



LEGISLATIVE ASSEMBLY OF THE NORTHWEST TERRITORIES

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Speaker: The Honourable Donald M. Stewart, M.L.A.

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RANKIN INLET, NORTHWEST TERRITORIES

THURSDAY, JUNE 6, 1985

MEMBERS PRESENT

Mr. Arlooktoo, Mr. Ballantyne, Hon. Tom Butters, Hon. Nellie Cournoyea, Hon. Tagak Curley, Mr. Erkloo, Mr. Gargan, Mrs. Lawrence, Mr. MacQuarrie, Mr. McCallum, Hon. Bruce McLaughlin, Mr. Pedersen, Mr. Pudluk, Mr. Richard, Hon. N. Sibbeston, Hon. Don Stewart, Mr. T'Seleie, Hon. Gordon Wray

ITEM 1: PRAYER

---Prayer

SPEAKER (Hon. Don Stewart): Orders of the day for June 6, 1985, Item 2, Members' replies. Mr. Gargan.

ITEM 2: MEMBERS' REPLIES

Mr. Gargan's Reply

MR. GARGAN: Thank you, Mr. Speaker. I would like to first of all thank some of the Ministers who have been travelling into my constituency. The Minister of Finance, Mr. Butters, took some time out to travel to my constituency last winter and I would also like to thank the Minister of Local Government who is not here at this time but who did make several trips into my constituency for meetings and discussions on a complex for my area.

Development Impact Concerns

Mr. Speaker, one of the reasons why we decided to boycott the official opening of the Norman Wells pipeline expansion project last month -- the Minister decided not to go and a number of chiefs from the Mackenzie Valley did not go -- was based on the concerns that were expressed. Also in the Commissioner's Address he mentioned, "The ceremony celebrated completion of the first major hydrocarbon development which has been carried through to production with export of oil from the North." This brings to mind a number of concerns which have been expressed within my own constituency as well as within the areas that are being impacted by development. One of the areas of concern is accountability with regard to this government, the federal government, and the oil industries. There seem to be a number of accidents that do not seem to concern anybody. There is also possibly a conflict of interest in the Department of Justice under which is the safety division. Since 1972, there have been reported over 300 oil spills in the Northwest Territories of which only two, I believe, have seen court action. There has been an explosion which killed an individual in the Yukon's North Slope. At that time, the safety inspection which the Canada Oil and Gas Act is supposed to supply, had not been done and presently there is no safety inspection being done in these oil rigs because there is no individual in place.

There is also the issue of seismic operations that occurred last year in my own constituency as well as in the Delta area in which the people, at least in my own constituency, were working for \$4.50 per hour, 16 hours a day. A number of those people have quit after one week of work. This has led me to believe that there is quite a concern with that particular operation. I have made a number of phone calls to the location of Fort MacKay where Chief Dorothy MacDonald has expressed that the workers in the seismic operation that did occur in that area were paid \$8.00 by negotiating with the seismic operators.

Mr. Chairman, that is just one incident that I wanted to concern myself with. The other concern is with regard to what this government's position is. I believe there is the whole question of health and sanitation inspection which is a federal responsibility. Safety inspection is a federal responsibility but what is our responsibility as a government? We have been ignoring a lot of the major complaints brought by individuals, by companies, and we seem to be no further ahead with regard to development here in the NWT. I wanted to express that concern and that I believe that something should be done in that particular area.

Use Of Renewable Resources

The other area that I am concerned about is with regard to Renewable Resources and the concerns that they have that the Commissioner addressed to that particular department yesterday with regard to anti-trapping. Mr. Chairman, I was listening to the Rankin Inlet radio this afternoon, and I believe that the Inuit people at least are now looking at getting maybe a better deal for their seal furs, which would be not using the fur itself but actually converting the fur into leather for leather products. I believe that is one alternative that they are using in this particular area. Just listening to the radio this afternoon, this was one of the concerns that was expressed.

My other concern is with regard to land freeze. There is still a land freeze. I believe it occurred during the Berger Inquiry and that is with regard to farming in the areas. In Fort Providence I expressed some concern in my particular area mostly because we do have a large area of grazing land that we use for cattle in Fort Providence itself. But there is no expansion due to the fact that there is a land freeze and to use a large portion of the land you have to, I guess, change legislation to allow farming to occur. I also believe that legislation should be changed so that there is a lot more accountability by this government as well as oil companies and also mining companies with regard to them being overly protected. This might lead to a lot of carelessness on their part, or ignorance on their part, and we have no way of combatting this on behalf of people, especially employees that do run into some misfortune either through accidents or death. We really have no way of protecting these individuals.

Mr. Speaker, this has been one of the largest concerns that I have. Yesterday, when we had the supper, all the Members were there, a lot of the important people were there, and that three hours of meeting or social gathering that we had almost led me to believe that there were no problems and that everything was fine. It was not until this morning that I realized that I have to go back and, I guess, trace back my roots and see that there are a lot of problems and that we are only touching on the tip of the iceberg, if you want to call it that.

Also, Mr. Speaker, there is going to be a lot more development in the North. I believe there is a Polar Gas pipeline that has been in front of the National Energy Board for some time, and if and when this particular project is approved, there are going to be a lot of social problems in the communities. I also believe that we are losing a lot. Not only the small businesses and suchlike, but even the permanent business people who have resided here in the North are losing a lot by these large developments. I guess the biggest losers, Mr. Speaker, are the native people themselves, because there is no aboriginal settlement or land claims, and there is that long overdue issue that has been going on for the past 12 to 15 years. It still has not been addressed, and here the federal government is going ahead with its Bill C-48 which is the Canada Oil and Gas Act and exploiting the land from right underneath this government. We seem to be sitting back and ignoring it. I think that we should be encouraging this government to do something with regard to a land claims settlement, because it is still the native people, the aboriginal people of this area, that are the biggest losers.

Limited Powers Of Local Management Boards

During the last session also, Mr. Speaker, the Minister of Education, the Hon. Dennis Patterson, addressed the issue of control of education at the regional level through a divisional school board. Divisional school board, fire management board, water management, caribou management board, etc. etc. -- all these boards are being created. Mr. Patterson said that we give total control to these boards; I believe it is not the case. The case is that we are creating a lot of boards for this government to have some kind of control. Now, when we say "self-determination" or "self-relying", it is total control. This divisional board or any kind of board does not have the total control that makes it autonomous. If you do request total control, there is always that answer like, "Why jeopardize what you have got now?" You know, why try to -- you might lose everything now if you want to ask for something more that is in your own control.

I believe, again I am just referring to the Human Rights Code, you know it is like just to make a person believe that things could be worse and that instead of complaining about the loss of human rights, we should be grateful for the human rights that we do have now. So, this is just a little short statement on what they call the art of stealing human rights.

Mr. Speaker, I have not prepared a speech. I am quoting sentences here and there but I thought I would express the main concern I have and I hope to present a motion this session with regard to looking at the whole review of development in the North and that something should be done by this government with the federal government and with the oil companies, so as to better utilize or take advantage of the situation so that all parties involved benefit. I intend to present a motion this session to that effect. I would like to thank the Members and you, Mr. Speaker, for listening.

---Applause

MR. SPEAKER: Thank you, Mr. Gargan. Members' replies. There do not appear to be any further Members' replies for today. Item 3, Ministers' statements, Mr. Wray.

ITEM 3: MINISTERS' STATEMENTS

Minister's Statement Of Appreciation Of Mr. John MacLean

HON. GORDON WRAY: Thank you, Mr. Speaker. It is with great regret that I have to inform the House that I have accepted the resignation of Mr. John MacLean, the chairman of the Workers' Compensation Board. Mr. MacLean has had to resign his position due to continuing health problems. I felt it was in order for me to give a brief biography of Mr. MacLean and the work that he has done for us because I think that many times we have excellent civil servants working for us and we do not give them the proper recognition. I think that Mr. MacLean is one of those extremely rare cases where you have a man working for you whose past and history are varied and checkered and full of success and we do not really appreciate them sometimes.

Mr. MacLean came north from Manitoba and has had a fairly interesting career. He is a lawyer; he is a practising member of the NWT Law Society and the Alberta Law Society. He was also a politician. For those who do not know, he was the only man to ever beat Stanley Knowles, in an election in Winnipeg North in 1958. He served as a Member of Parliament from 1958 to 1962. Mr. MacLean also led a very interesting life in the field of sport. He was a member of the 1948-49 Memorial Cup finalists, the Brandon Wheat Kings, and continued a professional career with the Cleveland Knights and the Cleveland Barons of the USHL and the AHL. In the province of Manitoba, before he came to us, he was chairman of the licence suspension appeal board, he was chairman of the taxicab board, he was chairman of the highway traffic board, chairman of the motor transport board.

He has been in the employ of the territorial government since 1974. He started out acting as a consultant to the NWT Highway Transport Board in 1973 and then returned to us in 1974 as chief of registries in the Department of Public Services. He was appointed to the Workers' Compensation Board in August, 1976. Mr. MacLean and his wife and family plan to continue to live in Yellowknife and I must say that I very much regret the fact that Mr. MacLean has had to resign. It was a pleasure for me to work with the man. He was so competent that he made his job look easy and being chairman of the Workers' Compensation Board is not an easy task.

In the interim I have appointed the executive director, Bryan Roberts, as acting chairman and that appointment will remain in effect until such time as a decision is made as to Mr. MacLean's replacement. Just for the record, I would like to say that Mr. MacLean will be very badly missed by myself and I am sure by the people who have enjoyed working with him over the last few years. Thank you, Mr. Speaker.

---Applause

MR. SPEAKER: Thank you, Mr. Wray. Inasmuch as the House indicates that they support your position, I will see that a letter is written on behalf of the House expressing their appreciation for the services. Are there any further Ministers' statements? Item 4, oral questions. Mr. McCallum.

ITEM 4: ORAL QUESTIONS

Question 1-85(2): Status Of Report Of Committee On Women's Corrections

MR. McCALLUM: Thank you, Mr. Speaker. I have a question of the Minister of Health and Social Services. It is my understanding there was a committee, or he formed a committee, to look into women's corrections. I wonder if the Minister could indicate to us, Mr. Speaker, the status of the report of that committee if it is done now.

MR. SPEAKER: Mr. McLaughlin.

Return To Question 1-85(2): Status Of Report Of Committee On Women's Corrections

HON. BRUCE McLAUGHLIN: Thank you, Mr. Speaker. The report has just been given to me very recently. I have not yet gone to the Executive Council with any recommendations from my department. In fact the Member has my copy of the report which I just recently received and when other reports come over from Yellowknife, hopefully before the end of the session, I will make sure those are made available to Members. I believe the translation of the summary of the recommendations is also done. So the present status, Mr. Speaker, is that I have received the report and I have not yet got recommendations from my department on what action I should take toward the Executive Council on the matter.

MR. SPEAKER: Thank you, Mr. Minister. Oral questions. Mr. Erkloo.

Question 2-85(2): Replacement Of ADCC Programs By NNADAP

MR. ERKLOO: (Translation) Thank you, Mr. Speaker. My question is directed to the Minister of Health and Social Services. We have been hearing in regions about the Alcohol and Drug Co-ordinating Council. I believe that I heard that they were going to be discontinued and they were going to be replaced by national alcohol and drug program counsellors. I wonder if the Minister can inform me if this is true.

MR. SPEAKER: Mr. Minister.

Return To Question 2-85(2): Replacement Of ADCC Programs By NNADAP

HON. BRUCE McLAUGHLIN: Mr. Speaker, the situation I believe the Member is referring to is the fact that we have two boards. One is ADCC and the other is the National Native Alcohol And Drug Abuse Program. The funding which NNADAP receives is basically for programs serving communities or organizations which are 100 per cent orientated toward alcohol and drug programs related to native people. The ADCC funding, which our government provides the funds for, is available to both native and non-native organizations.

When the NNADAP and ADCC meet jointly to determine the needs of the different programs in the NWT they allocate their funds according to the criteria set out for their source of funds so that on occasion a program that ADCC may be funding will be transferred to NNADAP if NNADAP has funds available, and ADCC funds are then transferred from that program to another program which may not qualify for NNADAP program funds. So both organizations will still exist and each fund their own specific programs. They co-operate with each other to decide which community is going to get funding from which organization. ADCC is not going to cease existence, it is just that NNADAP may be funding programs in communities instead of ADCC. In some cases, I believe in the Baffin Region, I think the board thought that there was some duplication of services going on. I believe that they are not funding two organizations in the region any more, but only want to fund one organization. Thank you, Mr. Speaker.

MR. SPEAKER: My receiver is extremely low on the channels that they are channelling through the interpreters' booth. Were you able to understand and hear the reply, Mr. Erkloo? I wonder if we could arrange to try and have a little more volume coming from the interpreters' booth, because it appears to be very low. Are there any further oral questions? Mr. Ballantyne.

Question 3-85(2): Tenders For New Hospital In Yellowknife

MR. BALLANTYNE: Thank you, Mr. Speaker. I have a question for the Minister of Health and Social Services. It has to do with the proposed new regional hospital in Yellowknife. I understand that there has been some problem of communication between the hospital board and the government in that

no tender calls have been made yet. My question to the Minister is, when do you expect the project to go out to tender? Is there any danger of losing this construction season, and if there is, what impact will that have on our funding arrangement with Ottawa?

AN HON. MEMBER: We are going to build it in Rae now.

MR. SPEAKER: Mr. Minister.

Return To Question 3-85(2): Tenders For New Hospital In Yellowknife

HON. BRUCE McLAUGHLIN: Thank you, Mr. Speaker. There has never been a problem of communication between the government and the board. However, there have been some disagreements between the government and the board as to some fairly major basic fundamental facts related to the actual construction, in fact, in particular, the architectural proposal which was brought forward in final form by the architect. The main bone of contention has been the fact that the architect specified one only specific material of manufacture or one particular supplier.

Our government feels, in consultation with the Ministry of Public Works officials, that it is not wise to do that. There are approximately five million dollars tied up in major mechanical units in the building and past experiences have proven that if you have more than one supplier and more than one manufacturer, you have two advantages. One is that you may get a lower cost for the same goods or equivalent, and also it gives you the option, as the owner of the building, to decide which particular mechanical device you may want to use in the facility. For example, the Department of Public Works may be already maintaining five similar mechanical devices in other buildings in Yellowknife and therefore, even though one of the devices might be more expensive, it is to the advantage of the department or to the government to have a similar device in the new buildings because we do not have to warehouse as many parts, or have as many people on staff with various knowledges to service different things.

Politically, I think it would be very unwise for this government to tender a large project like that and specify suppliers and manufacturers because that would often cause existing businesses and suppliers in the Northwest Territories to be unable to bid on some of the major items in the construction. I think that the Members from Yellowknife, in particular, and other major communities where there are suppliers in existence, would find themselves in bad straits if we did that. So, the main bone of contention was that.

As for the actual tendering dates in process, I have been concerned since spring last year about whether or not the building would be ready to go to tender or not, and we were aiming for January, February. I made a point of visiting the architect's office in Edmonton in September of last year for that specific purpose, and we have been concerned since then that the drawings were not up to the position where we felt they should be in order to tender. Once February went by without having the final drawings in place in order to tender, we were into a situation where we will be doing some winter construction. We will be looking at the cost of heated cement -- you know, the difficulty of heating during construction, but that is something that there is northern expertise in now. They are building in Yellowknife this winter -- a fairly major building during the winter and they have set record time doing it.

The project is over a span of two and a half to three years anyway, so we expected to be doing winter heating at various stages regardless. At this stage now, two or four weeks is not going to make any difference in the major cost of the building because we have already taken into consideration that there will be winter heating. Thank you, Mr. Speaker.

MR. SPEAKER: Thank you, Mr. Minister. Mr. Ballantyne.

Supplementary To Question 3-85(2): Tenders For New Hospital In Yellowknife

MR. BALLANTYNE: Thank you, Mr. Speaker. I was aware of some of the differences in philosophy between the government and the board. Maybe I can be a little more specific. I take it from your response that you say that the tenders will be called within three or four weeks, so in your estimation right now we are talking about only a three or four week delay. Is that correct, Mr. Minister?

