where will we find this \$2.7 billion, Mr. Speaker? This government has assumed a significant role in the northern transportation mandate. This year, the final transfer of responsibility for highway upgrading was completed. This transfer provided us with a base increase of nine million dollars per year. We are now in a position to proceed with some long overdue highway reconstruction projects.

We have negotiated and expect to finalize by December, the transfer of ownership of all Arctic B and C airports to this government. This transfer will be accompanied by a base funding increase of \$14 million per year. These transfers will halt the steady erosion in federal spending on existing facilities and put the decision-making where it belongs -- in the North. We have also reached an agreement with Transport Canada for a 50-50 cost sharing of the \$16.2 million required to bring six of our worst airports up to standard. We have started this year on Paulatuk and Rae Lakes. These will be followed over the next few years by Snowdrift, Lac la Martre, Pelly Bay and Fort Good Hope.

Over the last two years we have participated jointly with federal Fisheries and Oceans in Keewatin and Baffin Region port studies. I sent copies of these studies to the Members. We are now proceeding with joint planning and design of a facility for Pangnirtung and we expect continued co-operation with Fisheries and Oceans on other marine projects. We have managed to convince at least one federal department to take more interest in Canada north of 60. We will continue our efforts to convince other federal agencies, notably the coast guard, of the need to improve the harbours and wharves of our coastal communities.

Support Needed From Federal And Provincial Governments

Northerners will be the major recipients of the economic, social and political benefits of the transportation strategy. We must, therefore, be prepared to contribute a substantial share of the required investment. However, we are not alone. The Government of Canada still has the mandate for new highway construction in the North. Various federal departments also retain responsibility in marine and airport programs. In fact, the federal mandate covers 80 per cent of the increase in expenditures required for the strategy implementation. The benefits to Canada as a whole are also impressive. The resulting economic and employment benefits will increase federal revenues and reduce both social costs and Northwest Territories financial dependence.

Provincial governments would have to participate in those projects which are wholly or partly within their boundaries. The potential economic benefits for the provinces are enormous. Increased economic activity in the North will stimulate the manufacturing, construction, service, retail and tourism sectors for neighbouring provinces.

Do we have the support of the Government of Canada and the provinces? No, Mr. Speaker, we do not, at least not yet. I worry that to table such a strategy without these commitments will raise false expectations. I am fully aware of this risk. However, it is time to share this plan with the people of the North and Canada. Over the coming months this government will begin the dialogue, in negotiations with Canada and the provinces. We will be working to build the support for a renewed partnership and a commitment to northern transportation.

Mr. Speaker, I hope the Northwest Territories transportation strategy will be a catalyst for the economic, social and political development of the Northwest Territories into the 21st century. It can benefit current and future generations of Northerners and Canadians. What we need now is the political support

and financial commitment of the Government of Canada and the leaders of this country. If we get these, we can realize our dreams and enter the next century with pride and confidence. Thank you, Mr. Speaker.

MR. SPEAKER: Thank you. Ministers' statements. The honourable Member for Slave River.

Ministers' Statement 10-90(2): Foster Parent Week

HON. JEANNIE MARIE-JEWELL: Thank you, Mr. Speaker. Mr. Speaker, the Canadian Foster Parent Association has proclaimed the week of October 14 to 20 as Foster Family Week. The intent of this week is to recognize the valuable service provided by foster families in the Northwest Territories and in Canada. Mr. Speaker, in the Northwest Territories there are approximately 90 foster families providing services to the Department of Social Services as temporary homes for infants, children and teens. Foster parents are the backbone of our child welfare system and Foster Family Week provides the opportunity for us all to become aware of foster care services and to express gratitude to those generous people who act as our foster parents.

The challenge for all foster parents is to have a foster child feel wanted, safe and secure, while she or he is living away from their natural surroundings. This challenge is repeatedly accepted and met by our dedicated foster parents and families, some of whom have risen to this challenge for as long as 20 years. In addition to Foster Family Week, in the months to come special events and functions are being planned throughout the Northwest Territories in an effort to honour our northern foster parents. Thank you, Mr. Speaker.

--Applause

MR. SPEAKER: Thank you. Ministers' statements. Prior to proceeding with Item 3 I would just like to indicate to you that we have visitors who are students from St. Patrick's Elementary School, grade six, and their teacher Joanne McGrath.

--Applause

Item 3, Members' statements. Members' statements. The honourable Member for Yellowknife South.

ITEM 3: MEMBERS' STATEMENTS

Member's Statement On Task Force Report On Justices Of The Peace

MR. WHITFORD: Mr. Speaker, I wish to use this opportunity to compliment the Minister of Justice and his department on the implementation, at least in part, of the task force report on justices of the peace. By way of background, Mr. Speaker, there are about 125 justices of the peace in the Northwest Territories from all regions, from all communities, from all walks of life and all educational levels. They perform a vital community service by dealing with well over half of all the charges laid in the Northwest Territories. In the past, many of the JPs were concerned with the lack of training for the job that they were required to do. Many had sought books and courses; most were self taught. They looked forward to meetings with judges, lawyers and other members of the legal profession for confidence and for guidance. As well, responsibility for the administration of the justices of the peace and coroners had been from pillar to post over the last few years. This was not a good situation.

Mr. Speaker, the Minister has recently announced the appointment of Sam Stevens as the new full-time administrator

and trainer who will be solely responsible for all JP affairs. This is very welcome news for all JPs across the North and will go a long way to improving morale and skills among justices of the peace. In turn, the cause of justice to every man's door will be closer to reality and justice better served.

The task force produced its recommendations in 1987 and I encourage the implementation of the remaining recommendations without undue delay. As a former justice of the peace and coroner, I extend best wishes to the new administrator on behalf of all the JPs in the Northwest Territories. Thank you, Mr. Speaker.

--Applause

MR. SPEAKER: Thank you. Members' statements. Members' statements. The honourable Member for Hay River.

Member's Statement On Poultry Quotas

MR. POLLARD: Thank you, Mr. Speaker. Mr. Speaker, this concerns my constituency and Mr. Gargan's constituency as well. It deals with poultry quotas, Mr. Speaker. For two years the Government of the Northwest Territories has been trying to negotiate quotas in these areas with the rest of the provinces and the federal government. The Minister advises me that he has to get 27 yes's to get a deal with those provinces and the federal government. If one person says no, Mr. Speaker, the deal is off.

On the weekend, Mr. Speaker, the Hon. John Crosbie, the federal Trade Minister, said that he may allow increases in the amount of poultry and dairy products into Canada, presumably from the United States and Europe. Mr. Speaker, I fail to understand why, for the people in the Northwest Territories, it is so difficult to transport these kinds of goods into southern Canada when Mr. Crosbie appears to be able to allow foreign importation of these products at his own will. Something is drastically wrong, Mr. Speaker, when foreign countries get preference over Canada's own territories. Thank you, Mr. Speaker.

--Applause

MR. SPEAKER: Thank you. Members' statements. The honourable Member for High Arctic.

Member's Statement On Timing Of Shipments Into High Arctic

MR. PUDLUK: (Translation) Thank you, Mr. Speaker. A brief comment concerning shipping. We have our annual ship arrival about September and about this time freeze-up begins to occur. Such items as pop, liquids -- a good deal of the cargo, freezes during this weather. This causes great havoc with our supplies. I think it would be much more appropriate if we can have shipments arrive at an earlier time in the year. The ship goes to the mine to pick up lead and zinc in the months of June and July; however, for vital products for our region, they do not ship them over until this time of the year. I think it would be much better if we could have our shipments earlier in the year because it is too cold at this time of the year in the High Arctic and a lot of the cargo freezes and is ruined. I think we can avoid a lot of these problems if we have shipments earlier in the year.

Also, there are many problems with the routing of the ships due to ice, particularly when they are not icebreakers. We have had this problem in the High Arctic because of early freeze-ups. Thank you, Mr. Speaker.

MR. SPEAKER: Thank you. Members' statements.

Members' statements. The honourable Member for Natilikmiot.

Member's Statement On Programs For Handicapped People

MR. NINGARK: Thank you, Mr. Speaker. There is something that I owe to a very special group of people that I would like to share with you, my honourable colleagues. I know that a lot has been done for the handicapped people in the Northwest Territories during the last 10 years in terms of providing facilities for them. I think, Mr. Speaker, we can do more for these very special persons who, in their own way, have contributed in bringing us to the highest public office in the Territories. One of the many things that we can do for them is to provide reading material to them. It does not matter where they live, whether they are Inuit, Dene, white, black or others, they are still human beings. We can provide books and translate them into the original language of their choice.

Also, if handicapped persons wish to get into commercial ventures I am sure we can provide the expertise and necessary materials to start them off. Given the opportunity, Mr. Speaker, these very special people can enjoy life and play an important role within this society. Let us do something worthwhile, something that is meaningful for these people who elevate us to the highest public office in the Northwest Territories. Thank you.

---Applause

MR. SPEAKER: Thank you. Members' statements. The honourable Member for Aivilik.

Member's Statement On Health Proposal For East-West Affiliation

MR. ERNERK: Thank you, Mr. Speaker. I wish today to advise the House and, in particular, the Minister of Health, of recent events in the Keewatin in the health field. The Department of Health is proposing changes to the long-standing medical affiliation with Manitoba by shifting to an east-west affiliation with Yellowknife and Edmonton, Alberta. The Keewatin Health Board expressed unanimous opposition to the Department of Health proposal. The opposition to the proposal to shift medical facilities for the people of the Keewatin is supported by the Keewatin Regional Council.

Mr. Speaker, the Keewatin Health Board does not believe that patient travel to the West for medical treatment is in the best interest of patient care. I also, Mr. Speaker, support this view; and the long association that the Keewatin has had with the northern medical unit of the University of Manitoba has led to mutual trust and understanding to the benefit of the Keewatin people. Mr. Speaker, I strongly support that the Department of Health and the Minister take no unilateral decision on the matter and that they maintain the existing medical and diagnostic services in Winnipeg. Mr. Speaker, I give fair warning to the Minister that I will be following the developments in this situation with resolve to ensure that the desires of the Keewatin people are listened to. Thank you, Mr. Speaker.

MR. SPEAKER: Thank you. Members' statement. The honourable Member for Deh Cho.

Member's Statement On Land Claims

MR. GARGAN: Thank you, Mr. Speaker. It is six months and one week since the chiefs, the president and the vice-presidents of the Dene Nation initialled the agreement in principle for the Dene/Metis comprehensive land claim. By initialling the agreement in principle, the chiefs indicated their

general support of the content of the document to that point and the process for ratification. But in July, during the Dene/Metis national assembly in Detah, some new developments led some of the chiefs to rethink the contents of the comprehensive land claim paper. Those new developments include: 1) the Sparrow case in BC for fishing rights; 2) the Sioui case in Quebec regarding sweat lodges and religious practices; and 3) the Horseman case regarding treaty rights over environmental protection.

Mr. Speaker, the chiefs of the Mackenzie Valley have always taken the position, even before the existence of this land claim document, that they object strongly to the extinguishment of aboriginal and treaty rights. Unfortunately, the federal government took the position that land claims are for the purpose of compensation and they wanted to protect themselves from being sued for those rights at a later date.

I must, at this point in time, commend the South Slave chiefs and the Deh Cho chiefs for honouring the initialling and continuing the process of ratification. Further, for regions that wish to proceed with regional land claims, I encourage those chiefs to rethink their position and continue the process for ratification. Rejection of the agreement in principle at this point does not necessarily kill the claims process. It just gives us a chance to go back to the bargaining table.

The reason I am taking this position is that, in my opinion, compared to agreements reached in Alaska, James Bay, COPE and other claims, the Dene/Metis are being asked to give up too many rights; rights that other claimants have not had to give up. And, Mr. Speaker, this places the Dene/Metis in a position where they have no choice but to ask to renegotiate their claim. Thank you.

MR. SPEAKER: Thank you. Members' statements. Members' statements. The honourable Member for Yellowknife Centre.

Member's Statement On Public Service Commission

MR. LEWIS: Thank you, Mr. Speaker. I had a chance over the weekend to examine the proposals made by the Minister responsible for Personnel to changes in the Public Services Act. As you know, for some years now we have been urging the government to set up a public service commission. In fact, there was a motion in this House that we establish such a commission. However, the Minister of Personnel, although he has not been long in this new job, has proposed some changes which look as if they may eliminate some of the confusions that we have had in the past, especially as it relates to the appeals procedure. The Union of Northern Workers has agreed to participate in that, now that the changes are being proposed. Also there is a provision for appeals to be made for those people who are not within the public service.

Mr. Speaker, although many of us would still prefer to see an arm's length agency, I am prepared to let these changes run their course to see if they cannot eliminate some of the excesses of the past. In this business you do not get everything you want, but we will be watching it very carefully to make sure it does what we hope it will do. And if it does not, of course we will renew our pressure to get such a commission established. Thank you.

---Applause

MR. SPEAKER: Members' statements. Item 4, returns to oral questions. The honourable Member for Inuvik.

HON. TOM BUTTERS: Mr. Speaker, last week I committed to the honourable Member for Tu Nede and to Members of

this House that I would table the agreement this government has with the federal government on the forward operating location in Yellowknife. Regrettably, I did not take into consideration the time it takes for translation. So it is in process and it will be tabled as soon as the translation has been done.

ITEM 4: RETURNS TO ORAL QUESTIONS

MR. SPEAKER: Thank you. Returns to oral questions. Honourable Member for Amittuq.

