



LEGISLATIVE ASSEMBLY OF THE NORTHWEST TERRITORIES

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YELLOWKNIFE, NORTHWEST TERRITORIES

TUESDAY, MAY 10, 1983

MEMBERS PRESENT

Mr. Appaqaq, Mr. Arlooktoo, Hon. George Braden, Hon. Tom Butters, Mr. Curley, Mr. Evaluarjuk, Mr. Fraser, Mr. MacQuarrie, Mr. McLaughlin, Hon. Richard Nerysoo, Hon. Dennis Patterson, Mr. Pudluk, Mr. Sayine, Mr. Sibbeston, Mrs. Sorensen, Hon. Don Stewart, Hon. Kane Tologanak, Hon. James Wah-Shee, Mr. Wray

ITEM NO. 1: PRAYER

---Prayer

SPEAKER (Hon. Don Stewart): Orders of the day for Tuesday, May 10.

Item 2, Members' replies. Item 3, oral questions. Mr. Wray.

ITEM NO. 3: ORAL QUESTIONS

Question 100-83(1): Responsibility For Closure Of Vocational Training Section

MR. WRAY: Thank you, Mr. Speaker. A question for the Minister of Education. I wonder if the Minister could inform us as to whether to his knowledge the Government of the Northwest Territories Department of Education was in any way responsible for the closing of the vocational training section in Ottawa. Thank you.

MR. SPEAKER: Mr. Patterson.

Return To Question 100-83(1): Responsibility For Closure Of Vocational Training Section

HON. DENNIS PATTERSON: Mr. Speaker, the initiative for closing the vocational training section of the Department of Indian and Northern Affairs came from the Department of Indian and Northern Affairs, not from the Government of the Northwest Territories. I should say in elaborating further, that since the Northwest Territories Department of Education now has jurisdiction and responsibility for all aspects of education for Northwest Territories students including post-secondary education, this move, this initiative by the Department of Indian and Northern Affairs was not resisted by the Government of the Northwest Territories since it is in keeping with a jurisdiction that we now enjoy. Thank you.

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

Question 101-83(1): Use Of Asbestos Insulation In School, Chesterfield Inlet

MR. WRAY: Thank you, Mr. Speaker. This question is for the Minister responsible for Public Works and I see he is not here so perhaps the government leader would undertake to pass that along to him. On my last visit to Chesterfield Inlet there was some concern expressed by the residents that perhaps in the construction of the school, which is the oldest school in the Keewatin region, asbestos insulation was used. I wonder if the government would undertake to find out if in fact that is the case and report back to this House, please.

HON. GEORGE BRADEN: Mr. Speaker, I will take that question as notice. Thank you.

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

Question 102-83(1): Government Satellite Services Expansion

HON. RICHARD NERYSOO: Mr. Speaker. I would like to direct a question to the honourable Member who is responsible for the Department of Information. I would just like to question whether or not it is the intention of the Minister and the government to expand its successful program in providing satellite services to other communities under the population of 150 and where will this implementation initially take place?

MR. SPEAKER: Mr. Patterson.

Return To Question 102-83(1): Government Satellite Services Expansion

HON. DENNIS PATTERSON: Thank you, Mr. Speaker. The territorial government's satellite communications program has up until now not been extended to communities with a population of below 150, but I am pleased to inform the Member that the Executive Committee has found the necessary funds to extend television service this summer to Arctic Red River in the Mackenzie Delta which has a population of 130. In response to requests from the Legislative Assembly that this policy be expanded, the funds have been found and will be placed before this House at this session in a special supplementary capital estimate. Thank you, Mr. Speaker.

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

Supplementary To Question 102-83(1): Government Satellite Services Expansion

HON. RICHARD NERYSOO: Mr. Speaker, a supplementary to the honourable Minister. Does he intend to expand to other communities in the Northwest Territories?

MR. SPEAKER: Honourable Mr. Patterson.

Return To Supplementary To Question 102-83(1): Government Satellite Services Expansion

HON. DENNIS PATTERSON: Yes, Mr. Speaker. I am also pleased to announce in response to that question that we will be providing television and radio service to another community with a population of 140, Canada's northern Inuit community, Grise Fiord, this summer also.

---Applause

MR. SPEAKER: Thank you. Oral questions.

Item 4, written questions. Are there any written questions? Item 5, returns. Are there any returns? Mr. Braden.

ITEM NO. 5: RETURNS

Return To Question 77-83(1): Indemnities For Justices Of The Peace In The NWT

HON. GEORGE BRADEN: Mr. Speaker, I have a return to written Question 77-83(1) asked by Mr. Curley on March 4. It concerns indemnities for justices of the peace. Justices of the peace in the Northwest Territories receive a yearly honorarium in the amount of \$200 which is paid semi-annually. In addition, the following is a schedule of fees they are entitled to charge: a) five dollars for each case heard; b) one dollar for each remand; c) \$10 for each bail application heard between 12:00 midnight and 8:00 a.m.

The above honorarium and fees have been in effect since April 1, 1977. Consequently, it is hoped with further consideration by the Executive to implement the following increases in the near future and these are proposals: yearly honorarium of \$500; 10 dollars for each case heard; two dollars for each remand; and \$20 for each bail application heard between 12:00 midnight and 8:00 a.m.

MR. SPEAKER: Are there any further returns? Item 6, Ministers' statements. Mr. Braden.

ITEM NO. 6: MINISTERS' STATEMENTS

Minister's Statement On Death Of Commissioner L.H. Nicholson

HON. GEORGE BRADEN: Mr. Speaker, I would like to inform this House that Commissioner Leonard H. Nicholson passed away in Ottawa on March 22, 1983. Commissioner Nicholson was born in New Brunswick and joined the RCMP in 1926, serving the force with distinction until the outbreak

of World War II. After serving with the Canadian army during the war, he returned to the RCMP in 1946 and shortly thereafter was promoted to Assistant Commissioner. His ability as a leader and his experience in police work were fully recognized in 1951 when he was appointed Commissioner of the force.

I bring this to the attention of the House, Mr. Speaker, because while serving as RCMP Commissioner, Mr. Nicholson was a member of the Council of the Northwest Territories. For his service to the community and to the nation, Commissioner Nicholson was made an Officer of the Order of Canada and Bailiff Grand Cross, Order of Saint John. He retired from the force in 1959.

Commissioner Nicholson is survived by his wife, two daughters and two grandchildren, and I am sure that as Members of this House we pass on our deepest sympathies to the family. Thank you, Mr. Speaker.

MR. SPEAKER: Thank you, Mr. Minister. Ministers' statements?

Item 7, petitions.

Item 8, reports of standing and special committees. Item 9, tabling of documents.

ITEM NO. 9: TABLING OF DOCUMENTS

HON. GEORGE BRADEN: Mr. Speaker, I wish to table Tabled Document 28-83(1), 1983 Constitutional Accord on Aboriginal Rights of the First Ministers' Conference on Aboriginal Constitutional Matters. The document is tabled in English, Inuktitut and French, Mr. Speaker.

MR. SPEAKER: Thank you. Tabling of documents.

Item 10, notices of motion.

Item 11, notices of motion for first reading of bills. Item 12, motions.

ITEM NO. 12: MOTIONS

Motion 20-83(1), Regional and Tribal Councils. Mr. Curley.

Motion 20-83(1): Regional And Tribal Councils, Withdrawn

MR. CURLEY: Mr. Speaker, I wish to withdraw the motion.

MR. SPEAKER: Thank you, Mr. Curley. The motion is withdrawn.

Item 13, first reading of bills.

Item 14, second reading of bills. Item 15, consideration in committee of the whole of bills, recommendations to the Legislature and other matters.

ITEM NO. 15: CONSIDERATION IN COMMITTEE OF THE WHOLE OF BILLS, RECOMMENDATIONS TO THE LEGISLATURE AND OTHER MATTERS

Bill 26-83(1), Liquor Ordinance, with Mr. Fraser in the chair.

PROCEEDINGS IN COMMITTEE OF THE WHOLE TO CONSIDER BILL 26-83(1), LIQUOR ORDINANCE

CHAIRMAN (Mr. Fraser): The committee will come to order. We are dealing with Bill 26-83(1), An Ordinance Respecting Liquor. Mr. Braden.

HON. GEORGE BRADEN: Mr. Chairman, may I have the committee's permission to bring in Mr. Lal and Miss Meldazy?

CHAIRMAN (Mr. Fraser): Is it agreed that the witnesses come into the ropes?

---Agreed

Will the Sergeant-at-Arms see that they are brought in? We have the Minister, Mr. Braden, his deputy Mr. Lal and Miss Meldazy to answer any questions and for some of you who were not here yesterday we are dealing with Bill 26-83(1), An Ordinance Respecting Liquor.

We have gone as far as clause 10, classes of licences, and when we adjourned last night that is where we finished off. We are still on clause 10 and we are open for general comments on classes of licences. Clause 10, Mr. MacQuarrie.

MR. MacQUARRIE: In addition to the concern with off-premises sales which we were discussing yesterday there is one other subclause that the standing committee on legislation addressed within clause 10 and that was what now appears as subclause 10(7). The committee felt that within certain small communities where there may only be one licensed premises that the government should consider whether dual licences might be issued so that a place that perhaps had a cocktail licence could, on a Sunday, have a dining lounge licence or something like that so that families might be able to go and have dinner together. I see that the government has accepted that recommendation and it is noted in subclause (7).

I would also call to the attention of Members who may have not had a chance to check the mail yet in regard to the Liquor Ordinance, the NWT Hotel Association has delivered a brief touching on four points that concern them. All Members would have that in their mail somewhere if they have not found it yet.

CHAIRMAN (Mr. Fraser): Clause 10, agreed? Mr. Sibbeston, clause 10.

MR. SIBBESTON: Mr. Braden said "agreed" so I of course have to oppose him on that. I am just wondering if Members would consider reducing the amount of beer that is taken out pursuant to an off-premises licence to 12 bottles of beer rather than 24, because I think in many ways the government must be commended for the extent to which they have gone in cutting or placing restrictions on off-premises licences, but I feel that they are not going far enough. Yesterday I attempted to do away completely with the off-premises licence provisions but obviously the political will is there to keep it. But I am wondering today if Members would see it in themselves to limit the number of beer taken out by one person per day to 12 beer which is one case rather than two cases of beer. I submit and say that a restriction of two cases of beer is not much of a restriction because, as I said, a person does not party by himself. Invariably there are three, four, five, six, seven, eight, nine people and they all take two cases each. That is enough beer for the remainder of the week really. So the present provision or plans to have two cases of beer per person is not much of a restriction. If the government is sincere, if the Members here are interested in cutting down on drinking after the bars close, then I wonder if they would consider providing for only 12 bottles of beer.

CHAIRMAN (Mr. Fraser): Mr. Sibbeston, is that a motion?

MR. SIBBESTON: Well, it was not a motion. I could make a motion but I thought I could open it up for general discussion and see what other people felt. If there was enough support for it, then I would make a motion amending the 24 to 12.

CHAIRMAN (Mr. Fraser): Clause 10, agreed?

Motion To Amend Subclause 10(3), Bill 26-83(1), Carried

MR. SIBBESTON: I will make a motion that in subclause 10(3) where the words show "24", it be changed to "12", and for people to please be reasonable.

CHAIRMAN (Mr. Fraser): Motion on the floor. The motion is in order. Question?

SOME HON. MEMBERS: Question.

CHAIRMAN (Mr. Fraser): Question being called. All those in favour? Down. Opposed? The motion is carried.

---Carried

Clause 10 as amended. Mr. Pudluk, clause 10.

Motion To Amend Subclause 10(2), Bill 26-83(1)

MR. PUDLUK: (Translation) Mr. Chairman, I would like to say something too. We received a letter from Jack Walker concerning buying liquor off premises and I think it says here that they are able to buy liquor up to 10:00 o'clock. I do not think there are many places that have liquor stores and I think this is going to create a problem for the tourists or visitors. I do not think that

tourists or visitors like to just sit in a bar and drink. I know some people would like to just go home and drink instead of sitting in a bar. If they come in after the bars are closed, this would be a problem. I would like to add an amendment to this. Instead of having it to 10:00 p.m. put it to 11:00 p.m. for the benefit of the tourist or visitor. This is my amendment.

CHAIRMAN (Mr. Fraser): Mr. Pudluk, your motion is to change subclause 10(2) to read that the hours of sale be extended one hour to 11:00 o'clock, is that your motion?

MR. PUDLUK: Yes.

CHAIRMAN (Mr. Fraser): The motion is in order. To the motion, Mr. Patterson.

HON. DENNIS PATTERSON: Mr. Chairman, I wonder if through you I could ask a question of the Minister. That is, what is the closing time of premises currently on a week day?

CHAIRMAN (Mr. Fraser): Mr. Minister.

HON. GEORGE BRADEN: Could I just have a minute to consult with one of my officials who is here? I do not generally stay in the bars that late.

CHAIRMAN (Mr. Fraser): We will just wait for one minute while he gets the information for the Member. Mr. Minister.

HON. GEORGE BRADEN: As Members are aware, there are different classes of licences. I presume the question here would apply to those licences which can sell beer off-sale. I am informed by Mr. Christoph that in establishments with cocktail licences and dining lounge licences which can sell off-sale beer, off-sale beer can be sold Monday through Friday up until 1:00 a.m. and on Saturday until midnight. Then there are cabaret licences and in those institutions they are allowed to sell beer three days of the week on off-sales. If they choose to have off-sale Thursday, Friday and Saturday off-sales of beer can take place right up until 2:00 a.m. However, on Saturday off-sales cannot take place after midnight.

CHAIRMAN (Mr. Fraser): Thank you, Mr. Minister. Mr. Patterson, does that answer your question?

HON. DENNIS PATTERSON: Yes, thank you, Mr. Chairman.

