



LEGISLATIVE ASSEMBLY OF THE NORTHWEST TERRITORIES

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

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YELLOWKNIFE, NORTHWEST TERRITORIES

TUESDAY, MAY 26, 1987

MEMBERS PRESENT

Mr. Angottitauruq, Mr. Arlooktoo, Hon. Tom Butters, Mr. Erkloo, Mr. Gargan, Mrs. Lawrence, Mr. MacQuarrie, Mr. McCallum, Hon. Bruce McLaughlin, Mr. Nerysoo, Mr. Paniloo, Hon. Dennis Patterson, Hon. Red Pedersen, Hon. Ludy Pudluk, Mr. Richard, Hon. Nick Sibbeston, Hon. Don Stewart, Mr. T'Seleie, Hon. Gordon Wray

ITEM 1: PRAYER

---Prayer

Tribute To Air Marshal Hugh Campbell

SPEAKER (Hon. Don Stewart): Please be seated. Before we proceed to the orders of the day, I wish to inform the House of the passing of Air Marshal Hugh Campbell in Ottawa yesterday morning.

Air Marshal Campbell was appointed to the NWT Council on May 21, 1964, and served for 11 years until January 21, 1975. He was a Member of the Fifth, Sixth and Seventh Councils. Air Marshal Campbell was born in New Brunswick in 1908 and graduated from the University of New Brunswick. He joined the Royal Canadian Air Force in 1931 and was named Air Vice-Marshal in 1945. He was Chief of Air Staff from 1957 to 1962.

It should be noted that the Air Marshal was instrumental in involving Members of this House in the Commonwealth Parliamentary Association. He was involved behind the scenes in obtaining the Speaker's chair and the ornaments you find here.

One characteristic of the man during his time on the Council was that, even though he was an appointed Member, he would seldom use his vote to defeat a motion of an elected Member. He felt that it was important that the future of the Council be with the elected Members and he worked toward this goal. He remarked very recently -- actually very, very recently -- that the highlight of his life was his work in the North.

Mr. Butters and myself will be attending the Air Marshal's military funeral at Uplands Air Force Base, and I am sure that Members will join me in expressing our condolences to his wife and family. I have instructed that the flags be flown at half mast outside the Legislative Assembly building on the day of the funeral.

Will you now please stand with me for a minute of silence in remembrance of Air Marshal Hugh Campbell?

---ONE MINUTE OF SILENCE

Thank you. Please be seated. At this time the Chair will recognize any Member who may wish to say a few words. Mr. Sibbeston.

Further Tributes To Air Marshal Campbell

HON. NICK SIBBESTON: Mr. Speaker, I am pleased to say a few words about Air Marshal Campbell. I got to know Mr. Campbell first in 1970 when I was first elected to the territorial Council. He was my seat-mate on my right and during the four years that I was on Council, I came to appreciate him as a human being and also his advice with respect to how to work the system which seemed complicated to me at the time. Members have heard the Speaker review the Air Marshal's career and I would simply like to express our condolences to his wife, Helen, and family. In doing so I would like to convey the appreciation northerners have for the work Air Marshal Campbell did in the North, for his guidance and his enduring faith in the people of the Northwest Territories and his faith is reflected in having the Assembly that we have today. Thank you.

MR. SPEAKER: Thank you very much to the Government Leader. Mr. Butters.

HON. TOM BUTTERS: Mr. Speaker, to our Government Leader's tribute to Air Marshal Campbell and to your fine remarks, I wish to add my words of condolence and sympathy to Mrs. Campbell and family members. As an appointed Member, Air Marshal Campbell made a most valuable contribution for 11 years in this Assembly's struggle to achieve self-government. Mr. Speaker, with you and other Members of this House, I had the privilege of serving with the Air Marshal and I long remember his valuable advice and his undying energy in working for the people of the North and assisting the Members with whom he served as colleague. As the current dean of this Assembly, I am pleased to have been asked by you all to represent you at the funeral services for Air Marshal Campbell in Ottawa on Thursday. I thank you for bestowing upon me this privilege and responsibility.

MR. SPEAKER: Thank you, Mr. Minister. Are there any other Members who would like to make a comment at this time? I can almost hear a voice from the past and he would say, "That is enough time now, get down to business."

Item 2, Ministers' statements. Mr. Sibbeston.

ITEM 2: MINISTERS' STATEMENTS

Minister's Statement 45-87(1): Meech Lake Accord

HON. NICK SIBBESTON: Mr. Speaker, I have a statement with respect to the Meech Lake accord. As Members of the Assembly are aware, on April 30th the Prime Minister and the premiers of the 10 provinces reached an agreement on amendments to the Constitution. The purpose of these amendments was to allow the Province of Quebec to become a signatory to the Constitution Act of 1982. While we support the basic intention of this agreement with respect to Quebec, the Government of the Northwest Territories has a number of grave concerns about the consequences that this accord will have for the future constitutional and political development of the Northwest Territories.

Neither the Northwest Territories nor Yukon was represented in these discussions and the interests of northerners were ignored in the First Ministers' deliberations. The rights of northerners to equal treatment under the Constitution had been set aside and the aspirations of 75,000 northern Canadians were effectively dismissed by the Prime Minister and premiers.

The inclusion of section 42(1)(f), the creation of new provinces, among the matters now requiring unanimity for constitutional change has made it even more difficult for the NWT and the Yukon to ever achieve provincial status and to take our place as full partners in confederation. Allowing every province to have a veto over our future, without even allowing us to participate in the discussions, is an affront to democracy and an insult to every territorial resident.

SOME HON. MEMBERS: Hear, hear!

---Applause

HON. NICK SIBBESTON: Mr. Speaker, I have written to the Prime Minister and to each of the premiers expressing our concerns and asking that representatives of our government be invited to participate at all future constitutional conferences. To date there has been no response, but we have learned that a private luncheon of First Ministers will be held on June 2nd in Ottawa to discuss the amendments. We have also learned that representatives of the territorial governments will not be invited to attend.

SOME HON. MEMBERS: Shame!

HON. NICK SIBBESTON: The Executive Council has decided on a two-pronged campaign to ensure that northern interests are taken into account in these discussions. We will be appealing directly to the Canadian public. I will be in Ottawa next week to take our story to the national media and to lobby for our interests. At the same time we have instructed our officials to retain legal counsel with a view to launching court action on the issue of provincehood and other matters arising from the proposed amendments. I will keep this Assembly fully informed as the activities unfold. Thank you.

---Applause

MR. SPEAKER: Thank you, Mr. Sibbeston. Let the records indicate that that was an emergency statement because it had not been filed as a Ministers' statement. Ministers' statements.

Item 3, Members' statements.

Item 4, returns to oral questions. Mr. Butters.

HON. TOM BUTTERS: Mr. Speaker, just to explain to the House the absence of my colleague, the Minister of Justice. He is attending a federal-provincial conference in New Brunswick of Ministers responsible for Justice and juvenile justice and in his absence, sir, I will take any questions on his behalf.

MR. SPEAKER: Thank you, Mr. Butters. Item 5, oral questions. Mr. Richard.

ITEM 5: ORAL QUESTIONS

Question 0157-87(1): GNWT Response To Meech Lake Constitutional Accord

MR. RICHARD: Thank you, Mr. Speaker. On the Government Leader's statement on the Meech Lake agreement, Mr. Speaker, I do have a question of the government and I wish first of all, Mr. Speaker, to compliment the Government Leader and the Executive Council for acting very quickly on this issue and my question, Mr. Speaker, is with respect to the contents of the objection that has been directed to the Prime Minister and the premiers. I did see a copy of Mr. Sibbeston's letter to the Prime Minister of Canada raising the issue of the creation of the new provinces. There is a related and equally important issue, Mr. Speaker, and that is the provision of the Constitution of Canada that provides for the changing of provincial boundaries north into the Territories and the Meech Lake crowd, in the absence of our representatives, sat around the table and agreed that if the 10 provinces and Parliament agreed at any time they could move the boundary of the Province of Alberta, for instance, north into the Territories and at no time would this Assembly under that formula, at no time, would this Assembly be consulted whatsoever on the propriety of moving the boundary and taking over part of our territory.

Can the Government Leader assure this House that he will raise that issue with equal vigour to that of the issue of the creation of new provinces with the Prime Minister and the premiers? Thank you.

MR. SPEAKER: Mr. Sibbeston.

Return To Question 0157-87(1): GNWT Response To Meech Lake Constitutional Accord

HON. NICK SIBBESTON: Mr. Speaker, I can assure the Member that the representations I make on behalf of the Government of the Northwest Territories will apply with respect to the future possibility of the NWT becoming a province and also the possibility of provinces extending their jurisdiction into the North, so the two matters will be raised when I deal with officials and government in the South and also in my representations to the media, publicizing our concerns to all of Canada.

MR. SPEAKER: Thank you, Government Leader. Mr. Richard.

Supplementary To Question 0157-87(1): GNWT Response To Meech Lake Constitutional Accord

MR. RICHARD: Mr. Speaker, a supplementary on the issue of the Meech Lake agreement. Mr. Speaker, one of the difficulties that we Canadians living in the northern territories have with respect to the Meech Lake agreement, is that our leaders were not invited there. We do not really know what they agreed to and I understand our government is not in possession of any official document which purports to amend the Constitution but we are learning more day by day, Mr. Speaker.

I understand that on other issues the Meech Lake crowd, in our absence, agreed to a new method of appointing senators and judges to the Supreme Court of Canada. A method, Mr. Speaker, which by its wording would have the effect of constitutionally disenfranchising Canadian citizens living in the northern territories from ever aspiring to appointment to the Senate of Canada or to the Supreme Court of Canada. Would the Government Leader confirm that that is the understanding of our government, that that new method is part of the conspiracy that was agreed to in Meech Lake, Quebec? Thank you.

MR. SPEAKER: Mr. Sibbeston.

Further Return To Question 0157-87(1): GNWT Response To Meech Lake Constitutional Accord

HON. NICK SIBBESTON: Mr. Speaker, I can confirm that we have obtained information from reasonably reliable sources that the provisions with respect to the appointments to the Supreme Court of Canada and the Senate provide for provinces providing a list of possible candidates to the federal government, to the Prime Minister, for appointments to these offices, and we do believe that there is no provision for appointments to be made from the Northwest Territories. So, in a sense, residents of the North are at a disadvantage with the possible appointment of people to the Supreme Court of Canada or into the Senate. In this regard we are very concerned and we will, without question, raise these concerns also.