Return To Question O36-90(2): Hunting Of Grizzly Bears By Repulse Bay Residents

HON. TITUS ALLOOLOO: Thank you, Mr. Speaker. I have a return to an oral question asked by Mr. Ernerk on October 11th, regarding grizzly bear quota. In early August I wrote to the Keewatin Wildlife Federation to confirm their offer to allow one of their current quota of five grizzly bears to be used in the area hunted by Repulse Bay. As I have not heard otherwise, I have now instructed my department to proceed with the necessary regulation changes.

MR. SPEAKER: Thank you. Returns to oral questions. Honourable Member for Nunakput.

Further Return To Question O33-90(2): Interpreters At Stanton Yellowknife Hospital

HON. NELLIE COURNOYEA: Mr. Speaker, I have two returns to oral questions, one asked by Mr. Ningark on October 11th, regarding the interpreter services at Stanton Yellowknife Hospital. As requested by the honourable Member for Natilikmiot, I have made inquiries about the availability of interpreter services at Stanton Yellowknife Hospital. Currently Stanton has only two interpreters; one speaks Inuktitut and the other speaks Dogrib. Funding for these interpreters allows them to work from 8:00 a.m. to 4:00 p.m. with no on-call provisions. After hours, relatives, other patients and, if available, Inuk staff are asked to interpret. Mr. Speaker, I share the concern expressed by the honourable Member and have asked the Department of Health to consult with Stanton Yellowknife Hospital to improve availability of interpreter services.

Return To Question O20-90(2): Legislation Changes To Accommodate Non-Smoking Areas

This is a return to an oral question asked by Mr. McLaughlin on October 11th regarding legislation for non-smoking areas. The Department of Health has begun a revision of its Eating or Drinking Places Regulations and intends to include provisions requiring areas free of tobacco smoke for patrons in all approved eating or drinking establishments.

Within the next few months the Department of Health will also proceed to revise the Tourist Accommodation Health Regulations. The intention of these revisions is to ensure a clean environment for patrons of the hospitality industry and to maintain the attraction of the Northwest Territories for tourists. At this point I would ask for the support of this House in implementing these changes.

AN HON. MEMBER: Hear, hear!

---Applause

MR. SPEAKER: Thank you. Returns to oral questions. Item 5, oral questions. Honourable Member for Natilikmiot.

ITEM 5: ORAL QUESTIONS

Question O55-90(2): Joining Of Two School Buildings In Gjoa Haven

MR. NINGARK: (Translation) Thank you, Mr. Speaker. This is directed to the Minister of Education. Last spring you came to Gjoa Haven and we met with the local education council there. There are two schools that are very close together but are not attached. One is an older building. The Gjoa Haven education council wanted to get another building so the children would not have to go outside to go in between those two buildings. Has the Minister done anything about this matter? Thank you, Mr. Speaker.

MR. SPEAKER: The honourable Member for Sahtu.

Return To Question O55-90(2): Joining Of Two School Buildings In Gjoa Haven

HON. STEPHEN KAKFWI: Mr. Speaker, currently the Department of Education is looking at the different cost estimates on how we could link up the two schools with what they call a link or extended hallway and a new entrance. There is no specific plan in place at this time except that if we can find the money under current allocations, and if we find the capability is there, and if the season permits, we will try and do something this year. The commitment is there on my part to try and do something. I do not know whether I can do it in one year or two years. It depends; the assessment is done by DPW and the Department of Education and the community. I can assure the Member that we are trying; as a Minister I am trying to see what can be done. Thank you.

MR. SPEAKER: Thank you. Oral questions. The honourable Member for Yellowknife Centre.

Question O56-90(2): Value Of Consultant's Work Re Constitutional Development

MR. LEWIS: Mr. Speaker, on Friday the Minister responsible for Aboriginal Rights and Constitutional Development indicated great concern because there was no interest and there was nothing happening in constitutional development in the Northwest Territories. My question to him is this, if nothing is happening, what is the person doing that we have agreed to pay \$950 per day to help us to get all this work done? What is that person doing if there is nothing happening?

MR. SPEAKER: Thank you. The honourable Member for Sahtu.

Return to Question O56-90(2): Value Of Consultant's Work Re Constitutional Development

HON. STEPHEN KAKFWI: Mr. Speaker, when I made those comments I was speaking about a couple of forums, you might say, this being one of them; the other being the now defunct Constitutional Alliance. If Members would look back on the minutes of the Constitutional Alliance for the year previous to last October, they would find that there was really nothing of substance discussed for about a whole year and a half, in fact a lot longer than that. It is simply because, I think, the Constitutional Alliance demanded a couple of things. One, that each member of the alliance come to the alliance with a statement, a vision statement perhaps, of what it was that they were seeking for their respective peoples; that is, the Inuvialuit were expected to come out with a statement saying, "Here is how and what we would like for a government at the territorial level and at the regional and community levels." The

Metis Association, the Dene Nation were expected to do the same. That was the reason for the alliance.

But for a number of years, there was really not much being said there and it did not help that the claims boundary discussions between the TFN and the Dene/Metis were just going in circles for the last four years or so. Unless we knew whether we were going to have a proposal to divide the Northwest Territories, those of us in the alliance were unable to discuss whether or not we wanted to be part of one government, or a new government for the East and a new government for the West. I think that basically lead to the demise of the alliance and that was what my comments were made on; also that here in the Legislature, as a government we have tabled a number of papers and if you look over the records of the questions asked and statements made over the last three years, at least as long as I have been a Member, there are very few questions asked, and absolutely no debate about political and constitutional development except for the good Member who asked this question. There are almost literally no questions asked about the Dene/Metis claim, for instance. Thank you.

MR. SPEAKER: Thank you. Oral questions. The honourable Member for Yellowknife Centre, supplementary.

Question O57-90(2): Co-ordination Re Political And Constitutional Development Plan

MR. LEWIS: Thank you, Mr. Speaker. That did not answer my question as to what this person was doing. I will ask another one.

---Laughter

Since the Member for Sahtu is responsible for Aboriginal Rights and Constitutional Development and he has some member on his staff or some contract employee doing some work, and since Mr. Butters is responsible for MACA and Local Government, and since there is a committee which is chaired by the Leader's principal secretary who reports to him on a daily basis, how is all this stuff -- I believe also that the Leader is responsible for devolution as well, the devolution of powers -- since you have all these things going on in three different places, how is this being co-ordinated in the area of constitutional development?

MR. SPEAKER: Thank you. The honourable Member for Sahtu. One moment. I believe that the question posed is a new question and not a supplementary to the original question asked. I will allow the honourable Member for Sahtu to respond.

Return To Question O57-90(2): Co-ordination Re Political And Constitutional Development Plan

HON. STEPHEN KAKFWI: Mr. Speaker, in the government there is a cabinet committee called the political and constitutional development committee which is the committee that deals with all the political and constitutional issues, issues to deal with aboriginal rights, claims negotiations. This committee is chaired by myself. It is a committee that has specifically the Minister of MACA, the Government Leader, the Minister of Justice, the associate Minister of Aboriginal Rights and the Minister of Energy all sitting on this committee, plus it is open to all other cabinet Members. It is through this committee that all our work that falls under aboriginal rights, political constitutional development, self-government, is co-ordinated. This is the mechanism we use. Thank you.

MR. SPEAKER: Thank you. Oral questions. The honourable Member for Yellowknife Centre, supplementary.

Supplementary To Question O57-90(2): Co-ordination Re Political And Constitutional Development Plan

MR. LEWIS: Thank you, Mr. Speaker. My question then is, how does the contract employee who has been hired at such great expense to the taxpayer fit into this plan, and is there really a plan for constitutional development?

MR. SPEAKER: Thank you. The honourable Member for Sahtu.

Further Return To Question O57-90(2): Co-ordination Re Political And Constitutional Development Plan

HON. STEPHEN KAKFWI: Mr. Speaker, the documents that the government tabled in this Legislature for political and constitutional development lay out basically our view on how the North should continue to grow and develop in the political and constitutional area. All the different staff that we all have function to help us in this matter. The particular contract employee that the Member speaks about is one who advises myself and assists the political and constitutional development committee in grappling with the overall issues that we deal with as a committee.

For instance, I have asked this consultant to look at some of the problems we are having in implementing the Inuvialuit claim to give me some suggestions on how that could be approached for some quick resolution. There is the matter with the Dene/Metis claim negotiations that he provides a critical view of, as well as the TFN claim. There is the issue of trying to negotiate forms of self-government for the Inuvialuit which we seek his advice on. There are two projects ongoing with Fort Resolution and Fort Good Hope which have been on the books for some time with the government that he also provides some advice on. There is the general process of devolution that is of great interest and importance to the North that he also provides his view on, as we ask him to do. Thank you.

MR. SPEAKER: Thank you. Oral questions. The honourable Member for Baffin Central.

Question O58-90(2): Assistance To NWT Carvers

MR. KILABUK: (Translation) Thank you, Mr. Speaker. My question is directed to the Minister of Economic Development and Tourism. I think I mentioned this last year. There has been good work done in the transportation of soapstone and I hope that in the future that this project will continue. There are many carvers who rely on that in the Northwest Territories, especially in the Eastern Arctic. I wonder now if there is any funding available to obtain tools so that people can make a living out of carving. If you remember, there used to be funds available from Economic Development for hunters to obtain hunting equipment such as skidoos, canoes, et cetera. I wonder if you have the same kind of funding available from Economic Development.

MR. SPEAKER: The honourable Member for Kivallivik.

Return To Question O58-90(2): Assistance To NWT Carvers

HON. GORDON WRAY: Thank you, Mr. Speaker. Yes indeed, we do have a similar program as part of the overall thrust on arts and crafts. The program is available to carvers to access funds for tools, and I will have the details provided to the Member so that he can provide that information to his constituents if he wishes. I will also ensure that the economic development officer in his constituency makes sure that the program is known publicly. Yes, there is such a program.

MR. SPEAKER: Thank you. Oral questions. The honourable Member for Rae-Lac la Martre.

Question O59-90(2): Ministerial Initiative On Community Self-Government

MR. ZOE: Thank you, Mr. Speaker. Mr. Speaker, my question is directed to the Government Leader. Could the Government Leader tell the House why he has allowed one of his Ministers to pursue his own initiative on community self-government? I cannot see why he would let this happen, especially when we have not debated on the political and constitutional development of the NWT. This topic obviously impacts on community self-government and other such things as regional councils, et cetera.

MR. SPEAKER: Thank you. The honourable Member for Iqaluit.

Return To Question O59-90(2): Ministerial Initiative On Community Self-Government

HON. DENNIS PATTERSON: Thank you, Mr. Speaker. Mr. Speaker, firstly, no Minister is pursuing a private initiative on community self-government. Secondly, the government has twice now tabled -- what is your problem...

---Laughter

AN HON. MEMBER: The Minister made his own statement on that.

MR. SPEAKER: Order. Order. The Minister has the floor. The honourable Member for Iqaluit.

HON. DENNIS PATTERSON: Secondly, Mr. Speaker, twice this government has tabled comprehensive, thoughtful, far reaching papers on political and constitutional development in the Northwest Territories and there has barely been a whimper of a response from Members of this Legislature. We are eagerly awaiting the profound ideas that Members of this Legislature undoubtedly have on the political and constitutional future of the Northwest Territories. We will eagerly look forward to hearing them when the Members are ready to make their views known to us. Thank you.

MR. ZOE: How come you let one of your Ministers go ahead?

HON. DENNIS PATTERSON: What are you talking about?

MR. ZOE: Community self-government..

MR. SPEAKER: Order please. Order! Oral questions. The honourable Member for Baffin South.

Question O60-90(2): Increased Financial Assistance For Energy Costs

MR. ARLOOKTOO: (Translation) Thank you, Mr. Speaker. I will direct my question to the Minister of Energy with regard to the individuals who receive HAP houses and who also receive financial assistance for paying their energy bills. They receive the first 700 kilowatts free per household per month. Ever since this program was started you have never revised the amount of the assistance for the energy bills. I was wondering, Madam Minister, will you in the future change the amount to a higher price to give assistance to these individuals? Thank you.

MR. SPEAKER: Thank you. The honourable Member for Nunakput.

Return To Question O60-90(2): Increased Financial Assistance For Energy Costs

HON. NELLIE COURNOYEA: Mr. Speaker, the overall policy on equalizing power rates to the Yellowknife rate has been in existence for some time and the intention is to carry on with that particular policy.

MR. SPEAKER: Thank you. Oral questions. The honourable Member for Baffin South, supplementary.

Supplementary To Question O60-90(2): Increased Financial Assistance For Energy Costs

MR. ARLOOKTOO: (Translation) Thank you, Mr. Speaker. My question is, will the amount increase following inflation in the future? Thank you.

MR. SPEAKER: The honourable Member for Nunakput.

Further Return To Question O60-90(2): Increased Financial Assistance For Energy Costs

HON. NELLIE COURNOYEA: Mr. Speaker, I certainly would suggest to the honourable Member that in the ensuing years we will not be able to get around increased power rates to consumers. How we handle the subsidization that is going into the individual communities away from the Yellowknife rate is under discussion at this time and would be subject to the Public Utilities Board once the Power Corporation is under review by that Public Utilities Board. But I certainly cannot say that there will be no increases.

MR. SPEAKER: Thank you. Oral questions. Honourable Member for Deh Cho.

Question O61-90(2): Scientific Studies On Toxins In Mackenzie And Slave Rivers

MR. GARGAN: Thank you, Mr. Speaker. I would like to direct my question to the Minister of Renewable Resources. On Thursday I asked him a question about the amount of discharge going into the Slave River and the Mackenzie River. The Minister indicated that the level of toxin going into the river system is not conclusive. My conclusion from that, Mr. Speaker, is that there is no answer at this time or that there is no level to determine whether there is a danger or not. I would like to ask the Minister how soon would his department test the waters of the Slave and Mackenzie to determine whether there are any toxins in the rivers right now.