CHAIRMAN (Mr. Fraser): To the motion. Mr. Patterson.

HON. DENNIS PATTERSON: Mr. Chairman, as I said yesterday, I think this rule allows a bit of restriction on this practice, but 10:00 o'clock is a good compromise in my view. The concern that I would like to express is that in my view the more people drink, generally, the more they want to drink and the more you drink the more drunk you become and your ability to restrain yourself may also decline. So I think we want to avoid the situation where people who are quite intoxicated are purchasing beer and going out on the street with it.

I would say particularly as long as people are allowed to purchase beer inside the licensed premises and not at a separate location we should stick with the 10:00 o'clock rule. If the changes are made which the Minister I think is entertaining, whereby there would be a separate wicket in a hotel away from the licensed premises where people could purchase beer and where their condition could be judged perhaps a little better by the vendor, I would think we could at that time review this rule, but until that takes effect I would respectfully decline to support the motion.

I also say that many tourists, most tourists, are campers and I think if they are not settled in well before 10:00 o'clock they would be the exception to the rule, so they would have plenty of time I would suggest to go and purchase if the rule is 10:00 o'clock. I think the rule may well inconvenience those of us who are coming in from the Eastern Arctic on NWT Air because I believe we just miss the chance to purchase off-premises given the time the flight takes, but I think that might be just as well. Thank you very much, Mr. Chairman.

CHAIRMAN (Mr. Fraser): Thank you, Mr. Patterson. Are you talking from experience or hearsay?

AN HON. MEMBER: Both.

CHAIRMAN (Mr. Fraser): To the motion. Mr. Sibbeston.

MR. SIBBESTON: Mr. Chairman, I just want to say that I do not support the motion. I must say that the government in deciding on 10:00 o'clock is very wise and must have many good reasons why they have chosen 10:00 o'clock and it is the government, the Executive Committee, that obviously has made this decision and they are usually a pretty wise bunch and they have the force of the government, the liquor system and the whole status quo I guess supporting them, so they have good reasons why they are suggesting 10:00 o'clock.

From my experience I find that 10:00 o'clock is the turning point in an evening, sitting up in the bars. You are rational up to 10:00 because you begin drinking sometime after work or else you go out for the evening and start at 8:00. After you have sat in the bar for two hours, you are still rational, but after 10:00 the music gets intense and everybody gets high and you are not able to make rational decisions any more and so...

HON. RICHARD NERYSOO: One must speak for themselves, Nick.

MR. SIBBESTON: ...so I do not support the idea of upping it to 11:00 and suggest that we do not support the motion.

CHAIRMAN (Mr. Fraser): Mr. Curley, to the motion.

Hours Of Sale Are An Exception

MR. CURLEY: Thank you, Mr. Chairman. I have difficulty understanding why the agency, the territorial agency should have an exception to regular public hours, like any other good government agencies do. There are, for instance, social welfare offices and game offices with government regular hours, that must close at certain hours. Why is it necessary that a club of this type must have an exceptional hour supported by the government? What is wrong with having the regular type of hours like any other government regular working day or as for any other commodity that is sold, there is a certain time that they open in the morning and they close at a certain time. What is so exceptional about this business? Could the Minister explain to me why we have such extended hours away beyond any other stores in the Territories? Is it because the other outfits do it in southern Canada?

CHAIRMAN (Mr. Fraser): Mr. Braden.

HON. GEORGE BRADEN: Mr. Chairman, the concept of off-sales is dealt with in different ways across Canada. When the government originally submitted its first draft of the bill we proposed that there be no off-sales at all by licensees in the Northwest Territories. This was objected to by representatives of the hotel industry in particular and individuals representing the tourism industry. Also I got the feeling from the standing committee on legislation that they objected to an outright removal of this particular provision in the ordinance. So after some discussion the government felt that it was necessary to take some steps to attempt to further control off-sales by licensees in the Northwest Territories.

A number of Members, Mr. Sibbeston in particular has indicated that he feels that off-sales contribute significantly to alcohol abuse. Now, in this particular case, as I indicated before, off-sales are provided for cocktail and dining lounges until 1:00 a.m. Monday through Friday and on Saturday until 12:00. I suppose that the government could have instituted a system where off-sales took place only until 5:00 o'clock which is the normal closing time for government, if that is what Mr. Curley is suggesting. However, I think we would have received criticism again, in that this is essentially a service to the public. In some communities where liquor stores are not open late in the evening, people who wish to purchase alcohol can go to a licensee who has an off-sale licence and purchase some beer. So we proposed as perhaps a compromise to try to meet some of the concerns of Mr. Sibbeston and others who feel as he does, and those who want to see a service to the public, that 10:00 o'clock would perhaps serve. Thank you.

CHAIRMAN (Mr. Fraser): Thank you, Mr. Braden. Mr. Curley.

Extention Of Liquor Store Hours Unnecessary

MR. CURLEY: Mr. Chairman, I do not want to delay this any further, but in order to vote on the motion I really have to actually have some concrete reasons for supporting such an extended hour and we do not actually enjoy any other government services beyond regular public hours. If we do that in any other government agencies we normally have to start paying double pay or time and a half pay. I am not at all convinced that liquor or these liquor outlets are all the reasons for the tourists to come into the Territories; I do not believe that. It may be a part, that through consumption of a commodity they would certainly appreciate the North better, but I am not convinced that tourists come in because of the extended hours of the liquor outlets in the NWT.

I think there is more to it than that. I believe the reason we have such an extended hour is because the territorial government can accrue such revenues and generate its own funds through that commodity. I believe that is the exact reason. I am not convinced that it is doing the public or our own residents or our own young people any good. We may say, you know, this commodity is to try to make people feel better and enjoy themselves better, but do we really reap the benefits out of it as far as the young people are concerned? Do the social services or agencies not have more problems, and the employers who do not see their workers coming in to work on time because they are kept up to that late an hour?

So I am not trying to argue with the hours and the way the system has been operating, but I think it is about time we started putting things into perspective. If we want to encourage the tourists to come in I do not think we are doing anything by keeping the hours that late. Therefore I have difficulty supporting a motion, particularly that motion, that asks that hours be extended, because I believe that parties normally start away after regular working hours and if they ran out then they can run over there before it closes again. I think that encourages certain possible problems during the time they are supposed to enjoy themselves. I will not be supporting the motion. Thank you.

CHAIRMAN (Mr. Fraser): Thank you, Mr. Curley. Honourable Mr. Nerysoo, to the motion.

HON. RICHARD NERYSOO: I do not know if I can support the motion either, but I do think that the issue is not whether or not the liquor store is going to open or whether or not it is going to stay open that late. The issue is whether or not you are going to have off-sales at the bar or the licensed premises and it is not in relationship to the liquor stores at all.

Now just one other thing and that is this. In trying to recognize the problems that many people have indicated here have been encountered through drinking, I do not think you are going to solve the problem, as I said yesterday, by strictly cutting off all the possibilities or the options of trying to deal with the problem. I know for a fact that one of the most successful non-drinking programs in the Northwest Territories has been established in my community. As I indicated yesterday, I think that a compromise was sought and I see some additional problems you are going to have, but I just opposed a motion a few minutes earlier that cut the amount of sale. It is amazing that yesterday there were certain Members in this House who indicated there were some problems about monitoring, enforcing the law and they made it even tighter and even less able to enforce. It just amazes me that that could occur in one day.

CHAIRMAN (Mr. Fraser): To the motion. Mr. Sibbeston, to the motion.

Developing Areas Of Canada Should Have Strict Liquor Laws

MR. SIBBESTON: To the motion, Mr. Chairman. This motion suggests that the hours be extended I believe until 11:00 p.m. What we are talking about is having freer access to liquor and so forth, the whole question of how much restriction we as an Assembly should place on drinking in the North. I just want to make some comments that when an area of Canada or area of the country is developing I think it is important to have strict rules as regards alcohol. I am aware that this has been the case probably in the history of Canada, that as various parts of Canada have been developing these areas always have had tough and strict liquor laws. I am aware that in Alberta, and Mr. Parker can tell you about this, during the time that it was developing in the last 30, 40, 50 years it had very strict liquor laws. Maybe it has something to do with the Social Credit and those hard-nosed guys coming from a Christian basis, but I would say it does not hurt to have morals and Christian ideals and views. I feel that in the North here we have never had it that way. Liquor came to the North in one big splash. It was open, completely open. We never went through the period of introducing liquor on a very slow and strict basis. It was given to people, saying, "Here it is. You are just like all Canadians in Canada. Drink it. It is good for you." The government made it freely available and so we are in the mess we are now with respect to liquor. I just generally feel there have to be controls. Native people in particular cannot handle liquor. It is a problem for them and so there have to be restrictions and we as a government have to impose those restrictions.

Yesterday I was for doing away completely with the off-sales. It is too bad that Mr. Tagak Curley was not here then. Maybe we would have had more success in completely doing away with the off-sales, but that did not happen so now we are talking of upping the hours to 11:00 p.m. and I say we should keep it down at 10:00 p.m. It will help a little bit.

CHAIRMAN (Mr. Fraser): To the motion. Ready for the question?

SOME HON. MEMBERS: Question.

Motion To Amend Subclause 10(2), Bill 26-83(1), Defeated

CHAIRMAN (Mr. Fraser): Question being called. All those in favour? Down. Opposed? The motion is defeated and off-sales is still at 10:00 o'clock. Clause 10 as amended, agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

HON. RICHARD NERYSOO: Mr. Chairman, may I have a recorded vote on the amendment, please, the amended clause if it is possible?

CHAIRMAN (Mr. Fraser): Mr. Nerysoo, the vote has been called and we cannot go back for a recorded vote now.

HON. RICHARD NERYSOO: Okay.

CHAIRMAN (Mr. Fraser): Clause 11, classes of permits, agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Fraser): Clause 12, persons not eligible for permit. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Fraser): Clause 13, expiration of licence and permit. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Fraser): Clause 14, suspension of licence. Mr. Pudluk.

MR. PUDLUK: (Translation) Thank you, Mr. Chairman.

CHAIRMAN (Mr. Fraser): I am sorry, I should have recognized Mr. MacQuarrie, the chairman of the standing committee on legislation before I recognized you. Mr. MacQuarrie.

Suspension Of Licence

MR. MACQUARRIE: Thank you, Mr. Chairman. This is one area, when the standing committee was presented with an earlier draft in January, where the government at that time was proposing that in a situation where an inspector felt that a licensed premises was in flagrant violation of the ordinance, that inspector would contact the board which could then order a suspension of up to 48 hours prior to a hearing. Now, of course, what that would have meant in practical terms is that if there were flagrant violations nothing would have happened immediately other than that the inspector would attempt to contact the board, but it might have been three or four days or longer before the board dealt with the matter and made a decision. Then if it had decided in favour of the suspension up to 48 hours prior to any hearing, it would seem that they might as well have waited until they had a hearing in that case. So being faced with that the standing committee on legislation after much discussion decided to recommend to the government that it delete this particular provision because it did not seem to really do anything one way or the other. If I recollect properly, at that meeting a suggestion came up that maybe it would make more sense if an inspector or a chief inspector had the power immediately, but if that were not granted to him, the way it was being proposed did not make sense. At any rate our final recommendation was that that section be deleted, but the government has chosen to retain it and is suggesting that this power be placed in the hands of an inspector.

The only other comment I could make is that also in the standing committee meeting discussions it was felt important by standing committee Members that liquor inspectors be well trained. I think I alluded to that, yesterday I believe, briefly. I would say that if this clause were to be retained that that becomes even more important. It is possible, in the discussion surrounding

this, that if some Members are very reluctant to see an inspector have this power -- and I must point out that this is one of the concerns that is contained in the brief that we received from the NWT Hotel Association this morning -- if Members are concerned that an inspector has this power it is possible that in some way it can be worked through the chief inspector who obviously is very well trained. Perhaps the report could be made from an inspector to the chief inspector who might make that decision, but at any rate that is the sum of the comments I have with respect to it, Mr. Chairman.

CHAIRMAN (Mr. Fraser): Thank you, honourable Mr. MacQuarrie. Mr. Pudluk.

MR. PUDLUK: (Translation) Thank you, Mr. Chairman. I have three questions to ask. If the Liquor Licensing Board has the power to suspend the licence and they have given such a power to this man over a licence, how often do they come around to these premises and inspect what goes on in the public premises? Also, in the case of tourists coming to the communities, I know sometimes people come in who would like to eat in these premises with people once in a while. I brought this up yesterday. I think this should be permitted to people in the communities more often.

Another problem is with liquor in small public places where this is allowed. They seem to just want to go by the hours. Perhaps the day before, if the inspector went in and consulted with the owner it would be better.

If I could have some answers to these questions I would appreciate it. Going back to the questions, I would like to know how often do they listen to the communities and consult with the hotel owners and the licensed owners? Who do they meet with when they go into certain communities or settlements? Thank you.

CHAIRMAN (Mr. Fraser): Thank you, Mr. Pudluk. Mr. Minister.

Frequency Of Inspector's Visits

HON. GEORGE BRADEN: Mr. Chairman, if I understood the Member's question correctly it was how often do the inspectors inspect. Well, that depends upon a number of factors. I suppose if there was a particular licensee in a particular community where there had been a lot of complaints then the inspector would be in that community more often than he would in a particular licensed outlet or a particular community where there had been fewer complaints and fewer problems than the inspector found on his last visit. I am prepared to get in writing for the Member the number of inspections that have been made, say over the last year or two years of all licensed outlets in the Northwest Territories. I can get that in writing for him.

With respect to the second question, I believe that the Member was suggesting that liquor inspectors should meet with the representatives of the community. I have no problem with that and would be prepared to suggest or require, when it has been requested, that liquor inspectors would sit down with community leaders to talk about the concerns that they have.