MR. SPEAKER: Mr. McLaughlin.

Further Return To Question 3-85(2): Tenders For New Hospital In Yellowknife

HON. BRUCE McLAUGHLIN: Yes, Mr. Speaker. The consultant that the government and the board are using in Winnipeg as an independent analyst of what the architect is proposing to us, said that it should only take a week or so for the architect to make the necessary changes in the drawings to specify more than one manufacturer. So we are hoping that sometime in July we should be able to tender the project.

MR. SPEAKER: Thank you, Mr. Minister. Oral questions. Mr. Gargan.

Question 4-85(2): Assistance To NWT Flood Victims

MR. GARGAN: Thank you, Mr. Speaker. My question is directed to the Minister of Finance. As the Minister is aware, there have been some recent floods in Hay River and the Hay River Reserve, Jean Marie River and Fort Simpson. I would like to ask the Minister of Finance if the victims of the flood have been granted any type of assistance.

MR. SPEAKER: Mr. Minister.

Return To Question 4-85(2): Assistance To NWT Flood Victims

HON. TOM BUTTERS: Mr. Speaker, the answer in part is yes, and the type of assistance and degree of that assistance will be appearing before this House as a supplementary appropriation for approval of the Legislature. However, in so saying, the Executive has recommended that early expenditures be made to take up the slack so that individuals who require funds to begin the fishing season will not be delayed in that objective. Yes, you will be voting on that in a few days.

MR. SPEAKER: Thank you, Mr. Minister. Oral questions. Mr. Pudluk.

Question 5-85(2): Implementation Of Housing Corporation User-Pay Program

MR. PUDLUK: (Translation) Thank you, Mr. Speaker. I would like to ask a question of the Minister of Housing. Last winter during the session there was a motion concerning the 2 cents/3 cents user-pay program. Is it possible for the Minister to tell me if there is such a policy that you have come up with, on May 31, 1985? I asked that question but I have not had a reply. Thank you.

MR. SPEAKER: Mr. Minister.

Return To Question 5-85(2): Implementation Of Housing Corporation User-Pay Program

HON. GORDON WRAY: Thank you, Mr. Speaker. First of all there is a policy and I will make that policy available to the Member. I apologize if he did not receive a reply to a previous question and I will check into that also. To briefly update the Member on the user-pay system: The Northern Canada Power Commission has notified officials of the NWT Housing Corporation that full implementation of the user-pay program by May 31st is, from their point of view, impractical and physically impossible. They have proposed to me a staged implementation that will begin immediately with the conversion of current user-pay communities to the new rate structure and convert approximately 600 new accounts per month, with full implementation completed late summer or early fall. They are willing to implement the split-billing method which will significantly reduce the administrative workload to the housing associations.

I appreciate the difficulties that confront NCPC because of the conversion. They have had major problems with their computers and the fact that in many communities they do not have people who can receive payment. We have had problems with Canada Post because in many communities they do not have money orders that people can use, so it has been a little larger job than we had first anticipated and it has required other agencies to be brought into the game. Some communities have expressed concern and confusion about the program and the system, so the staged implementation will actually work to their benefit because it will give us time, as the new accounts come on, to explain it better than has been done. I think we probably have it here but I will make a copy of the full policy available to the Member this afternoon. Thank you.

MR. SPEAKER: Thank you, Mr. Minister. Oral questions. Mr. Arlooktoo.

Question 6-85(2): Rental Scale For Rehab Buildings, Cape Dorset

MR. ARLOOKTOO: (Translation) Thank you, Mr. Speaker. My question is directed to the Minister of the Housing Corporation. Last winter when the Minister of Renewable Resources was in Cape Dorset, you came along to tour Cape Dorset. During that time you stated to the housing association in Cape Dorset, regarding the rehab buildings, that the rent is not going to be increased. They would still be using the northern rental rate on rehab buildings. When will this be implemented? Thank you.

MR. SPEAKER: Mr. Minister.

Return To Question 6-85(2): Rental Scale For Rehab Buildings, Cape Dorset

HON. GORDON WRAY: I think perhaps the housing association is confused. At no time did I indicate to them that we would keep on with northern rental rates on houses that have been rehabilitated. That subject was not even talked about at the meeting. What I did say was that I have frozen all rent increases across the board for the Housing Corporation until such time as the special committee made their report on the rental scales and the corporation investigated the rental scales to see if we could come up with a better one. I felt that before we go ahead and increase rents we have to look at the whole rental scale and that instruction is still there. Once we make modifications to the rental scale, if indeed we do, and once we take a look at the special committee's recommendations then we will start to move. I am 100 per cent certain that I did not talk to the housing association about rehab. In fact I know I did not. So perhaps there was some confusion there. Thank you.

MR. SPEAKER: Thank you. Mr. Arlooktoo.

MR. ARLOOKTOO: (Translation) Thank you, Mr. Speaker. Thank you for clarifying that for me because I was quite concerned about this. I am sure there was a confusion in there. However, thank you for clarifying that for me and now I know you are on a planning stage for the future. Also, I will relay your statement to Cape Dorset about the confusion. Thank you very much.

MR. SPEAKER: Oral questions. Mr. Gargan.

Question 7-85(2): Egg Production Plant, Hay River Reserve

MR. GARGAN: Thank you, Mr. Speaker. I would like to direct my question to the Minister of Economic Development. In January of last year there was a proposal for an intricate egg production and processing complex to be located on the reserve. I believe the Minister has been negotiating for quite some time now with CEMA, which is the Canadian Egg Marketing Agency, with I believe no apparent result. I would like to ask the Minister, is the Hay River Reserve going to be getting a quota for the egg production and if not, are there any other avenues that might be able to be considered?

MR. SPEAKER: Mr. Minister.

Return To Question 7-85(2): Egg Production Plant, Hay River Reserve

HON. TAGAK CURLEY: Thank you, Mr. Speaker. Indeed I did meet with the Minister of Agriculture, Mr. John Wise, sometime in March. He did agree to try and expedite the problems that we are having with the Canadian Egg Marketing Agency. As a result, he made a provision by giving up his seat to our officials. I was not able to attend because of the other meetings that I was attending in Vancouver with Economic Development Ministers. So my deputy minister went down about two weeks ago by invitation from the Canadian Egg Marketing Corporation and the Minister himself directly in order to try and persuade the 33 member signatories but he came home without getting unanimous support from the agency. There were some provinces, particularly Manitoba, who were prepared to support the NWT proposal but there were other provinces who were adamantly against the NWT establishing its own quota. So we now are having to again deal directly with the Minister. As a matter of fact, at the moment, the only avenue that we have is political and the other is legal. I have since written to the Minister of Agriculture advising him that the only option that I have is political and again asking him to set up the quota for the NWT. If he is not prepared to do that, we will challenge the issue in court by way of exercising the Charter of Rights and Freedoms. So that is the situation and I am waiting for the reply from the Minister of Agriculture at the moment. Thank you.

MR. SPEAKER: Thank you, Mr. Curley. Oral questions. Mr. Ballantyne.

Question 8-85(2): Status Of Formula Financing Agreement

MR. BALLANTYNE: Thank you, Mr. Speaker. I have a question of the Minister of Finance. We were informed that the formula financing agreement has been approved by the Treasury Board. My question of the Minister is, when will this agreement be signed by the Minister and when will it be before this House for approval of this House?

MR. SPEAKER: Mr. Minister.

Return To Question 8-85(2): Status Of Formula Financing Agreement

HON. TOM BUTTERS: Mr. Speaker, I am not sure when the document will be signed by the federal government but it will be before this House during this session.

MR. SPEAKER: Thank you. Oral questions. Mr. Paniloo.

Question 9-85(2): Employee Benefits

MR. PANILOO: (Translation) Thank you, Mr. Speaker. First of all I would like to ask a question of the Minister of Finance. For example I am going to ask you two departmental questions. The teachers in the communities are members of the NWT Teachers Association and they are able to receive some money for their vacation. For other employees, using Renewable Resources as an example, the union is not able to give benefits for their vacation. They are not able to receive vacation benefits if they are not leaving the community. We have agreed on a northern preference policy. I was wondering if you could amend the policy. Even if someone is a wildlife officer, if he is going on vacation he should receive vacation benefits no matter where he goes. I was wondering if you could amend this.

MR. SPEAKER: Mr. Minister.

HON. TOM BUTTERS: Mr. Speaker, I understand the thrust of the Member's question. However, in view of the fact that it deals specifically with the Personnel program, I would ask to take the question as notice and advise Mr. Nerysoo on his return of the question and in the interim attempt to get some background material for a reply for Mr. Nerysoo.

MR. SPEAKER: Thank you, Mr. Minister. You are taking the question as notice and will bring a reply back. Are there any further oral questions? Item 5, written questions. Mr. T'Seleie.

ITEM 5: WRITTEN QUESTIONS

Question 10-85(2): Norman Wells Pipeline Employment

MR. T'SELEIE: Thank you, Mr. Speaker. My written question is for the Minister of Energy, Mines and Resources. Now that the Norman Wells pipeline is completed, I would like the Minister to provide me with the following information: 1) How many additional permanent jobs have been created in the NWT by this project? 2) How many of these new permanent jobs have gone to people of Dene or Metis ancestry, as defined by the eligibility agreement which was signed between the Dene/Metis Land Claims Secretariat and the Government of Canada?

MR. SPEAKER: Thank you. Are there any further written questions?

Item 6, returns. We are a little early for returns.

Item 7, petitions. Item 8, reports of standing and special committees. Mr. McCallum.

ITEM 8: REPORTS OF STANDING AND SPECIAL COMMITTEES

Report Of Standing Committee On Public Accounts

MR. MCCALLUM: Thank you, Mr. Speaker. As chairman of the public accounts committee, I would like to advise the Assembly that the committee has concluded its examination of the accounts and financial transactions of the Government of the NWT for the 1983-84 fiscal year. The committee met

in Yellowknife from May 27 to May 30 and considered the Auditor General's report on "Any Other Matter" in the territorial accounts. In addition, the committee reviewed the government's response to issues and recommendations raised in the committee's previous report to the Assembly, dated April, 1984. In total, the committee examined issues relating to nine departments. Departmental witnesses appeared from the Department of Finance, Economic Development and Tourism, Local Government, Education, Public Works and Highways, and the NWT Housing Corporation, to respond to the questions in formal public hearings. The committee has a number of specific concerns and recommendations which have risen from its deliberations. We intend to address these concerns in a formal written report to the Assembly which will be tabled at the fall session this year.

Finally, Mr. Speaker, the committee wants to thank the staff and office of the Auditor General of Canada, Mr. Raymond Dubois, Mr. Harold Hayes, Mr. Don Young and Mr. Gerry Kimmel, who provided the committee with very able advice and assistance throughout the hearings. Also we wish to acknowledge the special efforts of the Department of Finance, through its Minister, the Hon. Tom Butters, and Mr. Nelson, the comptroller general, and Mr. Gordie Aumond, who co-ordinated departmental responses and the witnesses who provided the committee with very timely information. Our proceedings were enhanced with these efforts and by the co-operation and willingness of all the departmental witnesses who appeared before us. Mr. Speaker, as the committee will be tabling the report at the fall session, this concludes a very brief report on the activities of the standing committee. Thank you.

MR. SPEAKER: Thank you, Mr. McCallum. Are there any further reports of standing and special committees?

Item 9, tabling of documents.

Item 10, notices of motion. Item 11, notices of motion for first reading of bills. Mr. Butters.

ITEM 11: NOTICES OF MOTION FOR FIRST READING OF BILLS

Notice Of Motion For First Reading Of Bill 4-85(2): Legislative Assembly and Executive Council Act

HON. TOM BUTTERS: Mr. Speaker, I give notice that on Monday, June 10, 1985, I shall move that Bill 4-85(2), An Act Respecting the Legislative Assembly and the Executive Council of the Northwest Territories, be read for the first time.

MR. SPEAKER: Any further notices of motion? Mr. Butters.

Notice Of Motion For First Reading Of Bill 5-85(2): Legislative Assembly Retiring Allowances Act

HON. TOM BUTTERS: Mr. Speaker, I give notice that on Monday, June 10, 1985, I shall move that Bill 5-85(2), An Act to Amend the Legislative Assembly Retiring Allowances Act, be read for the first time.

MR. SPEAKER: Any further notices of motion for first reading of bills?

Item 12, motions.

Item 13, first reading of bills. Mr. Butters do you wish to give first reading with unanimous consent of Bills 9-85(2) and 10-85(2)?

HON. TOM BUTTERS: No, sir, I will do that tomorrow and allow the standing committee on finance to consider the supps.

MR. SPEAKER: Thank you. Item 14, second reading of bills. Mr. McLaughlin.

ITEM 14: SECOND READING OF BILLS

Second Reading Of Bill 6-85(2): Mental Health Act

HON. BRUCE McLAUGHLIN: Thank you, Mr. Speaker. I move, seconded by the honourable Member for Kivallivik, that Bill 6-85(2), An Act Respecting Mentally Disordered Persons, be read for the second time. The purpose of this bill, Mr. Speaker, is to provide a legal framework for the

voluntary and involuntary committal of mentally disordered persons; to establish the voluntary and involuntary committal procedure; to state the civil rights of a mentally disordered person; and to repeal the present Mental Health Act.

MR. SPEAKER: Thank you. To the motion. Second reading of Bill 6-85(2). Ready for the question? All those in favour? Opposed, if any?

---Carried

Bill 6-85(2) has had second reading. Second reading of bills. Ms Cournoyea.

Second Reading Of Bill 8-85(2): Science Institute Of The Northwest Territories Act

HON. NELLIE COURNOYEA: Mr. Speaker, I move, seconded by the honourable Member for Inuvik, that Bill 8-85(2), An Act to Amend the Science Institute of the Northwest Territories Act, be read for the second time. The purpose of this bill, Mr. Speaker, is to provide that the Science Institute of the Northwest Territories is not a territorial agency within the meaning of the Financial Administration Act; to provide that the institute is not operated for the purpose of gain for the members of the institute, and that no part of the revenues of the institute is payable to or otherwise available for, the personal benefit of any member; to provide that any profits be used in promoting the purposes of the institute; and to specify additional powers and duties of the institute.

MR. SPEAKER: Thank you. To the principle of Bill 8-85(2). Are you ready for the question? All those in favour? Opposed, if any?

---Carried

Bill 8-85(2) has had second reading. Second reading of bills. Mr. Butters.

Second Reading Of Bill 3-85(2): Income Tax Act

HON. TOM BUTTERS: Mr. Speaker, I move, seconded by the honourable Member for Pine Point, that Bill 3-85(2), An Act to Amend the Income Tax Act, be read for the second time. The purpose of this bill, Mr. Speaker, is to amend the Income Tax Act to provide complementary legislation to the Income Tax Act, Canada, in order to administer the tax collection agreement between the Government of the Northwest Territories and the Government of Canada.

MR. SPEAKER: Thank you. Bill 3-85(2). To the principle of the bill. Question being called. All those in favour? Opposed, if any?

---Carried

Bill 3-85(2) has had second reading. Second reading of bills. Mr. McLaughlin.

Second Reading Of Bill 13-85(2): Child Welfare Act

HON. BRUCE McLAUGHLIN: Thank you, Mr. Speaker. I move, seconded by the honourable Member for Kivallivik, that Bill 13-85(2), An Act to Amend the Child Welfare Act, be read for the second time. The purpose of this bill, Mr. Speaker, is to amend the Child Welfare Act to provide that a person who has attained the age of majority may be adopted.

MR. SPEAKER: Thank you, Mr. Minister. To the principle of the bill. Ready for the question? All those in favour? Opposed, if any?

---Carried

Bill 13-85(2) has had second reading. Second reading of bills. Mr. Butters.

Second Reading Of Bill 7-85(2): Petroleum Products Tax Act

HON. TOM BUTTERS: Mr. Speaker, I move, seconded by the honourable Member for Pine Point, that Bill 7-85(2), An Act to Amend the Petroleum Products Tax Act, be read for the second time. The purpose of this bill, Mr. Speaker, is to change the calculation of the penalty on arrears of taxes.

MR. SPEAKER: Thank you, Mr. Minister. To the principle. Question being called. All those in favour? Opposed, if any?