MR. SPEAKER: Thank you, Mr. Government Leader. Mr. Nerysoo.

Question 0158-87(1): Tabling Of Position Paper On Meech Lake Accord

MR. NERYSOO: Thank you, Mr. Speaker. I hope that reasonably reliable person was not as reasonable and reliable as our Prime Minister. But, Mr. Speaker, could the Leader indicate whether or not he is going to table in this House his presentation and position paper that he is going to present to the Prime Minister and the premiers of Canada?

MR. SPEAKER: Mr. Sibbeston.

Return To Question 0158-87(1): Tabling Of Position Paper On Meech Lake Accord

HON. NICK SIBBESTON: Mr. Speaker, the position to date of the Northwest Territories, I think it can be said, has been outlined in letters that we have written to the Prime Minister and premiers and I would be very pleased to make these available to the Assembly. With regard to subsequent and more detailed representations, I had hoped that I would be present at the constitutional conference. I thought it would be a public forum but it is not. It is now a private luncheon between the Prime Minister and premiers. I do not, at this precise time, have the text of a statement that I would have made, but that will be available tomorrow. I would be pleased to also make that available to the Assembly Members.

MR. SPEAKER: Thank you, Mr. Government Leader. Oral questions? Mr. McCallum.

Question 0159-87(1): Actions Contemplated To State Displeasure Re Accord

MR. McCALLUM: Thank you, Mr. Speaker. I have a supplementary question to the Government Leader. In addition to the action contemplated by the government and the Leader, which I applaud, what other avenues are being explored to state this Legislature's or the government's displeasure at the accord reached at by the 10 premiers and the federal Prime Minister at Meech Lake? It seems to me that if we are going to be ignored, maybe we should ignore the feds and the other provinces, as well, or get into some kind of agreement with them. Are there other actions that are being contemplated by the government or the Government Leader?

MR. RICHARD: Or the voters.

MR. SPEAKER: Mr. Sibbeston.

Return To Question 0159-87(1): Actions Contemplated To State Displeasure Re Accord

HON. NICK SIBBESTON: Mr. Speaker, as I stated we have a two-pronged course of action: one of publicity in the South and one of still trying to attend the conference. I am hoping that at the very last moment we will be invited. I am still hopeful. I will be in Ottawa. I suppose if I am not invited, I will be there knocking on the doors on your behalf. That is, for the time being, the extent of our actions. As indicated, we intend, if counsel advises we ought, to begin legal proceedings, if that is the proper course to go. Apart from that, I know that Ministers in our government have, at every opportunity, when they meet with federal Ministers and officials raised their concerns. We will continue attending federal-provincial ministerial conferences and whenever possible we will raise our concerns. For the time being, this is the extent to which we are taking action in this matter. I believe the action we are taking is the best that can be done now and I hope it results in some action or some conclusion to this matter in our favour.

MR. SPEAKER: Thank you, Mr. Minister. Oral questions. That appears to conclude oral questions for today. Item 6, written questions. Mr. Nerysoo.

ITEM 6: WRITTEN QUESTIONS

Question W34-87(1): Inquiry Into Death Of Fred Vittrekwa, Fort McPherson

MR. NERYSOO: Thank you, Mr. Speaker. This is a written question directed to the Minister of Justice; however, in his absence, to the Minister of Finance. During the past seven months I have requested that the Minister of Justice hold a public inquiry into the death of Mr. Fred Vittrekwa of Fort McPherson. The Minister indicated that he viewed this inquiry favourably and was seeking more information from the Yukon government. Could the Minister indicate when this public inquiry is going to be conducted? What are the terms of reference for this inquiry and who will be conducting this inquiry?

MR. SPEAKER: Thank you, Mr. Nerysoo. Written questions. That concludes the item of written questions for today.

We have with us a distinguished guest today in the gallery from an organization that has done a lot of work in the Northwest Territories. I wish to recognize in the gallery today Mrs. Helen Dick, national president of the IODE of Canada. Welcome to the Northwest Territories.

---Applause

Item 7, returns to written questions.

Item 8, replies to Opening Address.

Item 9, petitions.

Item 10, reports of standing and special committees. Item 11, tabling of documents.

ITEM 11: TABLING OF DOCUMENTS

I wish to advise the House that in accordance with Rule 56(10), I have laid on the table Tabled Document 59-87(1), Responses from the Executive Council to Petitions 1-87(1), 2-87(1), 3-87(1), 4-87(1), 5-87(1), and 6-87(1). Tabling of documents. Are there any other documents to be tabled today?

Item 12, notices of motion. Item 13, notices of motion for first reading of bills. Mr. McLaughlin.

ITEM 13: NOTICES OF MOTION FOR FIRST READING OF BILLS

Notice Of Motion For First Reading Of Bill 4-87(1): Child Day Care Act

HON. BRUCE McLAUGHLIN: Thank you, Mr. Speaker. I give notice that on Thursday, May 28th, 1987, I shall move that Bill 4-87(1), An Act Respecting Child Day Care Facilities, be read for the first time.

MR. SPEAKER: Thank you, Mr. Minister. Notices of motion for first reading of bills. Mr. Wray.

Notice Of Motion For First Reading Of Bill 3-87(1): Charter Communities Act

HON. GORDON WRAY: Thank you, Mr. Speaker. I give notice that on Thursday, May 28th, 1987, I shall move that Bill 3-87(1), An Act Respecting Charter Communities in the Northwest Territories, be read for the first time.

MR. SPEAKER: Thank you, Mr. Minister. Notices of motion for first reading of bills. Mr. Pedersen.

Notice Of Motion For First Reading Of Bill 34-87(1): Public Service Act

HON. RED PEDERSEN: Thank you, Mr. Speaker. I give notice that on Thursday, May 28, 1987, I shall move that Bill 34-87(1), An Act to Amend the Public Service Act, be read for the first time.

MR. SPEAKER: Thank you, Mr. Minister. Notices of motion for first reading of bills. Mr. Butters.

Notice Of Motion For First Reading Of Bill 16-87(1): Maintenance Orders Enforcement Act

HON. TOM BUTTERS: Mr. Speaker, I give notice that on Thursday, May 28, 1987, I shall move that Bill 16-87(1), An Act Respecting the Enforcement of Maintenance Orders, be read for the first time.

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

HON. GORDON WRAY: Thank you, Mr. Speaker. Mr. Speaker, I have six notices of motion. I wonder if I could just give them all at once.

SOME HON. MEMBERS: Agreed.

--Agreed

MR. SPEAKER: Agreed, Mr. Wray.

Notice Of Motion For First Reading Of Bill 5-87(1): Cities, Towns And Villages Act

HON. GORDON WRAY: Thank you, Mr. Speaker. I give notice that on Thursday, May 28, 1987, I shall move that Bill 5-87(1), An Act Respecting Cities, Towns and Villages in the Northwest Territories, be read for the first time.

Notice Of Motion For First Reading Of Bill 10-87(1): Hamlets Act

Mr. Speaker, I also would like to give notice that on Thursday, May 28, 1987, I shall move that Bill 10-87(1), An Act Respecting Hamlets in the Northwest Territories, be read for the first time.

Notice Of Motion For First Reading Of Bill 11-87(1): Home Owners' Property Tax Rebate Act

Mr. Speaker, I give notice that on Thursday, May 28, 1987, I shall move that Bill 11-87(1), An Act to Amend the Home Owners' Property Tax Rebate Act, be read for the first time.

Notice Of Motion For First Reading Of Bill 15-87(1): Local Authorities Elections Act

Mr. Speaker, I give notice that on Thursday, May 28, 1987, I shall move that Bill 15-87(1), An Act Respecting Elections for Local Authorities, be read for the first time.

Notice Of Motion For First Reading Of Bill 21-87(1): Settlements Act

Mr. Speaker, I give notice that on Thursday, May 28, 1987, I shall move that Bill 21-87(1), An Act Respecting Settlements in the Northwest Territories, be read for the first time.

Notice Of Motion For First Reading Of Bill 33-87(1): Public Service Vehicles Act

Mr. Speaker, last but not least, I give notice that on Thursday, May 28, 1987, I shall move that Bill 33-87(1), An Act to Amend the Public Service Vehicles Act, be read for the first time. Thank you.

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

HON. TOM BUTTERS: Mr. Speaker, I wish to give notice of motion to three bills.

Notice Of Motion For First Reading Of Bill 22-87(1): Statute Law (Canadian Charter Of Rights And Freedoms) Amendment Act

I give notice that on Thursday, May 28, 1987, I shall move that Bill 22-87(1), An Act to Amend and Repeal Certain Acts Having Regard to the Canadian Charter of Rights and Freedoms, 1987, be read for the first time.

Notice Of Motion For First Reading Of Bill 23-87(1): Statute Revision Act

Mr. Speaker, I give notice that on Thursday, May 28, 1987, I shall move that Bill 23-87(1), An Act Respecting the Consolidation and Revision of the Statutes of the Northwest Territories, be read for the first time.

Notice Of Motion For First Reading Of Bill 32-87(1): International Child Abduction Act

Mr. Speaker, I give notice that on Thursday, May 28, 1987, I shall move that Bill 32-87(1), An Act to Adopt the Convention on the Civil Aspects of International Child Abduction, be read for the first time.

MR. SPEAKER: Thank you, Mr. Minister. Notices of motion for first reading of bills. Are there any further notices of motion for first reading of bills? This appears to conclude this item for today.

Item 14, motions. Motion 23-87(1), Egg Quota for the NWT. Mr. Gargan.

MR. GARGAN: Mr. Speaker, with regard to this motion, I would like to withdraw it. I have already got a letter from the government here on that.

MR. SPEAKER: Thank you, Mr. Gargan. Does the seconder of the motion agree to the withdrawal? The seconder of that motion was Mr. Wah-Shee. He is not in the House so your motion will remain on the order paper until Mr. Wah-Shee is here. It will be read again. Are there any further motions for today?

Item 15, first reading of bills.

Item 16, second reading of bills. Item 17, consideration in the committee of the whole of bills and other matters: Bill 6-87(1), Bill 2-87(1), Bill 17-87(1), Bill 9-87(1), with Mr. Gargan in the chair.

