



LEGISLATIVE ASSEMBLY OF THE NORTHWEST TERRITORIES
DEBATES

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Official Report

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Speaker The Honourable David H. Searle, Q.C.

LEGISLATIVE ASSEMBLY OF THE NORTHWEST TERRITORIES

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RANKIN INLET, NORTHWEST TERRITORIES

TUESDAY, OCTOBER 19, 1976

MEMBERS PRESENT

Mr. Steen, Mr. Stewart, Mr. Lafferty, Mr. Lyall, Mr. Butters, Mr. Whitford, Mr. Fraser, Hon. Arnold McCallum, Mr. Evaluarjuk, Hon. Peter Ernerk, Mr. Pearson, Mr. Kilabuk, Mr. Pudluk, Hon. David Searle, Mr. Nickerson

ITEM NO. 1: PRAYER

---Prayer

SPEAKER (Hon. David Searle): Turning to the orders of the day, Item 2, replies to Commissioner's Opening Remarks. Mr. Nickerson.

ITEM NO. 2: REPLIES TO COMMISSIONER'S OPENING REMARKS

Mr. Nickerson's Reply

MR. NICKERSON: Mr. Speaker, I am just sorting out all my notes here. You took me by surprise.

One of the first things that came to my mind to talk about this afternoon is something that does not really concern the Northwest Territories, or Canada at all in fact. What I really wish to do at the present moment is pay tribute to our very good friends south of the border, the citizens of the United States of America on the occasion of the 200th anniversary of the founding of that country. I searched through some historical documents in order to find something pertinent to say on this occasion and I happened to get hold of a copy of the Declaration of Independence of 1776 and started reading through that.

Now, in this document which was an attempt at that time to justify the actions of the rebel colonists in the eyes of other countries of the world and also, I suspect, in their own eyes, they listed there quite a list of what they described as various injuries and usurpations by the King of Great Britain. One of these injuries and usurpations which they listed, and gave indeed a fairly high degree of priority to, was the following: He has called together legislative bodies at places unusual, uncomfortable and distant from the depository of their public records for the sole purpose of fatiguing them into compliance with his measures.

As a confirmed city slicker from Yellowknife I hope the intentions of the Commissioner are a little bit more honourable than those attributed to His Majesty King George III.

Compliment To Minister And Commissioner

First of all, Mr. Speaker, I would like to compliment both the Honourable Minister of Indian and Northern Affairs and the Commissioner for their excellent addresses to this body.

The Commissioner in his emphasis on delegation of real authority to the regional and local levels, such as would be the case if the Education Ordinance before us today were to be passed, echoes the wishes of this Assembly, just as does his dwelling on the subject of badly needed economic development in the territories. We must all be very pleased with Hon. Warren Allmand. His authorization of a third Executive Member is an extremely important constitutional development. At this point in time, elected representatives of the people of the Northwest Territories will assume a majority say in major executive decisions, assuming of course, that the Commissioner remains as the impartial chairman of the committee. Hon. Warren Allmand has shown himself to be a man of independent mind and a person taking great interest in the North and its problems. I am sure we all look forward to working with him over the next few years.

Having said that, Mr. Speaker, I will proceed with the prepared part of my reply. Because of the constraints imposed on us with having to deal with so heavy a volume of business in so limited a time I intend to keep my reply reasonably brief and to deal with a single point. The problem to which I address myself is not a new one, and I am sure that all Members must already be aware of it. However, it is a particularly invidious problem which is rapidly pervading every aspect of Canadian life, both on a national and a territorial scale. Briefly stated, the problem is this: that an ever increasing number of Canadians are laying claim to special preference and special consideration because of some accident of their birth. Groups most often of some racial or cultural affiliation are proclaiming themselves citizens plus which naturally must make the rest of us citizens minus.

Effects of Two-Founding Culture Philosophy

The Trudeau government, in its acceptance of the nonsensical two-founding culture philosophy is undoubtedly responsible for the worsening of the problem as more and more people, often with government blessing and government financing, proclaim their superiority over the rest of Canadians. It is beyond me how Canadians can tolerate an official doctrine whereby citizens of English or French ancestry are considered to have special privileges in the preservation of their particular culture. How long must western Canadians, most of whom belong to neither of the so-called founding cultures, have imposed on them language and other policies by a central government that derives its political strength almost solely from one province, the government of which has demonstrated its intolerance to multi-cultural co-operation; intolerance demonstrated for instance in the recent air traffic control controversy where international convention and common sense have been cast aside and the safety of thousands of air travellers placed in jeopardy? In the Northwest Territories those who head the liberally funded native organizations are so intent on usurping political and economic power for themselves that the legitimate land claim issues by which the ordinary members of these organizations would benefit have all but been forgotten. I have the privilege of representing one of the most culturally-diverse constituencies in the Northwest Territories, with people who can trace their origins back to almost every country on earth and my everyday experience leads me to believe that with a modicum of good will, men of many backgrounds can live together under one law and under one political system, and yet retain those aspects of their various cultures which they deem worthy of retention.

Policies Of Self-Sufficiency, Initiative And Enterprise

This Legislature must resist Balkanization of the territories along ethnic lines. We owe it to our people to pursue policies whereby individual self-sufficiency, initiative and enterprise are encouraged. For so long have we taxed success to remunerate failure that we have led our people to believe

that poverty and indolence are virtues to be rewarded. I am sickened when I see leaders of ethnic groups vying with each other as to who has the doubtful distinction of leading the poorest and most oppressed people in the hope that whoever wins the dispute will elicit the greatest degree of public sympathy and public funding. Such a system of course encourages continued dependency in that those who refuse to contribute to their own well-being are seen to be the biggest beneficiaries of public support. This then gentlemen is a major problem which we must face at this, and undoubtedly ensuing assemblies. It is one we can not ignore and one which, because its solution involves a considerable degree of self-control and self-discipline will not be dispensed with ease. Thank you, Mr. Speaker.

---Applause

MR. SPEAKER: Are there further replies to the Commissioner's Remarks?
Mr. Lafferty.

Mr. Lafferty's Reply

MR. LAFFERTY: Mr. Speaker, Mr. Commissioner, the Honourable Members of this Legislative Assembly, my colleagues, ladies and gentlemen. First of all, I would like to say for those people at Rankin Inlet and others who may be visiting this region of the Northwest Territories that I bring to you the good greetings of the area in which I live, the South Mackenzie River region, Fort Simpson. It is of course a privilege and honour to be with you people and to have you sit among us as participants, probably not as observers as you are deemed to be. I believe, and have for all my life, in the principles of being involved at every level of family life. Being brought up in that manner I extend that same desire to all people and to all the members of my community. I think that the Northwest Territories is one hell of a large community in which there are many of us, and we may be brothers and sisters, but as brothers and sisters are, we do not always necessarily agree as to how we should feed ourselves, clean ourselves, dress and so on. It is as simple as that.

Education Brings Happiness

We have very important issues before us at this Assembly and one is education. Last night, or yesterday I should say, during our break I had what I used to call an educational encounter in that I was reminded of my past by a very dear old friend from my youth whom I have not seen for years. The person knows my father and my relations. Then, listening to that person speak last night I was rather amazed at his ability to adapt and adjust. I think this is something that we must consider very closely when we think about education. When I look at education I look at that simple little word that we call happiness and I think this is what we are looking for. I want my children to be happy and that means to me, in simple words, that I must provide them the kind of schooling and schools that will enable them to adjust to any given environment that they choose to make for themselves.