---Carried

Bill 7-85(2) has had second reading. Second reading of bills. Mr. Butters.

Second Reading Of Bill 12-85(2): Vital Statistics Act

HON. TOM BUTTERS: Mr. Speaker, I move, seconded by the honourable Member for Nunakput, that Bill 12-85(2), An Act to Amend the Vital Statistics Act, be read for the second time. The purpose of this bill, Mr. Speaker, is to provide for the registration of a statement of residency and the issue of a residency certificate where a person was born outside the Territories to a parent who was ordinarily resident in the Territories before and after the birth; and to provide for a period of two years for the registration of a statement of residency to allow those persons who are now eligible to obtain a residency certificate, to register, without having to apply under the general provisions respecting applications under the act.

MR. SPEAKER: Thank you, Mr. Minister. Second reading of Bill 12-85(2). To the principle of the bill. All those in favour? Opposed, if any?

---Carried

Bill 12-85(2) has had second reading. Second reading of bills.

Do I have unanimous consent to move into the orders of the day for consideration in committee of the whole, Bill 3-85(2), Bill 6-85(2), Bill 7-85(2), Bill 8-85(2), Bill 12-85(2) and Bill 13-85(2)? Are there any nays? I order then that Bill 3-85(2), Bill 6-85(2), Bill 7-85(2), Bill 8-85(2), Bill 12-85(2) and Bill 13-85(2) be ordered into committee of the whole for consideration today.

Consideration in committee of the whole of bills and other matters: Bill 3-85(2), Bill 6-85(2), Bill 7-85(2), Bill 8-85(2), Bill 12-85(2) and Bill 13-85(2), with Mr. Gargan in the chair.

ITEM 15: CONSIDERATION IN COMMITTEE OF THE WHOLE OF BILLS AND OTHER MATTERS

PROCEEDINGS IN COMMITTEE OF THE WHOLE TO CONSIDER BILL 8-85(2), SCIENCE INSTITUTE OF THE NORTHWEST TERRITORIES ACT; BILL 13-85(2), CHILD WELFARE ACT; BILL 3-85(2), INCOME TAX ACT; BILL 7-85(2), PETROLEUM PRODUCTS TAX ACT; BILL 12-85(2), VITAL STATISTICS ACT; BILL 6-85(2), MENTAL HEALTH ACT

CHAIRMAN (Mr. Gargan): The committee will now come to order. We will take a 15 minute coffee break.

---SHORT RECESS

The committee will come to order please. I will ask that the hearing aid there be brought away from the mike a bit because they are getting a feedback on it.

Bill 8-85(2), Science Institute Of The Northwest Territories Act

We are dealing with Bill 8-85(2), Science Institute of the Northwest Territories Act. Ms Minister, do you have an opening statement?

HON. NELLIE COURNOYEA: Mr. Chairman, in regard to Bill 8-85(2), in the previous session we did make an effort to amend the then Science Advisory Board and establish it as an institute, and, as well, to allow the guidelines to represent an institution that would be able to secure funding outside the Northwest Territories government, and to be able to seek funds in an independent manner to finance the operation of the institute. When we first proposed the amendments and the redirection of the Science Institute, we made an attempt to allow it to qualify so that it may receive and secure funding from private donors as well as from some of the federal government program project funds. As a result, when we proceeded to look for the funding, it was noted that in the issue of having the Science Institute an arms length agency from the territorial government to qualify, we had not gone far enough in giving them the independent status that was required.

So, therefore we have to, once again, come to the Legislative Assembly to further qualify the terms of reference to allow the institute to secure funding in an independent fashion. The present amendment before you relates and answers the requirement to enable the institute to be able to secure this outside funding. Thank you.

CHAIRMAN (Mr. Gargan): Thank you, Madam Minister. Mr. MacQuarrie.

MR. MacQUARRIE: Thank you, Mr. Chairman. The standing committee on legislation reviewed the bill and recognized that the intent, when this matter had been dealt with previously, was to enable the institute to be able to get outside funding and that there were still some problems in the legislation that had to be changed in order to enable that. The committee generally was very receptive to the bill. There were a couple of suggestions that were made, a couple of concerns expressed, and I will deal with those, Mr. Chairman, as we go through the bill.

CHAIRMAN (Mr. Gargan): Thank you, Mr. MacQuarrie. Does the committee agree we go clause by clause?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Gargan): Okay, Bill 8-85(2), Clause 1, Financial Administration Act. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

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

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Gargan): Clause 3, institute independent. Mr. MacQuarrie.

Comments From Standing Committee On Legislation

MR. MacQUARRIE: In regard to the matter of the institute being able to receive funds from other institutions, there was a concern expressed in the committee as to whether it might be possible that donors could thereafter influence the institute and the kind of work that it undertook. The concern was expressed that if that were the case, that there should be safeguards to prevent that kind of influence. In response the government informed the committee that under clause 3, subsection 10.1(3), it is a permissive provision and of course the decision as to whether to accept a grant or donation would lie with the board, and if there were some concern, that there might be strings attached to any donation, they would have the right to refuse it. That answer satisfied the committee, so no change was recommended.

CHAIRMAN (Mr. Gargan): Thank you, Mr. MacQuarrie. Mr. Ballantyne.

MR. BALLANTYNE: I just have one question on subsection 10.1(1). If the institute is no longer under the umbrella or the auspices of the Financial Administration Act, is the intention of these amendments to make the institute totally self-funding, or do we expect some level of territorial funding to carry on the institute? If we do, will there be some form of financial agreement between the institute and the Government of the Northwest Territories?

CHAIRMAN (Mr. Gargan): Madam Minister.

HON. NELLIE COURNOYEA: Mr. Chairman, as the Member recognizes, the Northwest Territories funds, to a degree, the Science Institute. It is anticipated that the connection of accountability would be that the funding that would normally go to the Science Institute would have a caveat suggesting that we would like total accountability of all other funds in a yearly audited statement.

CHAIRMAN (Mr. Gargan): Thank you, Madam Minister. Clause 3, agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Gargan): Thank you. Clause 4. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Gargan): Clause 5, powers of the institute. Mr. MacQuarrie.

MR. MacQUARRIE: At this point, one Member had questioned the power as it is stated under clause 5, paragraph 2(b), regarding the borrowing of money and the mortgaging of property, but our own Law Clerk advises that this was a provision that was required under the Societies Act. The committee was also advised that employees of the institute will be recruited from within the public service but that in the future, depending on the workload, there could be some contract workers. So once again although concerns were raised at this point, the committee did not recommend any changes from what the government had proposed.

CHAIRMAN (Mr. Gargan): Thank you, Mr. MacQuarrie. Clause 5. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Gargan): Clause 6, staff and advisors. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Gargan): Clause 7, fiscal year. Agreed? Mr. MacQuarrie.

MR. MacQUARRIE: Yes, under this clause there were a couple of changes proposed from what had been proposed to the committee by the government. The committee generally felt that it would be desirable to note all rejected grants and donations in the report that was to be given and to include the reasons for the rejection. So there were two motions related to clause 7. One was that it be amended; that paragraph 14(5)(b) be amended by adding immediately after a statement of the revenues, the following words "and expenditures" just to be very clear that that was what was intended in the report. The government has adopted that proposal and Members will see it in the legislation that is in front of them now. Another recommendation was that clause 5 be amended to include the requirement for a statement of grants and donations, including rejected grants and donations, and again that has been done. The government has accepted that recommendation but note as well that some donors may wish to make anonymous donations to the institute and that in any listing that would be respected. The committee certainly accepts that, so the change generally that the committee wanted was made by the government.

CHAIRMAN (Mr. Gargan): Thank you, Mr. MacQuarrie. Clause 7. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Gargan): Bill as a whole. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Gargan): Does the committee agree Bill 8-85(2) is ready for third reading?

SOME HON. MEMBERS: Agreed.

---Agreed

Bill 13-85(2), Child Welfare Act

CHAIRMAN (Mr. Gargan): Thank you. Bill 13-85(2), Child Welfare Act. Mr. MacLaughlin, do you have an opening statement?

Opening Statement

HON. BRUCE McLAUGHLIN: Thank you, Mr. Chairman. Bill 13-85(2) is to amend the Child Welfare Act. This amendment will permit the court to accept adoption petitions for persons over 19 which is the age of majority. Families will be able, if they wish, to formalize existing parent-child relationships. All existing provisions with regard to adoption in the Child Welfare Act will also apply to this type of adoption. It is anticipated that this amendment will have a very limited impact and will only affect a small number of private adoption cases. There is no financial or administrative impact expected to be caused by this amendment. Very simply, Mr. Chairman, the intent of this legislation and our going forward with it is caused by the fact that often a family -- and I want to give a pretty good example of why this legislation is needed -- often children, under the Child Welfare Act, are fostered out to families when they have already reached an older age, say, 15 or 16 years old. Often the situation is that it is a lot more difficult for a family to make a decision to adopt an older child because of the fact that that child is older and more mature and can make some decisions for himself or herself. Unlike a one or two or three year old who is adopted, the family has two or three years with the child as a foster child and it is a lot easier and less difficult to make an adoption decision. So in a lot of cases people cannot make their minds up that they want to adopt an older child until he or she has lived with them for three or four years. So the intent of this legislation is to allow for that adoption to be proceeded with through the courts so that once the child turns 19, he or she is able to make his or her own decision as to whether they would in fact like to be adopted by the family they have been living with. So that is a specific example of why we are going forward with this legislation.

CHAIRMAN (Mr. Gargan): Thank you, Mr. Minister. Mr. MacQuarrie.

Comments From Standing Committee On Legislation

MR. MacQUARRIE: Thank you, Mr. Chairman. The standing committee on legislation had the opportunity to review this legislation only this morning and there was rather prolonged discussion on this bill. It focussed largely around the concern as to whether there might be possible abuse of this type of adoption. That is, whether someone who is an adult might attempt to take advantage of very elderly people and encourage them to adopt him in order to be able to take advantage of an estate or, for example, I suppose anyone who has an estate and that could include benefits under the land claims -- whether someone might try to abuse it in order to take advantage of that. The committee in the end largely was satisfied that particularly the provisions of subsection (3) would ensure that that kind of abuse of the legislation would not take place. That in fact there would have to be a family relationship demonstrated during the time when the individual had not yet reached the age of majority and that a court would have to be satisfied that there was such a relationship before it would allow the adoption to proceed.

So on that basis, the majority of Members felt that in fact this amendment is desirable in that it is a way in which the existing legislation seems needlessly to impede the right of people to determine what is best for their own lives and by making this amendment we will be broadening the peoples' right to do that. So in the end, as I say, after prolonged discussion, the committee voted to recommend that this bill be referred to the committee of the whole as it is. There was one dissenting vote from that decision, however.

CHAIRMAN (Mr. Gargan): Thank you, Mr. MacQuarrie. General comments. Does the committee agree we go clause by clause?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Gargan): Clause 1, adoption of an adult. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

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

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Gargan): Clause 3, order of adoption of an adult. Agreed? Ms Cournoyea.

Adoption To Secure Land Claims Benefits

HON. NELLIE COURNOYEA: This discussion has taken place but just for clarification of some Members and people who may be concerned, I wonder if the Minister could explain the concern that was raised by some people who are negotiating the land claims issue. There was some concern that perhaps this would open the floodgates, that people would be wanting to be adopted after they are 19 because of the claim. I know it is taken care of but I believe it would be wise to state that clarification.

CHAIRMAN (Mr. Gargan): Mr. McLaughlin.

HON. BRUCE McLAUGHLIN: Yes, Mr. Chairman, the two occurrences where we figured there could be abuse would be, first, an elderly couple or individual adopting a person who may be already 25 or 30 years old. As previously mentioned by the chairman of the standing committee that is alleviated under this legislation and prevented. Also the concern of some aboriginal rights groups that some people might make frivolous adoptions in order to try to get status under land claims is also covered off, particularly in two ways. Firstly, an actual family relationship has to exist between the child and the adopting family for a period of time previous to the child becoming an adult. Secondly, the other covering-off factor, is that the judge who looks at this adoption case will look at it in the same manner he would other adoption cases and would not allow adoptions for frivolous reasons. The judge would have to be convinced, as he has to be convinced under existing legislation, that there is a really sincere mother/father/child relationship that did exist over a period of time and that was continuous to the age of majority. So people could not frivolously and arbitrarily start adopting people in order to cash in on a land claims settlement or to cash in on an elderly person's estate. Thank you, Mr. Chairman.

CHAIRMAN (Mr. Gargan): That is 10 years from now. Mrs. Lawrence.

MRS. LAWRENCE: Thank you, Mr. Chairman. I had problems with this bill mainly because it was not too clear to me on some of the wording. I cannot understand why we have to start making laws for individuals when it is going to have a long-term effect on us. In my mind I felt it may create some problems for us in the future if we have to start adopting adults and that was one of the questions that I raised this morning. Is it necessary that we have to try to make laws for individual families that live in the NWT and will be moving back south? We are the ones that are going to be stuck with this law and it might have some effect on us and that is the concern that I had.

CHAIRMAN (Mr. Gargan): Would you care to comment, Mr. Minister?

Opportunity To Formalize Relationships

HON. BRUCE McLAUGHLIN: Thank you, Mr. Chairman. The intent of this legislation will in fact cause less restraint on family relationships becoming formalized. For example, a lot of traditional relationships among the native people in the NWT which are now sometimes formalized through custom adoptions, would also be freed up in this situation where, if there was sort of a traditional family relationship between two people or one person in the family, that could be formalized now where previously that could not be formalized under the law. So in actual fact the government feels that what we are doing in this case is making it more flexible and more possible for a person to have the right to choose to belong or not to belong to a family. Right now they do not have that opportunity if the age of majority has slipped by them without the relationship being formalized. So in fact we feel that this gives individual people more of a right and a freedom of choice to establish a family relationship. Thank you, Mr. Chairman.

CHAIRMAN (Mr. Gargan): Thank you, Mr. Minister. Any further comments? Clause 3, order of adoption of an adult. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Gargan): Thank you. The bill as a whole. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Gargan): Does the committee recommend that Bill 13-85(2) is now ready for third reading?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Gargan): Thank you. Bill 13-85(2) is now ready for third reading. We will proceed now to Bill 3-85(2), An Act to Amend the Income Tax Act. Mr. Butters.

Bill 3-85(2), Income Tax Act

HON. TOM BUTTERS: Mr. Chairman, Members will recall last year the Assembly approved a number of bills of this nature to bring our Income Tax Act in line with the Income Tax Act of Canada. Members know Canada administers the tax collection for this government and therefore the manner in which we process our fiscal taxation arrangements must parallel that of Canada. This is what Bill 3-85(2) is doing; it is bringing our legislation in line with the federal government.

Last year there was a concern that we were legislating retroactively and we were. At that time there was quite a delay in our legislation moving forward which was due to the fact that we had mislaid or the information had been filed rather than actioned by staff members. Although we are again requesting retroactive legislation, I assure the House that there has been no delay this time in moving the legislation forward. I believe there has been a delay of only a month or so in reacting to the federal requirement. The technical details with regard to each of the provisions are very complicated and we could look at those in some detail when we come to them but I will defer now to the chairman of the standing committee.

CHAIRMAN (Mr. Gargan): Thank you, Mr. Butters. Mr. MacQuarrie.

Comments From Standing Committee On Legislation

MR. MacQUARRIE: When this type of bill had come in at a previous session, I cannot remember if it was the budget session or sometime last year, the committee had been concerned about seeing dates that made legislation retroactive. So the committee examined it very thoroughly at that time and was satisfied with the explanations that the government gave, that in fact if we want the federal government to collect the taxes for the Territories -- it would be very costly for us to try to do it separately -- that we had to conform to their legislation. When they made changes we had to make appropriate changes as well and there would necessarily be lapses between the times that the one was done and the other followed. Nevertheless, the intent, the spirit of the law, was always that our legislation should conform to federal legislation in this matter. So it amounted to a technicality, that it was not able to do that in every instance. So when we saw this bill again, we examined the matter and found that it was for the same reasons that were presented to us before and the committee was satisfied with that. There was one clause, clause 9, where the dates listed went even further back than other dates listed in the bill and we asked for a special explanation and received a letter from the Minister explaining that our government in fact had been informed one month previously of a needed change in that area. So they were acting with reasonable dispatch. The committee accepted that and recommended the bill to this committee as it is.