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

PROCEEDINGS IN COMMITTEE OF THE WHOLE TO CONSIDER BILL 2-87(1), ADVISORY COUNCIL ON THE STATUS OF WOMEN ACT; BILL 17-87(1), MECHANICS' LIEN ACT; BILL 6-87(1), CRIMINAL INJURIES COMPENSATION ACT; BILL 9-87(1), FINANCIAL ADMINISTRATION ACT

CHAIRMAN (Mr. Gargan): The committee will now come to order. We are on Bill 6-87(1), An Act to Amend the Criminal Injuries Compensation Act, with Mr. Butters.

HON. TOM BUTTERS: Mr. Chairman, with respect, might I suggest that by way of order we do Bill 2-87(1), Advisory Council on the Status of Women Act, and then Bill 17-87(1), Bill 6-87(1) and Bill 9-87(1). In Mr. Ballantyne's absence I will be putting these bills before the House so I would just like to get my act together while Mr. Pedersen is speaking to Bill 2-87(1).

CHAIRMAN (Mr. Gargan): Does the committee agree that we go to Bill 2-87(1)? Agreed?

SOME HON. MEMBERS: Agreed.

Bill 2-87(1), Advisory Council On The Status Of Women Act

CHAIRMAN (Mr. Gargan): We are now on Bill 2-87(1), An Act to Amend the Advisory Council on the Status of Women Act, with Mr. Pedersen.

Minister's Opening Remarks

HON. RED PEDERSEN: Thank you, Mr. Chairman. Bill 2-87(1), An Act to Amend the Advisory Council on the Status of Women Act. The amendments, Mr. Chairman, are to allow for some necessary housekeeping type of changes in the act. There is a change under subsection 3(4), which now reads that if a member resigns, the Minister may appoint a substitute member for the balance of the term. We would like to have that changed so that the Minister may appoint a substitute member for a term of three years, which will allow continuity of appointments and not a total new slate every time the three year period is up. There is also provision for the Minister to be able to appoint two members as vice-presidents of the advisory council. The present act allows only one, and there are some wording changes to clarify the role of the vice-presidents acting when the president is not able to act. Mr. Chairman, with this short lead in, I present the act to your committee. Thank you.

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

Comments From Standing Committee On Legislation

MR. MACQUARRIE: Thank you very much, Mr. Chairman. When this was reviewed, the critical question from the point of view of committee Members was a question as to whether changes were being proposed as a result of initiatives taken by the advisory council members. The Minister indicated that this certainly was the case in respect to the majority of the changes but that one of the changes was a result of legal advice made to clarify the duties of the vice-president as being capable of acting for the president. The other changes that are being made to the bill were, in fact, recommended by the advisory council. The committee itself found no difficulty with any of the changes that were being proposed and simply agreed that this bill should be referred to committee of the whole as it was.

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

SOME HON. MEMBERS: Agreed.

---Agreed

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

SOME HON. MEMBERS: Agreed.

---Agreed

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

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Gargan): Clause 3, president, vice-presidents. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Gargan): Clause 4, vice-president to act. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Gargan): Clause 5, idem. 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 2-87(1) is now ready for third reading?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Gargan): We will now turn to Bill 17-87(1), An Act to Amend the Mechanics' Lien Act, with Mr. Butters.

Bill 17-87(1), Mechanics' Lien Act

HON. TOM BUTTERS: Mr. Chairman, may I have agreement of the House to move to the witness table, as I have two bills, and wish to invite legal counsel? On this bill I would like the Assembly to invite Jeff Gilmour and Patrick Orr.

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

SOME HON. MEMBERS: Agreed.

CHAIRMAN (Mr. Gargan): Yes, Mr. Minister. For the record, would the Minister introduce his witnesses?

HON. TOM BUTTERS: Yes, Mr. Chairman. On my right hand, Patrick Orr, and on my left, Jeff Gilmour, both from the Department of Justice.

CHAIRMAN (Mr. Gargan): Thank you, Mr. Minister. Mr. Minister, would you like to make your opening remarks?

Minister's Opening Remarks

HON. TOM BUTTERS: Yes, I have a few brief opening remarks. As the matters have been examined by the standing committee on legislation, I believe that Mr. MacQuarrie will wish to comment as well.

The Mechanics' Lien Act is being amended to extend the time for registering claims of lien from 30 days to 45 days. With a deadline of 30 days, the Northwest Territories now has the shortest registration time of any jurisdiction in Canada. A number of the provinces have recently extended the registration period for mechanics' liens. A 45 day limit would match the time limits used in Ontario and Alberta. The initial request to extend the time for registration on mechanics' liens came from the NWT Construction Association. As a consequence of extending the time for registering claims of liens, the act is also amended to extend the time for holding back 10 per cent of the contract price. This hold-back period will also be 45 days. The Mechanics' Lien Act is also being amended to clarify the date on which the registration period begins in various circumstances. Members of the legal profession have expressed concern over the uncertainty as to when registration periods begin. The land titles office would also benefit from clear guidelines. That concludes my statement, Mr. Chairman, and possibly we could refer it to the chairman of the standing committee on legislation.

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

Comments From Standing Committee On Legislation

MR. MacQUARRIE: Thank you, Mr. Chairman. When the bill was first brought to the committee there was a concern on the part of some Members as to what the impact of this kind of change would be on the finances, I suppose, of general contractors in the Northwest Territories, if there were an extension in the time of hold-back. At that time, the Minister, Mr. Ballantyne, indicated to the committee that while that was recognized as a concern, that it was also very much the concern of the government to protect subtrades, for example, and to try to protect workers and suppliers as well. The Minister very much felt that this time frame, particularly given the circumstances in the Northwest Territories with respect to communications and so on, that this time frame was desirable and, in fact, required. At that point, committee Members felt that perhaps there had not been sufficient input sought in the preparation of this bill, and so committee Members wanted to postpone consideration of the bill, and in the interim of a week, to try to solicit some input from parties that might be affected. That was done. The opportunity was given and when the committee reconvened, Members generally felt that the bill was acceptable in that the amendment ought to move ahead. In the interim it was learned that it is not merely this provision in the Mechanics' Lien Act, but I guess quite a number of other things that need to be addressed and that, in fact, the law reform committee is considering doing an extensive review of the entire act. So, at some point in the future, we are obviously going to see some more extensive changes being proposed.

Once having decided to move ahead with the bill and accept the proposed changes, it was a concern of some committee Members as to the manner in which the 45 days was to be determined. The question arose as to whether that included all days in sequence, including Sundays and holidays, and the response that the committee received was that that was indeed the case and that the last date could fall on any day. With that answer, the committee agreed to refer the bill to the committee of the whole here with no proposed changes.

CHAIRMAN (Mr. Gargan): Thank you, Mr. MacQuarrie. Are there any general comments? Mr. Richard.

Mechanics' Lien Act Legislation Archaic

MR. RICHARD: Thank you, Mr. Chairman. Mr. Chairman, when I first looked at this bill, when it was tabled earlier this session, it occurred to me that what we had in front of us was a patchwork or a band-aid amendment to this archaic legislation. I asked myself, if the government is going to revise the Mechanics' Lien Act, why do they not do a major revision at this time? I question where the impetus was for just a single change in the registration period of 30 days to 45 days. The Minister's answer to the question in that regard is that, obviously the construction association lobbied for a change, which I do not have a problem with. It should be longer than 30 days. But, Mr. Chairman, there are major problems with the Mechanics' Lien Act of the Northwest Territories.

The legislation, I would venture to say, is probably 40 or 50 or 60 years old. It has not been updated as with similar statutes in the provinces. The Minister indicated that 30 days -- we have the shortest period of time of any of the Canadian jurisdictions. That is correct. But the other jurisdictions also have modern legislation with modern terminology and I wondered why those minds that addressed this one change were not going to address the overall problems with the legislation; and with Mr. MacQuarrie's comments that the law reform committee -- or perhaps as Mr. Butters indicated, the law society or the legal profession have been contacted -- I am wondering if the Minister or his officials could not confirm that there are larger problems with this legislation than simply the 30 day registration period. As with a lot of our legislation that is quite archaic -- and I have raised it, Mr. Chairman, in this Legislature for the last three years -- what is being done about major revision to outdated legislation like the Mechanics' Lien Act, like the companies legislation, like the securities legislation, like family law legislation?

Single Lobby On Single Issue

I do not think it is acceptable, Mr. Chairman, to respond to a single lobby on a single issue with legislation like this. I appreciate that the draftsmen in Mr. Orr's office work probably more than eight hours a day and we have just seen the fruits of the work of that section this session when we are told we have 20 or 30 pieces of legislation to deal with. But in my observation, Mr. Chairman, nothing, zero, has been done to address the major revision required of legislation like the Mechanics' Lien Act.

This is not a major revision. This is a band-aid amendment to one of many problems in this act. I am wondering if -- and I know it is unfair to ask Mr. Butters, in the absence of the Minister of Justice whose responsibility, I believe, this bill comes within but perhaps -- I wanted to put those comments on the record and perhaps the Minister could respond on behalf of Mr. Ballantyne.

CHAIRMAN (Mr. Gargan): Mr. Minister.

Mechanics' Lien Act Has Been Referred To Law Reform Committee

HON. TOM BUTTERS: Thank you, Mr. Chairman. The Member is absolutely correct. This is not a major revision of the Mechanics' Lien Act and I assure him that the government has heard his cry of concern over these many months and years regarding the archaic nature of this particular piece of legislation. As the Member indicates, it requires a comprehensive examination and review and it has been referred to the law reform committee under the guidance of Mr. Justice Marshall. I am advised by my legal advisers that it is anticipated that it will receive that required review in the fall of this year by the law reform committee. Possibly, Mr. Gilmour could add something else to that statement.

CHAIRMAN (Mr. Gargan): Mr. Gilmour.

MR. GILMOUR: Thank you, Mr. Chairman. Yes, this is one of the priority items that the law reform committee will be addressing, and it is my understanding from Mr. Justice Marshall that his committee will be looking at this statute and a comprehensive review this fall.

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

MR. RICHARD: Mr. Chairman, the law reform committee was established by Minister Ballantyne, I believe earlier this year, perhaps late last year. It does not as yet have the status of law reform commission; a full-time commission in some of the southern jurisdictions. The individuals on that committee have neither the time nor the wherewithal to draft major revisions to legislation. I have a concern if the government is going to throw this football to the Marshall committee, rather than having the revision work done by the professional draftsmen within the department. Is the intention of the government to give some financial resources to the Marshall committee to enable them to contract someone to prepare a comprehensive review of, for example, the mechanics' lien legislation?