Element Of Surprise In Inspections

On the last question, I believe the Member indicated and this is the way it came through on translation, that the liquor inspector should consult with the owner of the licensed premises ahead of time. If I am understanding this correctly I really cannot support that, because the idea of having an inspection is to arrive at the licensed outlet during the normal operation, the normal day of operation and to check to make sure that the owner or manager are complying with all of the laws and rules and regulations. I think that perhaps in some cases if a liquor inspector was to phone and say "I am going to be there on Thursday", the licensee might run around and correct all of the problems before the inspector arrives. Now, I cannot really agree with that if that is what the Member was saying, Mr. Chairman. I think there has to be some element of surprise involved in this just to ensure that the licensee is complying with the laws and the regulations.

However, after an inspection is made I know that in many cases our inspectors sit down with the licensee and indicate to the bar manager or the bar owner where the problems are in the operation of the licence or of the lounge or cocktail lounge and what actions are required to correct the problems. Thank you, Mr. Chairman.

CHAIRMAN (Mr. Fraser): Thank you, Mr. Minister. Mr. Pudluk, a supplementary.

MR. PUDLUK: For the record I was not saying that the inspectors that might come around and make it known ahead of time. I did not say that. I was saying they come around at last call to the bar and that is a rush time, when they come into the bar they are talking to the bartenders and shaking hands and you know what they do. I think when they come in they should sit very quietly, not draw any notice of himself to the bar and try and find out what is going on in there, instead of shaking hands right away. I think that is what I meant, make it very quiet the first day and maybe the next day he can introduce himself to the bartenders and the staff. That is what I was trying to say. Thank you.

CHAIRMAN (Mr. Fraser): Thank you, Mr. Pudluk. Mr. Minister.

HON. GEORGE BRADEN: I would suggest that is the practice, perhaps not all the time but in certain cases, where an inspector is sent in who is not known by the bar manager. The inspector spends a certain amount of time watching and making observations on his own. Then obviously in order to complete the inspection the inspector has to go and introduce himself to the bar owner and do other tests and so on and so forth that are required.

I wonder, Mr. Chairman, if I could have my deputy minister comment further on clause 14? I do not know if Members have had a chance to read the legal opinion that the hotel owners received. I just opened it up at 1:00 o'clock today but I understand that Mr. Lal has had a chance to examine it and I would like to give him the opportunity to go through clause 14 and also to comment on it in terms of the concerns raised by the hotel owners in their letter. Thank you.

CHAIRMAN (Mr. Fraser): Thank you, Mr. Minister. Mr. Lal.

Legal Opinion On Authority Of Inspector

MR. LAL: Thank you, Mr. Chairman. Mr. Chairman, clause 14 at first blush may seem to be a little drastic in that it grants authority to the inspector to suspend the operation of any licensed premises for a total period of up to 48 hours. The government has considered this provision very carefully and has concluded that there are circumstances where it is justified in the public interest to grant such an authority to the inspector.

Mr. Chairman, I am sure Members here are aware of the time that it takes to convene a board hearing. Notices have to be given to the various parties that are affected by it, a proper date has to be fixed for the hearing and there has to be a quorum of the board members and a proper proceeding conducted, keeping in mind the rules of natural justice and allowing a party the right to legal counsel should they require that. If in every case the suspension could not occur unless and until the board had concluded its hearing, there may be cases where the licensed premises would continue to be in business, maybe carrying on an infringement that would be of so serious a nature that it would affect public interest. Such licensed premises could not be cancelled or closed down until after the hearing was concluded.

Mr. Chairman, the provision in question allows the inspector to exercise that authority in only very exceptional circumstances where he is of the opinion that the continuance of the licensed premises is going to be contrary to the public interest. He is given the authority to suspend the operation of the licensed premises until those conditions are removed or remedied. The 48 hour suspension is the maximum period of suspension that the inspector can give. If there is, for instance, an offending practice that is being carried out that is of such serious a nature to be contrary to the public interest, the inspector can ask the licensee to cease the operation of that offensive practice. Once the practice is ceased or is removed or remedied the operation of the licensed premises can continue.

Similar Provisions In Other Ordinances

Mr. Chairman, again this is not a provision that is unique to just the Liquor Ordinance. There is, I believe, a provision in the Public Health Ordinance, for instance, which allows the inspector under that ordinance to close down a restaurant where he is of the view that it is essential to the public interest that he must close that business down for reasons where immediate and emergency action is required. I also understand that there is a provision in the Mining Safety Ordinance which allows the inspector to stop a certain operation being carried out by a mine owner. Another example is perhaps the Child Welfare Ordinance where a social worker is allowed to apprehend a child for the protection of the child without any opportunity of a hearing given to the parents or the guardians whose child has been removed until at a later date when a proper hearing has been convened before a court of law.

So to conclude, Mr. Chairman, although this provision may appear drastic at first glance, the government feels that such a provision is fair and indeed necessary to protect the public in exceptional circumstances. Thank you.

CHAIRMAN (Mr. Fraser): Thank you. I have Mrs. Sorensen next. Mrs. Sorensen.

MRS. SORENSEN: With respect to the comments that Mr. Lal has just made, Mr. Chairman, we think there seems to be a grey area here of what constitutes the class of things "contrary to the public interest" that might be happening. Can you give me an idea what it is you mean or give me an instance where an inspector may close down or would close down an operation?

CHAIRMAN (Mr. Fraser): Mr. Minister.

MR. LAL: Mr. Chairman, an obvious example would be one where a licensee is selling adulterated liquor. The inspector would then seize the liquor in question or get a peace officer to seize the liquor in question or may even feel that if that practice is going to continue they should suspend the operation of that licence.

CHAIRMAN (Mr. Fraser): Thank you, Mr. Lal. Mrs. Sorensen.

MRS. SORENSEN: Mr. Chairman, Mr. Lal has mentioned there are other ordinances in the Northwest Territories where we find similar clauses such as the Public Health Ordinance, the Mining Safety Ordinance, the Child Welfare Ordinance. Are there similar clauses to be found in similar southern legislation dealing with the use of alcohol?

CHAIRMAN (Mr. Fraser): Mr. Lal.

MR. LAL: Mr. Chairman, such provisions certainly exist in respect of child welfare legislation and mine safety legislation. I am not sure whether similar provisions exist in respect of liquor or licensed premises but we can certainly check on it shortly and provide you with the information.

CHAIRMAN (Mr. Fraser): Thank you, Mr. Lal. Supplementary, Mrs. Sorensen.

Overriding The Rules Of Natural Justice

MRS. SORENSEN: I would like to know if this is a unique clause that we are being asked to approve or disapprove of. The NWT Hotel Association, on page three of their submission -- and it has to do with their argument of denial of natural justice -- the second paragraph at the top says, "Even if clause 14 were to be passed into law it could be argued that an inspector has a duty to give a licensee against whom he proposes to act an opportunity to make his case and that inspector must reach a decision fairly and on the basis of evidence." Obviously you have chosen to set that aside and obviously the Hotel Association feels that they may have a case. Can you give me an opinion of that paragraph?

CHAIRMAN (Mr. Fraser): Mr. Lal.

MR. LAL: Mr. Chairman, the statute can specifically override the rules of natural justice if it so prescribes. I believe the language of clause 14 gives specific authority to the inspector to act without delay, to act immediately and in the process perhaps the rules of natural justice would not be obeyed. However, he is required to form the opinion that the condition in question is contrary to public interest and most certainly his opinion can be called into question in a court of law and he can be asked on what evidence he arrived at that opinion.

I am being asked to comment on that opinion of a member of the legal fraternity to which I also belong but with the greatest of respect the opinion simply states that "it could be argued". Most certainly anything can be argued. It could be argued that the inspector has a duty. I agree entirely. It could be argued that an inspector has a duty to give a licensee a hearing, etc. She certainly does not conclude that such argument would definitely be successful. That is for a court of law to decide.

CHAIRMAN (Mr. Fraser): Thank you, Mr. Lal. Mrs. Sorensen.

Protection For Government Against Overzealous Inspectors

MRS. SORENSEN: How does the government, and through the government the Legislature, protect itself against overzealous inspectors?

HON. DENNIS PATTERSON: That is not our problem.

MRS. SORENSEN: I think it is an issue. We want to be sure that we do not give too much power to an individual without some sort of protection for the person whom the individual inspector may be acting against. I think we have a responsibility to make sure that that person is also protected in some way. Would that perhaps be through regulation or through clear job descriptions or what measure would the government take to protect itself from an overzealous inspector?

CHAIRMAN (Mr. Fraser): Honourable Mr. Braden.

HON. GEORGE BRADEN: Mr. Chairman, in clause 14, particularly subclause 14(3), the inspector is required to file a report on his or her actions, so that is one step in the process. Then where a report is filed the board shall, not "may" but "shall", consider the licence in question pursuant to other provisions of the ordinance. So in this particular situation we are not providing for an inspector just to walk in and close the place down for a few hours until the problem is corrected. If he or she takes that action the inspector must file a report with the board and the board must consider the action of that particular inspector. So we feel that while this is an authority or a responsibility that requires a certain amount of judgment there obviously must be follow-up after a decision is taken and we feel that in respect of subclauses 14(3) and (4) it provides for the inspector to present his evidence and his case before the board.

CHAIRMAN (Mr. Fraser): Thank you, honourable Mr. Braden. Honourable Mr. MacQuarrie.

MR. MacQUARRIE: Thank you, Mr. Chairman. I certainly support this idea in principle that an inspector should have such power if there are flagrant violations, but I am concerned about the quality of inspectors. It is certainly possible to have an officious person who is impressed with his role and does not act with reasonable prudence. Can I ask what the government does presently in order to train inspectors to make sure that they are very knowledgeable when they go into these situations and can I ask further what the government intends to do? I asked earlier whether the question of training for inspectors was going to be addressed. Could I ask whether it is being addressed?

CHAIRMAN (Mr. Fraser): Mr. Braden.

HON. GEORGE BRADEN: Can I just take a couple of minutes, Mr. Chairman, to consult with my officials?

CHAIRMAN (Mr. Fraser): Mr. Braden, we will take a 15 minute coffee break and come back and ask the questions.

---SHORT RECESS

CHAIRMAN (Mr. Pudluk): Honourable George Braden.

HON. GEORGE BRADEN: Before I get to Mr. MacQuarrie's question, I would like to respond to the question Mrs. Sorensen asked earlier on about other jurisdictions having similar powers vested in the liquor inspectors. We did some quick inspection and we found the Yukon, Prince Edward Island and Nova Scotia have these powers vested in their inspectors. We are continuing to search other statutes.

Orientation And Training Of Liquor Inspectors

With respect to Mr. MacQuarrie's question, at the present time we have two full-time inspectors. The other inspectors we have in service are part-time. They are located in Fort Smith, Inuvik and Frobisher Bay. We are currently looking for replacements in Fort Simpson, Cambridge Bay and Norman Wells. When the part-time inspectors are hired they are obviously informed of the regulations, the ordinance and their duties. The chief inspector provides a certain amount of basic training either in the community where the inspector resides or the individual comes to Yellowknife and is provided with orientation and training. Obviously the job requires continuing study of the regulations that the government makes and also the Liquor Licensing Board makes so that the individual is kept current and informed of the rules and procedures governing how he conducts his work. In respect of the future I am informed that the liquor system -- which is not my jurisdiction, but this is what I am informed -- the liquor system would seek to hire one more full-time inspector who would have obviously an inspection function but would be required to spend more time at community level with the part-time inspectors that we have. So he would have a dual function to travel to the community, make a spot inspection and also to work with the local part-time inspectors.

In respect of the full-time inspectors, I am informed that an option is being considered to have the inspectors sent to Alberta to participate in a three week program. I am told that it is really not feasible for a part-time inspector because that person usually has another job, so this is an option that is being considered to upgrade the training and background of the full-time inspectors in the Northwest Territories. Thank you, Mr. Chairman.

CHAIRMAN (Mr. Pudluk): Clause 14. The honourable Member for Mackenzie Liard.

Provisions For Suspension Of Licence

MR. SIBBESTON: Mr. Chairman, I strongly support the provisions in respect of the inspector in giving him what seems to be wide powers in order to deal with an establishment that is not running its premises in accordance with the law. I was going to suggest that maybe the government could consider making the provisions, "contrary to public interest", a little bit more clear. There has been some concern raised about it, but one idea or one approach is just to say "where in the opinion of an inspector conditions exist in licensed premises that are a blatant or a gross breach of the Liquor Ordinance and regulations and board regulations". The way this matter is put now, "contrary to public interest", is very vague and I think that if we were to provide for a little bit more definite wording indicating that what we are interested in having the inspectors deal with is a gross and blatant disregard or breach of the Liquor Ordinance and regulation and also the board regulations, I think that would be a little bit more clear. The sort of thing for which I see an inspector close down premises is if the premises are selling or providing liquor to people who are obviously drunk. If an inspector walks into a bar where everybody is obviously drunk or if there are kids being served, those sorts of things are what I consider gross and blatant disregard for the liquor laws and it need not be anything as unreal as serving moonshine or brew or some other liquor that is not properly sold in the North. I wonder if Mr. Braden or the government would be open to that change?

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

HON. GEORGE BRADEN: Thank you, Mr. Chairman. I appreciate the honourable Member's comments, but I would indicate that under clause 7, the government has the authority through policy guidelines to indicate to the board just how it should function and I believe in this particular situation it would be in the interests of both the board and the inspectors, the licensees and the government, to give some thought to the parameters that should be put in place in terms of exercising this particular provision. I would suggest that through a policy directive from the government, the board and the inspectors would have the kinds of situations laid down where they would be expected to make a decision on whether a licence should be temporarily suspended. I am not quite sure if we have achieved the goal or the objective by putting it in law.

CHAIRMAN (Mr. Pudluk): Thank you. The honourable Member for Deh Cho.