It is a very simple matter for me. If we do not do this, then we might just create a lot of laughing people out of grievousness or perhaps they would even laugh at the misery in which we are today. If you look back in your own life as an individual person and see the times when an older kid had you on your back and tickling you you were miserable as old hell, nevertheless you were laughing and this is the state we are presently in. Sometimes we are fooling ourselves by thinking that if we create the kind of environment in which everybody can smile and laugh at one another we will be happy, but I do not think that this is true.

The Right To Decide

As we sit here today, remembering the words of the Hon. Warren Allmand, our new Minister of Northern Affairs and, the words of our Commissioner, there are things which we could be happy about, but perhaps we are not laughing but we certainly can be happy because for the first time in the history of the Northwest Territories, through my experience, we have been accorded the right to decide some of the problems that may arise or that may be eliminated. There are pros and cons in decision making, and again that is an educational process; if you are mistaken, change.

I think that when I heard these words, much to my surprise, the announcement that we may have another Member of the Executive, I could see my own self saying that we are a people of the changing times and a changing society,

that we are a people who have found ways and means by which we can struggle to feed ourselves and eat the kind of foods that we wish, to dress ourselves the way we see fit, to house ourselves the way we must.

I believe that those people or families that provide the kind of activity for the family members has control over how the home is run. We can apply this to anything. It is as simple as that. I am not going to bore you with a long speech, but what I am saying here is from the top of my head, from my heart, it is sincere. It is not written on any paper. We have people here to do that and it is life as I understand it that I am sharing with you. The details I can put down on paper later and pursue, but sometimes in my experience among the peoples of the North we tend to get too technical. We get lost and hung up on a limb that I call detail and fall off to become very ineffective. This is not the time to do that; this is the time to stay on the main tree and climb to the top.

Establishing Leadership

Our priority at this session is a document before us dealing with education which I have in some instances justly criticized and other instances unjustly criticized. In some instances here all common people claim I had my ass butted and booted. I look at it this way; I am here to make a decision. I am here to establish the kind of leadership in the country, founded on the kind of people which we are, and that means, if I do not get a boot in the behind, I am not doing anything. In order for me to get a boot in the ass I must be out in the front and I am not afraid to get a boot. Let that be well known.

As it has been said, we are not here to win popularity contests and that is one of the problems among all politicians at the federal level and it has been one of our problems in the Northwest Territories. It is the elected people who only sought popularity -- if you want to kiss babies and wives and so on, that is your business but you should do that in your bedroom. I am not making election a career. If I get re-elected again, I want to get re-elected because I have done a job well; not because I am popular. If I wanted to be popular, I would probably work to become a movie star or something like that.

To quote my colleague, that respected Member, Mr. Steen, and he is quite correct when he said, "Perhaps we should use musk-ox as examples." At least they form a circle together and they do not get budged very easily, but here we are, a handful of people in one corner of Canada who stand divided because we are bloody scared to speak up and hurt somebody's little ego. We have to divide ourselves into ethnic groups, divide ourselves into political ideologies, divide ourselves into political party systems, divide ourselves into ethnic and racial groups, cultural groups and go on and on and on and it never ends. Finally we are walking alone with our heads hung down and crying and blaming our native peoples for the conditions that we find ourselves in because they are too far behind to catch up.

Economic Opportunities For Native People

I think that the only reason that we are so far behind is simply that we have not given the opportunities or made available opportunities economically for those native people who have succeeded and learned the systems by which this country is governed and they have to go elsewhere to carry on in the skills that they have mastered. That is the truth. Do not let anyone fool you because I know many native people, both Inuit, Metis, Indians who have made it in the white man's community and having to go elsewhere because there are no jobs available in the Northwest Territories for these people. The handful of native men who are able to get into a business for monetary gain did not dare disclose the actual economic conditions which they were exploiting for their own personal benefit and gain.

Looking at it from the social development side, those people, as the Honourable Member for Yellowknife, Mr. Nickerson mentions, have become dependent on welfare is correct, but these people have no other course. They are fearful simply because they lack knowledge. They lack knowledge of the system that seemingly suppressed them. Whether it does or not really does not matter, but it does seem that the system suppressed them and they have become so fearful that they have lost faith in almost every area of northern life. They have lost faith in one another, they have lost faith in the economic system that is being proposed. They have lost faith in their own judgment to look into the future and the only course to them that is open is to escape, to escape into a system which seemingly protects them or creates an umbrella under which the federal government with the great help of the Northwest Territories Government in the past has become the economics of the total population of the Northwest Territories.

We have a long way to go. Many of our civil service members do not care any more about the people in the North and God help the civil servants that I find who act contrary to the ordinances that we do pass because the fact remains that there are many civil servants who are well hidden but they are not working there for the best interests of the northern people but, rather, for their own best interest, whether it be political or economic.

Division Created By Governmental Policies

We speak of Indian people, we speak of Inuit people, we speak of Metis people and then we go on to say "other people." -- I do not think some of us get even the foggiest idea that we are the community as the Northwest Territories and we are all people. When I look at that kind of division created by governmental policies, by that type of expression publicly by politicians and recently the churches I begin to ask a few questions of myself: What am I doing participating with such interest groups?

The recent development throughout the Mackenzie River Valley is critical so far as I am concerned, critical because it has grouped and separated the people and those people are Indian people. I do not take it upon myself to speak on behalf of Indian people because I will not. I am a public representative, but I do have great sympathy with the Indian people or the original people who have settled in the Mackenzie Valley. They are ignorant. I am not saying that they are stupid, unintelligent. They are intelligent creatures, but they are very ignorant to the ways and systems that they have found themselves in, particularly they are ignorant in the areas of political ideology. They have become, since they are ignorant and economically very weak and economically dependent on the government, they have become the weakest link in the northern community and very successfully penetrated by outside interest groups. When I say "outside interest groups," I do not mean provinces or people from outside of the Northwest Territories but outside of their own family interests and mainly this is for political purposes.

Church Involvement In Native Politics

The only thing that would save these people is education and knowledge of these ideas that are used against them. Recently through these political philosophies that are expressed internationally, seemingly the churches have picked up the cause. I believe that the churches should mind their own business, saving the souls of the sinners, rather than saving the souls of the Indian, or rather than saving the political nature of the Indian.

I feel that churches must keep their nose out of governmental affairs, and I do not care what church it is, whether it be the Roman Catholic church, and I am Roman Catholic, or a protestant church. I believe it this way; if a white man is crooked, or an Indian is crooked, both their souls need saving, and that is what priests are for, not just saving an Indian's soul and telling the white man to go to hell, that is not the job of the priest. We are at a critical stage in our development and evolution. Perhaps in closing my remarks I will tell you why I believe these things that I have said. They are things that I believe.

Vision Of Man's Own Evolution

Before me stands a vision of man's own evolution, and I am not an Indian although an Indian is part of my history; I am not a white man although French is my history, to which I have a claim. My great-grandfather was married to my great-grandmother, and my grandfather was married to my grandmother, and my mother and father are married, and if legally I was to pursue my history I would have no alternative but to go back to France. Nevertheless I am a first Canadian and a native, an aborigine, I was born and originated here in the Northwest Territories, and I know no other home. I am proud of the fact that my roots are as wide as this world, my culture is as broad as this world, and I can take the good from both sides. From the Indian side I was taught how to survive off the land, how to share with my fellow man. On the other side of my life I was taught and have pursued knowledge on my own, and I have travelled to many corners of the world and have seen that I am no different than any other man. I can use them both, but it is up to me to take the good and leave the bad. It is as simple as that.