MR. SPEAKER: Thank you. Honourable Member for Amittuq.

Return To Question O61-90(2): Scientific Studies On Toxins In Slave And Mackenzie Rivers

HON. TITUS ALLOOLOO: Thank you, Mr. Speaker. As I mentioned earlier, there is co-operation between our government and the Alberta government as well as the Canadian government, to do a baseline data collection at the border of the Northwest Territories and Alberta. At the present time this study is for three years. We basically do not know what is in the river in terms of dioxin and other substance that might be harmful to the fish and environment. The studies have just recently started and are going to go on for three years and hopefully we will know better once the studies have been concluded. Thank you.

MR. SPEAKER: Oral questions. Honourable Member for Deh Cho, supplementary.

Supplementary To Question O61-90(2): Scientific Studies On Toxins On Slave And Mackenzie Rivers

MR. GARGAN: Mr. Chairman, I recognize that there is a transboundary agreement with regard to pulp mills, but if there is another agreement with regard to waters, I am not aware of it. Mr. Speaker, my concern right now is that I am the one that is drinking that water, the first community on the Mackenzie to be drinking that water. I recognize there are studies being carried out, but my concern is that there are toxins being discharged into the waters now. What is this government doing in the NWT about our waters up here?

MR. SPEAKER: Honourable Member for Amittuq.

Further Return To Question O61-90(2): Scientific Studies On Toxins In Slave And Mackenzie Rivers

HON. TITUS ALLOOLOO: Mr. Speaker, in the absence of the baseline data on the river systems that are flowing into the NWT, we do not know if there are any toxins coming in. After the scientific collections we will know that. We do know what levels are present in the river system or if there are any. Thank you.

MR. SPEAKER: Honourable Member for Deh Cho, supplementary.

Supplementary To Question O61-90(2): Scientific Studies On Toxins In Slave And Mackenzie Rivers

MR. GARGAN: Mr. Speaker, since there are scientists doing the baseline data, I would like to ask the Minister which science institution is carrying that out.

MR. SPEAKER: Honourable Member for Amittuq.

Further Return To Question O61-90(2): Scientific Studies On Toxins In Slave And Mackenzie Rivers

HON. TITUS ALLOOLOO: Thank you, Mr. Speaker. The collection of the data is being done by our government as well as Indian and Northern Affairs and Environment Canada, I believe with the co-operation of the Alberta government.

MR. SPEAKER: Honourable Member for Deh Cho, final supplementary.

Supplementary To Question O61-90(2): Scientific Studies On Toxins In Slave And Mackenzie Rivers

MR. GARGAN: I would like to ask the Minister if the study is being carried out now.

MR. SPEAKER: Honourable Member for Amittuq.

Further Return To Question O61-90(2): Scientific Studies On Toxins In Slave And Mackenzie Rivers

HON. TITUS ALLOOLOO: Mr. Speaker, yes.

MR. SPEAKER: Thank you. Oral questions, honourable Member for Nahendeh.

Question O62-90(2): Shortage Of RCMP In Yellowknife

MR. SIBBESTON: Mr. Speaker, a question for the Minister of Justice. In the media a number of weeks ago it was reported that there was a shortage of RCMP officers in Yellowknife and that this shortage would perhaps be made up by RCMP from other parts of the North. Can the Minister tell me if he has been involved in that process and, if RCMP officers are to come from other parts of the North and other communities,

which communities are they?

MR. SPEAKER: Honourable Member for Yellowknife North.

Return To Question O62-90(2): Shortage Of RCMP In Yellowknife

HON. MICHAEL BALLANTYNE: Thank you, Mr. Speaker. The news report was not accurate in so much as no decision has been made right now to move officers from smaller communities to Yellowknife. It is true that there is a problem in Yellowknife. The RCMP are reviewing possibilities, including the possibility that they may be a little top-heavy administratively and to get some people from behind the desk onto the beat. But there has definitely been no decision whatsoever to move people from the communities to Yellowknife and we will be reviewing the situation to see what alternatives we have to deal with the real situation here in Yellowknife.

MR. SPEAKER: Honourable Member for Nahendeh, supplementary.

Question O63-90(2): RCMP Community Involvement In Wrigley

MR. SIBBESTON: Mr. Speaker, a number of days ago when I visited the community of Wrigley, the people were satisfied that the community has had RCMP officers for the last two or three years. However they were concerned that the RCMP officers stationed in Wrigley have not really been playing ball with them, in a sense that they go to the community and live somewhat of an isolated life. They do not really take part in the community life; they do not play volleyball with them; they do not drum dance with them. They really do not take part in the community. There is a bit of a hiatus at the moment in Wrigley. There should be a new officer sent to Wrigley. I wonder if the Minister would make sure that the officer going to Simpson has a ball and also that he has a pair of moccasins so he can drum dance with the people.

MR. SPEAKER: Thank you. New question. Honourable Member for Yellowknife North.

Return To Question O63-90(2): RCMP Community Involvement In Wrigley

HON. MICHAEL BALLANTYNE: Thank you. Maybe we can compromise; we will supply the ball if the honourable Member will supply the moccasins.

---Laughter

The whole area of RCMP being involved in the communities is a major priority of mine and for the government. As part of the direction that I sent out to the RCMP I really emphasized the importance of that. The commanding officer has emphasized, in correspondence to other detachments, that it is very important that RCMP officers get involved with the community. I appreciate this comment because I will use comments like this to reinforce that basic philosophy of our government for RCMP officers to work very closely with the community in all areas of community life. Thank you.

MR. SPEAKER: Oral questions. The honourable Member for Yellowknife South.

Question O64-90(2): Assessment Of Properties Along Ingraham Trail

MR. WHITFORD: Thank you, Mr. Speaker. I have a question I would like to direct to the Minister responsible for MACA. I understand that the department is undertaking an assessment

of properties along the Ingraham Trail. Can the Minister tell me, why is this assessment taking place, as this is recreational land? It is not residential; it is federal land, as I understand it. So why is this assessment taking place?

MR. SPEAKER: Thank you. The honourable Member for Inuvik.

HON. TOM BUTTERS: Mr. Speaker, I would like to thank the honourable Member for giving me notice of his question.

HON. MICHAEL BALLANTYNE: We changed the rules; we do not thank them now.

---Laughter

Return To Question O64-90(2): Assessment Of Properties Along Ingraham Trail

HON. TOM BUTTERS: By having notice I can provide him with a full and complete answer and I appreciate that courtesy. With regard to the inquiry that was contained in your question on the property on the Ingraham Trail, the Department of Municipal and Community Affairs is conducting preliminary fieldwork of assessable property as defined in the Property Assessment and Taxation Act. This fieldwork involves compiling an inventory of assessable properties and carrying out physical inspections of the properties. The fieldwork is forecasted to be complete by December 31st, 1990 and the data recorded. After that date the decision will be made as to whether the data will be entered into the assessment role for the general taxation area. The general taxation area includes the entire geographic area of the Northwest Territories, except for the seven municipal taxation areas of Yellowknife, Fort Simpson, Fort Smith, Hay River, Inuvik, Iqaluit and Norman Wells. The subsequent responsibility for levying of any mill rates and the issuance of tax notices in the general taxation area rests under the Property Assessment and Taxation Act with my colleague the Minister of Finance.

MR. SPEAKER: Thank you. Oral questions. The honourable Member for Deh Cho.

MR. GARGAN: Thank you, Mr. Speaker. I would like to direct my question to the Government Leader. I have a problem, Mr. Speaker, and I would like to ask the Government Leader at what point, when Ministers are taking on initiatives, it becomes a government or an Executive initiative as opposed to individual department initiatives?

MR. SPEAKER: I would just like to remind Members that when you pose a question you remind yourself or remember that you should not continue with the debate if the question has been posed already, and then I will give the honourable Member an opportunity to answer the original question that was asked. If you have a supplementary, then you have an opportunity to raise it. The honourable Member for Deh Cho.

Question O65-90(2): Statements Made On Behalf Of Department By Government Leader

MR. GARGAN: I would like to ask the Government Leader, at what point does the Government Leader make statements on behalf of the government, as opposed to individual Ministers representing their own department?

MR. SPEAKER: Thank you. The honourable Member for Iqaluit.

Return To Question O65-90(2): Statements Made On Behalf Of Department By Government Leader

HON. DENNIS PATTERSON: Thank you, Mr. Speaker. Mr.

Speaker, Ministers in our system bring forward proposals on major policy issues to cabinet and its committees. Once the initiatives are approved by cabinet, then they become government initiatives and the Minister speaks for the government. For example, Mr. Speaker, I would like to make it clear to the Members of this House that the Ministers' statement on community self-government, made last week, was a statement made on behalf of the government. I think that is clear from the statement where it frequently refers to our government's policy, our government's actions. Thank you, Mr. Speaker.

MR. SPEAKER: Thank you. Oral questions. The honourable Member for Baffin South.

Question O66-90(2): Electrical Inspection Of HAP Units, Lake Harbour

MR. ARLOOKTOO: (Translation) Thank you, Mr. Speaker. This is a question to the Minister of the Northwest Territories Housing Corporation. This is the problem that has been encountered by the Baffin residents in all of the communities. It is especially a problem right now in Lake Harbour and is with regard to the HAP owners. They have been waiting for an electrician for a long time and they are going to be completing their houses very soon. They have been given a time limit to finish their housing and they are almost finished but they are waiting for an electrician. As a Minister, I wonder if you can try to hurry the electricians to come and do the inspections, or ask your district manager in Iqaluit to go to that community to assist them with their electrical wiring. Thank you.

MR. SPEAKER: Thank you. The honourable Member for Inuvik.

Return To Question O66-90(2): Electrical Inspection Of HAP Units, Lake Harbour

HON. TOM BUTTERS: Mr. Speaker, the problem described by the honourable Member is a very real one and it has been with us for a very long time. In fact, Mr. Arlooktoo's colleague from Baffin Central alluded to it the other day when he addressed a question to the Minister of Education on the requirement of electricians. I will certainly accede to the Member's request and look into the matter to see if these inspections can be speeded up and the work speeded up. We have had this experience with other contractors in the Eastern Arctic and other areas where we have been not well served by our first choice. So I believe we have experienced some difficulty in acquiring the services of a contractor who can do the work required of them. Mr. Speaker, I will look into the matter and see what can be done to speed up the requirement identified.

MR. SPEAKER: Thank you. Oral questions. The honourable Member for Yellowknife South.

Question O67-90(2): Quality Of Drivers' Licences

MR. WHITFORD: Thank you, Mr. Speaker. I was looking through some of the questions that we have been asking various Ministers over the last year and a half and I would like to direct this question to the Minister responsible for motor vehicles. I raised the issue about drivers' licences and about the quality of the drivers' licences some time ago. Can the Minister tell me if there has been any change to this request for a much more secure and tougher driver's licence?

MR. SPEAKER: Thank you. The honourable Member for Kivallivik.

Return To Question O67-90(2): Quality Of Drivers' Licences

HON. GORDON WRAY: Thank you, Mr. Speaker. The Member, if nothing else, is persistent. Originally the cost of introducing photo licensing was thought to be too prohibitive. However, after the Member's persistent questioning and examples of his own licence, which is in rather sad shape, we looked at the possibility of appropriating underutilized photo lamination equipment from the Department of Personnel and the Liquor Licensing Board and having the motor vehicles division offer a central service for the issuance of drivers' licences. I would like to inform the Member and announce that we propose to introduce photo licensing within fiscal year 1991-92, which will be done within the existing budget of the department. We will use a combination of existing photo machines and small mini-portrait cameras in remote communities.

How it will work is that approximately 10 communities, Mr. Speaker, which represent about 85 per cent of the licensed drivers in the NWT, will have an on-line capability of using the complete photo license system. Issuers in the smaller remaining communities would take a driver's photograph with a small portrait camera and they will send the photograph to one of the central locations for issue with the driver's licence. The newly licensed driver will receive a temporary 90 day licence until the permanent photo licence is received back by the licensee.

As the Member for Yellowknife South has been a persistent proponent of photo licences, Mr. Speaker, I would like at this point in time to present him with a prototype which has been made for him and also advise him that it is not yet legal, so he cannot use it.

---Laughter

---Applause

MR. SPEAKER: Thank you. Oral questions. Honourable Member for Yellowknife South, supplementary.

Supplementary To Question O67-90(2): Quality Of Drivers' Licences

MR. WHITFORD: Thank you, Mr. Speaker. I am quite honoured but I still wonder about the duration of this licence. Will this licence be for longer than two years to avoid additional costs to the government? What is the length of time that that licence will be valid for?

MR. SPEAKER: Honourable Member for Kivallivik.

Further Return To Question O67-90(2): Quality Of Drivers' Licences

HON. GORDON WRAY: At present we are looking at the same number of years for licences. We are not looking at extending the licence times now. However, that is subject for consideration, but we are not looking at that now.

MR. SPEAKER: Thank you. Oral questions, the honourable Member for Hay River.

Question O68-90(2): Egg Quota Negotiations

MR. POLLARD: Mr. Speaker, my question is to the same Minister. It is about eggs, and I do not want him to send me over an egg, I will say that right off the bat.

---Laughter

Mr. Speaker, I wonder if the Minister of Economic Development and Tourism could advise this House on his progress in negotiating an egg quota for the Northwest Territories.

MR. SPEAKER: Honourable Member for Kivallivik.

Return To Question O68-90(2): Egg Quota Negotiations

HON. GORDON WRAY: Thank you, Mr. Speaker. Certainly, on a more serious note, the developments with CEMA, Canadian Egg Marketing Agency -- I am negotiating with three agencies now, as the Member is probably aware: CCMA, Canadian Chicken Marketing Agency, which is for chickens; CEMA for eggs; and CTMA for turkeys.