Suspension Specifically For Breach Of Liquor Laws

MR. SIBBESTON: The way it is presently worded all that the inspector has to do is believe that there are conditions that are contrary to the public interest and this is a very wide, nebulous and vague kind of concept. Okay, there is a forest fire raging outside the community; is that something that would make him think that it is against the public interest to have people drinking in the bar and suspend it? Or the ice is moving in Fort Simpson now and if there is an inspector there who thinks that the little island might flood, would he think that this is something in the public interest for which he would close the bar down?

What I am suggesting is that you would provide more direction and certainty by saying specifically why an inspector should suspend a licence and the only reason that there should be suspension is a blatant and obvious disregard and breach of the liquor regulations and laws and the board's regulations, and that should be the only reason basically. I appreciate that the Executive Committee Member can provide guidelines, but invariably it comes down to the inspector himself making a decision as to why, if there are conditions. Blatant disregard for the liquor laws, basically, is the reason why we would want an inspector to shut down the premises and so I still feel despite the answers given by Mr. Braden that there should be changes the way that I suggest.

CHAIRMAN (Mr. Pudluk): Thank you, Mr. Sibbeston. Mr. Braden.

HON. GEORGE BRADEN: Mr. Chairman, I think it is obvious that the powers of the inspector are a function of this particular statute and the regulations made pursuant to it. With respect to the examples that he brought up about a forest fire or the river ice affecting public safety, that would not come under the powers of the inspector. I think we have other statutes on the books that would provide that somebody else could go and shut down the bar if a forest fire was going to affect public safety.

I guess all I am saying, Mr. Chairman, is I understand what Mr. Sibbeston is getting at. It seems obvious to me, and of course maybe since I have been working on this damn thing for a year and a half it seems clear to me, and all I was suggesting under clause 7 of the bill is that the Executive Committee and the Executive Member can further stipulate by policy guideline to the board those conditions which if they exist that are contrary to the public interest, provide guidelines for the inspector to shut down the premises for a period of up to 48 hours.

CHAIRMAN (Mr. Pudluk): Thank you. Clause 14, Mr. Nerysoo.

Wider Responsibilities For Inspectors

HON. RICHARD NERYSOO: Mr. Chairman, I would just like to say that regarding the idea of being overly specific in identifying the kinds of conditions, you would have a tendency I think to overlook other laws and other statutes that exist in this country. In the document that was given to us the idea of the Charter of Rights is an issue. It is a right that they identified specifically for the operators or the licensees and yet there is the question that I sometimes have and it has to do with attitudes and basic racial discrimination in the operating of premises and it exists.

The problem that I see is that if you narrow the responsibility of an inspector to say that racial discrimination is not an issue that you should be dealing with, then it is wrong because I think that it is clear that it exists and someone has to deal with it. Who is going to deal with it? I think that if you give some responsibility to an enforcer of the law then certainly that is an element that has to be taken into consideration. One other point that I wanted to raise is the idea of overzealous inspectors. I find sometimes that there are overzealous bouncers.

HON. DENNIS PATTERSON: Hear, hear!

HON. RICHARD NERYSOO: Who has the responsibility for that? If you narrow it down that the inspectors have a certain responsibility to take into consideration the premises or the licensees, then the laws that exist are not applicable to the inspector. I think they ought to be a little bit more general and in fact I even suggested during my discussion that when a breach of the ordinance takes place that the licence should be suspended until the board hearing. That is not the case. You might say it was reasonable in looking at the suggestions from the public and also from the members in the department, but I do not think that you should narrow it down to the extent of only applying the laws of the ordinance. It should be also applying the laws that might be affected by the holders of licences in this particular area.

CHAIRMAN (Mr. Pudluk): Thank you. I have Mr. Wray on my list.

MR. WRAY: Thank you, Mr. Chairman. I can respect Mr. Nerysoo's concerns, because I think we have all noticed from time to time what he is talking about. However, my difficulty is that in the absence of clear guidelines we have to then rely upon that inspector's own moral values or moral judgments of what is taking place and I do not know if we should be relying on that solely, because that itself is a potential for abuse. I certainly would like to see some form of guidelines laid down so the inspector has parameters to work within at least, because if we do not then we could be letting ourselves in for a lot of trouble if an inspector makes a moral judgment on an issue that turns out not to be the case. Perhaps this government would leave itself open for lawsuits and court actions and such. I am not saying that we should put strict guidelines down because the area that Mr. Nerysoo is talking about is not an area that we can identify A through Z, but I think we should have general guidelines of some kind so that we allow the inspector some parameters to work within and at least he knows what to do as opposed to having to maybe make a judgment call at a certain point in time or on a night when he really does not have time to think about the decision that he is making. That is all I would say. Thank you.

CHAIRMAN (Mr. Pudluk): Thank you. Honourable Mr. Braden.

Duties And Powers Of Inspectors Prescribed By Board

HON. GEORGE BRADEN: Mr. Chairman, if Members would refer to clause 8 which does indicate the powers of the Liquor Licensing Board, one of them is to prescribe the duties and powers of inspectors. I have referred to a number of other clauses concerning everything from a broad category such as inspecting the operation of licensed premises, conditions and qualifications necessary for obtaining licences, prescribing the days and hours, prescribing the equipment, prescribing the offences and so on and so forth. Now the board has as one of its major functions dealing with each of these provisions in detail and working out their own by-laws or regulations, whatever you want to call them. It could be that in exercising the power under subclause 14(1) that an inspector just feels there are enough serious violations pursuant to regulations made by the board that he decides it is necessary to close the place down for 24 hours.

Now I think it is our responsibility as lawmakers in this particular instance to recognize that there is a board, a public board which has a major quasijudicial responsibility under this ordinance and that they develop and prescribe the detail concerning the purchase, sale and consumption of liquor in licensed premises and also, to a certain extent, the duties and powers of inspectors. There is this overriding provision in clause 7 which provides that the Executive Committee can add to that by prescribing broad general policy guidelines. I think our purpose here is to recognize those conditions that apply and to have either the board and/or the Executive Committee prescribe those conditions which would help the inspector make a judgment on whether to suspend a licence or not. I really believe that if we get into detail here that we are really going beyond the nature of making law.

CHAIRMAN (Mr. Pudluk): Thank you. Clause 14, Mr. Patterson.

Provisions For Remote Locations

HON. DENNIS PATTERSON: Mr. Chairman, my understanding is that one of the reasons for this provision was to take into account the remote locations in the Northwest Territories. To my mind this power certainly would not be abused in a place like Yellowknife where the Liquor Licensing Board could meet even the same day when a situation grave enough to warrant an inspector recommending closure of premises occurs. But let us look at it from the point of view of the remote locations in the Northwest Territories such as Frobisher Bay where obviously the board does not have the ability to immediately exercise its responsibility in the case of abuses of the licence. I believe it is in recognition of the character of the Northwest Territories and the fact that there are licensed premises in remote locations where the board cannot act quickly that this section has been put in. I think people should be very careful to realize that the 48 hours duration would likely be a very remote occurrence and would likely occur only where the board does not have access to the report or the community, so that it could meet earlier. I think we should recognize that first of all it would be a very rare circumstance under which a licence is suspended. It has not happened that often to date.

Secondly, it would be for practical reasons that the inspector's decision would not be reviewed for up to 48 hours. But I would also like to point out that there is an even further qualification on this power and that is that if the conditions which have caused some concern are removed or remedied then the licence could be immediately restored and action could be taken subsequently to discipline the vendor when the board reviews the inspector's report. So I think that in a way Members may be overreacting to what would be very unusual circumstances but necessary.

I would also just like to say that I recognize that the powers given to the inspectors are quite wide but we must also recognize that we do live in unique circumstances in the Northwest Territories. It is possible to consider the situation where natural events would overwhelm people who are sitting in licensed premises, blizzards, storms, winds, forest fires and I think these could be spelled out in general guidelines to the inspectors and undoubtedly would be spelled out. But I think it is appropriate that the legislation allow for quite a broad definition of situations that might be contrary to the public interest.

I must also say that while I believe that it is theoretically correct to worry about overzealous inspectors, I would like to say that certainly my theme in the Legislative Assembly since I have been elected, and I think I have heard it from many of the other Members, is that the problem is the opposite of overzealous inspectors. We have too few inspectors and they have a very difficult job to do, particularly in the small communities where it can be a very unpopular job. I know in my own community in Frobisher Bay it is hard to find inspectors and it is hard to find inspectors who can survive. So I think as a practical matter we have to be concerned about giving inspectors support and bolstering rather than reducing their powers in the Northwest Territories. Thank you.

CHAIRMAN (Mr. Pudluk): Thank you. Clause 14, Mr. MacQuarrie.

Inspectors' Powers Should Relate Only To Liquor Laws

MR. MacQUARRIE: Yes, Mr. Chairman. When I heard Mr. Sibbeston's comments earlier I felt that he was right in expressing the concern that he did and I support that. After hearing Mr. Nerysoo's comments and Mr. Patterson's, I feel that there is even a greater need for that kind of thing because what it would appear is, if Mr. Nerysoo were an inspector and was armed with this, say that he could close down premises if something occurred that was contrary to the public interest, and if he were inspecting the premises and found that in his opinion someone was not served because of prejudice he would close the place down and yet there is a Fair Practices Ordinance which allows people to address that problem. If a bouncer puts someone out and did it with more force than necessary it appears that he would feel he could close down the premises and yet there are criminal assault or assault laws that could be applied. I think it is desirable to be a little more specific and to keep the inspector's powers within the laws that he is being set up to police and enforce. I think that subclause 14(1) should be more specific without going into detail. It could simply say that where he finds that there are serious and/or flagrant violations of the laws that he is empowered to enforce. Mr. Sibbeston is a lawyer and perhaps he could make an amendment with wording that might be more appropriate. I would be inclined to support that.

CHAIRMAN (Mr. Pudluk): Thank you. Mrs. Sorensen.

MRS. SORENSEN: Yes, Mr. Chairman. I too was going to support what Mr. Sibbeston had put forth and in particular the words that have concerned me from the beginning are "contrary to the public interest". Mr. Braden has indicated that we need not be all that concerned because it is the board through clause 8 which can outline some of the things that the inspector should look for, all of the things that an inspector should look for, when he is inspecting. However, by statute we have given the inspector more powers as far as I am concerned than even the board has. We have given him the power to determine what is in the public interest. The board can only set regulations to regulate and control the purchase, sale, use and consumption of liquor in the Northwest Territories and I am wondering if we are not going to find ourselves in a bit of a pickle because of that statutory situation that we have placed the inspector in in subclause 14(1). The inspector may or may not have policy guidelines from the Minister. It does not say that the Minister shall set up policy guidelines. I would have to say that, in support of Mr. MacQuarrie's comments, I would like to see that the inspectors stick to what is in the ordinance as opposed to outside issues that may or may not be in the public interest.

CHAIRMAN (Mr. Pudluk): Thank you. Is that a motion?

MRS. SORENSEN: No.

CHAIRMAN (Mr. Pudluk): Clause 14.

Motion To Amend Subclause 14(1), Bill 26-83(1)

MR. SIBBESTON: Mr. Chairman, I will make a motion to this effect so that subclause 14(1) would read: "Where in the opinion of an inspector conditions exist in licensed premises that indicate a gross breach of the Liquor Ordinance regulations and board regulations by the licensee, its agent or employees, he may suspend the operation of any licence for the premises until those conditions are removed or remedied."

CHAIRMAN (Mr. Pudluk): Can we have a copy of that motion, please? We are going to take a five minute break. That motion is in order but we would like to get better wording on that motion. Let us take a five minute break and then we will come back.

---SHORT RECESS

I call the committee back to order. The honourable Member for Deh Cho.

Motion To Amend Subclause 14(1), Bill 26-83(1), Withdrawn

MR. SIBBESTON: Mr. Chairman, I would like to withdraw my motion, but that is on the understanding of the government having indicated that they are prepared to consider rewording this section in tune with the motion that I have made.

Motion That Clause 14, Bill 26-83(1) Be Stood Down, Carried

On that basis I wonder if we could stand down or delay dealing with this clause until the government does come back with changes.

SOME HON. MEMBERS: Agreed.

CHAIRMAN (Mr. Pudluk): Honourable Member from Deh Cho, I wonder if you could move the motion that clause 14 be stood down. To the motion.

MR. MacQUARRIE: Agreed.

CHAIRMAN (Mr. Pudluk): The motion is that the clause be stood down for the moment. Mr. Curley.

MR. CURLEY: I want to speak to clause 14. I want to ask the Minister, I am not at all convinced that the public interest...

CHAIRMAN (Mr. Pudluk): Mr. Curley, the motion was to stand the clause down for the moment and then after that you can speak to it.

MR. CURLEY: My understanding is the mover of the motion was asked to withdraw his motion.

CHAIRMAN (Mr. Pudluk): He has withdrawn his original motion and now asks that clause 14 be stood down. To the motion.

SOME HON. MEMBERS: Agreed.

CHAIRMAN (Mr. Pudluk): All those in favour please raise your hands. Opposed? The motion is carried that clause 14 is going to be stood down for the time being.

---Carried

Now, clause 15 on page 10, form of proceedings. Is it agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Pudluk): Clause 16, evidence. The honourable Member for Deh Cho.

MR. SIBBESTON: Mr. Chairman, I just wanted to ask the government what they understood by granting the board powers similar to a supreme court or a judge thereof? It just seems to me that these are super powers and do they really intend to give the board as extensive powers as a supreme court judge has, because as I am aware a supreme court judge does have very wide powers to summons people and even to put people in jail for contempt of court, and so I was wondering if that was precisely what they had in mind?

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

MR. LAL: Thank you, Mr. Chairman. It is not the intention of the government to give all of the powers enjoyed by a supreme court judge to the board, but only powers that are specifically listed in the particular clause, namely attendance of witnesses, swearing in, examination of witnesses, production and inspection of documents, records and things and all such powers, rights and privileges as are invested in a supreme court judge in respect of those items for the trial of civil actions.