I learned one very simple lesson in my travels through the world, that if I found a little Chinaman who was half my size, and called him a little Japanese, that little guy is going to tangle with me and try his best to prove to me that he is Chinese not Japanese. However, do you know something? In the Canadian and American society, if we walk up and down the streets throughout Canada, on any given street, and we have a finger pointing at us as Metis people, the inference is that we are Indian. We have a big crown department telling us we are Indian, and we say yes. Another section of the community will come along and tell us we are half-breeds, and we say yes. Another part of the government comes along and tells us we are not status Indians, and we say yes. I think it is about time that some of us people decided to say, no, we are this type of people for this reason, and the only way we can do this, ladies and gentlemen, is to get along with an education system which will allow our children to get into the mainstream, to let it be known who they are, what they wish to be, and what they wish to accomplish.

Native Development Programs

I think that these are serious matters and when I look at native development programs, as Indian Affairs likes to call them, I look at the Indian as a commercial item, and this is beginning to happen among the Inuit people as well. They are the only people in the world I know who have their pictures displayed without honour. If my picture is worth \$100, then it must be after my skin, and I am not about to let anybody come and dictate to me who I am. I am a native of the Northwest Territories. By the same token, I will not deny any other native person, or any person who lives under the cultural umbrella of northern society -- we are here, we were born here, we are here to determine our future, and we will determine our future.

There are many good things I heard over the last summer, and they are things that I am very glad to say I agree with. I appreciate the effort that has been put out by our two Executive Members; in fact, I probably gave them a pretty rough time, but they responded, and that is the name of the game. If you can not take it, you should get out.

I set out before my election to accomplish that very thing for native people, to get involved towards improvement, and when I say involvement for improvement I do not mean just getting involved in dishwashing or getting involved by marrying somebody or going to bed with somebody, I mean getting involved in every conceivable way that you can imagine. I mean you should get involved politically, economically, socially, culturally, spiritually, walk hand in hand with another man so that through association you will learn. I am not saying you should learn: I am saying you will learn, and then by getting involved at your community level, at the territorial level, you will open the door for those who are behind you.

Leadership Must Be Provided

My father once told me when I was a kid, "I am your father, you will always have to follow me", and he said, "But do not forget some day before I go I will follow you". I often wondered what he meant, and then recently I became a leader, and I still must follow someone else, and sometimes the fellow behind me is ahead of me. So, it works. Leadership is something we must provide, and leadership is what we all share. Some of us sometimes become the middle link that has to decide whether we break or do not, and I think this is what is happening to the North. So, there is some little link somewhere along the line, some little community that has raised enough stink and eventually the link broke. In my personal view and values, there is no big shot anywhere, because we create the big shot, particularly in a native community where there are none.

Now, the comments of Hon. Warren Allmand will change much of our thinking. Personally, I will use it as it is brought back to me from my constituents, my viewpoint down deep and my approach will always remain open. Nonetheless there will be a little doubt, and I regret that, because that doubt was not created by me but rather by the society around me. We in the Northwest Territories, for the first time, especially in my area, have found that we could work successfully together, the local Indian people are interested in continuing education, they are interested in economic development, they are seeking jobs and they are working quite well with the white community, which is disputed by the Executive.

I do not think that it is the appropriate time to talk on this matter, but just to give you an idea of what the people are like, we, for the first time are coming together and moving forward, and just in the last year and a half since I first sat in this Legislature, I have seen a great difference in the working relationships among the people. I even found out I could work with some of the Executive Members of our government, and I appreciate very much that fact. I stand before you with an open heart and a sense of gratefulness to participate in the development of government in the Northwest Territories for its people.

Education For The Future

I do not suppose I could truthfully say that we will always remain the same, but remind you of the words the Right Hon. Pierre Trudeau uttered several years ago, not that I agree with them, but I think he was quite right when he said that we could do many things for you, but what you do in your bedrooms is uncontrollable by government, and that is where it begins. I think we have to look at ourselves, understand who we are, what we want for our future, educate our children so that they could provide for themselves with a tool they can change from time to time to fit the ongoing peoples of the Northwest Territories. Long after I am dead there will still be people in the North, and perhaps they may not be like me; nevertheless they will be my descendants and I think that that is what we are thinking about when we look at education for the future of our people, beginning today, and using yesterdays experiences and going on into the future, into the unknown, using our past experience which has not been too good. It was a hard life just 25 years ago, but with those words to remind you of how hard life was, and I will not spell it out, as I said I do not plan on telling you the details, but if you do not believe it was hard, just ask any of the oldtimers and they will tell you. With that, Mr. Speaker, I will conclude my address or my reply to the Commissioner's Remarks.

---Applause

MR. SPEAKER: Are there any further replies to the Commissioner's Opening Remarks?

That being so, then, turning to the orders of the day, Item 3, questions and returns.

ITEM NO. 3: QUESTIONS AND RETURNS

Are there any returns, Mr. Parker, to yesterdays questions?

DEPUTY COMMISSIONER PARKER: No.

MR. SPEAKER: Are there any other questions? Mr. Pudluk.

Question W4-60: Shipment Of Anchor Cables To Grise Fiord

MR. PUDLUK: Mr. Speaker, I have a question. When the Commissioner himself was in Grise Fiord he promised the settlement council that he would send cables to protect the houses from blowing away, and they have not yet received the cables and they need replacements for what they have. They want to know when you will send those cables to Grise Fiord. They were expecting them before the ground froze. Thank you.

MR. SPEAKER: Are there any further questions? Mr. Nickerson.

Question W5-60: Response To Motion 13-59

MR. NICKERSON: Mr. Speaker, on the 26th of May, 1976, at the fifty-ninth session of the Legislative Assembly, Motion 13-59 was passed, requesting the administration to bring forth recommendations dealing with rules and procedures to be adopted by various boards and committees having judicial type powers. Has this been done?

Question W6-60: Problems Re Lumber Delivery At Slave River

My second question, Mr. Speaker, the Northwest Territories government press release 76-156 dealing with the side benefits of the territorial housing program reads in part as follows: "...because of delivery problems at Slave River, 2,000,000 board feet had to be purchased from southern markets..." What, sir, were these problems, and have they been rectified?

MR. SPEAKER: Mr. Commissioner.

COMMISSIONER (Mr. Hodgson): Mr. Speaker, to the first part of the question, the answer is that we are working on it but we have not got it finalized yet, but if we do in time for this session we will put it before the Council. If you look in your books here, in your recommendations to Council, you will see tab two, and that is where it was to go.

As to the second question, I do not have the information, and we would have to take the question as notice and table a reply later in the session.

MR. SPEAKER: Are there any further written questions?

Item 4, oral questions. Mr. Evaluarjuk.

ITEN NO. 4: ORAL QUESTIONS

Question 07-60: Meeting About Game Ordinance

MR. EVALUARJUK: The other day I was asking that the Inuit people of the Northwest Territories, I believe they were to meet about the Game Ordinance to fix the thing, but there were not the right people at the meeting, but I met with the Inuit people, and I would like to know if there will be another meeting to talk about the Game Ordinance again. That is my question.

MR. SPEAKER: Thank you.

Reply To Question 07-60: Meeting About Game Ordinance

THE COMMISSIONER: Mr. Speaker, if I might reply, it has not been possible for anybody to agree on the Game Ordinance because the Game Ordinance is now being considered and discussed by the advisory committee on game. We had hoped that they would have finished their work early this spring, but they have decided to hold a series of meetings in various communities in the territories and, as a result, until they have finished and made their recommendations we have not proceeded with it.

MR. SPEAKER: Further oral questions? For the benefit of the new Members and, of course, most of the older Members, oral questions are questions of an emergency nature which could not have been reduced into writing. Are there further oral questions?