With regard to the CEMA negotiations, they are not going particularly well. What has happened in the last little while is that the agency came back to us -- we sense they are reluctant to give us a quota simply because the industry is in decline and they are afraid of surplus quota in southern Canada. So they suggested that we might want to set up our own agency here and operate for a year and, in their words, demonstrate a level of discipline and substantiate our quota requests and support for an application.

We dismissed that. We told them not to be so foolish. We put forward that nothing less than inclusion in the national system is satisfactory and, furthermore, we anticipated that those discussions would conclude and we would be allowed in no later than the end of this fiscal year. However, they came back -- just like a chicken and egg situation, if you will excuse the pun -- and they have reservations and obvious concerns with respect to our current producers. They sent us a letter suggesting that they had concerns with our current levels of production, and that there was potential for abuse; it was implied that if we did not do something it may have a deleterious impact on securing a quota. However, we have now gone back to them and suggested that currently I have nothing in place to install limits on the development of our production or, in fact, to enforce regulations. It was further explained to the national agency that without a quota it would be meaningless for me to bring in legislation to control production of a commodity which is not recognized by the national system and, it was finally concluded, if we had a quota then perhaps enforcement of current productions and quotas might take place. So that is where it stands today. But it is very tough negotiations. Thank you.

MR. SPEAKER: Honourable Member for Yellowknife Centre.

Question O69-90(2): Initiatives To Prevent Repetition Of Conrad Inquiry

MR. LEWIS: Thank you, Mr. Speaker. To get away from drivers' licences and eggs for a minute, I would like to ask the Minister of Justice -- on Friday he tabled a summary of Judge Conrad's investigation into a judicial matter and there were a lot of recommendations that came from that report. I would like to ask the Minister of Justice, in view of his comments that we have to put all this behind us now, does he have any plans so that this kind of thing does not happen again?

MR. SPEAKER: Honourable Member for Yellowknife North.

Return To Question O69-90(2): Initiatives To Prevent Repetition Of Conrad Inquiry

HON. MICHAEL BALLANTYNE: Thank you, Mr. Speaker. As I said in my statement on Friday, we have been in the process of consultation with a number of groups throughout the North in the last few weeks. The next two or three weeks I will be

doing intense consultation with groups right across the NWT. There are a number of initiatives that are in the works. I will be making announcements to this House during the course of this session as to those initiatives, but we have been giving a lot of thought to that and I think the initiatives we take can do a lot to provide an atmosphere in the NWT where these sorts of things will happen much less often.

MR. SPEAKER: Thank you. Honourable Member for Yellowknife Centre.

Supplementary To Question O69-90(2): Initiatives To Prevent Repetition Of Conrad Inquiry

MR. LEWIS: Thank you, Mr. Speaker. Can the Minister then confirm that the person who was at the centre of this inquiry for such a long period of time and was assigned administrative duties is now fully restored and does exactly the kind of work he was doing before, as of today?

MR. SPEAKER: Honourable Member for Yellowknife North.

Further Return To Question O69-90(2): Initiatives To Prevent Repetition Of Conrad Inquiry

HON. MICHAEL BALLANTYNE: The Commissioner has fulfilled his duties and I have brought the matter to the attention of the House, so that is up to the chief territorial court judge.

MR. SPEAKER: Oral questions. Honourable Member for Deh Cho.

Question O70-90(2): Office Complex In Fort Providence

MR. GARGAN: Thank you, Mr. Speaker. I would like to direct my question to the Minister of Municipal and Community Affairs. I have not been kept up to date with regard to an office complex that was to be built in Fort Providence this summer. I understand that is being deferred now for the third year, and I would like to ask the Minister what the ideas are for deferring this time.

MR. SPEAKER: Honourable Member for Inuvik.

HON. TOM BUTTERS: Mr. Speaker, I think there was some problem at the community level with discussions regarding a conflict of expectations. However, I cannot speak from specific knowledge. I will obtain the details and provide it to the House in an oral reply.

MR. SPEAKER: The honourable Member is taking the question as notice. Oral questions. Honourable Member for High Arctic.

Question O71-90(2): Study Of Harp Seals

MR. PUDLUK: (Translation) Thank you, Mr. Speaker. This is a question for the Minister of Renewable Resources in regard to harp seals. I wonder if the Minister and his staff have been notified in regard to the study yet.

MR. SPEAKER: Honourable Member for Amittuq.

Return To Question O71-90(2): Study Of Harp Seals

HON. TITUS ALLOOLOO: (Translation) Thank you, Mr. Speaker. Fisheries and Oceans know about the harp seals who are increasing in numbers and come from Newfoundland; but we have not got anything from them as to whether they are going to be doing a study or not.

MR. SPEAKER: Honourable Member for Nahendeh.

Question O72-90(2): Self-Government Facilities In Fort Simpson And Nahanni Butte

MR. SIBBESTON: Mr. Speaker, a question for the Minister of Municipal and Community Affairs responsible for community self-government. Our government in the past few days has gone on record as supporting community self-government, saying a lot of nice things about self-government in the communities. There are two communities in my area that do not even have proper facilities for their self-government. In Simpson the band office is working out of a rickety old shack that has been in place for years and years. In Nahanni Butte the community government is working out of an old teacherage. So these are pretty poor facilities. I am just wondering, inasmuch as the government says a lot about self-government, when are you going to provide proper facilities for self-government in the communities of Nahanni Butte and Fort Simpson?

MR. SPEAKER: Honourable Member for Inuvik.

Return To Question O72-90(2): Self-Government Facilities In Fort Simpson And Nahanni Butte.

HON. TOM BUTTERS: Mr. Speaker, the question with regard to the responsibility for self-government is one that has been divided on the Executive between my colleague, Mr. Kakfwi, and myself. In dealing with the concept, I have the responsibility for Inuit and Inuvialuit initiatives. However, with regard to the development of offices for community self-government, MACA does provide facilities and has done so in many communities, I am not sure of the particular condition in the communities he mentions, but I would have to look and see what is in the five year plan for any improvement in that area.

MR. SPEAKER: Oral questions. The honourable Member for Nahendeh, supplementary.

Supplementary To Question O72-90(2): Self-Government Facilities In Fort Simpson And Nahanni Butte

MR. SIBBESTON: Mr. Speaker, I think the matter of a band office is more than a matter of five year plans. I am aware that our government has had discussions with the federal government regarding the provision of band offices in the North. I am aware that the federal government does see the provision of band offices as a federal government responsibility which they have responsibility for, but I know in the last few years there has been some discussion with our government about transferring funds and just picking up the task of building proper band office facilities. Can the Minister advise me where things are on that front?

MR. SPEAKER: Thank you. The honourable Member for Inuvik.

Further Return To Question O72-90(2): Self-Government Facilities In Fort Simpson And Nahanni Butte

HON. TOM BUTTERS: Mr. Speaker, there is a special committee that has been developed by the Executive to examine the moneys available for band offices and other services provided to Indians, as is described under the act. I do not know that I am really competent to address the progress being made in that specific area. I believe the question might be better directed to the Government Leader or someone else who has been dealing with the specific matter of band offices. I have not been doing that as Minister of Municipal and Community Affairs.

MR. SPEAKER: Thank you. Oral questions. The honourable Member for Nahendeh, supplementary.

Question O73-90(2): Band Offices In The North

MR. SIBBESTON: Mr. Speaker, the Minister has kind of passed the buck to either Mr. Kakfwi or Mr. Patterson, who also have some jurisdiction or have some responsibilities in those areas. Can either of them, then, give us the latest definitive statement with respect to band offices in the North?

MR. SPEAKER: The honourable Member for Iqaluit.

Return To Question O73-90(2): Band Offices In The North

HON. DENNIS PATTERSON: Mr. Speaker, this has been a long outstanding issue between our government and the Government of Canada. As the honourable Member knows, constitutionally the Government of Canada has responsibility for band councils, band offices and those related matters. Mr. Speaker, in an effort to encourage the settlement of the Dene/Metis comprehensive claim, and in an effort to encourage the Dene/Metis to realize that they could profit by working with the public government of the Northwest Territories, some months ago our government, through the Minister responsible for Aboriginal Rights and Constitutional Development, offered our good offices -- if I may use the expression -- to reach out to communities that have a pressing need for band offices, to accommodate our own government office requirements within communities where bands required offices so that in a number of places we could work with the bands to accommodate their needs in buildings that we would substantially finance, if not subsidize, to provide them with offices.

Mr. Speaker, those efforts, which were designed to encourage the Dene chiefs to realize that they could profitably co-operate with our government at the community level, have resulted in initiatives in some communities which have resulted in new band offices. Unfortunately, Mr. Speaker, I have to say that the effort to develop a community self-government framework agreement, and the effort to get the Dene Nation in particular to realize that they could benefit from a co-operative relationship with our government on community initiatives, has not been successful. In fact, Mr. Speaker, our efforts to obtain a framework agreement were completely rebuffed by the Dene Nation. The land claim, as Members know, was rejected in July by initiatives that came particularly from South Slave communities that the honourable Member represents, Mr. Speaker. As a result, I have to say that despite what I consider our good initiatives and our good efforts, community self-government in terms of co-operation with the public government has not been accepted by South Slave communities, in particular.

I frankly do not see, Mr. Speaker, in the light of the failure of the Dene comprehensive claim -- I do not see an easy solution to what I acknowledge are pressing needs for band offices in some of those other communities. I am afraid, Mr. Speaker, that that issue will not be resolved easily, that the community needs will be unmet while the Dene themselves decide whether they are going to work in the public government framework through the model laid out in the comprehensive claim or whether they are going to pursue aboriginal self-government in the manner of reserves and direct relations with the federal government. Thank you, Mr. Speaker.

MR. SPEAKER: Thank you. Oral questions. The honourable Member for Nahendeh, final supplementary.

MR. SIBBESTON: Mr. Speaker, I really cannot understand what the Government Leader has said. He has the ability to say in a nice way something that could very well just be said in a word or two, no. In my view, the Government Leader is

saying that because our area of the North has not been as co-operative as they could be, for some reason, a community hall or band office is not forthcoming. I resent that, Mr. Speaker, because...

AN HON. MEMBER: Hear, hear!

MR. SIBBESTON: ...our communities, Fort Simpson and other communities in our area, do deserve proper band offices as they have been provided in other parts of the North. For the Government Leader to suggest that this is somehow now linked to their not co-operating in land claims and in other areas, to me...

MR. SPEAKER: Order. Could you pose the question please? Proceed, but please pose the question.

Supplementary To Question O73-90(2): Band Offices In The North

MR. SIBBESTON: Mr. Speaker, my question then is, despite all that has been said, whether the government is going to sincerely attempt to assist the communities of Wrigley and Nahanni Butte obtain proper band offices.

MR. SPEAKER: Thank you. The honourable Member for Iqaluit.

Further Return To Question O73-90(2): Band Offices In The North

HON. DENNIS PATTERSON: Mr. Speaker, as I said, I believe that our government is open and has demonstrated its willingness to find ways of meeting these needs within the public government mandate that we have in the Northwest Territories; but, Mr. Speaker, this would be in the context of the settlement of claims and in the context of providing self-government arrangements alongside the comprehensive claim. Now that the future of the comprehensive claim is uncertain, particularly in the Deh Cho and the South Slave, Mr. Speaker, our government is going to have to re-assess the strategy that we have successfully applied in some communities to date which endeavoured to assist in settling the claim.

Mr. Speaker, we will continue to try to find ways of resolving those needs, as we have done as long as I have been involved with this government, but obviously with the comprehensive claim having been set aside in those regions, we will have to find other mechanisms than the strategy that we had offered the Dene some months ago, which was to build community self-government alongside the comprehensive claim. Frankly, Mr. Speaker, at this point, I think it is unclear which way the communities want to go in those regions and therefore it will take some time to develop a new strategy. I think the federal government is once again going to have to be involved. The will is there, but the way is not crystal clear to our government at this point. Thank you, Mr. Speaker.

MR. SPEAKER: Thank you. Time period for oral questions has expired.

Item 6, written questions.

Item 7, returns to written questions.

Item 8, replies to Opening Address.

Item 9, petitions.

Item 10, reports of standing and special committees. Item 11, tabling of documents. The honourable Member for Yellowknife South.

ITEM 11: TABLING OF DOCUMENTS

MR. WHITFORD: Mr. Speaker, I would like to table Tabled Document 5-90(2), Report of the 1989-1990 Electoral District Boundaries Commission of the Northwest Territories.

MR. SPEAKER: Thank you. Tabling of documents. The honourable Member for Kivallivik.

HON. GORDON WRAY: Thank you, Mr. Speaker. Mr. Speaker, I would like to table Tabled Document 6-90(2), a document on the Northwest Territories Transportation Strategy. Thank you.

MR. SPEAKER: Thank you. Tabling of documents. Item 12, notices of motion. The honourable Member for Aivilik.

ITEM 12: NOTICES OF MOTION**Notice Of Motion 1-90(2): Rankin Inlet Interagency Group**

MR. ERNERK: Thank you, Mr. Speaker. I would like to give notice that on October 17, 1990, I will move the following motion: Now therefore, I move, seconded by the honourable Member for Kitikmeot West, that this Legislative Assembly requests the Minister of Social Services to review the funding arrangements with the Aqsaraq Addiction Centre in Rankin Inlet to determine if the Department of Social Services can assist with the centre's economic shortfall.

MR. SPEAKER: Thank you. Notices of motion. The honourable Member for Kivallivik.