CHAIRMAN (Mr. Pudluk): Thank you. Clause 16, evidence. Is it agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Pudluk): Clause 17, investigation by board. Is it agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Pudluk): Clause 18, special audit. Is it agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Pudluk): Clause 19, validity of orders. Is it agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Pudluk): Clause 20, orders final. Is it agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Pudluk): Clause 21, persons not entitled to licences. Is it agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Pudluk): Clause 22, where issue of licence prohibited. Is it agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Pudluk): Clause 23, directors to produce particulars. Is it agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Pudluk): Clause 24, no vested right. Is it agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Pudluk): Clause 25, public hearings. Mr. MacQuarrie.

Public Or In Camera Hearings

MR. MacQUARRIE: Yes, with respect to this particular clause, at the time of the standing committee meeting in mid January a concern was raised by the NWT Hotel Association that in many cases show-cause hearings were held in camera and they had asked whether this could be the case in the new ordinance. The standing committee simply asked the government to examine that clause to see whether show-cause hearings could or ought to be held in camera and that particular matter was not addressed. Could I just ask the government what they felt about it and why they decided to leave the clause the way it is?

CHAIRMAN (Mr. Pudluk): Clause 25. Mr. Braden.

HON. GEORGE BRADEN: Mr. Lal will comment on that question.

CHAIRMAN (Mr. Pudluk): Mr. Lal.

MR. LAL: Mr. Chairman, the proposed clause 25 is identical to the existing provision. There has not been made any change in respect of the hearing procedure but the clause does provide, as it has always provided, that if the board is satisfied that a public hearing is not required then a public hearing need not necessarily be held. I understand the Executive Committee considered this aspect of it and were of the view that in all cases where proceedings of a penal nature were taking place it was appropriate that those hearings be open to the public. However, if for some reason the board was satisfied that a hearing should be held in camera, then the board would come to the decision that the particular hearing would be held in camera. Therefore, the option of both a public hearing and a hearing in camera is available under the existing legislation and would be available under the proposed legislation.

CHAIRMAN (Mr. Pudluk): Thank you. Clause 25. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Pudluk): Clause 26, filing of application. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Pudluk): Clause 27, preliminary application. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Pudluk): Clause 28, publication of notice. Mr. MacQuarrie.

MR. MacQUARRIE: With regard to this one, clause 28 deals with publication of notice and the standing committee felt that while the bill as it appeared before the standing committee in January indicated that notice should be published in newspapers, the committee felt that notice should also be placed in a community at a place or places determined by the board to make sure that local people were aware. The government did amend that provision and they now have subclause 28(2) requiring in addition that the applicant shall post notice of the application in the prescribed form in a conspicuous place in the settlement or municipality, so that took care of the standing committee's concern, Mr. Chairman.

CHAIRMAN (Mr. Pudluk): Thank you. Clause 28. Is it agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Pudluk): Clause 29, personal application. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Pudluk): Clause 30, renewals. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Pudluk): Clause 31, objections. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Pudluk): Clause 32, proceedings for cancellation. Mrs. Sorensen.

Reverse Onus Provisions

MRS. SORENSEN: Mr. Chairman, this was an area that the Hotel Association raised with respect to having to show cause to the board as to why the licence should not be cancelled or suspended and I am aware, of course, that that clause exists in the present legislation and it is just being confirmed in this legislation. However, they have raised the factor of the new Charter of Rights and the possibility of reverse onus clauses being struck down as a result of the new charter. Do we have an opinion from our own lawyers on the possibility of a court challenge on this issue?

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

MR. LAL: Mr. Chairman, it is true as the Hotel Association's opinion states that in some cases the courts have struck down reverse onus provisions. For instance, under the Narcotic Control Act the provision of reverse burden of proof was recently struck down. However, Mr. Chairman, it is important to distinguish between those decisions and the proposed show-cause scheme as is contemplated under clause 32. In those instances we were talking about a serious offence being committed, the consequences of which are very serious in terms of perhaps penal incarceration or a fine and the proceedings are held in a court of law.

This provision in clause 32 deals with a show-cause notice and a show-cause proceeding before a board that is constituted under the ordinance and in my view does not rank to the same degree of seriousness as the offences that I referred to earlier on and the cases in which the courts have struck down reverse onus provisions. I think this is conceded by the person who wrote the opinion for the Hotel Association in setting out that, if I may quote, "although section 32 of the ordinance does not involve a person charged with an offence an analogy can be made in that sanctions may be imposed by the board pursuant to section 33."

I would also like to refer to section 1 of the Charter of Rights and Freedoms which is the overriding provision in respect of all of the rights and freedoms that are given to Canadians, which states that the "Charter of Rights and Freedoms guarantees the rights and freedoms set out in it subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society." Taking those two arguments into account we feel that the provision is valid as it stands and as it is contemplated to be enacted, and unless a court of law proves to the contrary the government's view is that the provision is fair and should be proceeded with.

CHAIRMAN (Mr. Pudluk): Thank you. Cancellation and suspension of licences. Clause 32, proceedings for cancellation. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Pudluk): Clause 33, proceedings before board. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Pudluk): Clause 34, when licence to be cancelled. Agreed?

SOME HON. MEMBERS: Agreed.

-- Agreed

CHAIRMAN (Mr. Pudluk): Clause 35, delivery of forfeited liquor. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Pudluk): Clause 36, board shall purchase liquor. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Pudluk): Clause 37, transfer of licences. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Pudluk): Clause 38, issue or transfer of shares of corporation. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Pudluk): Clause 39, Executive Member to supervise. Mr. MacQuarrie.

MR. MacQUARRIE: Only to say, Mr. Chairman, that when the committee was faced with the version in January it felt the local option section was rather difficult to follow in that it seemed to be combining procedures or intermingling procedures both for opening licensed premises and closing them. We had asked the government to redraft the section to clarify it and that has been done. It is much easier, I believe, to follow now than it was before.

CHAIRMAN (Mr. Pudluk): Thank you for your comments. Clause 39, agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Pudluk): Clause 40, duties of Executive Member. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Pudluk): Clause 41, no licence without plebiscite. Mr. Wray.

MR. WRAY: I wonder if the government could inform me, when they say "60 per cent of the votes cast by the qualified voters" are they talking about 60 per cent of the people who show up at the polls or 60 per cent of the people on the polling list? Thank you.

CHAIRMAN (Mr. Pudluk): Mr. Braden.

HON. GEORGE BRADEN: It means 60 per cent of the votes cast, not 60 per cent of the people who show up at the voting.

CHAIRMAN (Mr. Pudluk): Clause 41, agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Pudluk): Clause 42, where 60 per cent in favour. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Pudluk): Clause 43, granting of licence without a plebiscite. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Pudluk): Clause 44, plebiscite concerning licences. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Pudluk): Clause 45, cancellation of licences. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Pudluk): Clause 46, plebiscite. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Pudluk): Clause 47, liquor stores. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Pudluk): Clause 48, person entitled to purchase liquor. Agreed? Mr. Sibbeston.

No Plebiscite Where Licence Is In Force

MR. SIBBESTON: Referring back to clause 46, you went through it so fast and it is almost two pages long. Subclause 46(3) indicates "No plebiscite shall be held under subsection (1) in any settlement ... where a licence of any of the following classes is in force..." and it indicates tavern licences and so forth. Does that indicate as it says here that where there are tavern licences and cocktail lounges you cannot have a plebiscite wanting to control the amount of liquor? Would this apply to a place like Fort Simpson where we do have cocktail lounges and so forth, that you could not have a plebiscite to restrict or in any way change the liquor laws as they exist now?

CHAIRMAN (Mr. Pudluk): Thank you. Clause 46, Mr. Lal.

MR. LAL: It is true, Mr. Chairman, as Mr. Sibbeston points out that under subclause 46(3) a plebiscite cannot be held where a tavern or a cocktail lounge licence, etc., is in existence. However, if I may refer you to clause 45, what the community would require would be a plebiscite to cancel a licence so that they would have to go through two stages, the first one being to seek the cancellation of an existing licence and, having acquired that cancellation, they would then be free to vote on whether or not liquor should be prohibited in that community, etc., as is contemplated under subclause 46(1).

CHAIRMAN (Mr. Pudluk): Thank you. Are we agreed on 46 and 47? The honourable Member for Deh Cho.

MR. SIBBESTON: I think we should talk about that. Is it not very onerous, is it not very tough for a community like Simpson to ever do anything about liquor if they do in fact want to? I mean, does it have to be this difficult? Surely we could devise a simpler system because at issue is whether when certain licences are granted in a community the people, the residents, are stuck forever with that situation. In Simpson we were faced with that situation of having bars, lounges and liquor stores and people wondered whether that was the way things had to be forever. We were able eventually to muster local support and change it, but at issue is whether it should be that difficult to change and whether the government should support or make it very difficult for people to change things once certain licences are granted.

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

Protection Of Investors

HON. GEORGE BRADEN: Mr. Chairman, we have to sort of recognize that someone in the private sector who does go in and make an investment in a facility, in a business, has to be offered some measure of protection on his investment. It would be difficult I would say to have someone look at investing in a community, whether it be just licensed premises or a facility such as a hotel or some other facility which has licensed premises in it, if they were to be subject to having their licence removed at the whim of the community.

Now in respect to what Mr. Sibbeston has indicated, the people of the community are not stuck, I believe, to use his words. There is provision for them to have to go through two plebiscites as set out in the ordinance. We feel that that is a mechanism which provides the community with the tools it needs to make a decision, but also offers some measure of protection for the investor.

CHAIRMAN (Mr. Pudluk): Thank you. Supplementary, honourable Member for Deh Cho.

MR. SIBBESTON: It seems our sole concern is about the investor, you know. Is the government concerned about the hundreds of people that die because of misuse of alcohol?

CHAIRMAN (Mr. Pudluk): Mr. Braden.

HON. GEORGE BRADEN: Mr. Chairman, in respect to this particular ordinance we have representations from the private sector who are the investors and feel that they are being in some instances overregulated by government. I suppose in this particular case Mr. Sibbeston can suggest that the government is not concerned about attempting to impose laws and regulations which would hopefully curb alcohol abuse. I would say that one of the major purposes of this whole bill is to attempt to take certain steps which we would hope to see curb alcohol abuse, whether that be on the part of the person running a licensed outlet or a bootlegger or indeed the individual who is in a situation where he or she is drinking. I recognize the concern and it may at the outset be perceived to be onerous, but it perhaps could stretch a bit beyond the protection of the investor. There may be a certain element in the community which does not want to see a licensed outlet have its licence cancelled. I think it is to the advantage of a community to have a thorough process so that when a decision is made to have a licence cancelled, it is done with the full support and backing of the community.

CHAIRMAN (Mr. Pudluk): Thank you. Is there any more on clause 46? Honourable Member for Deh Cho.

MR. SIBBESTON: Just a point that I want to make is that when people in a community like Simpson want to do something about alcohol it seems as if they have to go to great lengths and it is very difficult to make the changes that people want. That is the point I am making. Government seems to be more interested in protecting the investor than finding good, easy ways that people can deal with things like a liquor problem. That is the point I want to make and that is the way a lot of people see government, that basically government is there to protect themselves, companies and so forth and the little guy is way down the totem pole as far as any protection or any assistance from government is concerned. So to continue with this provision in the Liquor Ordinance is a reinforcement of the view that government is more interested in the investor's business than in the little man and they are going to have problems out there. So whether it is going to change anything or not I think it is important to have it said on behalf of my constituents.

CHAIRMAN (Mr. Pudluk): Is there any more on clause 46? Is it agreed?

SOME HON. MEMBERS: Agreed.

CHAIRMAN (Mr. Pudluk): Clause 47, liquor stores. Is it agreed? Mr. Braden.

HON. GEORGE BRADEN: Are we on clause 48? I have a minor amendment on clause 48.

CHAIRMAN (Mr. Pudluk): Clause 48, person entitled to purchase liquor. Mr. Braden.

Motion To Delete Marginal Note And Insert New Marginal Note, Clause 48, Bill 26-83(1), Carried

HON. GEORGE BRADEN: Mr. Chairman, I move that the marginal note for clause 48 of Bill 26-83(1) be deleted and the following marginal note be substituted, "person eligible to purchase liquor".

CHAIRMAN (Mr. Pudluk): Question is being called. All those in favour please raise your hands. Down. Opposed? The motion is carried.

---Carried

CHAIRMAN (Mr. Pudluk): Clause 48 as amended. Is it agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Pudluk): Clause 49, agents. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Pudluk): Clause 50, Executive Member may designate vendors. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Pudluk): Clause 51, proof of age. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Pudluk): Clause 52, arrangements with provinces. Is it agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Pudluk): Clause 53, method of delivery. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Pudluk): Clause 54, delivery of liquor to and from liquor store. Is it agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Pudluk): Clause 55, entitled to liquor. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Pudluk): Clause 56, transportation of liquor. Is it agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Pudluk): Clause 57, ability to purchase. Is it agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Pudluk): Clause 58, gifts of liquor. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Pudluk): Clause 59, imported liquor. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Pudluk): Clause 60, sacramental purposes. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Pudluk): Clause 61, burden of proof. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Pudluk): Clause 62, sale, purchase and consumption of pharmaceutical preparations and patent medicines. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Pudluk): Clause 63, substance containing alcohol. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Pudluk): Miscellaneous. Clause 64, civil liability. The honourable Member for Deh Cho.