CHAIRMAN (Mr. Gargan): Thank you, Mr. MacQuarrie. Mr. Ballantyne, do you have anything to add to that?

MR. BALLANTYNE: Thank you, Mr. Chairman. No, I myself and our staff examined this particular act and we see it as a response to federal legislation, and it is essentially housekeeping. We have no real concerns with it. I think we outlined our concerns last year, and I think we too were satisfied with the Minister's response and we are satisfied for this to go ahead as it is.

CHAIRMAN (Mr. Gargan): General comments to the bill. Does the committee agree that we go clause by clause?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Gargan): Clause 1, liability for interest. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Gargan): Clause 2, application. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Gargan): Clause 3, interest on overpayments. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Gargan): Clause 4, idem. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Gargan): Clause 5, application. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Gargan): Clause 6, definition. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Gargan): Clause 7, application. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Gargan): Clause 8, assessment. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Gargan): Clause 9, application. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Gargan): The bill as a whole. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Gargan): Does the committee recommend that Bill 3-85(2) is now ready for third reading? Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Gargan): Thank you. Bill 3-85(2) is now ready for third reading.

Bill 7-85(2), Petroleum Products Tax Act

We are on Bill 7-85(2), Petroleum Products Tax Act, with Mr. Butters. Mr. Butters.

HON. TOM BUTTERS: Mr. Chairman, the request for this amendment to the Petroleum Products Tax Act comes as a result of a deficiency in the present legislation which was discovered by the Department of Finance when reviewing the legislation prior to undertaking an audit. The current legislation was enacted by Bill 1-84(2) on June 6, 1984, and the intent of the legislation at that time, was to tie the penalty to the amount of money which was in arrears and not to the time period. So the method for achieving that intent which was the intent of the original legislation, and remains the intent of the government, is to be achieved by amending paragraph 15(1)(a) of the Petroleum Products Tax Act to redefine the calculation to be used when assessing a penalty on tax in arrears under this act. This amendment is necessary to bring the penalty section of the NWT act into line with those of other jurisdictions.

Presently, the wording of our legislation could result in a penalty calculation that might be so insignificant that it would not achieve its purpose, and that being to act as a deterrent to late payment of taxes due the government under this act. The amendment will establish a maximum penalty of \$500 and the minimum at 10 per cent of the amount of the tax that is in arrears. I defer to the committee chairman.

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

Comments From Standing Committee On Legislation

MR. MacQUARRIE: Thank you, Mr. Chairman. The committee again was advised by the government that this was essentially a housekeeping item, to change the method of calculation of outstanding taxes to assess the penalty, and that the intent had always been essentially what this wording effects, whereas the wording previously was not fulfilling the intent. We were told that this would make the legislation consistent with other tax laws in the provinces and with federal tax laws. In examining the matter the committee went beyond this one provision and noted as well, that there are other penalties for non-payment of taxes or late payment of taxes, namely the interest charge on the late payments, and also the committal of an offence for non-payment of taxes. So that this is not the only penalty provision in the legislation. After hearing all of the government's explanations, the committee was satisfied with them and agreed to refer this bill to the committee of the whole as it was presented to us.

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

MR. BALLANTYNE: I have one concern, Mr. Chairman, that perhaps the Minister could alleviate. The maximum is \$500, so in fact a large taxpayer who was late in paying taxes would only be penalized to a maximum of \$500 plus the interest rate. Now, I understand that there is an interest rate of, I think, prime plus one, but is there any benefit to a large taxpayer not to pay the tax knowing that they only have to pay a penalty of \$500 plus an interest of prime plus one, if I am correct? Could it be financially beneficial to withhold or be late in paying of taxes?

CHAIRMAN (Mr. Gargan): Thank you. General comments to the bill. Does the committee agree to go clause by clause? Mr. Butters.

HON. TOM BUTTERS: The point made by the Member would be of concern if it is valid in this case. I have not looked into that specific item myself. I have assumed that the staff has, because it is a common method for escaping a payment of a larger tax, and one one would ordinarily examine. However, if the Member wishes, I would just reassure myself and reassure him on that now, and if his interpretation is correct, then I would so advise the House. But, I do not believe that it is the case.

CHAIRMAN (Mr. Gargan): Thank you, Mr. Butters. Does the committee agree that we go clause by clause on Bill 7-85(2)? Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

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

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Gargan): The bill as a whole. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Gargan): Does the committee agree that Bill 7-85(2) is now ready for third reading?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Gargan): Bill 7-85(2) is now ready for third reading. The Minister responsible for Bill 12-85(2) is not here and I understand the Minister responsible for Bill 6-85(2) will be arriving today. Mr. Butters.

HON. TOM BUTTERS: Mr. Chairman, Mr. McLaughlin could speak to this bill. He has a particular knowledge of the requirement and did in effect bring it to the Executive Council to be addressed. In Mr. Nerysoo's absence, maybe I could ask Mr. McLaughlin to introduce this bill and the reason for the requirement.

CHAIRMAN (Mr. Gargan): Does the committee agree?

SOME HON. MEMBERS: Agreed.

---Agreed

Bill 12-85(2), Vital Statistics Act

CHAIRMAN (Mr. Gargan): Bill 12-85(2), Vital Statistics Act. Mr. McLaughlin.

Reasons For Amendments

HON. BRUCE McLAUGHLIN: Thank you, Mr. Chairman. I do not have an opening statement on this but I could explain to Members the concerns which caused us to go forward with this legislation. The specific instance which came to my department and the concerns were basically of the Keewatin Region where most births occur either in Churchill or in Winnipeg. People were concerned that when their children were born outside of the jurisdiction of the NWT that their residency may not be recognized at some time and it may cause problems for eligibility for land claims.

Another interesting thing related to this is that some companies have made the effort to have affirmative action programs for the hiring of native people and they have a sort of points system developed which they use to determine whether a person should be hired or not and one of the areas

that they give points for is if you were born in the NWT. So some native northerners, even though their parents and grandparents have all lived in the NWT, were not able to get points for having been born in the NWT because they may have been born in Churchill or Winnipeg or Edmonton due to difficulties during the pregnancy. So those are two reasons why we are coming forward with this. Basically what this will do is allow for the provision of a document from the GNWT which recognizes the residency of children even though they are not born within our jurisdiction.

Nothing can be done to change the existing birth certificate system in the country. Right now, wherever a child is born, that is the jurisdiction that issues the birth certificate and there is really no practical way that can be changed because, in fact, the children are born in a specific place and that jurisdiction is set up to issue birth certificates for that purpose. So what we are going to do is give out a recognition in addition to that birth certificate. So if somebody is born in Winnipeg they will have a birth certificate issued by the province of Manitoba but we will also be able to issue a certificate of recognition that they were born in Winnipeg but they are also recognized on the certificate as being a resident of the NWT when they were born. So that is the basic intent of the legislation and that is an example of why we proceeded with this, Mr. Chairman.

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

Comments From Standing Committee On Legislation

MR. MacQUARRIE: Thank you, Mr. Chairman. The committee, in reviewing this bill, recognized that it certainly is the wish of many, many people in the NWT to have such an amendment made to the Vital Statistics Act. The committee wished to co-operate in moving the bill along. So the committee therefore supported the total intent of the bill and it was only at one point in reading the legislation that was brought forward to us, the committee noted that the particulars that were going to be put on the cards that were to be issued, assumed that it would say "a resident at birth" but the legislation did not specifically call for that and rather called for other particulars such as the name of the person, date of birth, and so on. So the standing committee on legislation moved that an amendment be made to the legislation stating that the residency certificate state that a person is considered a resident at birth and the government, needless to say, agreed with that change and it has brought back the legislation with that change incorporated in clause 2. So with that change the committee agreed to refer the bill to this committee along with that amendment.

CHAIRMAN (Mr. Gargan): General comments. Mr. MacQuarrie.

MR. MacQUARRIE: I am just reminded by one of my committee Members that another point that was made was that although we did not wish to make any change to this legislation, we urged the government that once this bill is passed to mount a publicity program so that people across the Territories become aware immediately of the opportunity to have their children registered in this way, if the legislation applies to them. That was made clear to the Minister and the Minister indicated that that would be the government's intention.

CHAIRMAN (Mr. Gargan): Mr. Pudluk.

MR. PUDLUK: (Translation) Thank you, Mr. Chairman. I am really happy to hear about this bill to amend the Vital Statistics Act. We had a problem in my constituency with this. When the children were born down south they were not registered in the NWT. It is not just a problem of Yellowknife and Winnipeg, there are some children being born in Montreal. I am very happy about these people being recognized by the Territories. But for the people who were born outside of the NWT and were not registered in the NWT, it is really hard to try to get their birth certificates and it takes a long time to obtain one and you have to go through court systems. For this reason I am very happy to see the amendment to the Vital Statistics Act. Also in my constituency, there is one child who is six years old who never received a family allowance cheque because she was born in Montreal. I have been trying to get her birth certificate for a long time. For these reasons I am happy for this amendment to the act.

CHAIRMAN (Mr. Gargan): General comments. Mr. Curley.

HON. TAGAK CURLEY: (Translation) Thank you, Mr. Chairman. I wanted to speak in Inuktitut because a lot of women wrote a letter about this, women in my constituency of Aivilik. It was mentioned a few times and there were a lot of people born in Manitoba and there are a lot of people from Baffin Island who were born in Quebec. There are some natives that were born in Edmonton. So I would like to thank the women who wrote letters to me because we now have this bill.

The birth certificates have to be written in the provinces where they were born. However, we have to remember the birth certificate is not going to change but they will be recognized in the Territories. If you were born in Manitoba you will still have the birth certificate from Manitoba but you will be registered in the territorial vital statistics. It will state that they were born outside of the Territories but, however, they are natives of the NWT. We cannot amend the birth certificates act but although they are not able to get the birth certificates in the Territories, they will be recognized in vital statistics. I wanted to comment on that to a lot of women who go out of the Territories for maternity leave but I want you to remember that there are a lot of people who do not want to have their birth certificates registered in Manitoba. There are a lot of people who are going down to Yellowknife for maternity leave. I want all the Members to be aware of this, that because they are from the NWT, they would like to be recognized in the NWT. Perhaps this is going to come into effect in the future, that this is to be transferred to the Territories. If we were to get a hospital in the Keewatin Region, we would benefit from it a lot.

CHAIRMAN (Mr. Gargan): Thank you, Mr. Curley. General comments. Mr. McLaughlin.

MR. McLAUGHLIN: Mr. Chairman, perhaps just briefly two other points. One is that people were concerned up in this region that some people were actually flying at their own expense to Yellowknife to give birth to their children because they were worried about having them born outside of the NWT. So it was a real concern in this region.

As well, on the comments from Mr. Pudluk about some people not receiving family or child allowances related to their children, this has been a problem, as has trying to get social insurance numbers for some adults, which they have to do in order to gain employment. Those difficulties will not be corrected entirely by this because in fact if something goes wrong in the other jurisdiction, we will still have difficulty getting information. But the fact that we have a system in place that people can use to get certification will cause our officials to set up a system which will probably communicate better with the other jurisdictions. Hopefully, some of these problems that have been encountered in the past, with children born outside of this jurisdiction not being properly recorded or certified, will be corrected. As well, we even have some cases of children born in airplanes during medivacs and there has been some dispute as to which jurisdiction they were born in. So hopefully we can rectify that in our own jurisdiction by this method. Thank you very much.

CHAIRMAN (Mr. Gargan): Thank you, Mr. McLaughlin. General comments. Does the committee agree we go clause by clause? Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Gargan): Clause 1, eligibility to be registered as a resident of the Territories. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Gargan): Clause 2, residency certificate. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Gargan): Clause 3. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Gargan): Bill as a whole. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Gargan): Does the committee agree that Bill 12-85(2) is now ready for third reading? Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Gargan): Bill 12-85(2) is recommended for third reading. Mr. McLaughlin, do you wish to proceed with Bill 6-85(2)?

Bill 6-85(2), Mental Health Act

HON. BRUCE McLAUGHLIN: Yes, Mr. Chairman. I have an opening statement to make and I also have a witness who is arriving on the flight from Yellowknife today so I thought it might be opportune if I could give my opening statement and then possibly take a break, and I believe Mrs. Berthelet will be here by that time.

CHAIRMAN (Mr. Gargan): Does the committee agree?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Gargan): Mr. McLaughlin.

Opening Remarks

HON. BRUCE McLAUGHLIN: Mr. Chairman, I am introducing this bill in order to repeal the existing Mental Health Act and replace it with the new act which enables the medical community to intervene to assist the patient in need of medical care for mental illness.

You will recall that I tabled this act as a proposal in the February session. Since that time I have introduced several changes that reflect positions and positive suggestions from individuals, associations and the standing committee on legislation. The reasons for having the new act are threefold: 1) The existing act is outmoded in terms of definitions and procedures. 2) The existing act does not afford sufficient protection for patients as now required under the new Charter of Rights. 3) A wish to clarify roles and responsibilities of people acting in this regard.

Mr. Chairman, the act for simplicity's sake can be divided into five areas: 1) definitions of terms; 2) agreements with other jurisdictions for the care of our patients and the responsibilities of the Minister and the Commissioner; 3) the assessment and committal phase of patients suspected of needing care; 4) the rights of patients to appeal and the confidentiality of their records; 5) the involvement of a public trustee to safeguard the property of patients.

This is an act which is required both for the protection of the patient and the community. It is a necessary act and while we understand that it suspends certain liberties, we also have afforded the patient every opportunity to appeal and have their cases reviewed. Thank you, Mr. Chairman.

CHAIRMAN (Mr. Gargan): Thank you, Mr. McLaughlin. Mr. MacQuarrie.

Comments From Standing Committee On Legislation

MR. MacQUARRIE: Thank you, Mr. Chairman. The standing committee on legislation did quite a thorough review of the bill as it was presented to us by the government. The bill as a whole obviously has been some time in preparation and the government took its time in doing it. It previously had made available drafts of the legislation to groups such as the Mental Health

Association of the NWT and the Psychologists Association of the NWT and, of course, even tabled a draft at this past winter session and made it public and invited public commentary. That is certainly a method with a significant view which I, as the chairman, and my committee Members approve of. That is the way we like to see the legislation handled and...

AN HON. MEMBER: Hear, hear!

MR. MacQUARRIE: ...commend the government for handling it in that way.

SOME HON. MEMBERS: Hear, hear!

---Applause

MR. MacQUARRIE: Yes, we feel certainly that it is not a matter of pride or honour or anything like that at all, for the government to say here is an area where legislation appears to be required and here is what we are suggesting in the way of legislation, but making it possible for as many people as possible to have some input into shaping that legislation before we finalize it. They have done that in this case and we commend them for doing that.

After receiving that input, the government on its...

AN HON. MEMBER: Inaudible comment.

MR. MacQUARRIE: A little bit of success, yes. After getting that kind of public input in fact the government revised the bill on its own to some extent. So, when we held our committee meetings in mid May, we were looking at a bill that had already been revised in some sense, as a result of the government on its own reacting to the kind of input that it had. And, again we commend that very, very much. We think that is good.

Then, the standing committee held its meeting and invited witnesses to attend, specifically witnesses from the Mental Health Association and from the Psychologists Association of the Northwest Territories, and as a result of the witnesses' input, government responses and committee discussions, there were further revisions suggested and the government generally has accepted those that were requested by the committee. So, the bill as it is presented to Members in the House today reflects those changes. If the present bill is still deficient in some senses, and it may well be, if my honourable colleague from Yellowknife South, who is not a Member of the standing committee on legislation but who is a lawyer and interested in this matter, finds that there may still be certain areas which could be improved, if it is not a perfect bill the way it stands, it certainly is quite a good one. In fact, both the Mental Health Association and the Psychologists Association indicated to the government at our hearings, that this bill is much, much improved over what existed in the Territories before, and that in fact, it is an excellent piece of legislation, if you like. And, I believe I heard them say that it would be a piece of legislation that led a number of provinces in trying to respect the rights of people who might suffer from mental disorder.