Notice Of Motion 2-90(2): Tabled Document 6-90(2), NWT Transportation Strategy, To Committee Of The Whole

HON. GORDON WRAY: Mr. Speaker, I give notice that on Wednesday, October 17, 1990, I shall move the following motion: I move, seconded by the honourable Member for Iqaluit, that Tabled Document 6-90(2), Northwest Territories Transportation Strategy be moved into committee of the whole for discussion. Thank you.

MR. SPEAKER: Thank you. Notices of motion.

Item 13, notices of motion for first reading of bills.

Item 14, motions.

Item 15, first reading of bills.

Item 16, second reading of bills. Item 17, consideration in committee of the whole of bills and other matters: Bills 1, 5, 8, 11 and 12, with Mr. Pudluk in the chair.

ITEM 17: CONSIDERATION IN COMMITTEE OF THE WHOLE OF BILLS AND OTHER MATTERS

CHAIRMAN (Mr. Pudluk): This committee will now come to order. I wonder if the Government House Leader would like to indicate what he would like to do first. Thank you.

HON. MICHAEL BALLANTYNE: Thank you, Mr. Chairman. With the agreement of the committee, the government would like to proceed with Bill 1, Child Welfare Act, Bill 8, Labour Standards Act and Bill 11, Public Service Act.

CHAIRMAN (Mr. Pudluk): Does this committee agree that we deal with Bills 1, 8, and 11? Is this agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

We will take a 15 minute break.

---SHORT RECESS

CHAIRMAN (Mr. Gargan): The committee will come back to order. We are dealing with Bills 1, 8 and 11. Which bill does the government wish to proceed with first?

HON. MICHAEL BALLANTYNE: Bill 1, Mr. Chairman.

CHAIRMAN (Mr. Gargan): Bill 1, on tab one, An Act to Amend the Child Welfare Act, with Mrs. Marie-Jewell. Madam Minister, you may make your opening statements.

Bill 1: Child Welfare Act**Minister's Opening Remarks**

HON. JEANNIE MARIE-JEWELL: Thank you, Mr. Chairman. Mr. Chairman, for consideration in committee of the whole I am presenting a short piece of legislation, An Act to Amend the Child Welfare Act. The first amendment replaces the word "Commissioner" with the word "Minister" wherever it appears. This is to continue the government's policy of ensuring that decisions are made by persons accountable to this Assembly.

The second amendment restricts the circumstances under which a child welfare worker can apprehend the child. The old act said that a child could be taken into care when a worker believes that there is abuse. The amendment would require that the worker have reasonable grounds for his or her actions. It also places new restrictions on when a worker can enter a home or other places. This is now possible when the child is in immediate danger or when a child has been abducted or has run away from care.

The third amendment recognizes that in placing these more difficult duties on child welfare workers that the workers are protected and entitled to protection as long as they are trying to do their job. This amendment will protect them from liability. This protection is offered to workers in all parts of Canada and it is only fair that workers in the Northwest Territories have the same type of protection.

The final amendment removes an old rule which states that co-operation or extra evidence was needed to prove who was the father of a child. The courts have looked at these rules and said that they are unfair to women and children and against the Charter of Rights, so they would like these provisions removed from the act.

These are the amendments that we have brought forth and ask for consideration for the Child Welfare Act. If I may be allowed, for further questioning I would like approval for a witness to be brought in. Thank you.

CHAIRMAN (Mr. Gargan): Thank you. Does the committee agree that the Minister bring in her witness? Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Gargan): Madam Minister, you may bring in your witness. We are on An Act to Amend the Child Welfare Act. For the record, Madam Minister, please introduce your witness.

HON. JEANNIE MARIE-JEWELL: Thank you, Mr. Chairman. The witness on my right is Anne Crawford and she is the director of family and childrens services with the Department of Social Services.

CHAIRMAN (Mr. Gargan): Thank you. Mr. Ernerk, the chairman of the standing committee on legislation.

Comments From The Standing Committee On Legislation

MR. ERNERK: Thank you, Mr. Chairperson. This bill would amend the existing Child Welfare Act in four important ways: 1) It would add a requirement that the child could not be apprehended without reasonable grounds; 2) It would transfer administration of the act from the Commissioner to the Minister; 3) It would change the type of evidence required to prove that a male person had parented a child; and 4) It would exempt child welfare workers from liability.

Mr. Chairperson, the standing committee reviewed the draft bill during its meeting on September 19, 1990. We were grateful to the Minister of Social Services, the Hon. Jeannie Marie-Jewell, and her officials for appearing before the committee and providing us with helpful overview and forthright answers to our questions.

Mr. Chairperson, the standing committee found that most of the changes proposed in this legislation were very positive and in keeping with recent developments in child protection law. The amendment to add a requirement for reasonable grounds, when dealing with the apprehension of children, arises from recent court interpretations on the constitutionality of search and seizure provisions in the Canadian Charter of Rights and Freedoms. The transfer of authority for administration of the Child Welfare Act is in keeping with the evolution of the new roles of our Commissioner, Legislative Assembly and Executive Council. It was a change which the standing committee strongly supported.

During our discussion with the Minister, Mr. Chairperson, the standing committee noted that clause 2 would require the word "Commissioner" to be replaced with the word "Minister" throughout the existing act. However, in clause 16(1) of the proposed new legislation, reference is again made to the Commissioner as being the authority who certifies child welfare workers or others as being able to carry out an apprehension. This was acknowledged as an oversight during the standing committee's review, yet it remains in the bill before us today. Perhaps this can be addressed when we go clause by clause on this bill.

Mr. Chairman, the standing committee reviewed the changes that would be made in the requirement for what is necessary evidence that a male person participated in the creation of a child. Under our present legislation the requirements that a woman must meet to resolve such a matter before the courts are unfair, outdated and potentially unconstitutional. This amendment will represent a very positive change in how we deal with decisions that establish parentage, in the Northwest Territories.

Exemption From Liability Of Child Welfare Workers

Mr. Chairperson, the amendment most carefully studied by our standing committee was the one which would exempt a child welfare worker from liability for any actions undertaken in good faith. That was interpreted to the standing committee as indicating that if this bill passes no one could sue a child welfare worker for any actions he or she took, so long as the worker was not acting in a malicious, deliberately harmful way.

There are other things that people could do if they believed that their family or someone in it had been wronged by a child welfare worker. They could appear before a court to argue that the apprehension should not have taken place; they could complain to the Minister or her departmental officials; they could bring the matter to the attention of their MLA; they could notify and complain to the police if they felt the child

welfare worker broke a law when apprehending their child; but clearly, if this bill passes, they would not be able to sue a child welfare worker who was performing his or her job in good faith.

Mr. Chairperson, sometimes mistakes happen -- honest mistakes -- but ones that might cause financial cost to families or perhaps pain and suffering. These can happen even if the child welfare worker is acting in good faith. The standing committee on legislation recognized that a balance must be maintained between the interests of workers and the interests of a family who might wish to seek damages. Perhaps this balance could be found in using a requirement that the child welfare worker must act reasonably and in good faith in order to be exempt from liability.

Mr. Chairperson, at our September meeting, the standing committee on legislation agreed to refer this bill to the House. Thank you very much, Mr. Chairperson.

CHAIRMAN (Mr. Pudluk): Thank you. General comments. Mr. Pedersen.

MR. PEDERSEN: Thank you, Mr. Chairman. I notice that the committee is recommending that this bill be referred to the House and not necessarily passed by the House. I have not been present at the meetings of the standing committee on legislation, as I am not a full Member of that committee, so I would like some clarification on terminology in this amendment to the act. I will do them in the order they are in, Mr. Chairman. In clause 3, subsection 16(1), it refers to "the superintendent, a child welfare worker, a peace officer, an executive director". Is the term "executive director" clarified in the act under the definitions? Who are we referring to under executive director?

CHAIRMAN (Mr. Pudluk): Thank you. Madam Minister.

HON. JEANNIE MARIE-JEWELL: Mr. Chairman, often in different areas in Canada there are children's aid societies that deal with children or assist children but there have not been any in existence in the NWT. The individuals that are responsible for the ones in the South are called executive directors. That is basically the purpose of that particular title in our act.

CHAIRMAN (Mr. Pudluk): Thank you. Mr. Pedersen. Mr. Chairman, that still did not answer my question directly. Is the term "executive director" specifically identified in the definitions under the act, which is usually the first page, definitions, and it says that Minister means this and so on. Does it say what "executive director" is?

CHAIRMAN (Mr. Pudluk): Thank you. Madam Minister.

HON. JEANNIE MARIE-JEWELL: Mr. Chairman, yes it is under interpretations, section 2(1)(e): "Executive director" means the executive director of a children's aid society appointed under this act.

CHAIRMAN (Mr. Pudluk): Thank you. Mr. Pedersen.

Determination Of Reasonable Grounds For Apprehension

MR. PEDERSEN: Thank you, Mr. Chairman. The next thing I would like to question is to get some sort of an idea of what "reasonable grounds" is, both under section 3.16(1)(a) and (b). These are very sweeping powers we are giving, particularly (b), where we can enter a place by day or night, using force if necessary, as long as there are reasonable grounds. What constitutes "reasonable grounds" and who determines whether these grounds are, in fact, reasonable, if it is challenged?

CHAIRMAN (Mr. Pudluk): Thank you. Madam Minister.

HON. JEANNIE MARIE-JEWELL: Mr. Chairman, under "reasonable grounds" it is deemed that it is a case-by-case decision with the supervisor of family and children's services, within that directorate, and it is determined by the courts as to what reasonable grounds would be. Thank you.

CHAIRMAN (Mr. Pudluk): Thank you. Mr. Pedersen.

MR. PEDERSEN: Mr. Chairman, the courts could only determine that after either the apprehension or the entry had taken place, and if it was challenged. I am referring to before it takes place, and when it is without a warrant, without a court having been consulted. Who establishes, "Yes, there are reasonable grounds to do this.?" As I say, it is a very sweeping power and I just hope that it is not going to be judged merely by saying, "Well I felt that it was reasonable grounds because I have done very little in my lifetime that I, at the time, did not think was reasonable; and later it might have proven not to be so." Who determines the reasonableness of the grounds when the apprehension or entry is made without a warrant?

CHAIRMAN (Mr. Pudluk): Thank you. Madam Minister.

HON. JEANNIE MARIE-JEWELL: Mr. Chairman, all our social workers, before they can be certified to do any type of child apprehensions, go through a statutory training and under the statutory training it is determined what reasonable grounds would be. It is through that process that they evaluate each case, case by case, and determine what reasonable grounds are.

CHAIRMAN (Mr. Pudluk): Thank you. Mr. Pedersen.

MR. PEDERSEN: Thank you, Mr. Chairman. I wonder, Mr. Chairman, if the Minister could not make something available to this House from that statutory training as to what constitutes reasonable grounds. We are the ones that are being asked to pass these amendments that will give this power to a small group in our society and I think that it would be only fair if we could have the benefit of the guidelines, rules, what have you, that pertain to that particular part of their training. Could we have such information made available to us please?

CHAIRMAN (Mr. Pudluk): Thank you. Madam Minister.

HON. JEANNIE MARIE-JEWELL: Mr. Chairman, I suppose we can review basically what is given in statutory training, although I believe that most examples are given by case-by-case studies that are shown merely as examples to try to give a worker the understanding of what reasonable grounds are. Currently the act does indicate "where there is reason to believe", and wanting to change it to "reasonable grounds", I believe, probably would allow the worker to understand or ensure that they are making conscientious decisions prior to apprehension of any child.

CHAIRMAN (Mr. Pudluk): Thank you. Mr. Pedersen.

MR. PEDERSEN: Thank you, Mr. Chairman. Mr. Chairman, I am still very uneasy with this. I know that our child welfare workers are professional people and I certainly accept them as that and anything I say should not be taken as otherwise. But we have many other categories of professional people that disagree all the time over the fundamental interpretation of basic rules. I guess the classic one of that is lawyers. You always have a defence lawyer and a prosecution lawyer and they most certainly disagree vehemently over the case in front of them. I am uneasy with "reasonable grounds", it is very vague. Under section 5(30.2) I also wanted to question where there is no liability if you carried out your duties in good faith.

How is this good faith determined? Is it determined on the same basis as reasonable grounds, in that if I am the child welfare officer and I say, "I thought I had reasonable grounds and I certainly acted in good faith and I, basically, have carte blanche, a free hand to do as I please.?"

CHAIRMAN (Mr. Pudluk): Thank you. Madam Minister.

HON. JEANNIE MARIE-JEWELL: No, Mr. Chairman, you would hope, through their professional abilities that they certainly would do their duties in good faith in accordance to the act. Maybe what I should explain is that any apprehension that goes through the department, of any child, if the department apprehends a child for any longer than 48 hours, or two days, it does have to go through the courts. Any apprehension that is subjected to the court process, before a child is made a ward of the department, they have to substantiate their reason for the apprehension. This process is done fairly quickly and it is not a long-drawn-out process once a worker does take a child away from the family.

CHAIRMAN (Mr. Pudluk): Thank you. General comments. Mr. Gargan.

No Liability Clause Should Include Mention Of Reasonable Grounds

MR. GARGAN: Mr. Chairman, under the act, with regard to the social worker or a child welfare worker being exempt or not being liable under this act, it does say that the worker has to act in good faith but there is no mention of reasonable grounds. Is there a reason why that is? A social worker could act in good faith and not be liable but he does not have to act on reasonable grounds. I am wondering why that particular thing is not there? You could act in good faith and be unreasonable but you have to have both of them to get the support. It says here that the person is carrying out his or her duties in good faith but I am just wondering if it should also be reasonable grounds and good faith? A person could go into a building, and that is exactly what this whole thing is about; when a social worker goes into a home without reason, then he does not have to have any reasonable grounds for entering as long as he has done it in good faith.