MR. SIBBESTON: Mr. Chairman, I wonder how many people in the North are aware of this provision here. I think it is a very good provision and provides, I guess, some protection or some mitigation when a person finds himself in the situation. Basically it just says that a hotel or a licensed person is responsible and can be sued in the event that a death results from the licensee having overserved or if anything happens resulting from -- basically, it deals with a situation where a person becomes intoxicated and injures or kills himself. The people that served him are responsible. I just wondered how many people are aware of it. I have been aware of it for a little while, but I get the feeling that it is not something that is widely known and it is a good provision. I wonder if the government would consider posting this in all of the licensed premises throughout the North and maybe not putting it in the form here because it is a little complicated, but putting it in a form that can be easily understood so that people do know what could happen to a licensee if he overserves a person and the person consequently commits suicide or kills himself or injures himself.

AN HON. MEMBER: Agreed.

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

HON. GEORGE BRADEN: Thank you, Mr. Chairman. I will take the Member's recommendation and consider it as he suggests and subject to my decision if it is in the affirmative, issue instructions to the board to have this done in licensed premises.

CHAIRMAN (Mr. Pudluk): Thank you. Honourable Member for Deh Cho.

MR. SIBBESTON: Thank you, Mr. Chairman. I do appreciate that and I do believe Mr. Braden, but I do not know how long Mr. Braden is going to continue to be the Member responsible. In politics people come and go. I was actually thinking of something a little bit more definite.

You know how in a hotel there are things written up on the wall. As you enter a hotel there is a copy of the regulation that says certain things and that is the sort of thing that I had in mind, that this provision or something stating this but in very simple language, be put in all of the bars and licensed premises in the North so that people could know and this might make the licensees more conscious of their responsibility.

Motion That Clause 64, Bill 26-83(1) Be Stood Down, Defeated

I am prepared to make a motion or an amendment to that effect, but I wonder if the government would consider the matter and undertake to prepare appropriate wording for this and come back to us at an appropriate time in the future. On this basis I would move that we stand down this clause for the time being.

CHAIRMAN (Mr. Pudluk): The motion is in order. To the motion.

AN HON. MEMBER: Question.

CHAIRMAN (Mr. Pudluk): Question being called. All those in favour? Opposed? Let us try again. The motion is that clause 64 be stood down. All those in favour raise your hand? Opposed? The motion is defeated.

---Defeated

Clause 64, the honourable Member for Deh Cho.

MR. SIBBESTON: I take it people here are not interested in people from the North knowing about this provision, or what is the reason why they do not want something more done about it? Why is it hidden in the ordinance where nobody knows about it?

CHAIRMAN (Mr. Pudluk): Mr. Braden.

HON. GEORGE BRADEN: Mr. Chairman, I will come back to the House by the end of the week or sometime early next week with my decision on this and with a proposal for what would be posted in a licensed outlet. I will give that undertaking to the Member or to the committee if that is agreeable.

HON. TOM BUTTERS: In other words we are concerned.

CHAIRMAN (Mr. Pudluk): Is that agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

Intoxicated Condition In A Public Place

CHAIRMAN (Mr. Pudluk): Clause 65, intoxicated condition. Mr. MacQuarrie.

MR. MACQUARRIE: With respect to clause 65, at the standing committee meeting in January there was a concern expressed that with this provision the way it is that if somebody is intoxicated in a public place he may be apprehended and then held for not longer than 24 hours, generally

the committee Members did not feel that there should be stronger arrest powers, but they felt that what it meant often was that nothing was necessarily being done for these people and that they should maybe be placed into alcohol rehabilitation programs or something like that. The way the provision was, it was simply a matter of course, again and again of bringing the same people in and holding them 24 hours and letting them go. So the committee did not necessarily want to see punishment, but to see these people, at least some of them, channelled into rehabilitation programs, if it was felt that it might be beneficial. Although there is a slight change in the wording from what we were faced with before, that still is not reflected. Could I just ask the government whether they considered that recommendation and what the results were?

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

HON. GEORGE BRADEN: I apologize, Mr. Chairman, and could Mr. MacQuarrie just briefly run by that recommendation again.

CHAIRMAN (Mr. Pudluk): Mr. MacQuarrie.

MR. MACQUARRIE: The committee had expressed the concern that with this provision the way it was if someone is found intoxicated in a public place they may be apprehended by the police and held up to 24 hours and then released. The concern that was expressed in the committee was that this is done in quite a number of cases with certain individuals who are repeat offenders, but that nothing is necessarily done in order to try and rehabilitate them, to channel them -- not to punish them and hold them in jail longer, but to channel them into rehabilitation programs. So the committee had simply asked the government if it would consider that clause and see whether there was a possibility of arranging it in such a way that that provision was taken care of and as I say the clause has not been changed. So could I just ask the government what its thoughts were in that area and how it handles that?

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

HON. GEORGE BRADEN: I am not sure if we can in a statute, force people to sign up for some rehabilitation program. However, I will give you the assurance that I will contact the police to get more information from them just on what takes place. I suspect, and this is subject to confirmation, Mr. Chairman, that while there are a number of people for example in Yellowknife, that are just released, that law enforcement officers are in contact with social service agencies in an attempt to get people into the detox centre here, if only to dry out or to spend a few days off booze and have them dry out. I will convey that to the police and also to our social services people that there is concern that this provision does not really go far enough and there has got to be more sensitivity to the need for channelling problem drinkers, that Mr. MacQuarrie has referred to, into drug and alcohol rehabilitation programs.

CHAIRMAN (Mr. Pudluk): Thank you. Clause 65, intoxicated condition. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Pudluk): Clause 66, temporary custody for person found intoxicated in public. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Pudluk): Clause 67, exemption from liability. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Pudluk): Clause 68, power to exempt areas. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

Liquor In Taxicab

CHAIRMAN (Mr. Pudluk): Clause 69, liquor in taxicab. Honourable Member for Deh Cho.

MR. SIBBESTON: With respect to clause 68, in what circumstances I am wondering, would the Executive Committee Member revoke provisions in respect of 65 and 66 which as I understand it makes an order that those provisions not apply and anybody found intoxicated would be charged under the ordinance?

CHAIRMAN (Mr. Pudluk): Let us take 15 minutes off. Mr. Braden.

HON. GEORGE BRADEN: Mr. Lal has an answer for that.

MR. LAL: Mr. Chairman, the purpose of this provision, which incidentally is currently in existence in the Liquor Ordinance and has been amended only to the extent that "the Commissioner" has been replaced by the words "the Executive Member", is I believe to allow the Executive Member the option to exclude an area or areas in the Northwest Territories from the applications of clauses 65 and 66. Clause 65 deals with intoxication in a public place. It could be used to exempt the operation of subclause (2) of clause 65, therefore, not requiring prosecutorial sanction from the Executive Member and could be used in a situation where for instance, due to a lot of activity associated with non-renewable resource development it was necessary to control drinking in public places to such an extent that specific sanction was not required for each intended prosecution. The Executive Member could use that provision and similarly the provision could be used to prevent the operation of clause 66 which deals with temporary custody for persons found intoxicated in public places.

CHAIRMAN (Mr. Pudluk): Thank you, Mr. Lal. We will take 15 minutes for coffee break.

---SHORT RECESS

CHAIRMAN (Mr. Sayine): The committee will come back to order. Clause 64, civil liability. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Sayine): Clause 69, liquor in taxicab. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Sayine): Mr. MacQuarrie.

MR. MacQUARRIE: With respect to this clause, at the meeting in January the government had restricted liquor in taxicabs -- it could only be in a taxicab if it was in the possession of a bona fide paying passenger in the vehicle. The committee recognized that the government had a concern that taxis are sometimes used for an illicit trade in liquor and the committee sympathized with the government's concern and wanted to make sure that that was prevented, but we felt that the way the government had framed it would be denying taxi companies some legitimate business and we felt that was needless. So the committee recommended that the government have another look at this and consider the possibility of allowing a taxi to transport liquor in circumstances where it is on legitimate business with sealed boxes and so on. The government has taken that into account and clause 69 now reflects that.

CHAIRMAN (Mr. Sayine): Clause 69, agreed? Mr. Braden.

HON. GEORGE BRADEN: I wonder if we could return to clause 14? Could I ask the Clerk if clause 14 has been typed and translated? Is it ready to go? Would it be agreeable to return to clause 14? We have drafted a new amendment which I have checked with some of the Members and I believe that we might have something that is acceptable.

---Agreed

CHAIRMAN (Mr. Sayine): We will go back to clause 14, Mr. Braden.

Motion To Delete Subclause 14(1) And Replace With New Subclause 14(1), Bill 26-83(1), Carried

HON. GEORGE BRADEN: Mr. Chairman, I would move that subclause 14(1) be removed and replaced by the following wording: "Where, in the opinion of an inspector, conditions exist in licensed premises that constitute a serious contravention of this ordinance or the regulations made thereunder and where it is necessary in the public interest to have such conditions immediately removed or remedied he may suspend the operation of any licence for the premises until such conditions are removed or remedied."

CHAIRMAN (Mr. Sayine): Clause 14. The motion is in order. To the motion, Mr. Sibbeston.

MR. SIBBESTON: Mr. Chairman, I think the wording is excellent. I just wanted to ask though whether this would cover regulations made by the board?

CHAIRMAN (Mr. Sayine): Mr. Braden.

HON. GEORGE BRADEN: Yes, Mr. Chairman, it would.

CHAIRMAN (Mr. Sayine): Question being called. All those in favour? Opposed? The motion is carried.

---Carried

Clause 14, suspension of licence, as amended. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Sayine): Clause 70, appointment of inspectors. Mr. Braden.

Motion To Amend Marginal Note, Subclause 70(2), Bill 26-83(1), Carried

HON. GEORGE BRADEN: Mr. Chairman, I have a minor amendment. I move that the bill be amended by adding immediately after the word "powers" in the marginal note to subclause 70(2) the words "and duties".

CHAIRMAN (Mr. Sayine): The motion is in order. Question being called. All in favour? Those opposed? The motion is carried.

---Carried

Clause 70, appointment of inspectors, as amended. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Sayine): Clause 71, regulations. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Sayine): Clause 72, definition. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Sayine): Clause 73, Executive Member's responsibilities. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Sayine): Clause 74, reporting duties. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Sayine): Clause 75, revenue. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Sayine): Clause 76, regulations. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Sayine): Clause 77, unlawful sale of liquor. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

Supplying To Person Under 19 Years

CHAIRMAN (Mr. Sayine): Clause 78, supplying to person under 19 years. Mrs. Sorensen.

MRS. SORENSEN: Mr. Chairman, I wonder if I could have an explanation of how subclause 78(1) differs from subclause 78(2)?

CHAIRMAN (Mr. Sayine): Honourable Mr. Braden.

MR. LAL: Mr. Chairman, the provision has been borrowed from the existing legislation. It appears to be that the distinction is based between an infringement where a person knowingly sells or supplies liquor to a person under the age of 19 and one where he ought to have known that the person is under the age of 19 because it is so apparent. An infringement under 78(1) would therefore be a more serious one and be treated accordingly by the courts. Thank you.

CHAIRMAN (Mr. Sayine): Mrs. Sorensen.

MRS. SORENSEN: Would it be the judge, for instance, who would make the decision by basically looking at the underage or apparently underage person? Is that how the decision would be made regarding under which section the person would be charged or the licensee would be charged?

CHAIRMAN (Mr. Sayine): Mr. Lal.

MR. LAL: The prosecutor in the first instance after reviewing the evidence will decide whether the charge is to be made under 78(1) or 78(2) and the court in imposing the sentence would then take into account the fact of whether the individual is charged under 78(1) or 78(2). That is to say whether he sold or supplied the liquor knowingly or unknowingly.

CHAIRMAN (Mr. Sayine): Mr. MacQuarrie.

MR. MACQUARRIE: Only to say, Mr. Chairman, this is where we are talking about the age of being allowed to drink alcohol and as I noted yesterday the standing committee on legislation had discussed this matter and for reasons which I cited yesterday and will not go into again, the committee decided not to recommend any change in the drinking age in the Northwest Territories.

CHAIRMAN (Mr. Sayine): Thank you, Mr. MacQuarrie. Clause 78, supplying to person under 19 years. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Sayine): Clause 79, false information on mail applications. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Sayine): Clause 80, supplying interdicted persons. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Sayine): Clause 81, unlawful possession. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Sayine): Clause 82, persons under 19 years of age. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Sayine): Clause 83, unlawful possession. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Sayine): Clause 84, unlawful purchase. Mr. Sibbeston.

MR. SIBBESTON: Mr. Chairman, clauses 83 and 84 obviously refer to bootleggers. Why do we not just use the term "bootleggers" and give it some prominence and significance or some recognition? It talks about nobody unlawfully having liquor for sale and stuff like that. The law has thus far been afraid to name or say "bootleg", yet it is very real and exists and is out there lurking doing a business. I am just wondering what other people feel about it, if we just name and use the term "bootlegger".

CHAIRMAN (Mr. Sayine): Mr. Lal.

MR. LAL: Mr. Chairman, Mr. Sibbeston makes a very good point. For instance, in the case of shoplifting the latest thinking in that area is to stop calling it shoplifting and call it thieving or stealing, because shoplifting is a fine word for stealing and they have found that psychologically people are much more afraid of being accused of having stolen something than of shoplifting something. However, the term "bootleg" is quite unknown to legislation in all of the jurisdictions in Canada as far as we know. It is a language that is used in common speech, but it is really not a legislative or parliamentary language to my knowledge and hence the reason why the term has not been used.

CHAIRMAN (Mr. Sayine): Clause 84. Mr. Sibbeston.

Motion To Amend Clause 84, Bill 26-83(1)

MR. SIBBESTON: I will make an amendment then and break tradition. On this I am open to advice on amendments or changes but the amendment would be to add the word "bootlegger" on the second line so the whole clause would read "No person shall purchase or attempt to purchase liquor from a bootlegger or a person who is not authorized to sell liquor" and so forth and somewhere maybe in the definition section a bootlegger could be defined as we know it here in the North, our own northern definition of a bootlegger. I say they exist and we might as well give them prominence and know them for what they are.