CHAIRMAN (Mr. Gargan): Mr. Minister.

HON. TOM BUTTERS: Mr. Chairman, I will ask Mr. Gilmour to respond in a moment, but my understanding is that this government will do the drafting required but we will be relying on Mr. Justice Marshall and his committee to give us advice and the policy direction with regard to amendments required. Possibly Mr. Gilmour could answer further.

CHAIRMAN (Mr. Gargan): Mr. Gilmour.

MR. GILMOUR: Yes, Mr. Chairman, I think that is the direction our Minister is seeking and, in fact, the policy would be coming from the law reform committee and the legislation division would, in fact, establish the legislation itself.

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

Contracting Out Review Of Legislation

MR. NERYSOO: Thank you, Mr. Chairman. Just with regard to a response to the last question asked by Mr. Richard. In terms of recommendations from the law reform committee, is there an opportunity for the law reform committee to recommend that a review of legislation be contracted out to other agencies or other law firms to ensure that that work is done? I believe that one of the concerns and criticisms that have been made on behalf of the Minister of Justice is that there is not enough time for the people that are now in the department to keep up with the legislation that this Assembly and the Executive Council are now requesting of them. So, I am hopeful that it is not a matter of waiting for that particular review but of having the opportunity to conduct that research and also to contract that work out so that that review can be done properly.

CHAIRMAN (Mr. Gargan): Mr. Gilmour.

MR. GILMOUR: Thank you, Mr. Chairman. Yes, I think there is enough flexibility to allow, when it comes down to actually creating the legislation, for the department to contract out if so required.

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

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Gargan): Bill 17-87(1). Clause 1, owner to retain 10 per cent of contract for 45 days. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Gargan): Clause 2, persons having claims against lien holders. Agreed? Mr. Richard.

MR. RICHARD: Mr. Chairman, just as one example of what I was speaking of, I was looking at the new section 12 and the changes, of course, are the 45 days in place of 30 days. The wording of this section 12 has been improved dramatically from the old wording but I am going to make this observation, because conceptually I think there is a problem with it, and it is the sort of larger problem that has to be addressed by taking a slow, thoughtful look at the entire legislation. Both the old wording and the new wording of section 12 provide that if you have a subcontractor on a project who could file a lien, that that constitutes a charge against the land, the owner's land. That is fine; that is the intent of the mechanics' lien legislation, but subsection (2) now states -- as it did before in different wording -- that the owner of the land can pay the amount that the subcontractor claims.

Lien Of Subcontractor In Dispute

Let us just pick a figure, \$10,000. He can pay that sum of money to the subcontractor and receive full credit for that. Now it may be that the man in between, the contractor, disputes that. He says, "I have not paid the subcontractor \$10,000 because I do not owe him the money, I owe him only \$8000," or "I owe him only \$2000." As I read through this, that middle person's interest is being left out here. Now, when he walks up to the home of the owner and says, "I want my contractor money," the owner is going to give him \$10,000 less and the contractor is going to say, "Well, just a minute, you owe me another \$10,000." "Oh, no. I paid that to this other fellow and the law says that I get full credit for that."

Mr. Chairman, my point is that maybe the lien of the subcontractor is in dispute, is questionable, and the law should provide that the owner can get the lien of his land sure, by paying the \$10,000 into court or something or into some trust arrangement until the dispute is ironed out. Maybe I am not reading it correctly, Mr. Chairman. I just made a note as I went through this quickly but it is that sort of larger problem that needs to be addressed throughout the mechanics' lien legislation. I am not going to propose here any amendment to this because I would be then getting into the same practice as the government and providing spot and band-aid solutions to a larger problem. Thank you.

CHAIRMAN (Mr. Gargan): Mr. Minister.

HON. TOM BUTTERS: Mr. Chairman, the government welcomes the Member's observations and reiterates that we recognize that there is a lot of improvement required with the legislation and we will attempt to move on with it as quickly as possible. I just would add, too, that I do not think that the matter was raised during the standing committee on legislation or probably we would have addressed it, band-aid or not. This is the first time that the observation has been brought to our attention. Thank you.

CHAIRMAN (Mr. Gargan): Thank you, Mr. Minister. Clause 2. Mr. Nerysoo.

MR. NERYSOO: Thank you. Just again, with the last comment by Mr. Richard. While the comment may have been raised at this particular time, it might not be a bad idea for the government to consider even a minor amendment that could rectify the particular situation. I realize that the suggestion is that major amendments are required for the Mechanics' Lien Act, but you leave the situation open to possible abuse but I am hopeful that it is going to return very quickly.

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

HON. TOM BUTTERS: Even flanked as I am by two very knowledgeable advisers, I do not think that even they could respond to the implications associated with the honourable Member's recommendation and observation, the Member for Yellowknife South. We will look at it and if it appears that there is some urgent requirement to make that, I think that we could do so; but we would agree with Mr. Richard that if you just open the whole act again, we would prefer that it be left to direction from the law reform committee and get at it at that time.

CHAIRMAN (Mr. Gargan): Thank you, Mr. Minister. Clause 2, persons having claims against lien holders. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Gargan): Clause 3, time for registration. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

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

SOME HON. MEMBERS: Agreed.

---Agreed

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

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Gargan): Clause 6, actions to enforce unregistered lien. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Gargan): Clause 7, when lien ceases to exist. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Gargan): Clause 8. 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? Mr. Minister.

HON. TOM BUTTERS: Mr. Chairman, if we could leave the bill in committee and give legal counsel a chance to look at the recommendation made by the Members, we will come back with an answer to that one. We just will not conclude it except for the particular observation made by the Members for Yellowknife South and Mackenzie Delta.

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

MR. RICHARD: Mr. Chairman, just for the benefit of the Minister and his officials. I really do not want to press an amendment to section 12 to rectify the problem that I see because on something like that, one has to have the entire act in front of him. An amendment here may be entirely inappropriate in the context of other sections of the act and if we are going to do that, then I say let us do it and revise the whole act.

CHAIRMAN (Mr. Gargan): Thank you. The bill as a whole? Does the committee agree that Bill 17-87(1) is now ready for third reading?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Gargan): Thank you. Bill 6-87(1). Mr. Minister.

Bill 6-87(1), Criminal Injuries Compensation Act

HON. TOM BUTTERS: Mr. Chairman, I wonder if I might have permission to excuse Jeff Gilmour from consideration of this bill and bring in Diana Ginn.

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

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Gargan): Okay, Mr. Minister. For the record, would the Minister introduce his witness? We are on Bill 6-87(1), An Act to Amend the Criminal Injuries Compensation Act, with Mr. Butters. Mr. Butters, please introduce your witness and go ahead with your opening remarks.

HON. TOM BUTTERS: Thank you, Mr. Chairman. Again, to my right hand, Mr. Patrick Orr and on my left, Miss Diana Ginn. I have a brief opening statement. The Criminal Injuries Compensation Act is being amended to provide compensation for injuries or death arising from torture, in order to comply with the United Nations Convention against Torture and other Cruel or Inhuman or Degrading Treatment. In March of this year, the federal government passed a bill amending the Criminal Code to make torture a criminal offence. The federal amendment has not yet been proclaimed in force. There are also minor amendments to the Criminal Injuries Compensation Act to reflect other minor changes in the Criminal Code of Canada.

I believe Mr. MacQuarrie's committee, as is the practice, has examined this legislation and may have comments.

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

Comments From Standing Committee On Legislation

MR. MACQUARRIE: Thank you very much, Mr. Chairman. The bill in itself and the amendments that are proposed are very straightforward and there was not a great deal of concern with respect to them in the committee. Just as it is noted, they are really of a technical nature so that the changes that have been made in the Criminal Code of Canada would be included in this Northwest Territories act. Among them are redefinitions of rape to sexual assault and the inclusion of torture and that sort of thing. There was no problem, really, with what is being proposed precisely in the bill but it raised a lot of questions about the act itself, the Criminal Injuries Compensation Act.

Many Members were unaware that there was such an act and what the provisions are, and so on, and it certainly gave rise to a lot of questions. I think that we are not in any big hurry here so I would like to deal with some of the matters that were raised in committee that were dealing with the act but not precisely on these amendments.

In the examination, the committee asked the Minister to explain as fully as possible what the purpose of the entire act was and he pointed out that it is an act that would -- where there are people injured as a result of the commission of crimes -- provide compensation to those who are injured. That could be psychological or physical injury. A person injured as a result of a criminal act could receive up to \$15,000 in compensation from the government.

Public Information Campaign

That raised the next question in the minds of Members which was: Are people who are injured when crimes are being committed aware that there is the potential for compensation and if so, how are they made aware? The Minister indicated that at the present time victims are not specifically made aware that they may possibly receive compensation. However, the Minister did indicate that a campaign would be started to inform the public. I do not know whether it has started yet. Perhaps the Minister who is sitting in could comment on that. At any rate, he indicated that he hoped that more publicity would be generated about this fact and the Members then said, "Well, if the public is to be made aware of the right to compensation in cases like this, who is responsible for making the public aware? Would it be the police, for example?" The Minister in answering that said, "No, it would be the Department of Justice." He also expected that the public legal education committee could assist with the publicity and perhaps as well the RCMP by distributing pamphlets in their offices and perhaps in the offices of community councils. As I say, he indicated there would be more publicity but I myself have not seen anything yet and perhaps the Minister would comment on that.

Eligibility For Compensation

Other questions that arose were as to the types of injury that might be compensatable. For example, one question that was raised is, if someone were killed during the commission of crime, say a young man, and that young man had been supporting an elder in a community, would the elder in that case be eligible for compensation? The Minister responded that, depending on the circumstances, the survivor in that type of case could be eligible for compensation but the courts would have to rule and the Minister felt that in cases like that it would certainly be worth while for people to apply for compensation. Another question that was raised was, supposing there were permanent injury, would the person who applies for compensation be eligible for compensation just for a brief period of time or could it expand over a period of years? The Minister indicated that under the terms of this legislation the injury need not be permanent first of all in order to receive some compensation, but if it were, it would also be eligible for compensation and that would depend on the extent of the injuries.