I understand or support that maybe they should not be liable or, as the Minister puts it, they are entitled to protection. I do not know what makes them that special, that they would need that protection but if they do, then in order for the ordinary person to have those other protections, you have to have those two included in there; not only in good faith but they have to have reasonable grounds too, then they are liable. But if you just have it open for good faith, good faith could mean anything. Such as, "I saw this parent's child at the bar and I thought I had a good reason to go in." But this is not in the clause, so I am wondering if it is an oversight. The whole purpose of this act is to protect the worker, period, and it is close-knit enough that it will never be challenged.

CHAIRMAN (Mr. Pudluk): Thank you. Madam Minister.

HON. JEANNIE MARIE-JEWELL: Mr. Chairman, I believe that the purpose of the act is to protect workers from challenges under the charter. As I said before and maybe I should reiterate, in order to do any type of apprehension every worker has to go through some type of statutory training prior to receiving their certificate of apprehension. Within their statutory training discussions, examples are given to the workers to determine what type of work is done on reasonable grounds. I think that the courts often deal with different court cases and determine what reasonable grounds are. Once a child is apprehended, within a 48 hour time frame, the department is obligated to go through the court process for apprehension of that child and it cannot be delayed longer

than 48 hours once you want to apprehend. The court process cannot be delayed past 48 hours if a child is going to be considered to be apprehended by the department. So it is through their statutory training that examples or cases are given to them of reasonable grounds of a child to be in danger, in order to pursue an apprehension.

CHAIRMAN (Mr. Pudluk): Thank you. Mr. Gargan.

MR. GARGAN: Based on the answer that the Minister gave me, then a social worker has this statutory training that they go through in which case by case they see what "reasonable grounds" means and so they are trained in those areas. Would you consider, when the appropriate time comes, to include it in the clause under liability -- reasonable grounds and good faith? Is there a problem with that?

CHAIRMAN (Mr. Pudluk): Madam Minister.

HON. JEANNIE MARIE-JEWELL: Mr. Chairman, when we look at an individual, determining to use good faith, in my mind it would mean that an individual would adhere to using their judgment in accordance with the law. Now the Member wants to add in "reasonable grounds" into "good faith". It is understood that when you are dealing in good faith, you are using reasonable grounds to determine your decision. So I fail to see the purpose of adding those words to that section, Mr. Chairman.

CHAIRMAN (Mr. Pudluk): Mr. Gargan.

MR. GARGAN: Mr. Chairman, I disagree. You could act in good faith whether you are reasonable or not. This is what I am trying to get at. In order for a child welfare worker to act in good faith, he has to have reasonable grounds to do it in the first place. But under that clause, with just "good faith", he does not have to act reasonable about it. He could barge into a house and be totally unreasonable as long as he is doing it in good faith. For the Minister to imply that they are both the same, it is not. There has to be a reason for an action. Naturally if you want to put "good faith" in there, yes, but a child welfare worker does not have to be reasonable in order to enter your house, as long as he is doing it in good faith. That is what I am getting at.

So if you are going to have a clause like this for liability, then you have to have enough there so the other person is protected as well. The way it is now, it is absolutely impossible for an individual to challenge the child welfare worker in the courts based on this. Except that there is a process in which perhaps there might be a way of resolving the actions of the child welfare worker. But as it exists now, "good faith" could be interpreted in any way. It does not have to be interpreted by the courts, it could be interpreted by the Minister or the superintendent or the supervisors.

So long before it gets into the courts the supervisor will say that this person acted in good faith, whether it was reasonable or not. Under this act he is protected because he did do it in good faith. That is my point. As long as the "good faith" is there it will never be challenged. But if there was "reasonable grounds" and "good faith", then there is some avenue open for an individual to say that the child welfare worker did act in good faith but he was unreasonable in the way he handled the case. So if you could include "reasonable grounds" then that clause for liability is in there for a purpose, to protect the worker, but it does not protect the person acted on.

CHAIRMAN (Mr. Pudluk): Madam Minister.

HON. JEANNIE MARIE-JEWELL: Mr. Chairman, I would imagine that if a worker apprehends a child and does not use reasonable grounds or is not doing it in good faith and it is

deemed that the worker was conducting themselves in that manner, then there are other avenues to deal with them. In particular, with disciplinary action, or the court can find that the apprehension was not done in good faith and reasonable grounds were not used, and determine that the child is to be returned into their previous environment. The apprehension certainly can be opposed at any time and there is certainly recourse when a child is apprehended and the government can be sued.

The other point is that we have to ensure, not so much in regard to the worker, but ensure that protection for a child is looked at. Putting a definitive example for reasonable grounds or acting in good faith is going to be very difficult because of the fact that each case is looked at on a case-by-case basis, certainly with the understanding that each worker uses their judgment correctly. Hopefully with the statutory training that they have received prior to receiving their apprehension certificate, they understand that they just do not go into any house and apprehend a child without having reasonable grounds or conducting themselves in good faith for the betterment of the protection of a child. Thank you.

CHAIRMAN (Mr. Pudluk): Mr. Gargan.

MR. GARGAN: Mr. Chairman, for the purposes of this act it will not be the child welfare worker that is going to be acting under this act, but the social worker stationed in the community. Perhaps they might have those people in Yellowknife, Hay River, Fort Smith -- the larger centres would have those child welfare workers. But in the communities it is the social worker that is going to have to act under this act, if there is a requirement for the safety of a child. For the benefit of other Members as well as myself I would like to get a legal opinion on whether there is a distinct difference between "reasonable grounds" and "good faith".

CHAIRMAN (Mr. Pudluk): Madam Law Clerk.

Definition Of "Good Faith" And "Reasonable Grounds"

LAW CLERK (Ms. Sheila MacPherson): Thank you, Mr. Chairman. "Good faith" is generally something that is judged by a person's state of mind and it refers to whether they act believing that they are doing the right thing. If they believe in their mind that they are doing the right thing and they are not acting out of malice or acting to hurt somebody, then they are acting in good faith. It is what we call a subjective standard. They can still be acting unreasonably as long as they believe in their mind that they are doing the right thing.

"Reasonable grounds" or acting reasonably, generally implies an objective standard, which is: What would the reasonable child welfare worker have done in this situation? What would the average standard be for a child welfare worker? So that is not judged on the standard of that one particular child welfare worker who may have done an apprehension, it is judged on the standard of the average professional child welfare worker, therefore it is what we call an objective standard. It is generally a standard that we try to have all of our professionals in professions adhere to, so that we have some consistency of behaviour and actions in certain professions across the NWT. Mr. Chairman, I hope that helps the Member.

CHAIRMAN (Mr. Pudluk): Mr. Gargan.

MR. GARGAN: I would also like to get a legal opinion that if in the event that the clause remains as is and only the words "good faith" are in there without "reasonable grounds", if it was challenged would the person that has filed a complaint against a social worker have a case or would it be difficult?

CHAIRMAN (Mr. Pudluk): Madam Law Clerk.

LAW CLERK (Ms. Sheila MacPherson): Thank you, Mr. Chairman. It is difficult to tell. I believe however, in reviewing the legislation, that in fact if the social worker were able to establish that they acted in good faith, even if their actions were not reasonable, that they would still be protected from being sued in a law suit by any person damaged by their actions.

As the Minister pointed out earlier however, there are still other proceedings that can be taken against the child welfare worker, for example, internal disciplinary proceedings, or the parents can go to court to have the apprehension or whatever action the child welfare worker took, set aside. However it would, in my view, be difficult to sue a child welfare worker for monetary damages if the child welfare worker were acting in good faith but unreasonably.

CHAIRMAN (Mr. Pudluk): Mr. Gargan.

MR. GARGAN: For the purposes of this act, if a social worker acted under this act, because he is not a child welfare worker, can he still be liable?

CHAIRMAN (Mr. Pudluk): Madam Minister.

HON. JEANNIE MARIE-JEWELL: Mr. Chairman, I should make it clear that any social worker cannot act under this act unless they have a child worker certificate which gives them the authority to do apprehensions.

CHAIRMAN (Mr. Pudluk): General comments. Mr. Pollard.

MR. POLLARD: Mr. Chairman, in section 16(1), "any person authorized in writing by the Commissioner or the superintendent", could the Minister give us some examples of other people who might be authorized under this act?

CHAIRMAN (Mr. Pudluk): Madam Minister.

HON. JEANNIE MARIE-JEWELL: For example if it is a community that does not have a social worker, Mr. Chairman, and there is a need to protect a child, that authorization could be given to a nurse, RCMP, an individual that is willing to assist the department. Although that authorization in writing is only given to that individual for that particular case and it is not a blanket authorization.

CHAIRMAN (Mr. Pudluk): Mr. Pollard.

MR. POLLARD: I know the legislation committee has been through this already and it is probably the same questions being asked again, but I would like to ask the Law Clerk if there are other acts that give such sweeping powers without a warrant, using force if necessary, and yet there is no liability at the end, as long as you acted in good faith?

CHAIRMAN (Mr. Pudluk): Madam Law Clerk.

LAW CLERK (Ms. Sheila MacPherson): Thank you, Mr. Chairman. As the Member has pointed out, it is an exceptional power and I am not familiar with any other acts that give this type of broad sweeping power. However I would also note that the amendment before you today is attempting to narrow when a child welfare worker can go into a residence, to narrow it down to the circumstances where the health and welfare of the child is in jeopardy. So it represents a movement away from the rather broad powers set forth in the old section to narrower powers as set forth in clause 3. But the Member is quite correct in that it is very much an unusual piece of legislation in that we do not grant powers to enter private residences very lightly.

CHAIRMAN (Mr. Pudluk): Thank you. Mr. Pollard.

MR. POLLARD: I wonder if the Minister could tell us if this is similar legislation in this regard to the provinces? Do they have the same kinds of legislation with regard to child welfare and do those acts have the same kind of sweeping powers? Thank you, Mr. Chairman.

CHAIRMAN (Mr. Pudluk): Madam Minister.

HON. JEANNIE MARIE-JEWELL: Mr. Chairman, there are similar acts in other jurisdictions. However in other jurisdictions they do have the provision for the workers in their acts, that we are requesting the amendment for.

CHAIRMAN (Mr. Pudluk): Thank you. Mr. Pollard.

MR. POLLARD: Once more to the Law Clerk, if I may, Mr. Chairman. It says "peace officer" so let us talk about a policeman. If a policeman entered a premises, using reasonable grounds to believe that a child was in jeopardy or so on and so forth, and he or she found other things -- maybe it was illegal liquor, drugs, unlicensed dog, something else that was sort of outside the law -- would that peace officer be able to act upon those other things that he or she had found while presumably entering the premises believing there was a case of neglect of a child in there? Thank you, Mr. Chairman.

CHAIRMAN (Mr. Pudluk): Thank you. Law Clerk.

LAW CLERK (Ms. Sheila MacPherson): Mr. Chairman, my rather brief answer to that would be no. Without looking at the matter further, I can only give you my gut reaction. The peace officer is authorized to go in there only for a very specific purpose, which is an exception to the general laws of search and seizure. Therefore, if he or she saw anything in the house or residence it would be my argument, certainly in court, that he would not have been entitled to seize that as he was not authorized to go in for that purpose.

Of course, if I were a peace officer what I would then do is go out and get a search warrant and come back to the same house. Therefore, it may not exactly help the people inside the house who may be hiding contraband. However, certainly my argument in court if I were faced with that situation on behalf of a person charged, would be that that would be an illegal search for that specific purpose.

CHAIRMAN (Mr. Pudluk): Thank you. General comments. Mr. Ningark.

MR. NINGARK: Thank you, Mr. Chairman. There was a case, Madam Minister, in my riding where a child went to the welfare officer and told the welfare officer that she was being mistreated in the house. The community knows, and I know, that the child was being treated as one of the family. Would that case be used as reasonable grounds to apprehend the child from the family? Thank you.

CHAIRMAN (Mr. Pudluk): Thank you. Madam Minister.

HON. JEANNIE MARIE-JEWELL: Mr. Chairman, that could be used as a case for apprehension.

CHAIRMAN (Mr. Pudluk): Thank you. Mr. Ningark.

MR. NINGARK: Thank you, Mr. Chairman. I do not believe that just because a child goes to the welfare officer, and he or she is being treated as a member of the family -- that would cause a very serious stress upon the family. Thank you.

CHAIRMAN (Mr. Pudluk): Thank you. Madam Minister.

HON. JEANNIE MARIE-JEWELL: Mr. Chairman, I guess this is what makes it fairly sensitive when they deal with child sexual abuse cases. If a child comes up to a school teacher or anybody and reveals that they have been sexually abused, they have to certainly do a review of that particular allegation. If a child goes to a social worker and feels that they are being abused in a family, it is the responsibility of the social worker to do a review of that particular allegation. Depending on the results of that allegation, it is determined then whether the child should be apprehended. This is the reason for stating to the Member that when a child does come up with an allegation it could be used as a case for apprehension -- not necessarily saying that it would be used. Thank you.

CHAIRMAN (Mr. Pudluk): Thank you. General comments. Mr. Ernerk.

MR. ERNERK: (Translation) Thank you, Mr. Chairman. A question to the Minister. How much education and how much training do the child welfare workers receive, especially for working in the smaller communities and within our lands, in dealing with child related matters? Thank you.

CHAIRMAN (Mr. Pudluk): Madam Minister.

HON. JEANNIE MARIE-JEWELL: Mr. Chairman, the education qualifications vary depending on the type of social worker position they are trying to achieve. With respect to child apprehensions, as I indicated, not all social workers could be apprehension workers until they go through statutory training specifically for apprehensions. The education and the training varies among the types of social workers that we have in the different communities. There are different levels of social workers. Thank you.