CHAIRMAN (Mr. Sayine): Which clause are you trying to amend, Mr. Sibbeston?

MR. SIBBESTON: Clause 84.

CHAIRMAN (Mr. Sayine): Can you repeat it one more time.

MR. SIBBESTON: Clause 84, as amended would read "No person shall purchase or attempt to purchase liquor from a bootlegger or a person who is not authorized to sell liquor pursuant to this ordinance and the regulations."

CHAIRMAN (Mr. Sayine): I would like to get a legal opinion first before I make a ruling on this. We will recess for five minutes. Mr. Patterson.

HON. DENNIS PATTERSON: On a point of order, Mr. Chairman. I do not think we need to recess. I think we can get a legal opinion right now. If you want I will give you one. I think Mr. Sibbeston has just given the defence lawyers another great opportunity for acquitting people who are charged under this section, because now the Crown has to prove that the purchase took place from one or both of two different animals, one is the bootlegger and one is a person who is not authorized to sell liquor. I think the opportunities for the defence lawyers to gain acquittals just leap out of the page. I think it is fine to be concerned about things like appearances and words that are used in legislation, but we have to be very careful about the legal consequences of these motions that come up off the floor out of the best of intentions. I think that if the Member wants to campaign against bootleggers then it is a matter for a public relations or a publicity campaign, but we do not use our ordinances for these kinds of purposes. We do not look at our ordinances for how they sound or how they appear or whether the words are used in the street. Nobody reads these ordinances anyway except lawyers and policemen.

I would request that we perhaps get some advice from the lawyers, but I do not think that we have to take a recess to do it and with all due respect to Mr. Sibbeston I think that this is a frivolous suggestion and we should defeat it, because of the danger that it will be abused in the courts. Thank you.

MR. MacQUARRIE: Not bad, if you lose in November you have got a job.

CHAIRMAN (Mr. Sayine): Mr. Sibbeston.

Term "Bootlegger" Common In The North

MR. SIBBESTON: Mr. Chairman, I am greatly insulted that my friend should think that my motion in this regard is frivolous. The way I look at it is this. I think that we as territorial Assembly Members are involved in government and part of our job is to make laws. I think that we just basically tend to make laws like the South, or we just never do anything differently from what the southern people do in terms of the language they use and so forth. I thought that here in the North now we have a chance to use a word that is very widely known in the North and which ordinary people would understand. I guess our job and role is to reflect the people we represent. My constituents know what a bootlegger is. If you told them and you read to them this section that says "from a person who is not authorized to sell liquor", well, they would not know what you were talking about. It could be the man in the moon. But if you say "bootlegger" they know for sure who you mean. So I feel a responsibility to make suggestions and laws that people understand and in this way we can all add to laws that are understood by people of the North instead of saying, well, the southerners do not do that or it is not a word that is used normally.

So I am serious about this and I think it would be unique and certainly it would be a language that everybody understands. It is also to highlight what it is to be a bootlegger and how terrible it is taking advantage of other people's weaknesses to enrich themselves. If Mr. Patterson feels there is a problem that is going to make it more difficult for prosecution then let us leave it to our advisers to cover that loophole, but do not throw it away just like that.

Motion To Amend Clause 84, Bill 26-83(1), Ruled Out Of Order

CHAIRMAN (Mr. Sayine): I am not allowing any more debate. I am ruling this amendment out of order because the amendment requires a definition. Mr. Sibbeston.

MR. SIBBESTON: Well, if it requires a definition then I can provide for that too.

CHAIRMAN (Mr. Sayine): But your amendment at this time is still out of order until you do that.

MR. SIBBESTON: You are saying that the amendment as it is is out of order?

CHAIRMAN (Mr. Sayine): Yes.

Motion To Add To Clause 2 And Amend Clause 84, Bill 26-83(1)

MR. SIBBESTON: Okay, thank you. Mr. Chairman, I will make a new amendment. The amendment is as I had suggested earlier, but with a definition in clause 2 describing a bootlegger. I would ask the Law Clerk to describe for us or provide some words to describe a bootlegger as we know it in the North.

MR. MacQUARRIE: Long hair and dirty.

CHAIRMAN (Mr. Sayine): I will have Mr. Fuglsang give us a legal opinion on that before I rule on the motion.

LAW CLERK (Mr. Fuglsang): Thank you. Mr. Chairman, the difficulty is that the word "bootlegger" is a colloquial expression, meaning it is merely a local expression which means different things to different people, but essentially it means a person who is not authorized to sell liquor, which is already in the section. So to say the least, the word "bootlegger" would be redundant. It would be saying the same word twice, or you would have to say a bootlegger in the definition section of this ordinance shall mean a person who is unauthorized to sell liquor and that is why I believe the chairman ruled the first amendment out of order in that a definition was required in the definition section which would relate to the word "bootlegger".

MR. MacQUARRIE: If you require a better definition, I am not authorized to sell liquor but I am not a bootlegger.

LAW CLERK (Mr. Fuglsang): It is purely a colloquial term and has no legal meaning.

MRS. SORENSEN: Unless we give it a legal meaning.

LAW CLERK (Mr. Fuglsang): Unless you give it a legal meaning and a legal definition.

CHAIRMAN (Mr. Sayine): Mr. Sibbeston.

MR. SIBBESTON: I think our Law Clerk should take instructions instead of putting obstacles in the way of MLAs.

SOME HON. MEMBERS: Shame!

MR. SIBBESTON: So what I am suggesting is I would want our Law Clerk to do all things necessary to bring it into a form that could be acceptable and by this I mean it is certainly not improper to use more than one word to describe something, a bootlegger or a person unauthorized to sell liquor. There is nothing wrong or there is nothing redundant. It is not a redundancy to describe something twice, because we have already done that in clause 14. We just amended clause 14 to provide clarity and in doing so sometimes you use similar words that mean the same thing. In this case what I am saying is that to amend the section by providing for the words "bootlegger or a person unauthorized to sell liquor" would provide further understanding and a further description to this person that we are trying to describe. So it may be that it is a colloquial term but so what? It is colloquial to you but it is the main word to describe a person who sells liquor in my constituency.

When you describe a person who is a bootlegger you do not say this person is unauthorized or acting illegally to sell liquor. You do not describe him like that. You describe him as a bootlegger and I am suggesting that you give recognition to that. Maybe it is not a proper English word but the Dene and the Metis in my area have adopted that as a word that properly describes the person who does a certain thing and, if possible, I would like that put into the ordinance. If it is going to reflect the people in the North let us put it there. If you want a Dene word for it I will get you one. I am staying with English so far.

CHAIRMAN (Mr. Sayine): There is some confusion here so I will recess for five minutes so we can look at this issue here.

---SHORT RECESS

Motion To Add To Clause 2 And Amend Clause 84, Bill 26-83(1), Ruled Out Of Order

The meeting will come back to order. I ruled Mr. Sibbeston's first motion out of order and he gave another one with a definition and I rule that out of order also. Mr. Sibbeston.

Motion To Delete Clause 84 And Add New Subclauses 84(1) And (2), Bill 26-83(1)

MR. SIBBESTON: Mr. Chairman, I move that clause 84 be deleted and the following two clauses be substituted. Subclause 84(1) would read "No person shall purchase or attempt to purchase liquor from a bootlegger or a person who is not authorized to sell liquor pursuant to this ordinance and the regulations." Subclause 84(2) would read "For the purpose of this section a bootlegger is a person who sells liquor without authorization pursuant to this ordinance and regulations." I also move that in the margin after "unlawful purchase" there be a dash and the word "bootlegging".

CHAIRMAN (Mr. Sayine): May we have a copy of the motion, please? The motion is in order, Mr. Sibbeston. To the motion.

SOME HON. MEMBERS: Question.

CHAIRMAN (Mr. Sayine): Question being called. Mr. MacQuarrie.

MR. MACQUARRIE: I would like to hear a legal opinion as to whether this might make it easier for people who might be engaged in bootlegging to get away with that offence. I notice that the wording says "a bootlegger or person who is not authorized". The implication with that "or" in there is that a bootlegger is not in that category of people who is not authorized. That is why I earlier suggested the wording "or any other person". At any rate the concern that Mr. Patterson

expressed earlier is a concern of mine and I would ask for a legal opinion as to whether, if this amendment is included, a lawyer might find more grounds or more means to enable someone who may have been engaged or was alleged to have been engaged to get off.

CHAIRMAN (Mr. Sayine): Mr. Fuglsang.

LAW CLERK (Mr. Fuglsang): Mr. Chairman, the practice of law is trying to determine to the best degree possible what a court may or may not do with certain wording. In this particular case I can only offer an opinion that it might add some slight confusion before a court, but I seriously doubt whether the judge would be so confused as not to recognize that a person who is not authorized to sell liquor is commonly known as a bootlegger. I do not expect that it would mean that much if a case were being tried.

CHAIRMAN (Mr. Sayine): Mr. Braden, to the motion.

HON. GEORGE BRADEN: Mr. Lal has some comments, Mr. Chairman.

Difficulty In Using Term "Bootlegger" In The Courts

MR. LAL: Mr. Chairman, the addition of the word "bootlegger" to clause 84 will have the effect of the court drawing the inference that Mr. MacQuarrie just made reference to, in that a court may be of the view that the legislation makes a clear distinction between a bootlegger and a person who is not authorized to sell liquor pursuant to this ordinance and the regulations. Conceivably someone could take the position when charged with having purchased liquor from a bootlegger, that he purchased it from a person who is not authorized to sell liquor and not from a bootlegger. If he were charged with having purchased liquor from a person who is not authorized to sell, he could take the defence that he purchased it from a bootlegger and not from a person who was not authorized to sell the liquor. The definition would most certainly assist the court in coming to the conclusion that the legislators have defined the terms. Having made a distinction in 84(1) between a bootlegger and a person not authorized to sell liquor, they have under 84(2) defined the term "bootlegger" to mean a person who is not authorized to sell liquor, thereby bringing about a fusion between the definition of a bootlegger and a person who is not authorized to sell liquor.

Another difficulty that I can see is that if a person is charged with having purchased liquor from a bootlegger the next question that arises is that the prosecution would have to establish that the individual that sold the liquor was a bootlegger and they would have to prove that beyond reasonable doubt. At that time the question would arise, do they have to establish that he is a confirmed bootlegger because he was convicted in the past for bootlegging or would they have to rely on the fact that at the time when the transaction took place he was a bootlegger and he was not a bootlegger prior to the transaction or will not be a bootlegger after the transaction? There are all kinds of questions that do arise. I am merely pointing those out. Like Mr. Fuglsang, I agree the answer lies in the hands of the courts, but those are my comments.

CHAIRMAN (Mr. Sayine): To the motion. Mr. MacQuarrie.

MR. MacQUARRIE: Just to clarify the last point. Essentially if someone had never been convicted before, you could not say he was a bootlegger and he would be facing the courts on the allegation that he was selling liquor and he was unauthorized to do so. If he had never been convicted before he would perhaps get off because he was not a bootlegger. Is that a possibility?

CHAIRMAN (Mr. Sayine): To the motion. Do you want to answer the question, Mr. Lal?

MR. LAL: Yes. That would be one possibility, Mr. Chairman. The second of course would be the court would arrive at the conclusion that even if he was not a bootlegger he became a bootlegger at the moment that he sold the liquor to the other party.

CHAIRMAN (Mr. Sayine): Mr. Patterson, to the motion.

HON. DENNIS PATTERSON: Mr. Chairman, I think the amendment is a prosecutor's nightmare and a defence lawyer's dream and I cannot support it. I think the public knows what bootleggers are and whatever words we use in the ordinance they are still going to know what bootleggers are. The press will report people who are convicted under these sections and describe them as being bootleggers and they should, but we should use precise words in law. As much as I would love to

see the law made simple and elegant and earthy and accord with street talk, I do not think it is possible. So I think we should defeat this amendment and we can all vow to encourage the use of the term "bootlegger" and a condemnation of that practice as representatives of the communities, but we do not need to fiddle around with carefully thought-out legislation on the floor of this House to accomplish that end. Thank you.

CHAIRMAN (Mr. Sayine): To the motion. Ready for the question? Mr. Sibbeston.

Laws Should Be Made For People Of The North

MR. SIBBESTON: Mr. Chairman, I urge people to vote for the amendment and I feel that what this amendment does is recognize bootleggers exist and despite what three lawyers in a sense have said in this House, I still feel that it will be effective and the courts will not be as confused as they suggest, that they basically come from a status quo kind of background, against anything new or different that is done. I say again we make legislation not for the judges or for the lawyers, but we should make laws for the people of the North. That is all I am trying to do, recognize the type of person that functions and is operating in the North. I think it is terrible that they should exist and I think we should not describe them as persons who unlawfully sell -- couch their behaviour in such terms that really do not mean anything or do not really put them in a bad light.

So I say again that we should support the motion because it will make it very clear to people in the communities, to the people of the North, what we are trying to do. We are trying to outlaw bootleggers. So what if a little judge or a little lawyer is going to have difficulty in understanding? I say the way it is termed, it is not confusing to say "a person who is a bootlegger or a person who is unauthorized or unable to sell liquor" and in the next clause we describe the person, "for this purpose a bootlegger is a person who sells liquor and is unauthorized to sell liquor" so it is very clear to me. I suggest arguments that have been raised are not substantive, not big enough to warrant us not going ahead with the amendment. So I urge everybody to support it.

CHAIRMAN (Mr. Sayine): To the motion, Mr. MacQuarrie.

MR. MacQUARRIE: After having heard all the arguments I certainly cannot support the amendment. This proposed legislation has been around for quite a number of months now. If this were a deep and abiding and serious concern of Mr. Sibbeston's he could have addressed it some time ago with much more care than is evident right at the moment and since it has just come up in this House and there is the danger that we would be perhaps giving another way out to people who are engaged in this business, I feel I cannot support it. Also I am surprised that the whole matter is coming up under unlawful purchase. If it were a serious concern it should have come up in the area of unlawful sale where it is directed directly toward those who sell unlawfully rather than those who are purchasing unlawfully from somebody who is not authorized to sell. I just cannot support the motion.