Item 5, petitions.

Item 6, reports of standing and special committees.

Item 7, notices of motions. Mr. Whitford.

ITEM NO. 7: NOTICES OF MOTIONS

Notice Of Motion 2-60: Committee Of The Whole Discussion, Dysentery Outbreak At Rae

MR. WHITFORD: Mr. Speaker, I wish to give notice that on Wednesday the 20th of October I will move the following motion.

WHEREAS there has been a great deal of suffering, hardship and death resulting from the recent dysentery outbreak in Rae;

NOW THEREFORE, I move that at a suitable time this house resolve itself into committee of the whole to study and discuss thoroughly the said dysentery outbreak and methods that might be taken to prevent the thing from recurring.

MR. SPEAKER: Further notices of motions? Mr. Nickerson.

Notice Of Motion 3-60: Membership, Finance And Legislation Committees

MR. NICKERSON: Mr. Speaker, in my capacity as chairman of the committee engaged with the task of finding Members to serve on other committees, tomorrow on Wednesday, the 20th, I will move the following motion:

WHEREAS vacancies exist in the membership of the standing committees on legislation and on finance;

NOW THEREFORE, I move that Mr. Peter Fraser and Mr. Richard Whitford be appointed to the standing committee on finance and that Mr. Richard Whitford be appointed to the standing committee on legislation.

Notice Of Motion 4-60: Right To Work Legislation

Secondly, Mr. Speaker, I give notice also that on Wednesday, the 20th of October, I will move the following motion:

WHEREAS this house desires that employment opportunities especially those resulting from large construction projects be made available to as many northern residents as possible;

NOW THEREFORE, I move that the Legislative Assembly express itself to be in favour of the early introduction of "right to work" legislation along the lines of that adopted in certain American states.

MR. SPEAKER: Are there further notices of motions?

Item 8, motions for the production of papers.

Item 9, motions. I believe there is only one motion and obviously it is Motion 1-60. Mr. Nickerson.

ITEM NO. 9: MOTIONS

Motion 1-60: Committee Of The Whole Consideration Of Matters Arising From Alaska Visit

MR. NICKERSON: Mr. Speaker, I am afraid there is a little bit of a misprint in here. There are no "Whereas" clauses in this motion and there is only the resolve clause and that reads as follows:

WHEREAS I move that at a suitable time to be set by the Speaker, this house resolve itself into a committee of the whole to discuss matters arising out of the recent tour of the Legislative Assembly to the state of Alaska.

MR. SPEAKER: In lieu of the word "Whereas" may we write the words "Now therefore"?

---Agreed

MR. SPEAKER: This is merely a typing error.

MR. STEWART: Question.

Motion 1-60, Carried_

MR. SPEAKER: Seconder? Mr. Lyall. Question? Question being called. All in favour? Down. Contrary? The motion is carried.

---Carried

MR. SPEAKER: Are there any other motions?

Item 10, tabling of documents.

Item 11, second reading of bills. Bill 3-60, the Hon. Peter Ernerk.

ITEM NO. 11: SECOND READING OF BILLS

Second Reading Of Bill 3-60: Territorial Hospital Insurance Services Ordinance

HON. PETER ERNERK: Mr. Speaker, I move that Bill 3-60, An Ordinance to Amend the Territorial Hospital Insurance Services Ordinance, be read for the second time. The purpose of this bill, Mr. Speaker, is to provide for the appointment of boards of management to manage and operate health facilities funded by the Government of the Northwest Territories. Provision is made for the appointment of a public administrator to manage a health facility where the Commissioner considers it to be in the public interest.

MR. SPEAKER: Is there a seconder? Hon. Arnold McCallum. Discussion? Question being called. All in favour? Down. Contrary? Second reading is carried.

---Carried

Bill 4-60, Hon. Peter Ernerk.

Second Reading Of Bill 4-60: Accommodation Tax Ordinance

HON. PETER ERNERK: Mr. Speaker, I move that Bill 4-60, An Ordinance Authorizing the Imposition and Collection of a Tax on Public Accommodation in the Northwest Territories, be read for the second time. The purpose of this bill, Mr. Speaker, is to create legislative authority for the imposition and collection of a tax on the sale of public accommodation in the Northwest Territories.

MR. SPEAKER: Is there a seconder? Mr. Lyall. Any discussion? Question being called. All in favour? Down. Contrary? Second reading is carried.

---Carried

MR. SPEAKER: Bill 5-60, Hon. Peter Ernerk.

MR. PEARSON: Can I ask a question? Could I request my vote be recorded as contrary?

MR. SPEAKER: I do not count them unless they are specifically asked for in a recorded vote.

MR. PEARSON: There was one contrary vote, Mr. Speaker.

MR. SPEAKER: I did not miss it, Mr. Pearson. I said "All in favour? Contrary?" and the motion is carried if there are more in favour than against. I do not count how many unless specifically asked to. I take it you would like your vote specifically recorded to be contrary?

MR. PEARSON: No, Mr. Speaker, I am quite satisfied with your observation.

MR. SPEAKER: Thank you.

Second Reading Of Bill 5-60: Apprentices and Tradesmen's Qualifications Ordinance

HON. ARNOLD McCALLUM: I move that Bill 5-60, An Ordinance Respecting the Training and Certification of Apprentices and Tradesmen, be read for the second time. The purpose of this bill, Mr. Speaker, is to provide for the certification of persons in designated trades and to set out guidelines respecting contracts of apprenticeship.

MR. SPEAKER: Is there a seconder? Mr. Stewart. Discussion? Question being called. All in favour? Down. Contrary? None contrary. Second reading is carried.

---Carried

MR. SPEAKER: Bill 6-60, Hon. Peter Ernerk.

Second Reading Of Bill 6-60: Supplementary Appropriation Ordinance, No. 2, 1976-77

HON. PETER ERNERK: Mr. Speaker, I move that Bill 6-60, An Ordinance Respecting Additional Expenditures for the Public Service of the Northwest Territories for the Financial Year Ending the 31st Day of March, 1977, be read for the second time. The purpose of this bill, Mr. Speaker, is to provide for funds to meet additional operating expenses for the Government of the Northwest Territories for the fiscal year ending March 31st, 1977.

MR. SPEAKER: Is there a seconder? Mr. Lyall. Discussion? Question being called. All in favour? Down. Contrary? The motion is carried.

---Carried

MR. SPEAKER: Bill 7-60, Hon. Peter Ernerk.

Second Reading Of Bill 7-60: Insurance Ordinance

HON. PETER ERNERK: Mr. Speaker, I move that Bill 7-60, An Ordinance to Amend the Insurance Ordinance, be read for the second time. The purpose of this bill, Mr. Speaker, is to give legislative sanction to the creation of an automobile insurance exchange to ensure that insurance coverage is available to all automobile owners and drivers in the Northwest Territories.

MR. SPEAKER: Is there a seconder? Mr. Kilabuk. Discussion? Question being called. All in favour? Down. Contrary? Second reading is carried.

---Carried

MR. SPEAKER: Item 12, consideration in committee of the whole of bills and recommendations to Council.

ITEM NO. 12: CONSIDERATION IN COMMITTEE OF THE WHOLE OF BILLS AND RECOMMENDATIONS TO COUNCIL

May I have a motion that the Legislative Assembly resolve into committee of the whole for consideration of bills and recommendations to Council? So moved, Mr. Nickerson?

MR. NICKERSON: If you promise that you will let us break for coffee immediately afterwards.

MR. SPEAKER: Yes.

MR. NICKERSON: I do so move in that case.