CHAIRMAN (Mr. Pudluk): Thank you. Mr. Gargan.

MR. GARGAN: Thank you, Mr. Chairman. The Minister referred to the Charter of Rights under search and seizure. A police officer or a person has to have reasonable grounds and a warrant in order to enter a private home. Am I correct in assuming that this would be an exception? This is one legislation in which the Charter of Rights will not apply? In other words, this act overrides the Charter of Rights with regard to search and seizure, and even a search warrant is not required? Is that right, Madam Minister?

CHAIRMAN (Mr. Pudluk): Thank you. Madam Minister.

HON. JEANNIE MARIE-JEWELL: Mr. Chairman, no, this does not by any means override the charter. Thank you.

CHAIRMAN (Mr. Pudluk): Thank you. Mr. Gargan.

MR. GARGAN: Mr. Chairman, under the charter in order for a peace officer to enter a dwelling they must have a search warrant and have reasonable grounds in order to enter. Under this act, as long as they do it in good faith, they could enter. This is what I was referring to. Because reasonable grounds are under there, and the worker could act in good faith without reasonable grounds, I would like to ask, Mr. Chairman, the legal counsel whether or not, for the purpose of this act, it does override the charter.

CHAIRMAN (Mr. Pudluk): Thank you. Madam Law Clerk.

LAW CLERK (Ms. Sheila MacPherson): Thank you, Mr. Chairman. I believe that these amendments to the Child Welfare Act are an attempt to bring our legislation into line with the requirements of the charter. There was a recent court decision in PEI, I believe, which struck down very similar provisions with the PEI legislation as being unconstitutional because they basically allowed people authorized under the

Child Welfare Act to apprehend and to enter residences. This amendment here is an attempt to say that a child welfare worker can only enter a residence in very certain and very strict conditions. If they believe that they have reasonable grounds -- more than in their state of mind -- they actually can back it up by saying, "This is why I believe this, that the health and welfare of the child is in immediate jeopardy" or that a child is being harboured in a residence wrongfully. So, therefore, rather than trying to deny the Charter of Rights it is my understanding that this piece of legislation, the amendments contained in clause 6, are an attempt to bring our legislation into conformity with the Charter of Rights.

If I may, Mr. Chairman, Mr. Gargan is correct, in that under the Charter of Rights most of the time the courts have said that a search of a residence without a warrant is unreasonable and, therefore, violates the charter. The courts have said that you cannot search people's residences generally without a warrant. But I think this section is trying to say that sometimes when the situation is very serious and a social worker has very good reason to believe that a child is in immediate danger, sometimes it is just not practical to go and get a warrant but sometimes you just have to act very quickly. I believe that this is trying to balance the protection of children with the Charter of Rights and the requirement for freedom from unreasonable search and seizure under the charter. Thank you, Mr. Chairman.

CHAIRMAN (Mr. Pudluk): Thank you. General comments. Would this committee like to go clause by clause?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Pudluk): Clause 1. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Pudluk): Clause 2. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Pudluk): Clause 3. Agreed? Madam Minister.

Motion To Amend Clause 3, Bill 1, Carried

HON. JEANNIE MARIE-JEWELL: Mr. Chairman, there was an oversight and I would like to ask an amendment on clause 3, section 16(1). I would like to move that clause 3 of Bill 1 be amended by striking out "Commissioner" and substituting "Minister" where it appears in section 16(1).

CHAIRMAN (Mr. Pudluk): Your amendment is in order. To the amendment. Question has been called. All those in favour? All those opposed? The amendment is carried.

---Carried

Clause 3 as amended. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Pudluk): Clause 4. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Pudluk): Clause 5. Agreed? Mr. Gargan.

Motion To Amend Clause 5, Bill 1

MR. GARGAN: Mr. Chairman, I would like to make an amendment to clause 5. Mr. Chairman, I move that clause 5 be amended and the following is added after section 30.1: "30.2(1) Subject to subsection (2), no persons authorized to act under this act shall be liable for anything done or not done where that person is acting reasonably and in good faith in carrying out his or her duties under this act."

CHAIRMAN (Mr. Pudluk): Thank you. Before I rule on this amendment let us take a break so we can get it translated to Inuktitut, French and English. Thank you.

---SHORT RECESS

CHAIRMAN (Mr. Zoe): The committee will come back to order. Mr. Gargan, can I get you to repeat your amendment?

MR. GARGAN: Mr. Chairman, I move that clause 5 of Bill 1 be deleted and the following is added after section 30.1: "30.2(1) Subject to subsection (2), no person authorized to act under this act shall be liable for anything done or not done where that person is acting reasonably and in good faith in carrying out his or her duties under this act."

CHAIRMAN (Mr. Zoe): Mahsi cho. Your motion is in order. To the motion. Mr. Gargan.

MR. GARGAN: Mr. Chairman, there is just one addition to that clause which was added and that was the part on reasonably. Under the charter legal rights, section 8 reads that everyone has a right to be secure against unreasonable search and seizure for the purpose of this Child Welfare Act. The interpretation of good faith is broadened so that it is difficult for a person that has -- in order for a person to have his dwelling entered, good faith itself is not good enough as far as the clause goes. The reason why I want "reasonable" in there is that there has to be reasonable grounds for the person to enter and also do it in good faith. So that is the main reason, that although the worker is protected strongly in this act, it does give a bit of leverage so that if the social worker did not act reasonably and in good faith, then there is that option for an individual to sue or to bring the individual to court.

The other thing is that the Minister did mention something about the workers being entitled to protection. In my opinion, also the people whose houses are being entered have to be protected and this is one of the reasons why I feel that amendment should be made. Further, Mr. Chairman, the clause itself is a political decision and in other jurisdictions they have it or do not have it. I believe the whole purpose of the act was to tighten the reasons for entering, and this clause just strengthens the reasons for entering. I would like the Members to support me on this.

CHAIRMAN (Mr. Zoe): To the motion. Madam Minister.

HON. JEANNIE MARIE-JEWELL: Mr. Chairman, I do have some concerns with this amendment that is being put forward. I guess my main concern is that the major objective of the worker when they are dealing with the protection of the children, the major objective is to protect the child. I am somewhat concerned that in allowing the worker to determine not only in good faith and reasonable grounds, that we may possibly deter a worker from doing their job and making them feel somewhat like lawyers. I feel we should remember that the workers are just trying to protect innocent children that

should be dealt with properly. So I do not support the amendment.

CHAIRMAN (Mr. Zoe): To the motion. Mr. Pedersen.

Motion To Amend Motion To Amend Clause 5, Bill 1

MR. PEDERSEN: Mr. Chairman, to the amendment, to achieve consistency in the language of the amendment to the act I would like to move an amendment to the amendment. The amendment is to add after the word "acting", "on reasonable grounds", after having struck out after the word "acting" the word "reasonably". In other words substituting "on reasonable grounds" for "reasonably" in the amendment. That would make it consistent with the wording in the amendment to the act.

CHAIRMAN (Mr. Zoe): Mr. Pedersen, could I get a copy of your motion please? Before the Chair rules on your amendment I will ask the staff to translate it. We will take a five minute recess.

---SHORT RECESS

The committee will come back to order. The amendment is in order. Mr. Pedersen, will you read your amendment please?

MR. PEDERSEN: Thank you, Mr. Chairman. The amendment I have moved to Mr. Gargan's amendment to Bill 1, which is an Act to Amend the Child Welfare Act, reads: That clause 5 of Bill 1 be amended by striking out the word "reasonably" and substituting it with "on reasonable grounds".

CHAIRMAN (Mr. Zoe): To the amendment. Mr. Pedersen.

MR. PEDERSEN: Thank you, Mr. Chairman. Mr. Chairman, I moved this amendment because the Minister previously assured me that the terminology "on reasonable grounds" was definable and for the sake of achieving consistency in the amendment to the act. To make it absolutely clear, in 16(1)(a) and in 16(1)(b) the words "reasonable grounds" appear. For that reason I moved the amendment to make it clear that the same conditions exist throughout the act. It is for the reason of consistency in language throughout the act.

CHAIRMAN (Mr. Zoe): To the amendment. Mr. Patterson.

HON. DENNIS PATTERSON: Mr. Chairman, I must say I am appalled at the course this debate is taking. I think we have to get back to what we are talking about, Mr. Chairman. What we are talking about here is, first of all, the rights of children; secondly we are talking about mostly native social workers working in small communities where there are tremendous pressures on occasion, in these situations, from relatives...

MR. PEDERSEN: Point of order.

CHAIRMAN (Mr. Zoe): Point of order, Mr. Pedersen.

MR. PEDERSEN: Mr. Chairman, I wonder if the Government Leader is talking to the amendment to the amendment to the amendment. He does not seem to be talking to my amendment to the amendment.

CHAIRMAN (Mr. Zoe): Mr. Pedersen, you are correct, the Member has to speak to the amendment itself. The Chair was waiting to hear Mr. Patterson out before I warned the individual that he has to speak to the amendment. Mr. Patterson.

HON. DENNIS PATTERSON: Thank you, Mr. Chairman. I would have appreciated if the honourable Member would let

me set the scene where his amendment would operate.

MR. LEWIS: This is not a law court.

HON. DENNIS PATTERSON: Well, it is getting to be a law court and that is what bothers me. Mr. Chairman, the worker in this situation is faced with a situation where they have a tough decision to make. They have to make a judgment call on the job. They have to make a decision on the best basis they can and the amendment to the amendment is trying to set up some legal test, some objective legal standard, and I have had a bit of training in the law myself, not as much as Mr. Justice Gargan...

---Laughter

...but there have been text books written on "reasonable grounds". There have been judgments taken to the Supreme Court of Canada on what constitutes reasonable grounds. Mr. Chairman, I think we should let these community social workers act in good faith on the best information they have, given the circumstances, and not set up what is a highly sophisticated legal test. If the worker makes a mistake -- and mistakes may be made, I would grant -- as I understand the act, a judge is going to review the apprehension decision as soon as possible and give the legal analysis that the amendment seems to expect the social worker would do.

I think the effect of the amendment to the amendment, Mr. Chairman, by using these legal terms, will in effect cause the community social worker in a difficult situation to be apprehensive about taking that step. Now if we are going to fetter anybody's rights here, I would rather err on the side of the child; and I think what the amendment to the amendment is going to do is to have the effect of causing social workers to believe that they are going to have to follow some sophisticated legal test, some objective legal test, when all we are saying is "good faith", something everyone can understand. It is making the best decision based on the best knowledge you have in the circumstances.

I think that I would ask the Member, what is he worried about here? Is he more worried about the rights of a child that might be abused and in a difficult situation. Or is he worried that some social worker might overstep their bounds and go a little further than they should in a particular situation? I would rather have a mistake made and a child apprehended, and correct it later in court, within 48 hours I understand, than have some social worker, some native social worker, in a small community petrified that he or she, without a law degree, might not be meeting a test based on fancy concepts like reasonable grounds, which even lawyers, let alone judges, cannot explain.

Mr. Chairman, I think we are getting very complicated here, we are putting undue pressures on social workers, who already have a difficult job, and the end result, if we continue this legal quagmire that the amendment to the amendment is getting us into, is that the rights of innocent children are going to suffer. Thank you.

CHAIRMAN (Mr. Zoe): Thank you. To the amendment to the amendment. Mr. Pedersen.

MR. PEDERSEN: Mr. Chairman, I honestly do not know what the Government Leader is getting upset about. He refers to that we should have something that everyone can understand in there. Mr. Government Leader, using your language, "reasonable grounds" appears on the same page twice before. If that is something that people cannot clearly understand, then why do you have it in the bill? You refer to it as difficult legal terminology, the phrase "on reasonable grounds". It is your language I am using. I am merely trying to make it

consistent.

I do not think that there is anything wrong, if there is a challenge to 16(1)(a) and 16(1)(b), and I accept the Minister's assurance to me that "on reasonable grounds" was something that was definable. I asked about that when we led off this debate, but I do not see anything unreasonable in it, that if there is a challenge to this that when it does go in front of a judge, presumably the social worker would say in court, "Yes, I acted on reasonable grounds and in good faith." To even have taken on the action, you already had to have determined that you acted on reasonable grounds to go in and apprehend the child. That is what it says in 16(1)(a) and 16(1)(b).

If you have already determined that, it does not seem to me to jeopardize the safety of the child at all to repeat that in section 5. If it is something that not everybody can understand, then we should amend the entire thing; but if it is acceptable in 16(1)(a) and (b), as I say, it is the government's own legal terminology and language in this amendment that we are considering.

CHAIRMAN (Mr. Zoe): Thank you. To the amendment. Madam Minister.

HON. JEANNIE MARIE-JEWELL: Mr. Chairman, I am somewhat concerned with the amendment to the amendment. I had indicated to the Member that a similar meaning in the wording -- if you are working and doing your duty in good faith, then it is also understood when you do your apprehensions you are doing them in good faith and you are using reasonable grounds to do them. It is beyond me to try to understand why they would want to put in "reasonable grounds" and "good faith" at the same time. It is duplicating the same meaning.

It is somewhat irritating that these concerns come up at this point when we have a process to go through, and it is not brought up through the committee so that you could look at compromising or look at a wording so that we can deal with this. It appears that sometimes this whole process of trying to put through this one clause is taking just as much time, I feel, as the Senate is taking putting the GST through.

Mr. Chairman, I am concerned that if this amendment does go through I feel that probably that particular clause, clause 5 of Bill 1, should be considered to be struck right out of the bill. Thank you.

CHAIRMAN (Mr. Zoe): To the amendment. Mr. Patterson.