CHAIRMAN (Mr. Sayine): To the motion? Are you ready for the question?

SOME HON. MEMBERS: Question.

Motion To Delete Clause 84 And Add New Subclauses 84(1) And (2), Bill 26-83(1), Defeated

CHAIRMAN (Mr. Sayine): Question being called. All those in favour? Opposed? The motion is defeated.

---Defeated

Clause 84, unlawful purchase. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Sayine): Clause 85, unlawful consumption. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Sayine): Clause 86, unlawful consumption. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Sayine): Clause 87, unlawful consumption by an interdicted person. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Sayine): Clause 88, unlawful consumption. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Sayine): Clause 89, what liquor may be sold. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Sayine): Clause 90, liquor not to be sold. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Sayine): Clause 91, sale to intoxicated persons. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Sayine): Clause 92, idem. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Sayine): Clause 93, sale and consumption. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Sayine): Clause 94, neglect of children. Mr. Sibbeston.

Neglection Of Children

MR. SIBBESTON: Clause 94 provides for a person being a parent and so forth and not being able to be in a licensed premises while he has a child who is unattended at home by a competent person. I just want to ask you, is this a new section, because I have not been aware of this provision ever in the Liquor Ordinance?

CHAIRMAN (Mr. Sayine): Mr. Braden.

HON. GEORGE BRADEN: No, Mr. Chairman, this was taken from the old ordinance, clause 75 of the old ordinance.

CHAIRMAN (Mr. Sayine): Clause 94. Mr. Sibbeston.

MR. SIBBESTON: How does the government enforce this? Is it something under the jurisdiction of the inspectors or what? I am just wondering how is this section enforced? If it is enforced is the government aware if anybody has ever been prosecuted for this or is it redundant?

CHAIRMAN (Mr. Sayine): Mr. Tologanak.

HON. KANE TOLOGANAK: This particular section, clause 94 is also covered under paragraph 14(1)(e) of the Child Welfare Ordinance and the clause under the child welfare legislation does have a clause for apprehension or care of neglected children and provides for penalties to be applied to a person who neglects a child.

CHAIRMAN (Mr. Sayine): Mr. Sibbeston.

MR. SIBBESTON: I am just wondering why this provision is here, because this seems to be more of a child welfare matter than an alcohol matter. It seems to me that if we are going to pass laws in respect to liquor we should keep it to liquor rather than attempt to provide a section in there that deals with children being left at home unattended. I am just wondering, if there is legislation in other ordinances why this section is provided here.

CHAIRMAN (Mr. Sayine): Mr. Braden.

HON. GEORGE BRADEN: Mr. Lal will comment on that.

MR. LAL: Mr. Chairman, I believe the reason why this provision is in the Liquor Ordinance is because it deals with licensed premises and a parent neglecting a child for the purposes of being able to enter a licensed premises. Since licensed premises are licensed under the Liquor Ordinance the provision is found in the Liquor Ordinance. It is in a way similar to the earlier provision that Mr. Sibbeston referred to, dealing with committal of suicide or an accident by an intoxicated person and a licensee being held responsible for it.

CHAIRMAN (Mr. Sayine): Mr. Sibbeston.

Enforcing Provision Regarding Unattended Children

MR. SIBBESTON: My problem is that the onus here is on the person who goes to a bar to not leave his child unattended and this has nothing to do with liquor or the licence holder. If it is said that the licensed holder shall not permit any person who knowingly leaves his child unattended that would be different, but here you are saying that no person who is a parent shall enter a bar and I am wondering how could this ever be enforced? How can a bartender or a person working in a bar ever know that a person walking in is leaving a child unattended and I wonder how this provision could ever be enforced by anyone except after the fact?

CHAIRMAN (Mr. Sayine): Mr. Lal.

MR. LAL: Mr. Chairman, I do not think that this provision is to be enforced by a bartender. Presumably a peace officer or a social worker who finds the child unattended and the parent in a licensed premises would be able to rely on this provision as well as the provisions under the Child Welfare Ordinance to apprehend the child for the purposes of protecting the child.

I may want to refer the honourable Member to clause 92, for instance, which states "Except as authorized by this ordinance or the regulations, no person under the age of 19 years shall enter or be in licensed premises." It is again a provision that imposes a restriction on that person under the age of 19 as opposed to imposing a duty on the owner of the licensed premises and yet it is found in the Liquor Ordinance.

CHAIRMAN (Mr. Sayine): Clause 94. Mr. Sibbeston.

MR. SIBBESTON: In the case of clause 92, if a licensed premises thinks that a person is under the age of 19 he can question and I can see that that is a common practice and a great concern to not have young people in bars. I could see that being enforceable. But does the licensed premises now approach everybody who is walking into the house, saying "Have you left a kid unattended at home?" I still feel that this is a matter dealing more with child welfare than with liquor matters, but I will not argue any further.

CHAIRMAN (Mr. Sayine): Mr. Lal.

MR. LAL: Mr. Chairman, the questioning of a person who appears to be under the age of 19 is, I would respectfully submit, done under clause 78 which states that "(1) No person shall knowingly sell or supply liquor to a person under the age of 19 years. (2) No person shall sell or supply liquor to a person apparently under the age of 19 years unless the person is in fact 19 years of age or over." That imposes a duty on the licensee. In addition to imposing a duty on the licensee, a duty was imposed on the person under the age of 19 and he is prohibited from entering a licensed premises just like a parent is prohibited from entering a licensed premises and leaving his child outside as is contemplated under clause 94. Thank you.

CHAIRMAN (Mr. Sayine): Clause 94, neglection of children. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Sayine): Clause 95, inducements to licensees. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Sayine): Clause 96, interdicted persons prohibited from entering. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Sayine): Clause 97, order of interdiction. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Sayine): Clause 98, setting aside of orders of interdiction. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Sayine): Clause 99, board to be notified. Mr. MacQuarrie.

MR. MacQUARRIE: With respect to clause 99 the committee had asked the government to consider whether the Department of Social Services, either locally or regionally, should be notified of those placed on the interdict list and the clause has not been changed, so could I ask the government whether they considered that matter and what they felt about it and why it was not changed?

CHAIRMAN (Mr. Sayine): Mr. Braden.

HON. GEORGE BRADEN: Mr. Chairman, we have no problem with issuing a list to the Department of Social Services. We did not really feel that it was necessary to put it into the legislation. I will convey that to the board as per the request of the committee.

CHAIRMAN (Mr. Sayine): Clause 99, board to be notified. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

Offences And Penalties

CHAIRMAN (Mr. Sayine): Clause 100, penalties to individuals. Mr. Wray.

MR. WRAY: Mr. Chairman, I have some real problems with this one, because in subclause 97(4) a person who breaks interdict is subject to a fine not exceeding \$100 or a community work order or imprisonment not exceeding seven days, while under clause 100 somebody who gives the interdicted person the liquor is subject to a \$5000 fine or imprisonment for up to 12 months. Now, I could conceivably see the situation where, for example, you have two brothers and the older brother is interdicted and he exerts what you call fraternal pressure on his younger brother to get alcohol and they get caught. The older brother gets a \$100 fine and maybe a community work order, but the younger brother could end up with a \$5000 fine and 12 months in jail. I think the penalties are very extreme. The original offender gets off a lot lighter than what you would call the secondary offender and I am just wondering if Mr. Lal could let me know why there is such an apparent contradiction in the penalties for this offence.

CHAIRMAN (Mr. Sayine): Mr. Lal.

MR. LAL: Mr. Chairman, the closest analogy I could think of is the distinction that is made between a person who is charged with trafficking in narcotics and one who is charged with being in possession of narcotics for his own use. The law treats the possessor much more kindly than the trafficker.

A person who is an interdict presumably has a very serious problem and the law looks more kindly to him than the younger brother as Mr. Wray related, who does not have a similar problem and who is quite capable of making a judgment whether or not he is to provide the interdict with the alcohol or not. Of course, if undue influence has been exerted upon him, that is a matter that the court would consider in sentencing the younger brother, in the situation that Mr. Wray referred to. I might also say that the provision speaks of a term not exceeding which is the maximum ceiling, that is not to say that the court will necessarily impose a fine of \$5000 or 24 months imprisonment. Thank you.

CHAIRMAN (Mr. Sayine): Clause 100, penalties to individuals. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Sayine): Clause 101, penalties to minors. Mr. MacQuarrie.

MR. MACQUARRIE: I would just note here that in the brief we got this morning, regarding clause 101, the Hotel Association was suggesting larger penalties for minors who try to enter licensed premises. Clause 101 says "guilty of an offence ... a fine not exceeding \$100, or to such community work order as the justice considers appropriate, and in default of payment of fine or completing such work order, to imprisonment for a term not exceeding seven days". I would suggest that the Hotel Association feels that there is not enough deterrent in the penalties that are outlined and that therefore people under the age are quite often tempted to try to get into licensed premises. Since I have just seen this today I have not really thought about the issue, but perhaps some Members or the Minister would like to comment on it.

CHAIRMAN (Mr. Sayine): Mr. Braden.

HON. GEORGE BRADEN: We did consider this in reviewing the existing legislation, the new bill. We have raised the fine from \$25 to \$100. In all honesty some of the situations we are faced with, with young offenders as with other individuals who are not supposed to enter licensed premises for whatever reason -- I suppose we could make the fine up to \$1000 when clearly it is the case that the individual cannot pay or will not pay. Then we are put in the position where we have to try to get some supervised community work or work plan provided or alternatively they end up in jail for seven days at a cost of -- Mr. Tolganak, I am not quite sure what the daily cost is now of keeping people in jail. We did discuss this, Mr. Chairman. We did increase the fine from \$25 to \$100 but I guess those are some of the conditions we have to live with.

CHAIRMAN (Mr. Sayine): Clause 101, penalties to minors. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Sayine): Clause 102, general penalty. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Sayine): Clause 103, ineligible to purchase. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Sayine): Clause 104, justice may declare residence a public place. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Sayine): Clause 105, procedure in respect of subsequent conviction. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Sayine): Clause 106, liability of corporation officials. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Sayine): Clause 107, liability of employer. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Sayine): Clause 108, description of offence. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Sayine): Clause 109, certificate of analyst. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Sayine): Clause 110, inference respecting liquor. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Sayine): Clause 111, deposition of witness. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Sayine): Clause 112, circumstantial evidence. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Sayine): Clause 113, proof of sale of liquor. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Sayine): Clause 114, proof of board documents. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Sayine): Clause 115, immunity. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Sayine): Clause 116, searches. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Sayine): Clause 117, application for restoration. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Sayine): Clause 118, report of seizure. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Sayine): Clause 119, seizure of vehicle by officer. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Sayine): Clause 120, arrest without warrant. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Sayine): Clause 121, searches of the opposite sex. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Sayine): Clause 122, officer may demand name and address. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Sayine): Clause 123, continuing of licences and permits. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Sayine): Clause 124, repeal. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Sayine): Clause 125, coming into force. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Sayine): Clause 1, short title. Agreed?

SOME HON. MEMBERS: Agreed.

---Agreed

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

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Sayine): Bill 26-83(1) is now ready for third reading.

SOME HON. MEMBERS: Agreed.

---Agreed

CHAIRMAN (Mr. Sayine): I will now rise and report progress.

SOME HON. MEMBERS: Agreed.

---Agreed

MR. SPEAKER: Mr. Sayine.

REPORT OF THE COMMITTEE OF THE WHOLE OF BILL 26-83(1), LIQUOR ORDINANCE

MR. SAYINE: Mr. Speaker, your committee has been considering Bill 26-83(1) and wish to report progress. This bill is ready for third reading as amended.

MR. SPEAKER: Thank you, Mr. Sayine. Are there any announcements from the floor? Mr. MacQuarrie.

MR. MacQUARRIE: Thank you, Mr. Speaker. I have a letter from the NWT Council for Disabled Persons who would like me to make an announcement. Across Canada there are Runs for Life which are in aid of people who are blind and the NWT Council for Disabled Persons will be sponsoring a Run for Life on Saturday, May 14 at 12:00 midnight so that Members who are not taking advantage of the provisions of the ordinance that we just passed at that time are invited along with myself to participate in this Run for Life. Registration forms are available at Shoes and Things. It costs seven dollars for adults and if the run produces a profit it will be evenly divided between the NWT Council for Disabled Persons and the Canadian Blind Sports Association. It is not really a competitive run or I would not be going into it but I will give it a try and certainly challenge other Members to participate as well.

---Applause

MR. SPEAKER: Thank you. Announcements from the floor? Mr. Clerk, announcements and orders of the day.

CLERK OF THE HOUSE (Mr. Hamilton): A meeting of the standing committee on finance and public accounts, 9:30 tomorrow morning in the caucus room. A meeting of the standing committee on rules and procedures at 11:00 o'clock tomorrow in room 211.

ITEM NO. 16: ORDERS OF THE DAY

Orders of the day, Wednesday, May 11th.

1. Prayer
2. Members' Replies
3. Oral Questions
4. Written Questions
5. Returns
6. Ministers' Statements
7. Petitions
8. Reports of Standing and Special Committees
9. Tabling of Documents
10. Notices of Motion
11. Notices of Motion for First Reading of Bills
12. Motions
13. First Reading of Bills
14. Second Reading of Bills
15. Consideration in Committee of the Whole of Bills, Recommendations to the Legislature and Other Matters: Tabled Document 26-83(1)
16. Orders of the Day

MR. SPEAKER: Thank you, Mr. Clerk. This House stands adjourned until 1:00 o'clock Wednesday, May 11, 1983.

---ADJOURNMENT

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