MR. SPEAKER: Secunder. All in favour? Down. Contrary? Carried.

---Carried

MR. SPEAKER: Council will resolve -- pardon me, this Legislature will resolve into committee of the whole for consideration of bills and recommendations to Council. Bill 1-60, the Education Ordinance, with Mr. Stewart in the chair.

--- Legislative Assembly resolved into Committee of the Whole for consideration of Bill 1-60, Education Ordinance, with Mr. Stewart in the chair.

PROCEEDINGS IN COMMITTEE OF THE WHOLE TO CONSIDER BILL 1-60, EDUCATION ORDINANCE

THE CHAIRMAN (Mr. Stewart): The committee will come to order. It is coffee time. We will recess for 15 minutes.

---SHORT RECESS

THE CHAIRMAN (Mr. Stewart): I call the committee to order. Mr. Nickerson of the legislation committee, are you ready to report on this?

MR. NICKERSON: Yes, Mr. Chairman. The original report of the standing committee on legislation concerning the Education Ordinance was, of course, given at the last session of the Legislative Assembly when this committee met before. I do not think it will be necessary for me at this time to repeat everything that was said then and suffice it to say the committee dealt with this in great detail and we heard representations from a number of interested parties and in our going through the bill we had at that time we made numerous recommendations regarding amendment. The administration have accepted many, if not most of those recommendations, and the final draft that you have before you now incorporates most of our recommendations. However, a few were not accepted and those I will bring to this committee's attention when we get to them in our study of the bill.

THE CHAIRMAN (Mr. Stewart): Thank you. Bill 1-60, any comments of a general nature on the over-all bill? No general comments? Are we agreed that we proceed clause by clause?

---Agreed

Introduction Of Education Department Members

HON. ARNOLD McCALLUM: Mr. Chairman, before we go into clause by clause I wonder if I could have the Assembly's permission to bring in two members of the Education Department, the acting director, Mr. Rongve and the chief of school programs, Mr. Blewett, who worked on the Education Ordinance.

THE CHAIRMAN (Mr. Stewart): Do we have agreement to call these two witnesses?

---Agreed

Would you call your witnesses, please?

HON. ARNOLD McCALLUM: Just to make sure we know their capacity, they are coming in to help advise me, not as witnesses to the Legislative Assembly. I am asking to have them come in as advisers.

THE CHAIRMAN (Mr. Stewart): Thank you.

MR. PUDLUK: Mr. Chairman, could I have a copy of Bill 1-60?

THE CHAIRMAN (Mr. Stewart): It should be in your book of legislation, the one with the red binding.

MR. PUDLUK: I forgot mine.

THE CHAIRMAN (Mr. Stewart): I understand that the three books are missing for translation and if that is the wish, it may be the wish of this committee to wait until the books are delivered before we proceed clause by clause. They have been returned. So, clause by clause.

MR. NICKERSON: Mr. Chairman, on a point of order. Mr. Chairman, although certain members of the staff of the Government of the Northwest Territories have been brought before this committee to act as advisers to the Minister of Education, I think it would be in keeping with the rules under which this committee operates that should Members so wish they could be called to appear as witnesses on behalf of this committee.

THE CHAIRMAN (Mr. Stewart): I see nothing wrong with that interpretation if any Members wish them called as witnesses. Is that agreed?

---Agreed

Interpretation

Clause 2, interpretation. Mr. Butters.

MR. BUTTERS: Just very generally I wonder if we could be advised whether or not the regulations that accompany this legislation have been drafted? Do they exist in draft form?

THE CHAIRMAN (Mr. Stewart): Mr. Minister.

HON. ARNOLD McCALLUM: Mr. Chairman, we have some of the regulations drafted in their first form and we are working on the remainder. However, we do not have them in a form that I think, or we feel, are appropriate at this particular time, but we definitely are -- the department is definitely proceeding with the regulations.

THE CHAIRMAN (Mr. Stewart): Thank you. Clause 2, is it agreed? Gentlemen, we are all agreed to clause 2?

---Agreed

MR. NICKERSON: Mr. Chairman, is it your intention to go through this ordinance at such a fast rate? Clause 2 is indeed three pages long.

THE CHAIRMAN (Mr. Stewart): I am here to do the bidding of the committee. I have called for comments and I asked if there were any comments and nobody said anything. I am here just to do your bidding, whatever you would like done. Clause 2 being called again. Mr. Butters.

MR. BUTTERS: I wanted to say the reason I was so quick to agree was because we began discussion on the ordinance in the summer and we covered the first two or three clauses and I see no changes with regard to those.

THE CHAIRMAN (Mr. Stewart): Clause 2, are we agreed?

MR. NICKERSON: I have caught up.

THE CHAIRMAN (Mr. Stewart): You have caught up on your homework, have you? Is clause 2 agreed?

---Agreed

Powers Of The Commissioner

Clause 3, PART I, administration, powers of the Commissioner. Mr. Butters.

MR. BUTTERS: Mr. Chairman, clause 3 indicates that the Commissioner shall do this and shall do that and do the other thing. I am just wondering where the responsibilities of our Minister are spelled out.

HON. ARNOLD McCALLUM: Mr. Chairman, in subclause 3(4) on page six, that subclause deals with the delegation of the Commissioner's powers and/or duties under the ordinance and/or the regulation to the Executive Member and I think that this is where that particular part comes in to which Mr. Butters

is referring. If I may remind Members of the telex I think -- I am sorry I do not have a copy of it with me, a legal opinion that we received from the federal government on this particular aspect, I think it was distributed at the last session. If it was not distributed, Mr. Chairman, it certainly was read out. There was a subsequent discussion on that point. I do not know the result of that.

THE CHAIRMAN (Mr. Stewart): Mr. Butters.

MR. BUTTERS: A supplementary question. Is Deputy Commissioner John Parker an Executive member?

THE CHAIRMAN (Mr. Stewart): There is a nod to the affirmative, yes.

MR. BUTTERS: Is the Assistant Commissioner, Gary Mullins an Executive member?

THE COMMISSIONER: Yes.

THE CHAIRMAN (Mr. Stewart): Yes.

MR. BUTTERS: It might be very easy to confuse the individual to whom the delegation of these powers is being given, and I just wonder whether there might be some reference in here that the Executive member would be responsible for these powers and he would be an elected Executive Member of this body.

HON. ARNOLD McCALLUM: Mr. Chairman, perhaps we can get around that concern by having that section read "The Commissioner may delegate to the Executive Member for education..." and so I would suggest we add the words "for education" after the word "member" in the second line of clause 3, subclause (4) and, as well Mr. Chairman, perhaps after the word "director" if in fact the director is not identified in the interpretation -- I think the director does mean the director of Education in the definitions but the Executive Member in actual fact under subclause 2(h) it says: "The Executive Member who is assigned the responsibility for education matters" and so perhaps that will satisfy the concern of Mr. Butters.

MR. BUTTERS: Yes, sir.

THE CHAIRMAN (Mr. Stewart): Mr. Nickerson.

MR. NICKERSON: Mr. Chairman, I think that Mr. Butters has raised an extremely interesting and important point. In my opinion, it should not be left to a paragraph like 2(h) to assign the duties of the Executive Member responsible for education, I think we must go further than this. If you review any provincial legislation, you will find that the responsibilities of the minister in that particular circumstance are spelled out in the various education acts and school acts of the provinces. The infamous communication from the Department of Justice that we received at the last Legislative Assembly session I am sure is open to question as their legal opinion is the one you might expect from them and it just presents one side of the question. I am sure that the various acts of parliament that are concerned here, the Northwest Territories Act, and that sort of thing, are open to a much more open interpretation should that be necessary.