The committee, in the hearings, was very sensitive to the fact that it is an important bill because, in effect, what legislators are doing, is dealing with the liberty or restrictions on the liberty of people who have committed no offence, no crime, but who are judged by others to be mentally disordered. So, the committee felt that it was very important to be careful in trying to make sure that such people had the advantage of every right that ought to be available to them. So, with those comments, I guess I can say that the bill as it stands now does reflect the majority of changes that the standing committee on legislation and other witnesses recommended and the committee had agreed, with those amendments, to recommend this bill to the committee of the whole as it is now. And the committee would be ready for a more detailed examination now, Mr. Chairman.

CHAIRMAN (Mr. Gargan): Thank you, Mr. MacQuarrie. Before we proceed with general comments, we will take a 15 minute coffee break.

---SHORT RECESS

CHAIRMAN (Mr. Erkloo): The committee will come to order, and we are dealing with Bill 6-85(2). Can we have order please? Could we have order please? Mr. Butters.

HON. TOM BUTTERS: Mr. Chairman, I just wonder to improve conditions for our own mental health, will there be a change in that alarm that calls us back to session? Is there any possibility of getting another device for bringing us into the House again?

CHAIRMAN (Mr. Erkloo): Does anybody have any ideas? Mrs. Lawrence, did you want to say something?

MRS. LAWRENCE: Thank you, Mr. Chairman. Regarding the bell, the buzzer is too hard on my hearing, so could we not use that school bell? They have one in the office; let's make use of it.

CHAIRMAN (Mr. Erkloo): Does the committee agree that we will use the bell?

AN HON. MEMBER: They are talking about the school bell.

CHAIRMAN (Mr. Erkloo): Mr. McLaughlin, do you want to introduce your witness?

HON. BRUCE McLAUGHLIN: Yes, Mr. Chairman. With the House's permission, I would like to ask Mrs. Elaine Berthelet, who is the chief of programs and standards for the Department of Health, to come in as a witness.

CHAIRMAN (Mr. Erkloo): Does the committee agree with that?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Erkloo): Go ahead, Mr. McLaughlin.

HON. BRUCE McLAUGHLIN: Mr. Chairman, I have the flu and a sore throat, so I think that before my voice disappears, I will join Mrs. Berthelet there, so that will cut down on the amount of time we talk probably. Thank you.

SOME HON. MEMBERS: Hear, hear!

CHAIRMAN (Mr. Erkloo): Any general comments on Bill 6-85(2)? Mr. Richard.

Legislation Commended

MR. RICHARD: Thank you, Mr. Chairman. Mr. Chairman, just by way of general comments, I wanted to indicate my agreement with Mr. MacQuarrie's comments. This legislation, and I had an opportunity to go through it, is a tremendous improvement over existing legislation. I think that the Minister and the government are to be commended for this piece of legislation. The current legislation in this field is seriously defective and the Minister, in his opening remarks, acknowledged that fact. I have personal knowledge because I was involved in a case a few years ago, not as the patient but as one representing the patient, and I came to the conclusion at that time that clearly the patient's rights were open to serious abuse under the existing legislation. So I would echo Mr. MacQuarrie's compliments to the government for bringing this new legislation forward. And I also, Mr. Chairman, would echo Mr. MacQuarrie's remarks on the manner in which this legislation has been dealt with, tabling it at one session of the Assembly so that the public could provide comments on the legislation to individual MLAs and to the government. I, too, would like to see that process followed in other areas where we have a new substantial piece of legislation to consider. Thank you, Mr. Chairman.

CHAIRMAN (Mr. Erkloo): Thank you. Mr. Minister, would you like to respond to that?

HON. BRUCE McLAUGHLIN: Just to say, Mr. Chairman, that the accolades of the government have to go primarily to Mrs. Berthelet and Ms Giuseppa Bentivegna from the legislation division who were the two people that did all of the work on the legislation and co-ordinated changes with the different groups and the standing committee. Thank you.

CHAIRMAN (Mr. Erkloo): Thank you, Mr. Minister. Mr. MacQuarrie.

Comments From Standing Committee On Legislation

MR. MacQUARRIE: Thank you, Mr. Chairman. Just before we go clause by clause, there are a couple of items I can note for Members; generally, items that arose in the standing committee on legislation. The first was with respect to the title of the bill. The existing legislation was originally entitled the Mental Health Act, and it was the position, particularly of the Mental Health Association of the NWT, that the name should be changed. They felt that a mental health act should be a positive piece of legislation that outlined the goals and programs and services of the GNWT in the field of mental health, and that the committal of persons who are deemed to be mentally disordered was but one part of all of that. They look forward to the day when there will be a mental health act and mental health programs sponsored by the GNWT. Of course, the government points out that at the moment much of health programming is still in the hands of the federal government and that this is the type of legislation at the present time that this government is limited to. So after a lot of discussion, the title that you see was one that was acceptable to the committee and to the government. The formal name is "An Act Respecting Mentally Disordered Persons" and the short title is the "Mental Health Act". That is a kind of compromise position. I am sure the Mental Health Association is still not entirely satisfied but at some point we all look forward to the time when we will have a full-blown mental health act and this act, maybe, incorporated as part of that act. So that is what I have to say with respect to the title.

The other item before we get into clause by clause, Members will notice that there is a preamble to this act. Occasionally acts have them, many do not. This preamble arose as a result of an issue that came up in standing committee discussions. Some Members of the standing committee and certainly also the Mental Health Association of the NWT were concerned about the matter of misperceptions of mental disorders as a result of cultural differences. I am sure that many Members and many people in the public are aware of horror stories in the past, when there were not even cultural differences but within a single culture, of people being whisked away to confinement in mental institutions; when other people maybe felt that their rights had been violated, that there had been misperceptions about their condition and so on. That problem is compounded when you are dealing with cross-cultural situations where someone who is making a judgment about mental disorders may be from a different culture than the person who is being subjected to an examination. At one point it was suggested that some reference to the importance of being sensitive to those cultural differences should come up in the definition of mental disorder. Rather than doing that, the committee eventually recommended that a preamble be written for this bill; one that took account of cultural differences but that also ensured the spirit of this bill was a spirit that would attempt to ensure that the provisions of this bill, when they are applied to people who are being examined, should be provided in the least restrictive manner possible. So both of those ideas occur in the preamble, Mr. Chairman. That is it with respect to general remarks from the committee's point of view and we are ready to go clause by clause, Mr. Chairman.

CHAIRMAN (Mr. Erkloo): Thank you, Mr. MacQuarrie. Mr. T'Seleie.

MR. T'SELEIE: Thank you, Mr. Chairman. I have just been looking at this bill and the main concern I have with it is what Mr. MacQuarrie has just said about the many cultures of the North, and whether or not for the definition of mental illness and that type of thing, it is right that only some people like psychiatrists, most of whom I guess are not really familiar with northern peoples, are the ones who would be judging people to be able to put them away.

I have just been looking at the bill and it seems to me that this concern should be addressed in some way in this legislation. I do not know what purpose just mentioning it in the preamble serves. Whether the preamble to the bill has any legal weight to it I do not know. I am not a lawyer. That is my initial reaction to this. The Minister said earlier that when they were putting the bill together they had consulted various groups of people. I would like to know which groups they consulted with.

CHAIRMAN (Mr. Erkloo): Thank you. Mr. Minister.

HON. BRUCE McLAUGHLIN: In the preparation of this legislation the department and legislation division consulted with several groups in the NWT that are concerned specifically in the health field. I do not believe that any native organizations were consulted specifically with regard to this legislation.

CHAIRMAN (Mr. Erkloo): Mr. Gargan.

MR. GARGAN: Thank you, Mr. Chairman. I would also like to say that I do have quite a bit of problem with this whole act. It could also be very wide open for interpretation. With regard to the preamble recognizing the many cultures of the people of the Territories, it is a preamble and that is all it is. It really has no weight, except in the cases of the court of law where the judge or the magistrate has that option, either to use it as a consideration or else he does not have to. I would also like to say that this whole bill is based on western medicine, western ideology and it is quite biased to native people. What in fact this bill would do, if you do have an involuntary admission or a voluntary admission to a hospital, is that your mind is going to be played a wrong way to make you a better white person rather than native person.

Programs Involving Native People In Ontario

I also wanted to mention, Mr. Chairman, that I do have a proposal, as was done in Ontario, the area around Sudbury and around Kingston, with regard to native people playing a major role in the mental disorder of native peoples in those areas. I think maybe these kinds of programs have been going on down in Ontario on the reserves since 1970. In this act itself it considers nothing whatsoever about native people except with regard to the little short preamble. Also in interpreting what a mental disorder is, it is quite open for interpretation. A psychiatrist who is in a major centre can very well make some judgment and say that this individual is mentally incompetent because maybe an individual is in a state of shock from a new environment and a new way of life other than what he is used to.

Also this act protects the practitioner from being sued. It would give the practitioner that added protection, if you want to call it that, so that even though he makes a wrong diagnosis, he could very well be protected by this clause which says that he may not be sued unless there are grounds that he was negligent. Whether it is negligence or not, is open for interpretation by whoever the lawyer is at that time. If the doctor has a good lawyer, he will get away with not being sued. I really have concerns because it really leaves an open season for who is mentally competent and who is not. I could never support that kind of bill.

It might give some protection to mentally disturbed people but that is not all it is going to do. It could leave open for interpretation, for example, when there is a radical movement or not, whether a person who is radical could be looked upon as a mentally disturbed person. I could never support this particular document, Mr. Chairman.

CHAIRMAN (Mr. Erkloo): Mr. Minister.

HON. BRUCE McLAUGHLIN: Thank you, Mr. Chairman. With regard to Mr. Gargan's general concerns, the reason for bringing this act forward is to improve the existing situation. What this act does is put more guarantees in place, so that people will not be committed involuntarily or treated involuntarily the way the existing legislation permits right now. There are very few safeguards, in the existing legislation, for people. So what we are trying to do is improve the existing situation. As Mr. MacQuarrie said, the NWT Mental Health Association showed our proposed legislation to people at the Canadian Mental Health Association and were told that if this legislation passes, our jurisdiction will have one of the best pieces of legislation in the country regarding the voluntary and involuntary treatment of mental patients.

Provision For Cultural Concerns

In particular as to cultural concerns, in the definition of what a mental disorder is, we have tried to meet that with general wording. Where it says "mental disorder" on page two of the legislation under the definition section, it says "'mental disorder' means a substantial disorder of thought, mood, perception, orientation or memory, any of which grossly impairs judgment, behaviour, capacity to recognize reality or ability to meet the ordinary demands of life..." Those last five words, "the ordinary demands of life" are written in such a style as to meet and put in a framework of that person's life in their community, what is their ordinary lifestyle, so they can be judged in their own environment and cultural setting. The determining factor is not because a person does not know how to operate or facilitate answers in English in an urban environment, nor the environment of the institution he is put into. It is how that person is able to function with his own family and friends in his own community.

You have to realize that when a person is mentally disturbed to the point where he has to be committed in order to protect himself or the public at large, usually the initiative to have an involuntary committal take place comes from the friends or relatives of that person. So those

people who are initially bringing whom they feel is a mentally disturbed person to the attention of the government or to a doctor or a police official, are usually friends or family members in that person's community. So the initial judgment is usually being made by people in the same cultural environment as the prospective patient. Thank you, Mr. Chairman.

CHAIRMAN (Mr. Erkloo): Mr. Gargan.

MR. GARGAN: Thank you, Mr. Chairman. I hear what the Minister is saying but if you look through the act itself, it does not say anything about relatives or parents being the people who commit this person. It is a professional person who does that. I still have a lot of problems with it.

The other thing, when a person who comes from a small community, who is used to the outdoor life, who has been pretty well free all his life, is confined in a mental institution, that does not help the person one bit. He is in a confined area and could react quite violently to that environment. So what would probably happen is that this individual could stay in this institution a very long time, compared to a person who has been there before and knows how to act to please the people around them and be able to get out of there a lot earlier than normally.

CHAIRMAN (Mr. Erkloo): Thank you. Mr. Minister, do you want to respond to that?

HON. BRUCE McLAUGHLIN: Thank you, Mr. Chairman. Subclause 9(1) on page five indicates that a person may make an application in this area, to initiate the involuntary treatment of a person. On page eight at the bottom in clause 12 it also outlines actions by private persons and those are people that either are going to be family members or friends or maybe leaders of the community who feel that this person for either protection of himself or others, has to be committed. I would ask Mrs. Berthelet if she could maybe outline what type of guarantees are in the 'act to prevent a person from being committed forever without any opportunity for review or appeal.

CHAIRMAN (Mr. Erkloo): Thank you. Mrs. Berthelet.

Right Of Appeal

MRS. BERTHELET: Thank you, Mr. Chairman. From the moment that someone is taken into custody, they have the opportunity to launch an appeal to have their case looked at. If they are not capable of doing that themselves someone may do it on their behalf, which could be a relative or perhaps a friend. So their case would be reviewed through the court system and individuals would not be transferred out of the Territories until a review or an appeal is heard unless in very severe cases the individual is in such a state that we are not able to maintain them in the Territories because we do not have a large number of psychiatric facilities. Only in those cases would they be taken out of the Territories for their own protection. If I may add to that, I think there is one important point to keep in mind and that is that the definition of mental disorder has to be coupled with the criteria of dangerousness. Just because someone is exhibiting behaviour that may not be the normal accepted behaviour in a community, or maybe a non-conformist...

---Laughter

...does not mean that they are mentally disordered. They have to be a danger to themselves or a danger to someone else before the action of having them committed for assessment or examination takes place. Thank you.

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

MR. GARGAN: Thank you, Mr. Chairman. Again, referring back to clause 9, I would have a concern. If I committed someone to a mental institution, I would have quite a bit of concern for myself too. If this individual is going to be released from this particular institution, does this act itself have anything to protect the person that admitted this person in the first place?

CHAIRMAN (Mr. Erkloo): Thank you. Mr. Minister.

Protection For Applicant

HON. BRUCE McLAUGHLIN: Mr. Chairman, I believe that the Member was asking if there is something in the act which protected the person who initiated the application to have somebody taken into care under this piece of legislation. I believe and I am not sure exactly in which section it is

answered but I remember somewhere in the legislation it protects these people from being sued as long as they are acting earnestly and honestly in what they are doing, that they really believe that the person is a danger to himself or to others. If a person was to try to use this legislation in a frivolous manner or to get even with somebody who is a personal or political enemy, they would be open to punishment for having initiated an application when it was not proper to do so. Thank you, Mr. Chairman.

CHAIRMAN (Mr. Erkloo): Thank you. Mrs. Lawrence.

MRS. LAWRENCE: Thank you, Mr. Chairman. Although the document was tabled last session I just feel there was not enough time for me to deal with it. It takes longer for some of us to deal with an issue such as this at the community level. It has to be translated and with all these legal implications in it, I have problems with some of the wording as well. I just feel I need more time to be able to deal with this more effectively because it is going to have a long-term effect in my area. Mahsi.

CHAIRMAN (Mr. Erkloo): Mr. MacQuarrie.

Legal Implications Of Preambles

MR. MacQUARRIE: Thank you, Mr. Chairman. I would like to respond to a concern that was raised by Mr. Gargan earlier and not answered by the Minister. I certainly do not want to be in a position of defending the government's bill for the government but it is a concern that I had myself and I raised with a lawyer and therefore can maybe share with Members the results of that. And that is, of what benefit is a preamble? Is it just a preamble? In asking questions pertaining to preambles I have been given advice that while a preamble is not obviously a provision of the law itself, that if in fact there is some question that rises in a court as to how provisions should be applied, that a judge will refer to a preamble and interpret the provisions of the bill in the light of what the preamble says. So a preamble is not without legal effect and having a preamble such as we have in this bill could have important implications if matters of interpretation arise with respect to various provisions.

CHAIRMAN (Mr. Erkloo): Thank you. Mr. Ballantyne.