However, it then became apparent that the amount of money available for compensation is really not very great. The maximum lump sum payment is \$15,000 with up to \$50,000 to cover payments over a period of time. But in total at the present time in the territorial budget there is \$60,000 to compensate people who apply under the Criminal Injuries Compensation Act, so there is not a very great deal of money at all, although the Minister indicated at the committee meetings that that would be increased to \$120,000. Perhaps I can ask the Minister whether he is aware of whether there has been an increase applied for. The Minister also said that perhaps additional federal money would be sought and I might ask whether that has been done, as well.

Regarding another special type of case, a Member had asked if, in the case of a woman who was beaten by her husband and he was charged with assault, the wife could be eligible for compensation. The answer was that, yes, in a case like that, there was still the possibility of compensation. A further question was, if there was no conviction, would compensation ever be awarded to a victim and the Minister replied that if a person were found not guilty, perhaps on some technicality, there may still be grounds for compensation but the courts would have to decide.

Costs Involved With Compensation

A further question was raised with respect to the costs involved in making a claim and the Minister responded that there have not been costs to claimants to date. The Minister, at that time, pointed out that the government is looking into the possibility of replacing the courts with a victims'

compensation board and as Members may know, there is a further act which the Minister of Justice is intending just to table at this session but not to proceed with. It is generally called Victims of Crime Act and I gather that that is what he was referring to when he made this comment as to paying for initiatives. In order to try to recover compensation, the Minister indicated that the government may recommend that there be a surcharge on fines in the Northwest Territories and Members will find that that is another feature in the Victims of Crime Act the Minister intends to table.

A final question was, what would happen if an application were made for compensation but there is no money left in the fund? Where does the obligation rest to respond to this request then?

MR. RICHARD: Something like the Appropriation Act.

MR. MacQUARRIE: Yes.

---Laughter

The Minister explained that since...

MR. RICHARD: Special warrants.

MR. MacQUARRIE: ...since many people in the past had no knowledge of this provision within the law there were very few requests for compensation.

AN HON. MEMBER: Whew!

MR. MacQUARRIE: Fortunately, I guess. He said the Government of the Northwest Territories is responsible for the funds and the courts are not going to make decisions based on budget considerations. Therefore, presumably, if a compensation award is made, the Government of the Northwest Territories is liable to pay that compensation. And again, what if someone were to apply and there was no money, could the case take precedence in a succeeding year? Well, I guess that was answered in the notation above. At any rate, the Minister noted that the time limit is one year from making a claim but the courts could order an extension in extenuating circumstances. Generally, Members felt that there were lots of implications with respect to this bill that seemed to be fairly serious ones that perhaps had not been thought out well or addressed in the past. Also, it was an act that was sitting in the books and yet many people in the Territories had no knowledge about it and, in fact, perhaps the government was keeping its existence a secret so that nobody would apply for compensation, because they did not have any money in the budget, anyway.

HON. NICK SIBBESTON: They would not do that.

MR. MacQUARRIE: That is certainly not a very desirable state of affairs. Either the legislation is good legislation, people should be made aware that it is on the books and encouraged to apply for compensation if they have injuries received during the commission of crimes, or else if that makes our whole financial situation precarious, then perhaps the government should address the fact as to whether the act should continue on the books.

At any rate, all of those issues came up and I think after having been answered by the Minister, there was still concern in the minds of Members but, as I said initially in my remarks, not a concern with the specific changes that are being proposed here. They are merely technical amendments and the committee had no problem with them and recommended the amendments to the committee of the whole as they stood.

CHAIRMAN (Mr. Gargan): Mr. Butters.

HON. TOM BUTTERS: Mr. Chairman, the chairman of the standing committee on legislation has raised a number of issues and there are a number of questions. I believe as Mr. Orr is familiar with the background and could probably answer some of these questions, we could give him the microphone for a few minutes.

CHAIRMAN (Mr. Gargan): Mr. Orr.

Attempts To Publicize Legislation

MR. ORR: Mr. Chairman, I will try to respond to the comments made by the chairman of the standing committee on legislation. If I miss some, please remind me. I think the main point appeared to be the lack of publicity over this legislation and the fact that people in the Territories were not aware of it. This has been a concern of the department for a number of years. There have been attempts in the past to publicize this legislation by having advertisements on television. Perhaps the evidence of the standing committee is that it has not been successful. As a result of the recommendations of the standing committee, the department is attempting to renew its efforts to publicize this legislation. Currently, brochures on this program are carried by native court workers, the police and court staff and they carry this information with them while they go on court circuit into communities, so it is not dependent upon people coming to Yellowknife. That is one opportunity for victims to become aware of the program. The second, and what is perhaps more recent, is that the arctic public legal education committee has been asked to help publicize this program and my understanding is that they will go to great efforts to promote the program. I think also that the tabling of a bill on victims of crime will help publicize the program as a whole.

The other comment was on the amount of money in the fund. My understanding is that that amount is being increased. Unfortunately, I do not have the amounts nor the exact time when that would take effect. On the question of the costs of claimants to the fund, it has been the practice of the Department of Justice to have legal counsel in the government represent claimants to the fund, if they wish so, and that would be done without cost. So, there is an opportunity for claimants to be represented by legal counsel at no cost to themselves. I am not sure, Mr. Chairman, but I hope that answers most of the questions, if not all of them.

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

SOME HON. MEMBERS: Agreed.

---Agreed

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

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Gargan): Clause 2, coming into force provision. 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 6-87(1) is now ready for third reading?

SOME HON. MEMBERS: Agreed.

---Agreed

Bill 9-87(1), Financial Administration Act

CHAIRMAN (Mr. Gargan): Thank you. I would like to thank the witness. We will turn now to Bill 9-87(1), An Act Respecting the Financial Administration of the Government of the Northwest Territories and Public Agencies, with Mr. Butters.

HON. TOM BUTTERS: Mr. Chairman, this bill will not be dealt with as expeditiously as the two preceding bills.

MR. RICHARD: You can count on that.

HON. TOM BUTTERS: It is a piece of legislation that has been in the making for many years. To assist me, I would like to again invite legal counsel, Patrick Orr, and the comptroller general, Jim Nelson, both of whom, I believe, are in the chamber.

CHAIRMAN (Mr. Gargan): Does the committee agree that the Minister brings in his witnesses?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Gargan): Mr. Minister, you may go ahead with your opening remarks, but for the record, could you introduce your witnesses before you make your opening remarks?

HON. TOM BUTTERS: Thank you, Mr. Chairman, to my right the comptroller general of the Government of the Northwest Territories, Jim Nelson, and to my left, Patrick Orr, legal counsel, who was very helpful in putting together the legislation that appears before you. In fact, without his able assistance, I doubt that we would have got this far. I do have a few opening remarks on the bill, if I may be permitted to proceed.

CHAIRMAN (Mr. Gargan): Go ahead, Mr. Minister.

Minister's Opening Remarks

HON. TOM BUTTERS: Mr. Chairman, the purpose of the Financial Administration Act is to provide for the financial management and administration of the Government of the Northwest Territories. I believe that the controls contained in this proposed act, the accountabilities established and the powers and duties that are assigned allows for this financial management and administration to take place in an effective and efficient manner.

In the drafting of this proposed act, input has been received from government departments, public agencies, the Auditor General of Canada, the joint committees on finance and legislation, the public accounts committee, Financial Management Board, the Executive Council. In addition, other government legislation was reviewed and other government officials were consulted for ideas. During this process I believe that the political maturing of this government has been adequately captured and reflected in the proposed legislation.

Significant Changes In Legislation

Some of the more significant changes reflected in this revised act are as follows: The first area where changes occurred respects the organization of this government. I feel that the most significant changes occurred in this area. In the existing act, most of the powers and duties and thus authority for financial administration is retained by the Commissioner, a federal civil servant and the senior financial officer who is a civil servant of the territorial government. The structure being proposed abandons this colonial-type approach and reflects the political maturing of this government toward a provincial jurisdiction. It recognizes the Minister of Finance and provides for his role in exercising overall political authority over the government's financial operations. It also establishes the office of the comptroller general and assigns to it the powers and duties necessary to manage the day-to-day financial matters of government.

The second area where changes occurred respects the powers and duties of the Financial Management Board. In this area changes were made to bring the powers and duties of the board in line with what actually happens in reality.

The third area where enhancements were made respects the principles of accountability. This act attempts to establish the financial accountability of Ministers and overall accountability of the public service to the Executive Council and the Legislative Assembly for the financial management of the programs and agencies under their control.

The fourth area of this act where changes are proposed respects the role of the Commissioner. As this government matures politically the role of the Commissioner has diminished. This proposed act reflects this involvement to the extent that it could occur within the constitutional constraints of the NWT Act.

The fifth area of this act where changes are proposed respects standards of accounting. The accounting standards expounded on in this act reflect the adoption of some of the recent developments in accounting standards in government organizations.

The sixth area of this act where enhancements are proposed respects the delegation of authority. Provisions have been included that allow for the delegation of powers and duties where appropriate to ensure efficiency of operations.

The final area of this act where significant revisions and enhancements were also made, respects the treatment of public agencies for financial administration purposes. In the existing act, scattered references are made to the public agencies without the degree of control and accountability being clearly defined. In this proposed act, focus on public agencies has been achieved by placing this provision in a separate part of the act. Also the matters over which the government pushes to exercise control and establish accountability are specifically spelled out.

Changes Reflect Political Maturing

I believe that for some time we have all acknowledged that changes to the Financial Administration Act are necessary to reflect the political maturing of this government. In fact, the standing committee on finance has pointed out some of these deficiencies by a letter from Mr. Nerysoo as a result of their review of the existing act. As you do your section by section review of the proposed act, I am sure you will see that the deficiencies of that current act are responsibly addressed and that the progressive attitude of the government is appropriately reflected. Now, as I mentioned at the outset, the government has been assisted and advised by, I think, the three standing committees of this House. There were joint meetings of the standing committee on legislation and the standing committee on finance and I believe the membership would also make it accurate to suggest that the public accounts committee as well had an opportunity to examine and review certain provisions of the act. I would expect that we might be hearing from all of the chairmen of those standing committees during the general review of the act. Thank you, Mr. Chairman.

CHAIRMAN (Mr. Gargan): Thank you, Mr. Minister. General comments? Mr. Nerysoo.