Administering The Ordinance

It seems to me that the best way of approaching this problem would be to do as was suggested by the Honourable Member for Yellowknife South at the last occasion the Education Ordinance was discussed by this body, and to use here the same type of phraseology that is used in connection with the defining of the Commissioner of the Northwest Territories' responsibilities under the Northwest Territories Act. Surely the best way of approaching this problem would be to say something of this nature "that the Minister or the Executive Member shall administer this ordinance under instruction from time to time given by the Commissioner". I am sure if that were done, and then in the balance of the ordinance those duties which, of course, should be reserved to the Commissioner, the types of responsibilities that in a province would be assumed by the lieutenant-governor of the province could, of course, be kept to the Commissioner and those which would normally be undertaken by a provincial Minister of Education should be assigned to our Executive Member, still retaining this proviso which I have outlined in the wording I suggested.

THE CHAIRMAN (Mr. Stewart): Thank you. Any further comment? Hon. David Searle.

Responsibilities Of Ministers

HON. DAVID SEARLE: Mr. Chairman, the last time this ordinance was discussed these very points were made and if I recall I spoke on some of them. I do not see why for instance Executive Member is defined as Executive Member. We have by motion of this house decided to call him the Minister of Education and I think he should be referred to throughout this legislation as the Minister and then the Minister defined if you wish as the Executive Member responsible for education. I, like Mr. Nickerson feel that we are always talking about the responsibilities of this Legislative Assembly in designating and making its Ministers truly responsible and then we produce a piece of legislation that says "The Commissioner shall administer this ordinance." Surely, as already indicated unless there is some legal impediment which perhaps Ms. Fliieger might advise us on, it seems to me that we should say

"The Minister shall administer this ordinance from time to time under instruction from the Commissioner and be responsible for the establishment..." etc., or wording something like that, and then down in subclause (3) we should again say "The Minister shall have charge of and be responsible for..." etc., except for those things which may be in there which would be of a lieutenant-governor nature in a normal provincial situation, so, that we are saying that we should assert ourselves the responsibilities for these departments upon the people for whom we have chosen, but to then turn around and enact legislation that does not do that but continues the old colonial policy of delegating all our authority to the Commissioner seems to me to be speaking with forked tongue.

That is the comment I would have, and I guess the question is really a legal one, and, of course, I assume this legislation is as a result of that Department of Justice opinion, but I think I would just like to get it out in the open, and suggest, Mr. Chairman, a question be directed to the Legal Advisor, Ms. Flieger, to ask her if we are doing something unconstitutional by the suggestion that I have made, and more particularly to put the responsibility on the Minister and define him as "Executive Member", and then in subclause (3) to state: "The Minister shall have charge of and be responsible for..." etc. Is there anything constitutionally wrong with that?

LEGAL ADVISOR (Ms. Flieger): Mr. Speaker, I have a copy of the Department of Justice opinion just referred to, the infamous one, and if I could have some time to look at that before replying, I would appreciate it.

THE CHAIRMAN (Mr. Stewart): Thank you. Then can we set aside clause 3, and come back to it? Is that agreed?

MR. NICKERSON: Mr. Chairman, I think at the same time we should set aside subclause 2(h) because that is the definition section.

THE CHAIRMAN (Mr. Stewart): That seems reasonable. Could we set paragraph 2(h) aside at the same time? Mr. Butters.

Motion To Add Subclause 3(3)(u)

MR. BUTTERS: Mr. Chairman, before you set clause 3 aside, might I ask consideration by Members of the possibility of adding another provision to subclause 3(3) which would make it paragraph 3(3)(u), I am not sure of the legal phraseology but it would be to enable our educators to in some manner get involved in educational television, adult education or education which uses television as a medium. I do not foresee that such provision could be incorporated possibly into this ordinance in toto, but if the power is there, it would enable us, I think, to possibly set up another act dealing with educational television. An act which I believe has parallels in the provincial situation. I would so move, that such an amendment be made to that, to include that provision.

THE CHAIRMAN (Mr. Stewart): The amendment from Mr. Butters, as I understand it, is to add a paragraph (u) that would entail the legislative powers to use television as a medium for education. The wording would have to be done by the Legal Advisor.

MR. BUTTERS: Yes, I move that, and I trust that it may permit some discussion relative to the merits of the proposal.

THE CHAIRMAN (Mr. Stewart): Secunder on the motion? Mr. Education Minister.

HON. ARNOLD McCALLUM: The section that we felt covered the use of audio-visual material as well as the use of television either within the school or within classrooms was contained in paragraph 3(3)(f): "the provision of suitable and adequate library and resource facilities for all schools other than schools under the jurisdiction of a board of education". Maybe that is not specific enough for Mr. Butters, but that was the intention certainly in paragraph 3(3)(f), to include video tape recording material, audio-visual material, and, if and when, television material. The difficulty that we have with the use of television as such, of course, is in the involvement, the regulations for the use of the CBC, where there is in fact no other source of television programming available to most of the North, with the exception of the cablevision in Yellowknife. But there certainly are regulations against the use by CBC to this.

THE CHAIRMAN (Mr. Stewart): Thank you. To the motion, Mr. Butters.

The Educational Power Of Television

MR. BUTTERS: Yes, sir. I do not believe, or it was not felt that the reference made by the Honourable Minister did sufficiently identify television as a medium which would be used for the transmission of educational materials. I do not think the problem relative to using television as an education medium is with the CBC. I think that what is required is a licence from the Canadian Radio Television Commission that the medium be so used, and ensure it will not be used as a method for government propaganda. Provincial jurisdictions do have in existence such bodies. Some very interesting things are being done in this area now. It seems to me that the CBC in the very near future will be transmitting a show on Inuit art and there will be a translation carried, or the Inuktitut commentary would be carried on the radio, so that you can turn on the television and the sound will come in in English and over the radio will come the translation.

I think that we would be making a very great mistake not to recognize the very real educational power that is afforded us through the medium of television. I am not asking to set up educational television broadcasting stations. I am just saying let us put a provision in here and recognize it so we have provision to use it should the occasion arise.

THE CHAIRMAN (Mr. Stewart): To the motion.

HON. ARNOLD McCALLUM: Mr. Chairman, I stand corrected. I said CBC and I should have said CRTC. I am not at all opposed to using any kind of medium for instruction. I certainly agree with Mr. Butters. I am copacetic. We will take it under advisement.

THE CHAIRMAN (Mr. Stewart): Any further comments relative to the motion? Mark? Pardon me, Mr. Evaluarjuk.

MR. EVALUARJUK: Mr. Chairman, I am not sure where we are at this time. I think that we have been talking about -- the items we are talking about were not translated into Inuktitut. I would like to know what is happening. How can we vote on it if we do not understand what they are talking about? The things we are looking at, television is not even mentioned in the papers we are looking at. I can not agree with it if I do not understand it.

THE CHAIRMAN (Mr. Stewart): Thank you. Mr. Minister?

Summary Of The Ordinance

HON. ARNOLD McCALLUM: Mr. Chairman, the summary that was made at the direction of this Assembly was to explain the various aspects of certain sections, or all sections of the ordinance itself. That direction was to enlarge upon the limited translation that was given at our last meeting, and in the first part of this translated summary it dealt with a general introduction as to the powers of the Commissioner, the duties of superintendents of education, and involved a summary of sections one through to four, and it indicated in that that the Commissioner of the Northwest Territories is responsible for the education system in the Northwest Territories. He is assisted by the Minister of Education and the director of Education. The director of Education is the head of the department which he runs on behalf of the Commissioner, and each region, district or area in the Northwest Territories, a superintendent of education is appointed whose job is to supervise all education programs in the territories. The superintendents of education are responsible to the director.