MR. BALLANTYNE: Thank you, Mr. Chairman. I think I have an understanding of what Mr. T'Seleie, Mrs. Lawrence and Mr. Gargan have said and they do have legitimate concerns. But I think, in looking at what this bill is trying to do it is a very, very difficult, very complex area and it is almost impossible to come up with perfect legislation because what I think you have been talking about is the protection of the mentally disturbed person. You have to weigh that against protection of society as a whole. There is that sort of balance you are always trying to find in this sort of legislation. The reason at this point in time I will support it is because, though perhaps not perfect, it is a lot better than what we had before. I do not think we can wait because as it stands now a person has very little protection. I would support it, give it a chance to see how it works and then in the months or years ahead if there are problems it can be modified according to the reality of how it is being interpreted by the courts, by the government. I think it is a positive step in the right direction, though not perfect. I think we should consider that not only do we have to worry about mentally disturbed persons but the reason you have a bill like this is to protect the public at large and that is the sort of balance we have to weigh. So I will support it right now and look at it over the months to come and perhaps we will have suggestions how it can be improved.

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

MR. GARGAN: Mr. Chairman, this act, again, is based on professional people, and it is also based on, again, reference to western medicine. Basically 100 per cent of it is that, except for that one little clause in the preamble, for cultural and social conditions. I want to tell you this too, Mr. Chairman, that 80 to 90 per cent of the people that are going to be affected by this act are going to be native people. I would like that to be in the records.

CHAIRMAN (Mr. Erkloo): Thank you. Mrs. Lawrence.

MRS. LAWRENCE: Thank you, Mr. Chairman. I would just like to make a comment. If the act is defective and they want to make amendments and deal with it, then it should be dealt with so that everybody can be served effectively. The way it stands now, there is not that much that can be

said for protecting our aboriginal peoples. I think that has to be considered. I just do not believe in passing bills for the sake of passing, and that is what seems to be happening. We were not given the proper time to deal with it more effectively. Mahsi cho.

CHAIRMAN (Mr. Erkloo): Thank you. Any more general comments? Does the committee agree to go clause by clause?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Erkloo): Clause 2, interpretation. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Erkloo): Mr. MacQuarrie.

MR. MacQUARRIE: Yes, in committee there had been the concern raised with respect to the definition of mental disorder. It was as a result of that discussion that eventually the preamble was included, although the committee as a whole agreed to leave the definition as it was in the proposal that we were given -- agreeing generally, that is, with the government that the wording does safeguard the kind of concern that Mr. Gargan has raised -- but felt that for greater certainty with respect to the idea of misperceptions as a result of cultural differences, that there should be a preamble. The government agreed to that and, of course, it appears here.

CHAIRMAN (Mr. Erkloo): Thank you. Clause 2. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Erkloo): Clause 3, agreements with a province. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Erkloo): Clause 4, agreements with the Government of Canada or a provincial government. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Erkloo): Clause 5, joint appointment. Mr. MacQuarrie.

Regulations Regarding Delegation Of Authority

MR. MacQUARRIE: With respect to this, this is the delegation of authority and appointing persons to carry out certain duties. During the committee review, committee Members expressed concern about the delegation of these authorities under the legislation and essentially the committee felt that it was important that the government should deposit this authority with the highest ranking officials available commensurate with the practical demands of successfully implementing the legislation. While this could not be satisfactorily included in the legislation itself, the committee impressed upon the government the importance of abiding by this practice and of writing the regulations to try to ensure that that is the case.

CHAIRMAN (Mr. Erkloo): Thank you. Mr. Minister.

HON. BRUCE McLAUGHLIN: Yes, Mr. Chairman, the department feels that in this situation the officials who would be given this authority would probably be deputy ministers in administration, in Health and possibly in Social Services, regional directors and possibly regional superintendents, in lieu of regional directors when they are absent or on holidays, but that is the limit that we would intend to go, I believe.

CHAIRMAN (Mr. Erkloo): Thank you. Clause 5. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Erkloo): Clause 6, appointment by Commissioner or Minister. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Erkloo): Clause 7, voluntary admission. Agreed? Mr. Gargan.

MR. GARGAN: Mr. Chairman, with regard to voluntary admission, I do not know the meaning or the purpose of this particular clause. If the person is mentally disordered, I do not know how he would go about volunteering himself to be admitted into a hospital. Once the person does get into the hospital, it is the medical practitioner that consents in that voluntary admission, I guess, if you want to call it that. But, I just do not see how a person who is either mentally disordered or mentally incompetent would admit himself for being crazy or something like that. I do not know what the purpose of this clause is.

CHAIRMAN (Mr. Erkloo): Thank you. Mr. Minister.

HON. BRUCE McLAUGHLIN: Yes, thank you, Mr. Chairman. Voluntary patients are in existence in all jurisdictions. Some people realize that they have a mental disorder which requires treatment and may volunteer. An example of this might be a person who becomes very irrational, does a lot of damage to himself or to property or to other people, and then calms down, and later when it is explained to him what he did, that he hurt friends or relatives, he may volunteer to be taken in as a patient. So, that is the reason for having the description of procedures for voluntary patients. In fact, after the person comes into the system as a voluntary patient, he may suffer ongoing mental illness and may in fact turn into an involuntary patient at some stage. Thank you, Mr. Chairman.

CHAIRMAN (Mr. Erkloo): Thank you. Clause 7. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Erkloo): Clause 8, order for psychiatric assessment. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Erkloo): Clause 9, application for an order of psychiatric assessment. Agreed? Mr. MacQuarrie.

MR. MacQUARRIE: The committee, in examining this section of the bill, felt that there was possibly an opening to abuse where a justice or territorial judge is conducting a hearing on these applications and hearing evidence. The bill that was presented to the committee did not make provision for the subject of the examination to be able to present evidence on his own behalf or testimony. The committee felt that it was very important that if it was at all possible for that person to do it, or practicable, that he ought to be given the opportunity. So, the government has included that provision in the bill under subparagraph (4)(a)(iii), testimony of the subject of the application, wherever practicable. The committee felt that that was very important. I believe that same change is found somewhere else in the bill as well. So, the committee really believed that that was an important change, and is pleased that the government has made the change to reflect that concern.

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

MR. GARGAN: Mr. Chairman, with regard to subclause (8). I guess we are also opening the door, if you want to call it that, to people that do commit an act of violence and use mental disorder as a basis for getting their rights protected. So, in other words, it does not only protect mentally disordered persons, but it could also open the door for criminal acts to be committed and use this system as a basis to say, "I committed a crime and I would like to be examined." For the record, Mr. Chairman.

CHAIRMAN (Mr. Erkloo): Thank you. Mr. Richard.

Waiving Of Notice

MR. RICHARD: Thank you, Mr. Chairman. I was just going to ask of the Minister, subclause (3) of clause 9, requires the subject, the person who the court is being asked to detain for a psychiatric assessment, to receive two days notice of that hearing, which is short notice but also provides that the court can waive even that notice if the court is satisfied that no notice is necessary or that the delay of notice would entail serious mischief. It occurred to me, Mr. Chairman, whether the Minister had considered that both those conditions should apply. In other words that it read, "no notice is necessary and that the delay would cause mischief". That the judge should satisfy himself on both of those points before waiving notice of a hearing of this nature. I wonder if the Minister could respond to that.

CHAIRMAN (Mr. Erkloo): Thank you. Mr. Minister.

HON. BRUCE McLAUGHLIN: I think the reason for having the "or" and not "and/or" is because there could be a situation where the application could be seen by the judge to be not appropriate immediately, and the one thing standing by itself, "delay caused by proceeding by notice" if he had to give the two days notice, during those two days that person might suffer unnecessarily. So this would be a case where the judge could decide that nothing should be done, that it is inappropriate to delay the proceedings at all because he feels that something has gone wrong in the process and the person should not be there in the first place. That is what I believe. Maybe Mrs. Berthelet could add to that for me.

MRS. BERTHELET: Thank you, Mr. Chairman. The provisions are there. I think if you look at an example for anyone who has suicidal tendencies, for instance for their protection, even two days notice in those particular situations would be too much. So the court could waive that particular notice because the individual could cause severe harm to himself as a possibility. We had intended that it would be "or". Thank you.

CHAIRMAN (Mr. Erkloo): Clause 9, application for an order of psychiatric assessment. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Erkloo): Clause 10, action by psychologist. Mr. MacQuarrie.

MR. MacQUARRIE: At one point in the committee hearings, the Psychologists Association had asked that authority comparable to that of medical practitioners be given to psychologists in order to be able to commit people. The committee noted that request but after some quite thorough discussions with the government and among committee Members, it was agreed by the committee that the clause should remain the way it is now. One of the major reasons was that it was noted by committee Members that there are not a great many psychologists in the NWT, but that of those who are in the NWT, not all are clinical psychologists but educational psychologists and so on. So it was felt that it was best left as a duty for medical practitioners but psychologists obviously do have recognition in this act, whereas they did not when this whole process began. So that certainly is a significant improvement. It was just that the committee did not wish to go the whole way and confer the power of committal on psychologists.

CHAIRMAN (Mr. Erkloo): Thank you. Clause 10, Mr. MacQuarrie.

MR. MacQUARRIE: Thank you, Mr. Chairman. On another issue that applies to clauses 10 and 11, the Psychologists Association had recommended that those who refer a person to a medical practitioner should be required to make a written report of the circumstances that prompted their actions. The

committee and the government agreed that this change should be made. So you will find in clauses 10 and 11, requirements for written statements by psychologists and peace officers where they bring someone to a medical practitioner for psychiatric examination.

CHAIRMAN (Mr. Erkloo): Clause 10, action by psychologist. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Erkloo): Clause 11, action by peace officer. Mr. Gargan.

MR. GARGAN: Thank you, Mr. Chairman. I call this section a legalized way of incarcerating people. Under the Charter of Rights there is a section dealing with incarceration, I believe. Dealing with peace officers, under the Charter of Rights it says to use discretion in regard to incarcerating people. This section does open the door for peace officers to incarcerate people. So there is some conflict under the Charter of Rights. You could go back and forth from the Charter of Rights to this Mental Health Act as a basis for incarcerating people. I believe it is open for interpretation too.

CHAIRMAN (Mr. Erkloo): Mr. Minister, do you want to respond to that?

HON. BRUCE McLAUGHLIN: Thank you, Mr. Chairman. I would like Mrs. Berthelet to expand on that and describe the role that a peace officer would play in a situation like this.

CHAIRMAN (Mr. Erkloo): Mrs. Berthelet.

Involvement Of Peace Officer

MRS. BERTHELET: Thank you, Mr. Chairman. A peace officer would become involved if there was not a medical practitioner within the community. The peace officer would either act to protect the individual himself or to protect the community or society at large. The role of the peace officer is simply to escort or bring the person to the nearest centre where they can be properly assessed. They are not incarcerated at that time. They are escorted by the peace officer to a medical practitioner or a medical facility where they are then assessed and a judgment is rendered. Thank you.

CHAIRMAN (Mr. Erkloo): Clause 11, action by peace officer. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Erkloo): Clause 12, action by private person. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Erkloo): Clause 13, examination. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Erkloo): Clause 14, involuntary admission pursuant to psychiatric assessment. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Erkloo): Clause 15, contents of application. Mr. MacQuarrie.

MR. MacQUARRIE: With respect to clause 15, a question was raised in committee with respect to the time frames as stated in this section, for examination and so on, especially with regard to the report that has to be submitted by the medical practitioner. The reason being that in order to determine fully what disorder, if any, somebody is suffering from, it may take a fair amount of time and this seemed to be a little short in that regard. However, the government advised committee Members that the medical profession were consulted with respect to this bill and they felt that they could work within the time frames that have been set down in the bill. So the committee accepted that and I would assume that this is one area that will be looked at as time goes on as to whether there might need to be a different time frame set for some of these things.

CHAIRMAN (Mr. Erkloo): Thank you. Clause 15. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Erkloo): Clause 16, duties of Minister. Agreed? Mr. Gargan.

MR. GARGAN: Thank you. Mr. Chairman, under this particular clause there is subclause (4), where the Minister may, within 24 hours of the receipt of the report referred to in subsection (3), refuse or approve the application made pursuant to paragraph 13(h) or 14(c), with regard to whether to commit the person or release the person. I know that the Ministers all have a very busy work schedule and they also have a lot of travelling that they do. In this particular section I am having some problems on how they go about finding the time to sign authorizations for these patients, if you want to call them that.

CHAIRMAN (Mr. Erkloo): Thank you. Mr. Minister.

Delegation Of Authority

HON. BRUCE McLAUGHLIN: Mr. Chairman, in this case two things could happen. The Minister specifically responsible could delegate that authority to one of the other Ministers of the government who might be more cognizant of the act than some of the other Ministers. This also may be delegated to some senior officials of the government as well.

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

MR. GARGAN: Thank you, Mr. Chairman. I believe the Minister at one time when referring to budget estimates, said, "You do not know when a person is going to be sick, so you cannot make prejudgments on that." So I would like to ask the Minister, how would he know when a person is going to be mentally disordered and be able to make prejudgments on that too?

CHAIRMAN (Mr. Erkloo): Thank you. Mr. Minister.

HON. BRUCE McLAUGHLIN: In a case of a Minister being absent from his duties either through sickness or travel, other Ministers are already in place to act for him and any officials that are appointed to act on behalf of the Minister would be appointed on a permanent basis, for example, the deputy minister or regional directors. Thank you, Mr. Chairman.

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

MR. GARGAN: Thank you, Mr. Chairman. For myself I guess the regional director would be in Fort Smith. In the case of John T'Seleie say, it would be the regional director in Inuvik. I do not know where the others -- the Keewatin Region, I presume it is right here in Rankin Inlet. But you also have a lot of smaller communities where authorization has to be either given or not given on a basis of this particular section. It does not refer to the regional directors or the deputy ministers, it refers to the Minister. What kind of protection are these other people given with regard to this particular section? If the Minister gives responsibility to his deputy minister or to the regional director, what kind of assurance is there that they would be protected under this act?

CHAIRMAN (Mr. Erkloo): Thank you. Mr. Minister.

Protection For GNWT Employees

HON. BRUCE McLAUGHLIN: Mr. Chairman, under the definition of Minister, that allows for designation. On page one under definition of Minister, it designates the authority to designate other people. All employees of the GNWT are in the line of their duties very often, especially in my department for example, in child welfare, in situations where they have to apprehend children who are in need and often in the course of their duties could find themselves in situations where somebody may sue them. But when a person as an employee of the GNWT is operating responsibly within the line of his duties and any appointments that have been made to him to perform, he would be protected by the government with legal counselling, courts or through our liability insurance.

CHAIRMAN (Mr. Erkloo): Thank you. Clause 16. Mr. Richard.

MR. RICHARD: Thank you, Mr. Chairman. In this clause 16, there is a provision for the Minister making a decision within a certain time, 24 hours. And the clause gives the Minister the authority to order a psychiatric assessment or to refuse that request. I take it that the reason that the 24 hours is put in there was to force the Minister to make a decision within that time period. If that is so, I would have thought that it should read "shall" rather than "may"; "shall within the 24 hours of the receipt of the application". Similarly, Mr. Chairman, without jumping too far ahead the later provisions say a court has to make its decision within 14 days. And I think for good reasons. But again the word there over in the later section is "The judge may make this decision within 14 days", and I would think it should say "shall". But maybe I am not reading it right and I am just trying to be too helpful to the Minister.

CHAIRMAN (Mr. Erkloo): Thank you. Mr. Minister.

HON. BRUCE McLAUGHLIN: Yes, Mr. Chairman, I wonder if Mr. Richard could just go back as to which "may" he is referring to.

MR. RICHARD: Clause 16, subclause (2).

HON. BRUCE McLAUGHLIN: Subclause (2), the first "may" or the "may" down at the bottom in (4). I will have Mrs. Berthelet take a look at that and respond as to why we chose "may" instead of "shall". I think though that there are circumstances which are often beyond control and it may be physically impossible to make a decision within 24 hours due to communication problems or something like that. So that is probably why they have used the word "may", but maybe Mrs. Berthelet can take a look at that. Thank you.

CHAIRMAN (Mr. Erkloo): Thank you. Mrs. Berthelet.

MRS. BERTHELET: Thank you, Mr. Chairman. Yes, we had put "may" in there to cover off circumstances where it may not be possible within 24 hours. He can do one of three things: he can refuse the application; he can approve it; or he can order a second psychiatric examination to take place. Thank you.