Comments From Standing Committees On Legislation And Finance

MR. NERYSOO: Thank you, Mr. Chairman. If I could make some introductory remarks on behalf of the standing committee on legislation and the standing committee on finance with input from my colleague, Mr. MacQuarrie, at the conclusion of my remarks.

Mr. Chairman, during this session, the government has introduced an Act Respecting the Financial Administration of the Government of the Northwest Territories and Public Agencies. This bill has been in the planning and drafting stages for several months. On February 6th a joint meeting of the standing committee on legislation and the standing committee on finance was convened to review all aspects of this important legislation. Subsequently, three additional meetings were held under the chairmanship of Mr. MacQuarrie and myself.

The first meeting continued for two days and it was at this time that the most in-depth analysis of this legislation was done. The Minister of Finance, Mr. Butters, appeared before the committee to answer questions about all aspects of this bill. Assisting him were Mr. James Nelson, comptroller general and Mr. Patrick Orr, legislative counsel. Questions of a general nature were first asked by committee Members. This was followed with a detailed examination of the bill clause by clause. It was the intention of the committee to advise the Minister of the general concerns of Members as well as to make recommendations for the change to the act where the committee felt additions, deletions or clarification were desirable.

The committee would like to acknowledge the considerable help they received from the Law Clerk, Mr. Fournier, in reviewing several of the clauses that came under discussion. The committee would also like to acknowledge the considerable co-operation of the government in addressing committee concerns and recommendations in a very prompt and thorough manner. A revised Financial Administration Act was forwarded to the committee chairmen by January 29th, which incorporated nearly every committee suggestion. In the following clause by clause review both the committee suggestions and the government's response are indicated.

General Concerns

In questioning the Minister of Finance, the committee expressed several concerns of a general nature. Two major ones at that time were:

1) Had the Auditor General of Canada been involved in drafting this legislation? Had he seen and approved this final draft? In response the committee was told that the Auditor General had been involved and that, in fact, the former deputy auditor general, Mr. Harold Hayes had been contracted to assist in drafting. The committee was told that the Auditor General supports the act as written. However, the committee requested a formal response be obtained from the Auditor General's office before the bill was introduced into the House. Mr. Butters sent a letter on January 7th requesting "the views of your office" -- and this is the Auditor General's office -- "in respect to the acceptability of the amended bill". The deputy auditor general of Canada has since responded that his office is satisfied with the act as presented;

2) How extensive was the consultation with agencies, boards and commissions as included in schedules to the act, in the drafting of the act? What were the concerns expressed and how were they addressed? The committee was concerned that all affected organizations be consulted about the implications of this legislation on their operations. In particular, concern was expressed about the response from hospital boards, especially as the Stanton Yellowknife Hospital Board had apparently expressed concerns to the Members of the committee or to a Member of the committee. Concern was also expressed regarding boards of education. In response the committee was told that copies of draft legislation had been forwarded to two major territorial corporations concerned, the Northwest Territories Housing Corporation and the Workers' Compensation Board. The early response had been that certain aspects of Part IX, dealing specifically with public agencies, were too restrictive. Mr. Butters and his officials had met with representatives of both bodies and he was satisfied that they were happy with the proposed bill.

Input From Hospital And School Boards

The committee was concerned that it would be asked to approve this bill without hearing more about the concerns of the hospital boards and the school boards. It was suggested that the government obtain information directly from the various boards as to their interpretation of the impact of this act. The Minister of Health was sent copies of letters from Stanton Yellowknife Hospital Board and the Fort Smith hospital board and, at a subsequent meeting of the committee, was asked to report on the consultation process.

Some Members were clearly not satisfied that sufficient effort was made to address the concerns of volunteer boards. The Minister of Education was sent a copy of a letter from the separate school board of Yellowknife. At his appearance later before the committee, the Minister provided an answer to each concern expressed by the school board. The committee was satisfied with the response of the Minister.

Mr. Chairman, the committee was pleased generally with the speed and the comprehensiveness of the government's response to Members' recommendations. It is clear that the concerns of these committees have been given careful consideration by the drafters of this legislation. However, our compliments to the government are tempered by the concern that the process of consultation with citizens and organizations is presently a poor process at best. The desire for confidentiality must be weighed against the value of knowledge gained by and support earned from those who will be affected by the proposed legislation.

In addition, the compliment is further tempered by the government's decision not to adopt the recommendations of the Speaker and the Management and Services Board who are acting to protect the independence of the entire Assembly. However, I just want to indicate that that particular issue is being dealt with and hopefully an appropriate amendment can be brought forward by the government to recognize the recommendations from the Speaker and from the Management and Services Board. I believe that that particular issue has been dealt with and Mr. MacQuarrie can make further comments with regard to the issue.

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

MR. MacQUARRIE: Thank you, Mr. Chairman. Very few additional comments, the co-chairman of the joint committee has given an extensive overview of the process that we used to review the act. Personally, I thought it was a very thorough and comprehensive review and very worth while as well and I do note specifically that the government in response made many changes to accommodate the concerns of the committee. I think, in general, we have a very good bill here.

Accountability Of The Legislative Assembly

There are still two areas of concern, one of them is with respect to the accountability of the Legislative Assembly. I think those who want to see changes in this bill are not at all saying that the Legislative Assembly should not be accountable. Everyone agreed that it ought to be accountable, certainly accountable to the public for expenditures and for the manner in which expenditures are made. Also many Members would like to see the Legislative Assembly be able to maintain as much independence as possible from the operations of the government and so it is a matter of trying to reconcile those two interests.

Autonomy Of Workers' Compensation Board

The second area where there is still a concern -- and I will be raising it as we go through -- is with respect to the Workers' Compensation Board. The board initially had certain concerns as to how it would be accommodated in this act. Some of those were addressed but subsequent to our thorough review, I did receive a letter from Mike Moore, the chairman of the Workers' Compensation Board addressed to me as the chairman of the standing committee on legislation. It was copied to Mr. McLaughlin, the Minister responsible for the Workers' Compensation Board. It indicated essentially that the Workers' Compensation Board, which discussed the matter very specifically, considers that sections 91 to 93 still are not the way they would like to see them in the sense that they feel their board is set up under certain legislation with certain responsibilities and that in some way the requirement in sections 91 to 93 in which the board must submit to the Minister for the Minister's approval, the board's corporate plan and the board's operating capital budgets, raises serious questions about the autonomy of the board. I will speak more specifically about those as we go through.

The Minister, as I said, received a copy of the letter and is aware of the board's concern. He is aware of the interest I have and I intend when we reach those sections to raise these matters specifically and see if we cannot go some further distance to accommodating the concerns of the Workers' Compensation Board without undermining the effectiveness of the government's legislation. I think there may be a way to do that and so I will raise it at the appropriate time.

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

HON. TOM BUTTERS: I was just wondering whether the public accounts committee chairman felt that he might have something to say. I know that he did during the discussion, relative to his particular responsibilities.

CHAIRMAN (Mr. Gargan): Mr. McCallum.

MR. McCALLUM: Thank you, Mr. Chairman. I do not know whether I want to or am able to add to what has been said by the co-chairmen of the combined committee. Certainly, we did review it and talked about it but I am not too sure that I have anything further to say, Mr. Chairman, on the bill as a whole. There were concerns that were addressed as a result of discussions that we had. However, I think that most of them have been met with the changes that are in the bill itself so I will just leave it at that.

CHAIRMAN (Mr. Gargan): Thank you, Mr. McCallum. General comments. Mr. Richard.

Consultations With Hospital Boards Of Management

MR. RICHARD: Thank you, Mr. Chairman. Mr. Nerysoo, in giving the report of the joint committees, Mr. Chairman, referred to the issue of the lack of consultation earlier this year and late last year -- consultation with these volunteer boards, particularly hospital boards. I am wondering if the Minister or his colleague, the Minister of Health, could advise the committee of what has been done since we adjourned in mid-March. It is my understanding that the representatives of hospital boards met with the Minister -- I believe that is the Minister of Health -- and requested that the government's legislation be postponed for a period of time to allow the hospital boards to meet

with Finance and Health officials but that no particular decision or commitment was made during that meeting. What is the status of the hospital boards at this time inasmuch as the government did, I believe, last March undertake to do some consultation with these boards of management of the hospitals before we reconvened today? Can the Minister or the Minister of Health advise us whether these boards of management are now content with the new financial regime that they will be operating under or is there still some dissension on this issue?

CHAIRMAN (Mr. Gargan): Mr. Minister.

HON. TOM BUTTERS: Thank you, Mr. Chairman. I agree with the Member's assessment that there was a lack of consultation in the process but it was certainly not by intent. I have to take responsibility for the misunderstanding that did occur when the initial request was sent out to the various departments to carry out consultations.

The honourable Member for Mackenzie Delta used the words "desire for confidentiality" -- well, it is not quite correct that there was a desire for confidentiality. The government knew that to consult you had to talk to people and if you talk to people you have to indicate to them the subject of your discussion which in this case is the act itself. My expectation, and I am quite sure it was the expectation of my senior official, the comptroller general, was that when the departments responsible for Education and for Health received this document, the consultation would occur. We were as surprised as anybody to learn that it had not gone forward and had not occurred as of January of this year. So it was not a desire for confidentiality but the age-old breakdown in communication. And, for that, I take responsibility because I did not foresee that people would have to be told that when you consult, you consult. It did not occur.

As a result of that, I got involved in a number of consultations myself, which was alluded to by the chairman of the finance committee. One of these was with the senior officials of the Workers' Compensation Board, including the chairman. In my last discussion with him, he was quite happy with the arrangements we made. I think when we come to sections 90 and 92, the government will indicate that our expectations of the board are very compatible with good management and appropriate management and in the presentation of proper work plans and budgets. We feel that as the Minister responsible for the Workers' Compensation Board reports to this House, he or she should be able to indicate what the plans or the budgets of the Workers' Compensation Board are and we will deal with that when we arrive at that point.

Opportunities For Discussion

In response to the Member for Yellowknife South, as a result of the committee's valid concern with regard to the lack of consultation, there were opportunities set up for discussion to occur at which, I believe, Mr. Patterson was in attendance when school boards were present and Mr. McLaughlin when they dealt with hospital boards. Also in attendance were my two fellow witnesses here, Mr. Nelson and Mr. Orr and I think that it would be proper if they might answer the question of the Member directly. Maybe I could ask Mr. Nelson first, to respond to Mr. Richard's question.