That basically was the basis of it in terms of the powers and duties of superintendent of education. It did not get into the specifics of the subsections of section three that we have in the English version. It was a general summary and that was the direction of the last Assembly.

THE CHAIRMAN (Mr. Stewart): Thank you. The Chair would note that the television section referred to is just now coming in as an amendment by motion, so it would not be on your paper. It is not on anybody's paper. It is just being brought in this time by way of motion, and you would not have a document on it as yet, Mr. Evaluarjuk.

Delegation Of Authority

MR. EVALUARJUK: Mr. Chairman, I understand now. It is written here that the Commissioner is responsible for education, but I think that the people of the settlement should have the responsibility as well as the Commissioner, and not just have the Commissioner responsible for it. I think there should also be responsibility in the settlements. Thank you.

THE CHAIRMAN (Mr. Stewart): You will find the delegation of authority in this regard as we go through. This is just the first part. Now, to the motion. Paragraph (u) regarding the authorization of television is to be drawn up by the Legal Advisor. Are there any further comments? Are you ready for the question? Mr. Whitford.

MR. WHITFORD: Mr. Chairman, it is our concern at Rae, and I speak of that again because it is very essential for the community, we have got the power, the antenna, and the people have bought television, but the only thing that we are missing in order to have these educational programs that have been discussed here is the switch that has got to come from Toronto, and I think that with that we would be able to view some of these education programs that are now being discussed, that are coming up in the very near future.

THE CHAIRMAN (Mr. Stewart): That is a sneaky way to get your point across, Mr. Whitford.

MR. WHITFORD: I was hoping that perhaps the Commissioner would possibly look into the matter and seek some kind of action.

THE CHAIRMAN (Mr. Stewart): I suggest you talk to him outside the Legislative Assembly chamber, as this is really not relevant to the motion on the floor, but I am sure you got your point across. You are learning very fast.

HON. ARNOLD McCALLUM: Mr. Chairman, I wonder if it would be satisfactory to the mover of the motion if we were to broaden paragraph (f), if we were to include what is specified, television, videotape recording, audio-visual; if we were to take paragraph (f) and simply broaden it in scope to include the suggestion of Mr. Butters.

THE CHAIRMAN (Mr. Stewart): Mr. Butters.

MR. BUTTERS: Well, I believe that the motion asked if our Legal Advisor might provide proper legalese that would enable the provision of such services, educational services, if they should ever be required, and I am sure the Legal Advisor can do it, under that section. If so, fine.

THE CHAIRMAN (Mr. Stewart): Thank you, Mr. Butters. Ms. Legal Advisor, can you tell us what section should be broadened in this instance?

LEGAL ADVISOR (Ms. Flieger): Mr. Chairman, I think the section just referred to by the Minister of Education is the proper place, that is clause 3, paragraph (3) (f), and in fact the words that are there now perhaps cover the Honourable Member's problem.

THE CHAIRMAN (Mr. Stewart): This was pointed out to him, but he feels it should be strengthened a little bit and broadened to make no doubt it covers it. Would that then suit you, Mr. Butters, if paragraph (f) was broadened to spell out television?

MR. BUTTERS: "Resource facilities" is very general. It could be paper and pencils. I think what we are looking at is a totally new educational approach and it requires such recognition.

THE CHAIRMAN (Mr. Stewart): The Chair is not sure whether you are accepting the broadening of (f) to include it or not, and if (f) would satisfy.

MR. BUTTERS: Some broadening of (f), fine.

Motion Reworded

THE CHAIRMAN (Mr. Stewart): Fine. We have agreement then by the mover to change his motion, to the broadening of paragraph (f) under clause 3, to include television as part of the education system. To the motion. Are you ready for the question?

SOME HON. MEMBERS: The question.

Motion Carried

THE CHAIRMAN (Mr. Stewart): Being called. All those in favour? Opposed, if any? The motion is carried.

---Carried

Ms. Legal Advisor, you will undertake to bring paragraph (f) back as an amendment.

LEGAL ADVISOR (Ms. Flieger): Correct. Yes sir.

THE CHAIRMAN (Mr. Stewart): We have not decided, other than discuss the rewording, we have not a motion relative to changing the word "Commissioner". Do you wish to provide such a motion, Hon. David Searle, now that we have definite instructions going forth to the Legal Advisor?

HON. DAVID SEARLE: Well, the first question is to get an opinion from our Legal Advisor that we may do that, and then, assuming this, that the advice is that we may, then the next thing to do would be to ask for the amendment, taking it a step at a time.

Motion To Ask Legal Advisor To Change Subclause (3) And Paragraph 2(h)

My motion would be to ask our Legal Advisor whether or not we can properly delegate the responsibility in subclause (3) directly to the Minister of Education and so define him as that Member of the Executive responsible for education in 2(h) and delegate to him, subject to instructions from time to time by the Commissioner, and then in the balance of subclause (3) where the word "Commissioner" is used, use the word instead "Minister", and of course whatever consequential changes are made. So, it is an opinion really first as to that.

Now, just speaking to the motion, if I may, Mr. Chairman, since I spoke last it seems to me that what we are trying to achieve here is a decentralization of the education system. It seems to me that that must mean passing the authority down from us to the various levels. It seems inconceivable that we would have to start by passing it up to the Commissioner. In other words, to go down, must we first go up, or can we not decentralize in the way that we have suggested? In other words, to decentralize all of this authority first to the Commissioner, is that not in principle at least, maybe not legally, but in principle at least do we not appear to be going in the wrong direction? That is my reasoning behind it. I guess we need advice on that, and that requires, I would think, Ms. Flieger to have some time to consider whether or not she is in agreement with the opinion of the Department of Justice.

THE CHAIRMAN (Mr. Stewart): Thank you. Mr. Nickerson.

Opinion From Senator Eugene Forsey

MR. NICKERSON: Mr. Chairman, the committee might like to know that I have before me a communication from Senator Eugene Forsey who, although he is not a lawyer, or says he is not a lawyer, is recognized as something of an expert on Canadian constitutional matters, and I would like to quote from part of his letter to me. It goes as follows: "I should think that you might have a case for the second formula that you propose." And by "the second formula" which I propose, that is the one I read out to this committee earlier, saying that the Minister shall administer this ordinance under instructions from time to time given by the Commissioner. So, I think that the opinion of someone recognized as having considerable knowledge in this field, it might be of some use for Members to know this.

THE CHAIRMAN (Mr. Stewart): Thank you. Mr. Commissioner.

THE COMMISSIONER: Mr. Chairman and Council Members, I wonder if this is the issue, or the ordinance, to seek a solution to your issue. As you know, we received, as Mr. Nickerson says, an infamous, as he calls it, document from the Department of Justice, but infamous or not, it is an opinion from the Department of Justice, and my experience is that the Government of Canada will stick with those opinions of the Department of Justice until it is challenged somewhere. So, the point is this, the Northwest Territories Act,

and I am not speaking of myself, I speak as the office of Commissioner, names the Commissioner as Executive Officer, and it does say that the Chief Executive Officer has the prerogative to designate a particular department to an Executive Committee Member, subject to the approval of the Minister.

Delegation Of Authority To Director.