CHAIRMAN (Mr. Erkloo): Thank you. Clause 16. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Erkloo): Clause 17, extension of time. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Erkloo): Mr. Gargan.

MR. GARGAN: Under this clause I would assume that it would be the same circumstances as subclause 16(4), where the Minister or the deputy minister or the regional directors would be able to approve a certificate of involuntary admission.

CHAIRMAN (Mr. Erkloo): Thank you. Mr. Minister.

HON. BRUCE McLAUGHLIN: In clause 17, is that what you are referring to Mr. Gargan? Sorry, Mr. Chairman. I think this just provides once again for an extraordinary circumstance where for some reason no contact can be made with anybody who is in a position to act under the -- it allows for another 48 hour period to assess the situation. Or, possibly, if the Minister has difficulty with the information provided to him, it gives him the opportunity to go beyond the 24 hours and try and get more information in order to make a decision. Thank you, Mr. Chairman.

CHAIRMAN (Mr. Erkloo): Thank you. Clause 17. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Erkloo): Clause 18, authority of certificate. Agreed? Mr. Gargan.

MR. GARGAN: Yes, Mr. Chairman, I have again some difficulty with this particular clause. "A certificate of involuntary admission is sufficient authority, for a hospital within the Territories, to admit and detain the person who is the subject of the certificate and to restrain, observe, examine or treat him for a period not to exceed 72 hours from the time the person is admitted to a hospital pursuant to the certificate." I guess a piece of paper could very well, you know, justify keeping a person confined under this section. I find it very difficult to accept that. That really threatens me to see that although a district psychiatrist may not know the circumstances that led to the certificate in the first place, he might be able to have that authority to keep this person confined for an additional 72 hours. I just wanted to express my concern that it is really open for interpretation on who the authorities are and whether the Department of Justice or Health and Welfare really has a lot of jurisdiction on confining people.

CHAIRMAN (Mr. Erkloo): Thank you. Mr. Minister.

Change In Time Period In New Act

HON. BRUCE McLAUGHLIN: Mr. Chairman, the government takes very seriously the fact that this legislation allows for the involuntary committal of people and that there is always the possibility that injustice may be done, but Members have to remember that often the people who are the objects of this legislation are severely mentally disturbed. They may have suicidal tendencies, or they may be attacking other people at the time. There are all sorts of reasons for this to happen. All I can say is that 72 hours is a short time compared to the one month that is in the existing legislation. Right now, this involuntary admission certificate can be used for one month. Members have to be aware that what we are trying to do is, in most cases, to protect these individuals from damaging themselves. Thank you, Mr. Chairman.

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

MR. GARGAN: Yes, it certainly would not be to the advantage of the aboriginal peoples, this particular act. The thing that I am trying to get at in this clause, Mr. Chairman, is the fact that whether maybe a person is mentally incompetent or not, that a certificate could very well say that you are mentally incompetent.

CHAIRMAN (Mr. Erkloo): Thank you. Mr. Minister.

HON. BRUCE McLAUGHLIN: Yes, Mr. Chairman. I will get Mrs. Berthelet to explain maybe what the certificate would say and what the certificate means in this situation.

CHAIRMAN (Mr. Erkloo): Thank you. Mrs. Berthelet.

Certificate Does Not Address Mental Competence

MRS. BERTHELET: Thank you, Mr. Chairman. The certificate in this instance would simply refer to the fact that the patient is mentally disordered and should be admitted as an involuntary patient. The certificate does not address whether they are mentally incompetent or not. That is something completely separate from the issue of the Minister issuing the certificate of involuntary admission. There is another section in the act that deals with declaring when someone is mentally competent or incompetent. Thank you.

CHAIRMAN (Mr. Erkloo): Thank you. Clause 18. Mr. Gargan.

MR. GARGAN: Thank you, Mr. Chairman. I guess the other problem that I would see with this particular clause too, is that certification of these individuals is going to be occurring, in most instances, in major centres. Whether an individual is mentally competent or not, is really open for interpretation by the psychiatrist who is examining this individual who has come in from a small community to a major centre and who is going to react to that new environment in a different way. Being examined by this particular psychiatrist -- you know, I would not trust them for the light of day, because he could very well diagnose me as mentally incompetent even though I am not.

CHAIRMAN (Mr. Erkloo): Thank you. Mr. Minister, did you want to make a comment?

HON. BRUCE McLAUGHLIN: No, thank you, Mr. Chairman.

CHAIRMAN (Mr. Erkloo): Clause 18. Agreed?

SOME HON. MEMBERS: Agreed.

--Agreed

CHAIRMAN (Mr. Erkloo): Clause 19, certificate of transfer. Agreed? Mr. Richard.

MR. RICHARD: Mr. Chairman, I have a concern on subclause (3) of 19. This section gives the Commissioner the authority to transfer a patient to a hospital outside the Territories. Subclause (3) says that if that person files an appeal, wants the Commissioner's decision reviewed by a court, that naturally they are not to be transferred out in the meantime until the appeal is heard. That only makes sense. But, the very last provision overrides that by saying that "unless a medical practitioner is of the opinion that a hospital within the Territories is not equipped to restrain, observe, examine or treat that patient". I, for the record, disagree with that. I do not believe that the medical practitioner should be the one to override the court decision, in effect. It should read something in the nature of, I think: Unless the court is of the opinion that the situation is so serious that it cannot be handled at an institution within the Territories. I suppose a doctor, the very doctor who initiated the action by the Commissioner, could unilaterally -- even though it may have been a bad decision, and the person has his remedies under this act to file an appeal and have his day in court -- but, in the meantime, some doctor signs a piece of paper that says he can appeal all he wants, but we are shipping him out. I do not think that we should, in that situation, be allowing a doctor to, in effect, override the person's remedies in the court process. I have a concern that that is what is going to happen in some situations with that present wording. Thank you, Mr. Chairman.

CHAIRMAN (Mr. Erkloo): Thank you. Mr. Minister.

HON. BRUCE McLAUGHLIN: Thank you, Mr. Chairman. I will just ask Mrs. Berthelet to respond to that comment.

CHAIRMAN (Mr. Erkloo): Mrs. Berthelet.

MRS. BERTHELET: Thank you, Mr. Chairman. I appreciate Mr. Richard's comment here. Perhaps I could just highlight why we arrived at the clause as it is presently written. A number of people would not like to have any individuals transferred out of the NWT, they would like to have everyone treated here. I suppose ideally we all would like that but we do not have the facilities at this time, particularly in long-term psychiatric care, though hopefully at some point in the future we will. Therefore there are some individuals for whom the physician feels the treatment plan can be better carried out in the South so he suggests that they go south. Now if they are appealing the fact that they have been committed at all, it was felt that if they can be controlled, not necessarily treated but at least controlled within the facilities, then they should have the opportunity to remain in the NWT. The Medical Association felt quite strongly that there are certain patients who are very violent, as did the corrections people, and that we simply do not have the facilities or the personnel to handle them. Therefore they felt that the medical practitioner should have the say, based on the medical opinion, as to whether they can stay or not stay. I do not know if that clarifies it for Mr. Richard. Thank you.

CHAIRMAN (Mr. Erkloo): Mr. Richard.

Decision Should Not Be Unilateral

MR. RICHARD: Mr. Chairman, I do not disagree with what Mrs. Berthelet said. My point is that that medical practitioner should not be doing that unilaterally. What is the harm in having that doctor come to the court, or swear an affidavit and file it with the court, and for the government to argue that case with the doctor's evidence or opinion before court, then let the court make a decision as to whether the person should be shipped out pending his appeal or should remain pending his appeal?

CHAIRMAN (Mr. Erkloo): Mr. Minister.

HON. BRUCE McLAUGHLIN: Mr. Chairman, we think that we could make an amendment there which would facilitate what Mr. Richard suggests. What I suggest we do at this time is skip over this section which would allow the department in conjunction with legal services -- because there is nobody here in Rankin from legal services -- to draft wording that would correct that situation and then we could come back to that on another day to approve any sections. I suggest we skip this section and come back to it after we have had the opportunity to contact legal services.

CHAIRMAN (Mr. Erkloo): Does the committee agree with that suggestion?

SOME HON. MEMBERS: Agreed.

Clause 19, Deferred

CHAIRMAN (Mr. Erkloo): Okay, we will skip that section. Clause 20, emergency treatment by a medical practitioner. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Erkloo): Clause 21. Mr. MacQuarrie.

MR. MacQUARRIE: I will just call attention to wording that was added by the committee's request and that is "treatment for the mental disorder" in the second and third line of clause 21. Those words did not appear when we first saw this bill and committee Members were reminded of instances where patients were brought into mental institutions because they were mentally disordered persons but that other kinds of medical treatment were sometimes performed on them without them knowing that it was going to be done or consenting to it. So in this section we wanted to ensure that the medical practitioner administer medical or psychiatric "treatment for the mental disorder" and not for other things. So the government has added that and the committee is satisfied the way it reads now.

CHAIRMAN (Mr. Erkloo): Clause 21, consent to treatment. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Erkloo): Clause 22. Mr. MacQuarrie.

MR. MacQUARRIE: In clause 22 there had been some concern on the part of the Mental Health Association with respect to wording that was initially proposed and the wording that you see now "psychosurgery or lobotomy, or other irreversible forms of treatment" should not be included in the kind of treatment that can be given in clause 21. By the time the committee examined this, the government had already accepted that recommendation from the Mental Health Association, so it appears there.

CHAIRMAN (Mr. Erkloo): Clause 22, exceptional treatment. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Erkloo): Clause 23. Mr. MacQuarrie.

MR. MacQUARRIE: Thank you, Mr. Chairman. This was another case where the committee felt that at these hearings the subject of the application ought to have the right to testify and to be heard along with others who were giving evidence wherever that was practicable. The government has agreed and included it, and the committee is pleased to see it.

CHAIRMAN (Mr. Erkloo): Clause 23, extension of period of detention. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Erkloo): Clause 24, change from involuntary to voluntary patient. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Erkloo): Clause 25, authority of escort. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Erkloo): Clause 26, application to supreme court. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Erkloo): Clause 27, order of examination. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Erkloo): Clause 28, hearing. Mr. MacQuarrie.

Expansion Of Role Of Psychologists

MR. MacQUARRIE: The standing committee on legislation Members generally appreciate, I think, the important role that psychologists play in the Northwest Territories, where psychiatrists are few and far between and do not seem to stay very long when they are here, and there are some very good psychologists working in the NWT. So the committee did want to expand the role of psychologists. This is an example of where this was done by specifically including that at hearings such as are called for in this section, psychological evidence and testimony from a psychologist who has examined or assessed the involuntary patient should be included and heard by the judge. So that was included by the government and the committee is pleased with that.

CHAIRMAN (Mr. Erkloo): Clause 28, hearing. Mr. Richard.

MR. RICHARD: Again, Mr. Chairman, the matter that was mentioned earlier. This is the section that deals with the court's disposition of a review application and I presume that in subclause (2) the mention was to get an early decision from the court within 14 days. Again I will ask Mrs. Berthelet whether or not that should read "shall" rather than "may", or else the "14 days" may as well not be there -- it could read 14 months. Perhaps I should move an amendment to that.

CHAIRMAN (Mr. Erkloo): Mr. Minister.

HON. BRUCE McLAUGHLIN: I will ask Mrs. Berthelet to explain that as well.

CHAIRMAN (Mr. Erkloo): Mrs. Berthelet.

MRS. BERTHELET: Thank you, Mr. Chairman. It was felt that by putting the 14 days there would be considerable pressure brought to bear on the courts, that they would deal with the case because you are depriving someone of their liberty and it is quite important that it is heard very quickly. It was felt that it may be a bit too strong to put the word "shall" in the legislation, so we have left it at "may".

CHAIRMAN (Mr. Erkloo): Thank you. Clause 28. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Erkloo): Clause 29, appeal. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Erkloo): Clause 30, application. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Erkloo): Clause 31, examination order. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Erkloo): Clause 32, reward. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Erkloo): Clause 33, order of the Commissioner. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Erkloo): Clause 34, no review or appeal. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Erkloo): Clause 35, oral notice. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Erkloo): Clause 36, communication by and to a patient. Agreed? Mr. MacQuarrie.

Patient's Rights To Communicate

MR. MacQUARRIE: Thank you, Mr. Chairman. Both clauses 36 and 37 deal with patients' rights to communicate and to receive visitors and there is provision in the act for some limitation on those rights. The Mental Health Association had recommended that there should be the addition of a review and appeal process to safeguard the patient's right to send and receive communications and to receive visitors and that patients should have the right to be informed as to any actions that

are taken to limit these rights. That was discussed quite thoroughly with the committee and eventually the committee decided certainly to recommend the right to be informed of any limitation that may be imposed. The government has included that I believe: "informed in writing"; that is correct. However, in the discussions over this in the committee it was pointed out that we are dealing with the period of time that a patient may be held in the NWT, which is quite strictly limited. I cannot remember the number of days it would come to altogether.

MRS. BERTHELET: It is 12 days.

MR. MacQUARRIE: It is 12 days altogether and is not dealing in this part of legislation with long-term committals in mental institutions in other jurisdictions. In view of that, although including an appeal and review process here would be rather cumbersome -- but cumbersome should not necessarily determine patients' rights -- it was noted in addition that the patient has the right to communicate with his lawyer at any time, without restriction. Therefore that ought to be a reasonable safeguard in this short period when they are still committed in territorial institutions. So in the end the committee decided not to recommend that there should be a review and appeal process in that brief time but did recommend that patients must have the right to be informed of limitations and that has been included by the government.

CHAIRMAN (Mr. Pudluk): Thank you. Clause 36. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Pudluk): Clause 37, visitors. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Pudluk): Clause 38, independent medical opinion. Mr. MacQuarrie.

Patient's Right To Independent Medical Opinion

MR. MacQUARRIE: Thank you, Mr. Chairman. At this point the bill that we were faced with did not enable second opinions with respect to the treatment for a mental disorder. The committee had recommended to the government that patients ought to have that right and so in clause 38, now, an involuntary patient has the right to an independent medical opinion regarding his mental disorder. That is as to whether he has one or not and to the treatment that he is receiving for a mental disorder. So the committee is satisfied with the change that was made by the government.

CHAIRMAN (Mr. Pudluk): Clause 38. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Pudluk): Clause 39, definition. Mr. Richard.

MR. RICHARD: Mr. Chairman, in this section I believe there is a typo. Subclause 39(3) is the offence section, that if you abuse a patient it is an offence, and where it reads "any person who contravenes subsection (1)", I believe that should be subsection (2). If we agree then, maybe I will move that amendment, if we don't then I won't. Maybe the Minister or Mrs. Berthelet could...

CHAIRMAN (Mr. Pudluk): Mr. Minister.

HON. BRUCE McLAUGHLIN: Yes, Mr. Chairman, that is a mistake and should refer to subsection (2) instead of subsection (1).

CHAIRMAN (Mr. Pudluk): Mr. Richard, you can make a motion to change that if you wish. Mr. Minister.

HON. BRUCE McLAUGHLIN: Mr. Chairman, there is a little confusion here. I think it is correct the way it is right now. Just give us a moment here.

CHAIRMAN (Mr. Pudluk): Would you like to leave that on for now until you get the legal opinion like clause 19(3)(a) and (b)? Mr. Minister.

Clause 39, Deferred

HON. BRUCE McLAUGHLIN: Mr. Chairman, we will just defer this clause until we are -- we will come back with it, as well as the other clause, when we are sure. I believe it should actually refer to subsection (2) but we will double check that.

CHAIRMAN (Mr. Pudluk): Does this committee agree?

SOME HON. MEMBERS: Agreed.

CHAIRMAN (Mr. Pudluk): Clause 40, discrimination prohibited. Mr. Gargan.

MR. GARGAN: Thank you, Mr. Chairman. I wanted to refer back to clause 38.

CHAIRMAN (Mr. Pudluk): Does this committee agree that we go back to clause 38?

SOME HON. MEMBERS: Agreed.

CHAIRMAN (Mr. Pudluk): Mr. Gargan, proceed.