CHAIRMAN (Mr. Gargan): Mr. Nelson.

MR. NELSON: Thank you, Mr. Chairman. Subsequent to the concerns of certain individuals on the lack of consultation, I attended two meetings with the hospital boards and with the legal counsel we wandered through the various sections that would affect their operations. Some concerns were raised at the end of the meeting, and continue to be raised, but we indicated that it was a vastly improved situation over the present Financial Administration Act, which covers boards and agencies to some extensive degree. I also met with the separate school board in Yellowknife and I discussed with the secretary-treasurer of Education District No. 1 their concerns. Although Education District No. 2 continued to have some concerns following our discussions, Education District No. 1 seemed satisfied with the same situation. But there was a consultation process that did take place rather extensively after January with these boards and agencies.

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

HON. TOM BUTTERS: Just, Mr. Chairman, to reinforce the statement of the comptroller general with regard to conditions which would exist if we applied the current Financial Administration Act, and we have not been doing this. Possibly, Mr. Nelson could just underline that situation again.

CHAIRMAN (Mr. Gargan): Mr. Nelson.

MR. NELSON: Thank you, Mr. Chairman. With respect to the Workers' Compensation Board and the hospital boards, the present Financial Administration Act is extensive in its application. It deals with such things as basic signing authorities of the entities, the day-to-day financial affairs and so forth, and would require, if followed to the letter, a complete involvement of this government with the day-to-day operations and financial affairs of the agencies.

Proposed Act Limits Number Of Agencies Affected

The new proposed act basically establishes, in Part IX of the act, the general parameters of limiting, again, by some considerable number the number of agencies that will be affected and providing just the general theme of management accountability as opposed to day-to-day accounting and control of operations.

CHAIRMAN (Mr. Gargan): Thank you, Mr. Nelson. General comments. Mr. Nerysoo.

MR. NERYSOO: Thank you, Mr. Chairman. I do not want to prolong the debate but the honourable Member and the Minister indicate that questions of confidentiality seem not to be a concern of the Executive Council. I want to indicate that while the process, in his view, may have been one of open discussion, I think that it is important for that particular issue to be discussed with the Executive Members so that such comments would not be made in such reviews. The Minister may not have made those comments, but other of his colleagues did make those comments about the confidentiality of legislation.

It is important to note that we are not being critical of the process as it ended up but of the way it ended up. The fact is that we are satisfied with the process having been more public and with the idea of the involvement of the standing committees being part of the development of the legislation, because in the end you have a piece of legislation here that generally satisfies the Members of this Assembly and the process is such that we were able to make recommendations to improve the bill -- not only to amend the bill but to improve the bill so that it could respond to the direction of the Ministers and to government, particularly in the manner in which expenditures were made on behalf of this government and this Assembly.

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

Confidentiality Of Legislation

HON. TOM BUTTERS: Thank you, Mr. Chairman. On the matter of confidentiality of legislation. It is under discussion and it is on the agenda of the House planning and legislation committee for review to determine the best way to ensure that the public at large and in cases where specific agencies or organizations are affected, how such input can be obtained before the legislation can be given first reading. The government is aware of the need and is addressing it.

CHAIRMAN (Mr. Gargan): Thank you, Mr. Minister. General comments. Mr. Richard.

MR. RICHARD: Mr. Chairman, I would still like to hear from the Minister of Health, or one of the officials who might have been at the meetings with the hospital boards, because there is still a concern, Mr. Chairman, in my mind. I understand at least the Stanton Yellowknife Hospital Board of Management is concerned about the effect this legislation will have on the financial management regime that they are now operating under. This legislation is in conflict with an agreement that this government has signed with the hospital board of management. And while I think if this matter that the comptroller general mentions, about the current act, has been raised at one or more meetings that I have been at by the Minister of Health, quite frankly, that is a red herring. For anyone to suggest that the current FAA not in force would be harder on the boards of management of these hospitals than the draft legislation is neither here nor there.

The issue, Mr. Chairman, is that the volunteer boards of management are now operating under a certain set of rules, regulations and guidelines and signed agreements with the government, and the parameters of that regime are going to be changed in a dramatic fashion if this legislation is adopted. I understand, Mr. Chairman, that the last communication by those hospital boards, or at least the one hospital board, to the Minister of Health, perhaps to the Minister of Finance and his officials, was that they were not in agreement with these changes. I am getting the impression, because no one is telling me any different, that the government has not addressed the concerns of

the Stanton Yellowknife Hospital Board of Management. I would like, Mr. Chairman, to hear from someone on how that matter was dealt with, because that, as I recall, was one of the main reasons why we deferred this issue in the month of March.

CHAIRMAN (Mr. Gargan): Mr. Minister.

HON. TOM BUTTERS: Mr. Chairman, I would like to ask our legal counsel to respond to his recollection of the meetings with the hospital boards.

CHAIRMAN (Mr. Gargan): Mr. Orr.

Concerns Of Various Hospital Boards Of Management

MR. ORR: Mr. Chairman, as the Minister has mentioned, I was in attendance at a meeting attended also by Mr. Nelson and the Minister of Health. In attendance were officials from various hospital boards of management, including the Stanton Yellowknife Hospital Board. At that meeting there was a general discussion of the application and the provisions of the draft act and there was some concern over the effect that the proposed legislation would have on their operations. Now, Mr. Nelson and I spent some time going through Part IX of the act, which would apply to hospital boards of management, and did our best to explain how we saw its application. I think it would be fair to say that for the most part many of the concerns that the hospital boards of management had were alleviated by that discussion. There had been a fear that there was more going on with the bill than they could discern from reading it and that perhaps this was an attempt to interfere with the mandates of hospital boards of management. As it turned out, I think the contrary is true -- that the new act is attempting to give them more autonomy over their financial operations than the current Financial Administration Act gives them.

Now, in response to one concern they had, which was, how do we know which sections of the current act apply to us and which do not, a document was prepared by the Department of Finance with assistance from Justice and forwarded to hospital boards of management by the Department of Health explaining what the government's view was of the application of the proposed act. Now, there had been some discussion of agreements that currently exist between the Commissioner and hospital boards of management and a great deal of discussion centered around the difference between the proposed act and those agreements. Many of the provisions of those agreements did not actually conflict with the proposed act, but a few did. As it turns out, many of those agreements are over eight years old and were made before the current Financial Administration Act was enacted. When that new act came into force, those agreements were not updated in response to that piece of legislation and as a consequence are in conflict with some of the provisions of the current legislation.

As was mentioned, there has been little attempt to enforce some of the provisions of the current legislation on those hospital boards of management like other territorial agencies. I think that, perhaps, is because of the fact that they have been attempting to prepare new legislation to solve problems that exist in the current legislation.

Recommendation That Proposed Act Be Delayed

In conclusion, there was one recommendation -- I believe it came from the Stanton Yellowknife Hospital Board, one of the officials of that board; that the proposed act be delayed to give them more time to consider its implications. Now that is obviously a recommendation that they are entitled to make. The implication was explained to them that if that is the case, then the current legislation continues to apply and there may be an expectation that those provisions, which were enacted by this Assembly, be enforced, and that is perhaps an issue that might cause them some concern. But there was a recommendation, and I believe it came from that board, that they wanted it to be delayed, but I do not believe that that recommendation was shared by other hospital boards of management.

CHAIRMAN (Mr. Gargan): Thank you, Mr. Orr. We will now take a 10 minute coffee break.

---SHORT RECESS

CHAIRMAN (Mr. Erkloo): The committee will come to order. I believe we are on general comments. Mr. MacQuarrie.

MR. MacQUARRIE: Thank you, Mr. Chairman. I had noted, a little earlier this afternoon, concerns that had been raised to myself and to the Minister responsible for the Workers' Compensation Board and indicated that when we got to the appropriate sections I would be raising the matter again. But I thought that, for benefit of Members, in the meantime I will read in the substance of the letter I received so Members can see what the issues are and be thinking about them between now and the time when we reach that point.

The letter came to me on April 3, 1987 and it was from Mike Moore, the chairman of the Workers' Compensation Board. It said in part that the board was pleased with changes that had already been made and I know the Minister alluded to that fact that the government had consulted with people from the Workers' Compensation Board and made certain changes which the chairman found very good. That is remarked on in this letter; it said, "The board considers section 78(5) and section 81(3) to be extremely important provisions for safeguarding the integrity of the accident fund." So they are very satisfied with those changes.

Exclusive Jurisdiction Provided In Workers' Compensation Act Taken Away

The letter goes on to say, "I was asked by a resolution of the board to explain some concerns about the sections in Part IX which call for the Minister to approve the board's corporate plan", and that is in section 91, "and the board's operating and capital budgets", and those are sections 92 and 93. "The board wonders what is intended by the act in the event that the Minister does not approve the corporate plan or the budgets." So it should be noted that those sections call for the corporate plan and the operating capital budgets to be approved by the Minister responsible, not by the Assembly but by the Minister responsible. So what happens if the Minister does not approve? "Will the board then be expected to revamp its plans and budgets to suit the Minister? Or will the Minister be able to impose a corporate plan upon the board and set a different budget? Should not the act be clear about these questions" if those provisions are to remain? "It seems", says the letter, "to the board that the combined effect of sections 91 to 93 is to take away from the board the exclusive jurisdiction over all matters arising under the Workers' Compensation Act provided in section 8(1) of the Workers' Compensation Act. It therefore seems that if the board will be required by the Financial Administration Act to obtain approval from the Minister for such things as investments, assessment rates and pension payments, there should be a consequential amendment to section 8(1) of the Workers' Compensation Act." In other words the chairman is pointing out that there would seem to be some contradiction then between the two acts if consequential amendments were not made.