HON. DENNIS PATTERSON: Mr. Chairman, I would beg to differ with the Member for Kitikmeot West. Section 16, as I understand it, sets the test by which a court reviewing an apprehension will determine whether a child is in need of protection; that is whether the order should be made permanent and accepted by the court. Section 5, which is an amendment, is talking about the personal liability of, in any case, a community social worker carrying out their duties. I think the Member's amendment, with the greatest of respect, will require that community social worker, who is taking a training course on their obligations under the act, to read a bunch of cases about what reasonable grounds means in courts of law.

I say that is nonsense. I say that what we want to do is give those community social workers our support, that if they act in good faith and on the best of their abilities, and out of their sincere concern based on what they know in a situation, that is good enough. If it is challenged and a court should later determine that on some legal standard, based on a legal analysis and precedents across Canada, those particular circumstances were not appropriate for apprehension, then

that is fine. The child can be given back. I am saying that the test that is crucial here is what we are expecting of our community social workers. I say that adding this "on reasonable grounds" is adding a whole new legal dimension. It is an objective legal test that courts have argued about and will argue about for centuries. I say, let us keep it simple and let us give the social worker a break and say, if you act in good faith -- which most ordinary people can understand -- which means you do not have a bad motive, you are not doing it because you dislike the person or because you want to get back at them for some reason -- if you act in good faith to the best of your ability, that is good enough for me. I think that it will protect our workers and it will also give them the courage they need to do a difficult job to the best of their natural abilities, without some legal requirement being added. I do not think we need that, in our small communities, to make a difficult job even harder. Thank you, Mr. Chairman.

CHAIRMAN (Mr. Zoe): Thank you. To the amendment. Mr. Pedersen.

MR. PEDERSEN: Thank you, Mr. Chairman. I certainly agree with whatever the Government Leader is saying, that should be the objective of the bill. Frankly, I moved this amendment to the amendment for that very reason, to make it consistent. I do not think that we are seeing all that much consistency, Mr. Government Leader, from your side. You said you begged to differ with my opinion. Your Minister of Social Services, when she spoke just before, said that the amendment merely makes a repetition of a fact which already exists because of the apprehension that took place; so therefore it was unnecessary to put it in; not necessarily that it made any great change or there was difficulty in establishing the legal grounds of what constitutes "on reasonable grounds". I took her word for that, that that was easy to establish, when I questioned it as the first question to this amendment. For that reason, to make it simple and to make it consistent in wording, I moved the amendment.

Motion To Amend Motion, Withdrawn

However, Mr. Chairman, in order to get to the debate on Mr. Gargan's amendment, I will bow to the Government Leader's legal wisdom and sarcasm and withdraw my motion to amend the amendment to the amendment.

CHAIRMAN (Mr. Zoe): Thank you, Mr. Pedersen. To the motion. Mr. Pollard.

MR. POLLARD: Thank you, Mr. Chairman. Mr. Chairman, section 30.2(1) with the no liability clause -- I wonder if the Law Clerk can tell us that no liability clause applies, if I am not mistaken. Is that correct, Mr. Chairman?

CHAIRMAN (Mr. Zoe): Thank you. Ms. Law Clerk, can you respond to that?

LAW CLERK (Ms. Sheila MacPherson): Yes it does. The only provision of the act that it does not apply to is the mandatory reporting duty that lies with every person to report a case of child abuse. If you do not report a case of child abuse because you believe on good faith that you do not have to, you are still liable. So that is my understanding, that that is the only provision that the liability clause does not apply to and that is set out in subsection 2. Subsection 2 is the liability clause.

CHAIRMAN (Mr. Zoe): Thank you. Mr. Pollard.

MR. POLLARD: I just wonder, Mr. Chairman, if we are getting -- because it is on the same page, if we are getting 16(1) mixed up with 30.2 -- when 16(1) is a specific part of the act and yet 30.2 pertains to the whole act and I wonder if we

are getting some confusion there, Mr. Chairman.

CHAIRMAN (Mr. Zoe): That could be a possibility, Mr. Pollard. We are dealing with Mr. Gargan's main motion, a motion to amend clause 5 of Bill 1. To the motion. Mr. Gargan.

MR. GARGAN: Mr. Chairman, with regard to the reasons for the amendment, I would like to also say that in the act itself a person could act under this act, a police officer, an executive director or any person authorized in writing by the Minister or the superintendent. Based on that, if you only use the words "good faith", then whoever is authorized under this act would -- the legal interpretation is if the person believes that he has acted in good faith, that would be reason enough for the person to act; but if you put in the "reasonably" and "in good faith", then there is a clause in there which says the person must act with reason. I think that is the thrust of the amendment.

Mr. Patterson included a lot of native people, social workers, in the communities that do not have the training to -- would be burdened by this act but it is only with the authorization of the Minister that those people would be acting if they are not qualified child welfare workers. In this case, I think that the amendment itself even when Mr. Pedersen withdrew his motion -- would make it consistent with other sections of this act. Thank you, Mr. Chairman.

CHAIRMAN (Mr. Zoe): Thank you. To the motion. Mr. Patterson.

HON. DENNIS PATTERSON: Mr. Chairman, I think probably we are all concerned about the same end and that is making sure that people who are doing a difficult job do not abuse their very heavy responsibilities. I guess I would take a different approach than Mr. Gargan. I would say, "Yes, the average native social worker does not have a lot of legal training." I would agree that because of our situations and experience in communities we are going to be a long way before we have people who have masters degrees in social work doing these jobs. But I would say that what these native social workers do have is something that you can never learn in a law school or in a social work institution and that is a knowledge of the community, a knowledge of the people, and common sense. So I guess what I say is, "All we should be concerned about is that they act in good faith." That is, sincerity and not taking actions to get back at someone or for some personal motive. The "reasonable grounds" -- that I see as a legal test.

I think that Mr. Gargan is right, they are not going to be able to be trained in what "reasonable grounds" means. We could have two lawyers or six lawyers here that would argue on the facts of a case, whether they were reasonable grounds or not. So I guess what I am saying is, let us keep it simple. Let us not add two tests in there. Let us leave "good faith" in there and make sure people act with sincere motives. Let us let the judge decide reasonable grounds when the apprehension is taken to court for approval by a judge. Why add another test of reasonableness, "reasonable grounds", at the level of the worker carrying out the job? So with the greatest respect to Mr. Gargan and Mr. Pedersen, I say we do not need that.

Yes it is needed in section 16, when we have a judge involved and a court and a legal, objective test which would make the apprehension permanent but, no, we do not need it when we are talking about people who are doing a tough job in the field with the best information that they can obtain, based on their knowledge of the community. I am not worried about the decision that those social workers will make. They know the people. As long as they are acting in good faith I do not think they will be unreasonable. I do not think they

will act without reasonable grounds. I do not think we need to put that qualifier in there. All we have to make sure is that they act in good faith and that they are not using personal or other funny motives in their work, and "good faith" covers that. Reasonableness we will leave to the courts. The judge will decide later on but they should not be subject to legal liability on the reasonableness test. It is fine to subject them to legal liability and whether they acted in good faith; that is fine, but why add to their burden by requiring them to figure out whether their actions are going to meet the test of reasonableness in a court of law? That is all I am trying to say. Let us keep it simple. Thank you, Mr. Chairman.

CHAIRMAN (Mr. Zoe): Thank you. To the motion. Mr. Pedersen.

MR. PEDERSEN: Mr. Chairman, I wonder if I could just have my confusion straightened out a little bit. Does this amendment apply to native social workers only? The Government Leader keeps referring to "native social workers and they know the people they work amongst". In my community the majority of our social workers are not native social workers. Maybe we are unique?

CHAIRMAN (Mr. Zoe): Mr. Pedersen, I have a motion on the floor and it is improper to ask questions when we are debating a motion. To the motion. Mr. Gargan, to the motion.

MR. GARGAN: Mr. Chairman, with regard to the act itself, the act is designed for professional people and those are child welfare workers which the Minister indicated had taken statutory training on what "reasonable" means. The only other area in which this act would apply is if the superintendent or the Minister authorizes a peace officer, an executive director, or persons authorized to act under this act; they would be liable. Even though we do have native social workers there, they could only act under this act if they are authorized to do so.

Motion To Amend Clause 5, Bill 1, Defeated

CHAIRMAN (Mr. Zoe): Thank you. To the motion. Question is being called. All those in favour? Opposed? The motion is defeated.

--Defeated

Clause 5, Bill 1. Mr. Lewis.

Motion To Amend Clause 5, Bill 1

MR. LEWIS: Mr. Chairman, I have another amendment and it is after listening very carefully to the great concern that this act is clearly to do with the protection of children, and we seem to have lost sight of that. For that reason, I would like to move the following amendment to amend 30.2(1) by inserting the words "with regard to the protection of a child" after the words "done or not done".

CHAIRMAN (Mr. Zoe): Mr. Lewis, before I make a ruling on your amendment I will request a copy of the motion so I can have it translated, too. The Chair will take a five minute recess until we get all this translated.

--SHORT RECESS

The committee will come back to order. Mr. Lewis, can I get you to read out your motion again?

MR. LEWIS: Mr. Chairman, I move that clause 5 of Bill 1 be amended by adding the words "with regard to the protection

of a child" immediately after the words "done or not done".

CHAIRMAN (Mr. Zoe): Thank you. Your motion is in order. To the motion. Mr. Lewis.

MR. LEWIS: Mr. Chairman, in listening to the discussion this afternoon it was pretty clear that the purpose of this act is to really provide protection for the child and that we should clarify things so that it is consistent throughout. It seems to me that when you leave the words "done or not done" as they are without reference to the purpose of this particular clause, then you are not providing that clarity. Although you have the words "carrying out his or her duties", what we are talking about then is carrying out these duties in good faith under this act. It does not refer to what those duties are and it should be clear from this amendment that that unspecified "done or not done" really refers to that duty of protecting the child.

I am thinking, Mr. Chairman, that if we do not have that clarification then the words "done or not done" really do not refer to anything because the second part of this clause, duties, has no reference before it. You could have somebody going into a residence and, although acting in good faith, not really doing something which relates to the protection of the child, even though they may see that they are doing it with respect to doing their duties. I thought that by adding this particular clause "for the protection of the child" that it is absolutely clear that that is why that person is in that particular place and it could not then be ambiguous. It would be absolutely clear.

CHAIRMAN (Mr. Zoe): Mahsi cho. To the motion. Mr. Ballantyne.

HON. MICHAEL BALLANTYNE: Mr. Chairman, I think we are getting into some sort of picky legislative drafting here, and I am told by the draftspeople that there is no need to put this clause in. It does not really change the amendment whatsoever. It is excess and it makes for sloppy legislative drafting, and it is superfluous, so there is no reason. I have some concern. We have, I think, pretty good draftspeople who understand exactly what is involved, and certain words, and their legal context. I have some problem that from the floor we throw in our own legal opinions on these sorts of things. I am told by the staff that it does not change anything.

MR. LEWIS: Point of Order.

CHAIRMAN (Mr. Zoe): Point of order, Mr. Lewis.

MR. LEWIS: It means the same thing, Mr. Chairman. Point of order, Mr. Chairman. I would never take it on myself to give a legal opinion. I was simply trying to use plain language, which is of great interest to me, and I am very qualified in the area of plain language, as the Minister well knows. So I object to that accusation...

CHAIRMAN (Mr. Zoe): Order. Order. Mr. Lewis, that was not a point of order. To the motion. Could I ask all Members to speak directly to the motion and not to make any reference as to what the draftspeople think or do not think. If I can ask Members to speak to the motion that is in front of them. To the motion. Mr. Ballantyne.

HON. MICHAEL BALLANTYNE: Could I move that we extend sitting hours to complete this item?

CHAIRMAN (Mr. Zoe): I have a motion on the floor to extend sitting hours which is not debatable. All those in favour? Opposed? The motion is defeated. The time now being 6:30 p.m. I will now rise and report progress.

ITEM 18: REPORT OF COMMITTEE OF THE WHOLE

MR. SPEAKER: I would like to call the House back to order. Item 18, report of committee of the whole. The honourable Member for Rae-Lac la Martre.

MR. ZOE: Thank you, Mr. Speaker. Your committee has been considering Bill 1, An Act to Amend the Child Welfare Act, and wishes to report progress.

MR. SPEAKER: You have heard the report of the chairman of committee of the whole. Are you agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

MR. SPEAKER: Item 20, Mr. Clerk, orders of the day.

CLERK OF THE HOUSE (Mr. Hamilton): Mr. Speaker, meetings for this evening: a meeting of the Nunavut Members at 6:30 in the caucus room; and a meeting of the Dene/Metis Members at 6:30 in the committee room. Meetings for Tuesday, October 16th: ajauqtit at 9:00 a.m. and at 10:00 a.m. caucus.

ITEM 20: ORDERS OF THE DAY

Orders of the day for Tuesday, October 16th.

1. Prayer
2. Ministers' Statements
3. Members' Statements
4. Returns to Oral Questions
5. Oral Questions
6. Written Questions
7. Returns to Written Questions
8. Replies to Opening Address
9. Petitions
10. Reports of Standing and Special Committees
11. Tabling of Documents
12. Notices of Motion
13. Notices of Motion for First Reading of Bills
14. Motions
15. First Reading of Bills
16. Second Reading of Bills
17. Consideration in Committee of the Whole of Bills and Other Matters: Bills 1, 5, 8, 11 and 12
18. Report of Committee of the Whole
19. Third Reading of Bills
20. Orders of the Day

MR. SPEAKER: Thank you, Mr. Clerk. This House stands adjourned until Tuesday, October 16, 1990, at 1:30 p.m.

---ADJOURNMENT

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