Opinion Of Elder Person In Community Regarding Mental Disorder

MR. GARGAN: Thank you. Under this particular clause an involuntary patient has a right to an independent medical opinion regarding his mental disorder or the treatment he is receiving. I was wondering whether under this particular clause, or under clauses 9 to 12, the opinion of an elder person in the community in which the person resides could be sought and considered when they do make a judgment report.

CHAIRMAN (Mr. Pudluk): Mr. Minister.

HON. BRUCE McLAUGHLIN: Thank you, Mr. Chairman. The reason for this clause existing is that once a person is already receiving treatment, he may feel, or somebody on his behalf may feel that the treatment he is receiving is in fact incorrect or improper treatment, that it is not proper medical treatment he is receiving. This gives him the opportunity to seek the medical advice of another doctor to give an opinion as to whether the treatment he is receiving is in fact proper or not. So it is strictly dealing with existing treatment.

CHAIRMAN (Mr. Pudluk): Mr. Minister.

HON. BRUCE McLAUGHLIN: I am sorry, Mr. Chairman. This has nothing to do with the initial effort of taking the person into care for medical examination. Once the treatment has been established and the patient is being treated, he has the opportunity to seek the advice of another doctor other than the one treating him, or other than the one that initiated his being taken into treatment. Thank you.

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

MR. GARGAN: Mr. Chairman, I believe under clauses 9 to 12, there were things with regard to psychiatrists, with peace officers, with lay dispensers, with nurses at the community level, with these people passing judgment on whether these individuals with mental disorders are properly diagnosed. For this reason I have reservations. I am not saying that they are not competent to do that, but I certainly would be in support, maybe, if there was a clause in this act requesting the opinion of an elder from the community who is familiar with this individual.

CHAIRMAN (Mr. Pudluk): Mr. Minister.

HON. BRUCE McLAUGHLIN: Mr. Chairman, that clause is there specifically to give a person a right to appeal his treatment or whether or not in fact he has a mental disorder, and to seek another medical opinion than the one that initially started the proceedings and treatment, or a different opinion than that of the doctor giving the treatment at the time. When a person is in an appeal process, he can bring in anybody as a witness, family or an elder. Any person, during the appeal process, could be brought in to give evidence on the patient's behalf.

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

MR. GARGAN: Then I do not see any problems or any reasons to have such a clause in this particular act then.

CHAIRMAN (Mr. Pudluk): Mr. Minister.

HON. BRUCE McLAUGHLIN: Mr. Chairman, the reason for having this clause there, is that a person may have been described or found to have a mental disorder and/or he may be receiving medical treatment because of that mental disorder. The patient may feel that, first, he does not have a mental disorder, never did or does not any more or, second, that he is not receiving proper treatment for the mental disorder that he has. This allows him to go to another doctor, other than the one who initially put him where he is, and other than the doctor who is treating him or under whose care he is at the time. What it does is to allow a person who is already found to have a mental disorder and/or is being treated, to have a second chance through himself or a friend or his family, to go to another doctor, to bring in an independent doctor to give a second opinion, which may be used, if it is contrary to the first opinion, as cause for an appeal to allow the person to be released. So what it does is, it protects a person who has already been found to need to be treated. That gives them the chance, once again, to not be treated or held when they should not be. So, that is why it is there. It is just one more safeguard for the individual. Thank you, Mr. Chairman.

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

MR. GARGAN: Mr. Chairman, I understand what the Minister is saying with regard to this particular clause 38. What I am saying is that in order to have that added protection -- he uses that phrase -- I do not see why maybe under clauses 6 to 12, I believe, further back in the act, we do not include in there that the doctor, the nurse, the lay dispenser, the peace officer, gets an opinion from an elder who knows the person in that particular community. I am certainly open for a motion with regard to that, if that could be included in there.

CHAIRMAN (Mr. Erkloo): Mr. Minister.

HON. BRUCE McLAUGHLIN: I am not sure, is the Member asking to have it built into the appeal process or into the initial process?

CHAIRMAN (Mr. Erkloo): Mr. Gargan.

MR. GARGAN: When this act was put together it was with very little or no consultation with the exception of the few MLAs who had a bit to do with this act. With regard to the preamble, the first clause was the first one that addressed some of the concerns we expressed. Before the individual is committed to an asylum or a hospital or to a confined area by a peace officer, lay dispenser, nurse or practitioner, they should also obtain an opinion from an elder in that particular community. In all possibility the kind of action that this individual is taking is quite normal for that particular community. So just to add that added protection before a person is taken away, maybe there should be a clause in this act to have these professional people seek the opinions of an elder in the community.

CHAIRMAN (Mr. Erkloo): Mr. Minister.

Preamble Would Apply

HON. BRUCE McLAUGHLIN: This is an example of why the standing committee requested us to put in a preamble to the act regarding cultural differences, etc. Therefore it would apply to clause 28(1)(b) during a hearing, where it says, "any other evidence the court deems relevant". In other words, any testimony from an elder or friend in the community or family member would be held in evidence in a hearing. Thank you.

CHAIRMAN (Mr. Erkloo): Mr. Gargan.

MR. GARGAN: We have experienced quite a bit of abuse in the system as it now exists, therefore there needs to be a check system whereby advice is sought from native elders in the community, who know a person. This is what I am getting at. I do not know what the difficulty is. I understand most of this particular act but there is nothing in there with respect to -- it could be an act

that is going to affect 80 per cent of the native people and there is nothing in the act that protects that particular group. What I would just want to happen in this act is a clause in there somewhere that guarantees that the system would not abuse native people and that there should be a check system, so that the opinion of an elder is being sought. If a policeman arrests an individual because he has a mental disorder, this policeman in that particular community should be able to get an opinion from an elder.

CHAIRMAN (Mr. Erkloo): Mr. Minister.

HON. BRUCE McLAUGHLIN: Also under clause 8, subclause (4)(b): "A medical practitioner, in a report made pursuant to subsection (3), shall (b) set out the facts upon which he issued the order, distinguishing the facts observed by him from the facts communicated to him by others." In other words, the doctor is supposed to put out all the facts that were relevant, including the facts that were given to him by others, which again could be family members, friends, elders in the community, etc.

CHAIRMAN (Mr. Erkloo): Mr. Gargan.

Clause For Protection Of Ethnic Groups

MR. GARGAN: Mr. Chairman, this particular section is open for interpretation too. The only thing that is going to protect the native people is to have a clause in there that deals with -- maybe not particularly native people -- but just to assure that this particular act does not abuse different ethnic groups. There should be a particular clause in there, other than clauses for professional people. There should be a clause in there for lay people, to protect the people who are being affected by this particular act. I do not know why the Minister keeps referring to these different little clauses that are open to interpretation. What I wanted there is a clause that is particular to ethnic groups, that does protect them and that it is not open to interpretation for abuse by medical professionals. Does the Minister have problems in putting a clause under clause 6 that could deal with a clause of that nature? Does he have difficulty with that or did he seek the opinion of medical professionals and no, we do not want other than professional people to diagnose native people?

CHAIRMAN (Mr. Erkloo): Thank you. Mr. Minister.

Interpretation Must Be Based On Preamble

HON. BRUCE McLAUGHLIN: Mr. Chairman, the reason for having the preamble worded in the fashion that it is worded is so that we do not have to put the same repetitious clauses in every single clause. We do not have to put the same underlying statement after we finish each clause. That is why we have a preamble, so that when anybody is interpreting any of these clauses they have to take into consideration what the preamble says, which is recognizing the many cultures of the people of the Territories. That is why we have the preamble. Otherwise we would have to write that in every clause. By having it in the preamble it applies to every clause in the act. That is the reason the standing committee made us do it that way.

MR. RICHARD: (Inaudible comment).

HON. BRUCE McLAUGHLIN: You guys are pretty persuasive some days. Thank you, Mr. Chairman.

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

MR. GARGAN: Mr. Chairman, I do not know what repetitious means but I certainly do not like what it sounds like. I believe in this whole act, there are certain clauses dealing with the particular situations in the communities -- as far as this act goes anyway. I just do not see how adding an additional clause does really affect the rest of the clauses. We do not have to add any more to what is written there except maybe four or five more lines to deal with assurance that the little guy on the street is not being abused by this particular act and that we seek the opinion of a respectable person in the community to be able to say to the doctor or nurse or to police officers that this individual is not mentally incompetent, he is quite normal under the circumstances or whatever. I just want to have something like that in there so that this whole act is not open for possible abuse of native people. I also understand the preamble of this thing but it probably would apply only if a person goes to court. The judge is making judgment on them and he will

recognize the many cultures of the people of the Territories. Culture should be taken into account when assessing or examining a person to determine whether or not he is suffering from a mental disorder. Once it gets to the courts, this particular clause would be of importance if the individual is of native descent, but that does not always mean that the medical practitioner, when diagnosing this individual, will consider that.

CHAIRMAN (Mr. Erkloo): Thank you. Mr. Minister.

HON. BRUCE McLAUGHLIN: Mr. Chairman, any professional operating under this act has a professional obligation to know what the act is all about and how it works and what all the clauses mean, especially if he is in a day to day situation of dealing with situations like this. The legal advice we have from Mr. Lal, who is the deputy minister of Justice and Public Services and also from the legal adviser to the standing committee on legislation, was that such a clause was persuasive and worded solidly enough that all the clauses in the act had to take into consideration that preamble, that in fact the preamble is one of the main lines. It gives the spirit of the act and outlines that, that main overriding spirit has to be read into all the various clauses and subsections, etc., in the act. The government feels that we believe the legal advice that we are getting from our own lawyers and we feel that the preamble applies generally throughout the act and the act in every part of its clauses and subsections has to take into consideration that preamble when it becomes the working document that the professions have to deal with. Thank you, Mr. Chairman.

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

MR. GARGAN: Mr. Chairman, under this whole act I guess I would like to get a second opinion on that too.

CHAIRMAN (Mr. Erkloo): Thank you. Clause 38. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Erkloo): Clause 40, discrimination prohibited. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Erkloo): Clause 41, destruction of records. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Erkloo): Clause 42, absence without leave. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Erkloo): Clause 43, discharge of involuntary patient. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Erkloo): Clause 44, notice. Agreed? Mr. MacQuarrie.

Notification Of Nearest Relative

MR. MacQUARRIE: On this one, when the committee first saw it there was provision that when a patient is discharged the patient's nearest relative would be notified unless the patient requested specifically that the relative not be notified. Members of the committee felt that occasionally

there might be circumstances when it would be prudent to notify the nearest relative, who may have been the person that suggested committal in the first place. There might be prudent reason as to why, even though the patient said that person should not be notified, in fact the person maybe should be notified. So, the government has modified it so that that is still the case. In other words, the patient's nearest relative will be notified unless the patient says no. But that would have to be concurred with by the medical practitioner, who agrees that the request for non-notification is reasonable, and then that person would not be notified. Certainly the committee recognized there would also be cases where occasionally a patient was very much influenced detrimentally by a family circumstance, and on release or discharge from an institution would like simply to go somewhere else and start a new life. In those cases we felt there should be that privacy. So, the committee would approve of the way this is written now. Very good.

MR. McCALLUM: Could you put in a half hour head start?

---Laughter

CHAIRMAN (Mr. Erkloo): Thank you. Clause 44. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Erkloo): Clause 45, identity not to be published. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Erkloo): Clause 46, private hearing. Agreed? Mr. MacQuarrie.

Public Hearings

MR. MacQUARRIE: Yes, one of the few places where the government has not agreed with the committee's recommendation. So, perhaps I could just ask the Minister why. With respect to the private hearing, the committee -- actually it was not a motion in a firm recommendation -- I gather the government was at least trying to consider the matter. That is, where there is to be a hearing, they are generally private hearings, with the exception that if the subject himself or herself requests a public hearing, that the hearing shall be public. The committee Members felt that occasionally there might be circumstances when the subject -- a mentally disordered person -- was not fully appreciative of the consequences of requesting a public hearing, and perhaps disclosing information which at another time they might regret was disclosed and so on. We had suggested that the government at least consider whether or not in those circumstances a judge could decide that for the benefit of the person that it would be better not to have a public hearing. But I see the government has left the clause the way it was. Perhaps they could explain why they felt it was -- I recognize it is so important, that if someone says they want a public hearing, that is a pretty important thing to abide by, but I would appreciate hearing from the government.

CHAIRMAN (Mr. Erkloo): Thank you. Mr. Minister.

HON. BRUCE McLAUGHLIN: Thank you, Mr. Chairman. The department and the government feel that in spirit with the Charter of Rights and people's individual freedoms, that it should be left the way it is. There is merit in the argument that maybe some people may not know what they are doing at that time and what happens in a public hearing may be damaging to them afterward, but it is just such a basic individual right to, I guess, go public that we felt that it should be left that way. Thank you, Mr. Chairman.

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

MR. GARGAN: Yes, Mr. Chairman, I move that we report progress.

CHAIRMAN (Mr. Erkloo): A motion to report progress is not debatable. All those in favour? Opposed, if any? The motion is carried.

---Carried

We will report progress. Thank you, Mr. Minister and your witness.

MR. SPEAKER: Mr. Erkloo.

ITEM 16: REPORT OF COMMITTEE OF THE WHOLE

REPORT OF COMMITTEE OF THE WHOLE OF BILL 3-85(2), INCOME TAX ACT; BILL 6-85(2), MENTAL HEALTH ACT; BILL 7-85(2), PETROLEUM PRODUCTS TAX ACT; BILL 8-85(2), SCIENCE INSTITUTE OF THE NORTHWEST TERRITORIES ACT; BILL 12-85(2), VITAL STATISTICS ACT; BILL 13-85(2), CHILD WELFARE ACT

MR. ERKLOO: Thank you, Mr. Speaker. Mr. Speaker, your committee has been considering Bills 3-85(2), 6-85(2), 7-85(2), 8-85(2), 12-85(2) and 13-85(2), and wishes to report that Bills 3-85(2), 7-85(2), 8-85(2), 12-85(2) and 13-85(2) are recommended for third reading, and that Bill 6-85(2) is recommended for further consideration in committee of the whole.

Motion To Accept Report Of Committee Of The Whole, Carried

Mr. Speaker, I move that the report of the committee of the whole be concurred with.

MR. SPEAKER: Thank you, Mr. Erkloo. Members have heard the report of the chairman of the committee of the whole. Are you agreed?

SOME HON. MEMBERS: Agreed.

---Carried

MR. SPEAKER: I understand that there is agreement in the House to change the hours of sitting for tomorrow. Being Friday we would normally start at 9:30 a.m. until 1:00 p.m. I would suggest with unanimous consent that we would sit from 1:00 p.m. until 6:00 p.m. Now, the hour of 6:00 p.m. is not mandatory because you will be in committee of the whole and when you have concluded your business or wish to finish up for the day you can do that by motion. So although the hour is 6:00 p.m., it does not mean that you have to continue until 6:00 p.m. Do I have unanimous consent to make that change?

SOME HON. MEMBERS: Agreed.

MR. SPEAKER: Are there any nays?

---Agreed

Mr. Clerk, you will note, then, the hours of sitting for tomorrow. Are there any announcements from the floor? Mr. Clerk, announcements and orders of the day.

CLERK OF THE HOUSE (Mr. Hamilton): Announcements, Mr. Speaker. There will be a meeting of the standing committee on finance at 9:30 a.m. tomorrow morning in the caucus room.

ITEM 17: ORDERS OF THE DAY

Orders of the day for Friday, June 7th, at 1:00 p.m.

1. Prayer
2. Members' Replies
3. Ministers' Statements
4. Oral Questions
5. Written Questions
6. Returns
7. Petitions

8. Reports of Standing and Special Committees
9. Tabling of Documents
10. Notices of Motion
11. Notices of Motion for First Reading of Bills
12. Motions
13. First Reading of Bills
14. Second Reading of Bills
15. Consideration in Committee of the Whole of Bills and Other Matters: Bill 6-85(2)
16. Report of Committee of the Whole
17. Orders of the Day

MR. SPEAKER: Thank you, Mr. Clerk. This House stands adjourned until Friday, June 7th, at 1:00 p.m.

---ADJOURNMENT

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