The letter goes on, "An alternative approach might be to amend the Financial Administration Act in committee of the whole to say, in sections 91 to 93, that the corporate plan and the budgets of a public agency must be submitted to the appropriate Minister and that the Minister will lay them before the Legislative Assembly at the first opportunity, much as the act says about the annual report of a territorial corporation in section 100." These plans and the budgets are submitted to the Minister but the Minister then lays them to the Assembly. The letter continues, "This approach would be in keeping with section 77, which says that a public agency is ultimately accountable, through the appropriate Minister, to the Legislative Assembly for the conduct of its affairs. Disclosure in the Assembly would seem to be an appropriate way to satisfy that principle; giving an individual Minister the right of veto over corporate plans and budgets is a good deal less than appropriate. The board hopes that your committee will understand the importance of this issue and recommend to the Legislative Assembly that the Financial Administration Act should be amended. From the earliest days of workers' compensation in Canada, it has been a fundamental principle that the scheme should be administered by a board accountable only to the Legislative Assembly. The Workers' Compensation Acts of all the provinces and territories are written to protect that principle. It will be unique to the Northwest Territories if the board's decisions on matters under the Workers' Compensation Act are subject to a Minister's approval." That, as I said, is from the chairman of the Workers' Compensation Board. So it seems to me that some very important questions are raised and I invite Members to think about them and as I say, I will return to those points when we reach section 91 in our clause by clause review.

CHAIRMAN (Mr. Erkloo): General comments. Mr. McLaughlin.

HON. BRUCE McLAUGHLIN: Thank you, Mr. Chairman. Just specifically on the Workers' Compensation Board and its relationship to the Assembly and to the Executive Council, through me. It is the position of myself and the Executive Council that the Workers' Compensation Board, because of its uniqueness, is at arm's length in this government. It is established by the Legislative Assembly and the Members are appointed by the Assembly. We realize that individual members of the board can lobby, and are lobbying, individual MLAs concerning this legislation, and that the board and the chairman have the right to approach individual Members either in writing or orally, or to make presentations to the standing committee chairman or the committee itself. So I just want to make it clear that the Executive Council is not in any way trying to impede any efforts by the board members or the chairman to put the case of the board to any person or persons it feels appropriate. Thank you, Mr. Chairman.

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

MR. MacQUARRIE: Yes. I should make it clear that the reason I read the letter here, is simply that the standing committee on legislation has already concluded its review of the Financial Administration Act, with the exception of the matter of the independence of the Assembly. Therefore, I thought that it would be appropriate to raise the matter right in the House and hear the government's response in the House.

CHAIRMAN (Mr. Erkloo): Any more general comments? Mr. Richard.

Correspondence From Stanton Yellowknife Hospital Board Of Management

MR. RICHARD: Mr. Chairman, I still have not received a satisfactory response on the issue of the hospital board. Can I ask the Minister of Health directly, Mr. Chairman, whether he has at hand, in writing, anything from the Stanton Yellowknife Hospital Board of Management that he appointed, any indication that they are content with the changes that are going to happen to their financial regime? Or does he have at hand anything in writing from the Stanton Yellowknife Hospital Board of Management that he appointed, a list of their still-outstanding concerns with this act, with this bill? And in either case, can he not disclose to this committee, the status of the position of the hospital board of management that he, under his responsibility as Minister of Health, appointed?

CHAIRMAN (Mr. Erkloo): Mr. McLaughlin.

HON. BRUCE McLAUGHLIN: Thank you, Mr. Chairman. I can only repeat what Mr. Orr and Mr. Nelson said in relation to boards. Officials from my department, Justice and Finance met in Yellowknife with officials from the boards. A couple of days later I met with the board chairman from Yellowknife, as well as representatives of the other hospital boards, I think with the exception of Hay River. I cannot remember if someone from Hay River was there or not. We explained to them in some detail what the new legislation had in it; that it was an improvement for boards, over the existing legislation, which was not, in fact, actually being enforced to the letter. I told them my only apprehension, at the time, if we did not proceed with the existing act was that if the Auditor General compelled the Financial Management Board to enforce the existing legislation for that period of time from then until this new one was passed, it could be an arduous thing for the boards. But I hoped that the Financial Management Board would not be compelled to enforce the existing act and its regulations between then and now. That has in fact been the case.

The boards have not given me anything in writing. As far as I know they are fully content with the legislation but my understanding at the end of the meeting was that they now understood it more clearly and that they would take a longer look at it and would be able to give us any further reactions if they had some suggested changes. I do not have anything in writing myself indicating to me that the hospital boards are not 100 per cent happy with the existing legislation, but such might have been directed to Justice or Finance. I am not sure. Thank you.

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

HON. TOM BUTTERS: Mr. Chairman, a letter did go out, I believe over the signature of Mr. Pontus, but as Mr. Nelson has the documentation maybe I could ask him to provide the dates and what response has been received.

CHAIRMAN (Mr. Erkloo): Mr. Nelson.

Letters Sent To Chairmen Of Boards

MR. NELSON: Thank you, Mr. Chairman. On March the 9th, following our meetings with the hospital boards, Mr. Pontus, who is chairman of the Territorial Hospital Insurance Services Board, wrote letters to all the hospital boards' chairmen attaching the follow-up information that was requested as a result of the meetings and the interpretation that the Department of Justice and ourselves and Finance had given us with respect to the sections of the new act. The letters asked for any feedback that may come as a result, on further concerns and as of today I have had no response. So I am not sure whether or not the response was forthcoming from those boards.

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

MR. RICHARD: Mr. Chairman, the Minister of Health says that he does not know if these hospital boards contacted Justice or Finance. Mr. Nelson indicates that the letter going out soliciting comments went from Mr. Pontus, who works for the Minister of Health. I have a fear that this thing is falling through the cracks again somewhere and I am having difficulty getting something clear from Mr. McLaughlin. I am concerned about the Stanton Yellowknife Hospital Board of Management. They are not the responsibility, yet, of Finance or Justice. They are under the responsibility of the Minister of Health and legitimately, Mr. Pontus, we are told sent out a letter on March 9th. Has there been a response since March 9th from the Stanton board indicating its outstanding concerns with this legislation?

CHAIRMAN (Mr. Erkloo): Mr. McLaughlin.

HON. BRUCE McLAUGHLIN: Thank you, Mr. Chairman. As I said I received nothing in writing. At the end of that meeting, the boards, including Mr. Babiuk, who is chairman of the Stanton board, basically said that after having seen the legislation it appeared that they could be generally happy with it and that they would get back to us. While meeting with me, I told Mr. Pontus to make sure that if any concerns were expressed that I be alerted about them. He has not advised me of any major concerns from hospital boards since that time. So as far as I am aware, no major concerns have been directed to me or my department, but I could be wrong. I have not seen any major concerns come to me. I have talked to Mr. Babiuk on half a dozen occasions, socially and casually, since then and he has not mentioned anything. I met with him in his store a couple of times since then, as well. So as far as I know, there is nothing. The board chairmen who were there basically were concerned about the fact that there had been a hiccup in the consultation process and they did not want it to happen again.

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

Request For Status Of Position Of Board

MR. RICHARD: Mr. Chairman, we are going to be continuing our deliberations on this bill tomorrow, I take it. I am wondering if the Minister of Health could, between now and this time tomorrow, find out what the status of the Stanton hospital board position is on this legislation because I sense, Mr. Chairman, the meeting the Minister is referring to did not resolve the concerns of the Stanton Yellowknife Board of Management. And as for the Minister indicating to them that things would be worse if we enforced the current legislation, I understand that they clearly asked the Minister to delay this legislation as it affected the hospital boards, for at least six months. I would ask, Mr. Chairman, for the Minister to indicate to this committee, perhaps tomorrow, where this stands with the Yellowknife board. Thank you.

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

HON. BRUCE McLAUGHLIN: Mr. Chairman, at that meeting, I told them that the legislation would no doubt be proceeding at this session, if it was not proceeded with at that time, as this would be the last session that we would be holding, so that for all interests and purposes any delay would be only until now. They may not have been happy with that but the practical situation is that this is the only opportunity, so the government decided not to go ahead with the legislation for that and other reasons in March. But we told them at that meeting that this would be the time that we would have to proceed with the legislation. But I will undertake to see if Mr. Pontus has had any comments from the board since then. Thank you.

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

Responsibility For Answer To Question

HON. TOM BUTTERS: Well, by way of process, Mr. Chairman, I believe that it is better to direct the questions to one Minister rather than getting every Member of the Executive Council involved in the debate. I think it is proper that I accept responsibility for answering the question and not Mr. McLaughlin. In the last 10 minutes I have attempted to find out from the Department of Health just whether they have had an answer. The two senior officials, Mr. Pontus and the financial officer are out of town, but I will endeavour to have Mr. Richard's question responded to tomorrow.

CHAIRMAN (Mr. Erkloo): Thank you. General comments? Any more general comments? What is the wish of the committee now? Should we go clause by clause? Mr. Wray.

HON. GORDON WRAY: Mr. Chairman, I move that we report progress.

CHAIRMAN (Mr. Erkloo): There is a motion on the floor. I am sorry, I am told we do not have a quorum. Could the Sergeant-at-Arms ring the bell?

There is a motion on the floor to report progress. All those in favour? Opposed, if any? The motion is carried. I will now rise and report progress. I would like to thank the Minister and his witnesses.

MR. SPEAKER: Mr. Erkloo.

ITEM 18: REPORT OF COMMITTEE OF THE WHOLE

REPORT OF COMMITTEE OF THE WHOLE OF BILL 2-87(1), ADVISORY COUNCIL ON THE STATUS OF WOMEN ACT; BILL 6-87(1), CRIMINAL INJURIES COMPENSATION ACT; BILL 17-87(1), MECHANICS' LIEN ACT; BILL 9-87(1), FINANCIAL ADMINISTRATION ACT

MR. ERKLOO: Thank you, Mr. Speaker. Mr. Speaker, your committee has been considering Bill 2-87(1), Bill 6-87(1), Bill 17-87(1) and Bill 9-87(1) and wish to report that Bill 2-87(1), Bill 6-87(1), and Bill 17-87(1) are now ready for third reading.

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. Thank you.

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: Mr. Clerk, orders of the day and announcements.

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

ITEM 20: ORDERS OF THE DAY

Orders of the day for Wednesday, May 27th, at 1:00 p.m.

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

7. Returns to Written Questions
8. Replies to Opening Address
9. Petitions
10. Reports of Standing and Special Committees
11. Tabling of Documents
12. Notices of Motion
13. Notices of Motion for First Reading of Bills
14. Motions
15. First Reading of Bills
16. Second Reading of Bills
17. Consideration in Committee of the Whole of Bills and Other Matters: Bill 9-87(1)
18. Report of Committee of the Whole
19. Third Reading of Bills
20. Orders of the Day

MR. SPEAKER: Thank you, Mr. Clerk. This House stands adjourned until Wednesday, May 27th, at 1:00 p.m.

---ADJOURNMENT

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