Now, it seems to me here that if you want to argue this case, or if you want to disagree with the Department of Justice, I question whether really you are doing it on the right thing. Since I have been Commissioner, and when we took over education, I delegated the authority for running the Department of Education to the director, and I doubt if the director could point to one case in which I interfered with him running that department unless, of course, I got some advice or suggestion from this Council. That is why a lot of what the former director, when he spoke before the Berger Commission, does not make sense, because he ran the department. If there was something wrong with the education system there is no one else to turn to but himself, and the same thing applies here.

As long as I am Commissioner, it is my intention to leave the running of the departments to the Executive Committee Member which you choose as your person.

Now, in the particular section that you have here, you give me that authority to delegate to the Executive Committee Member, but what I am afraid of, if you seek to challenge a particular opinion from the Department of Justice, that is one thing, but if you seek to challenge it by using this particular ordinance, the easiest way to challenge it is to pass the motion that is against the advice of the Department of Justice, or against the wishes of the Government of Canada, and you will very quickly receive an answer. What will happen is that you will lose the Education Ordinance, and we have been working on this, it seems to me, for six long, painful years. I can give you every assurance you wish that the functioning and the operation of the Department of Education will continue, whether this ordinance, any change to this ordinance is made, or whether this ordinance is changed, in fact it will be delegated to the Executive Member as chosen by this Council. So, I would suggest to you that this might not be the place, it may be the time but it may not be the place for you to attempt to establish something, and we may all be the losers, if you do that under this particular ordinance.

THE CHAIRMAN (Mr. Stewart): Thank you, Mr. Commissioner. To the motion. Mr. Steen.

MR. STEEN: Mr. Chairman, I get it right sometimes, you know, just as a point of observation, and if the Commissioner looks directly above his head he will see a rope up there. That is all I wanted to say.

THE CHAIRMAN (Mr. Stewart): To the motion. Hon David Searle.

Examination Of Department Of Justice's Opinion.

HON. DAVID SEARLE: Mr. Chairman, I think we must be careful and address ourselves to the motion. The motion is simply to ask the Legal Advisor to examine the Department of Justice's opinion and let us know whether or not she concurs with it and that it is no more nor any less than that. I think we are making a big deal of it at this stage.

If she comes back and says she agrees with the Department of Justice, then I think maybe you are in the position that the Commissioner is arguing, is this the time to test their opinion? If, on the other hand, she were to say she does not agree with the Department's opinion, we may have some basis upon which then to put the legislation through as we see it. In that case, we would have the initiative, our legislation, as the Department of Justice, I suppose, assuming it was enacted, could coerce in effect the Minister of Indian Affairs to disallow it on that basis, and we might then have to put it back the other way at some future time. We may even take them to court on it. But the Department of Justice is not known for its unbiased opinions as to the authority of the federal government. I have never seen an opinion that they have given yet that said that the federal government did not have the authority. In fact, this house may be interested to know that there are cases pending right now before the Supreme Court of Canada where the Department of Justice has taken one view and someone else has taken another view. The federal court, if you can believe it, of Canada has held that the Department of Justice is incorrect and went to the federal appeal court and they agreed with that and the Department of Justice has gone to the Supreme Court of Canada. In the interim the very federal board whose decision was set aside yet still continues under the advice of the Department of Justice to hold other hearings after it has been told it does not have jurisdiction by the courts. In other words, the arrogance of the Department of Justice is so well-known throughout the legal profession in Canada that I for one am quite ready and prepared to challenge that department and the type of people it employs at every opportunity so that justice may be done sometime, somewhere.

MR. BUTTERS: Hear, hear!

---Applause

MR. BUTTERS: Question.

THE CHAIRMAN (Mr. Stewart): To the motion?

MR. BUTTERS: Question.

Motion Carried

THE CHAIRMAN (Mr. Stewart): Question being called. As I understand the motion, it is in two parts. Part one gets the opinion of our Legal Advisor as to whether or not changes can be made and if in the Legal Advisor's opinion they can, to bring in the modifications to clause 3 to delegate the authority to the Minister of Education, rather than the

Commissioner. Question being called. All those in favour? Ten. Opposed? The motion is carried.

---Carried.

We will set aside then clause 3. I am sorry, I missed 2(h). Clause 4, superintendents of education.

HON. DAVID SEARLE: Mr. Chairman, again you see throughout, all throughout clause 4 the superintendent shall perform his duties in relation to superintendency to which he is assigned by the Commissioner. Under (2) you say "assigned by the Commissioner," etc., etc. Now, over on the top of page eight you say "of whom the Commissioner requests a report," and "(g) assigned to him by the regulations or the Commissioner," and "by the Commissioner" again in (3). It seems to me that if changes we contemplate were possible and then desirable that you may want to substitute the word "Minister" in some or all of those places where the word "Commissioner" is used and hence that section similarly should be set aside until that central issue is determined.

THE CHAIRMAN (Mr. Stewart): That appears to be a logical suggestion. Are we agreed to set aside clause 4? Mr. Butters.

Motion To Add Subparagraph (iv) To Clause 4(2)(e)

MR. BUTTERS: Mr. Chairman, before that is set aside, clause 4, I wonder if the committee might consider an amendment which would come after clause 4(2)(e) and be subparagraph (iv). This relates to where "every teacher on probationary appointment in a superintendency..." This is about the report -- any teacher of whom the Commissioner requests a report. The suggestion is that as this report will have implications on that person's -- could have implications on that person's ability to continue in their profession, then there should be some requirement in here that the individual teacher or probationary teacher be allowed to see a copy of that report, so the amendment would be that there should be a new subparagraph added which specifies "every report on a teacher prepared under clause 4(2)(e)(ii) shall be signed by the teacher concerned, a copy of which report shall be made available to the teacher and the Northwest Territories Teachers' Association on request should the teacher wish to challenge the validity of any statement made in the report before the Commissioner." The idea is that the individual on whom the report is drawn should be able to see it and be able to say they have seen it. I think the Commissioner will recognize the right that is being requested here.

THE CHAIRMAN (Mr. Stewart): Is that by way of motion, Mr. Butters?

MR. BUTTERS: That is by way of motion.

MR. NICKERSON: Mr. Chairman, that is a rather long, complicated amendment. I wonder if it would be possible to have it circulated to Members. I can not keep it in my mind all at one time.

THE CHAIRMAN (Mr. Stewart): Mr. Clerk, can you have the amendment circulated, please?

MR. BUTTERS: Mr. Chairman, as that is going to be set aside, I thought that it might be drafted again and put into briefer form.

THE CHAIRMAN (Mr. Stewart): I will read the amendment again and it possibly may clarify your mind. If not, we will have it circulated. I am lost on the subclause here, "every report on a teacher prepared under clause 4(2)(e) shall be signed by the teacher concerned, a copy of such report shall be made available to the teacher and the Northwest Territories Teachers' Association on request should the teacher wish to challenge the validity of any statement made in the report before the Commissioner." I can plainly see we will have to have it printed, Mr. Nickerson.

Responsibilities Of Superintendent Of Education

HON. ARNOLD McCALLUM: Mr. Chairman, this particular section deals with the responsibilities of the superintendent of education and what he shall do. I wonder whether this particular amendment belongs under the duties of a superintendent. I would suggest that it belongs rather in an agreement of employment in the teacher's contract rather than under the duties of a superintendent. In the agreement between the Government of the Northwest Territories and the Northwest Territories Teachers' Association there is an Article 22 which deals with employee performance review and employee files. There are four sections to this particular article in the agreement. I do not feel that that amendment belongs within the duties of a superintendent. I feel it would more properly belong within the articles of agreement as negotiated by the Northwest Territories Teachers' Association and the employer. In this case I refer to the agreement between the Government of the Northwest Territories and the NWTTA.

THE CHAIRMAN (Mr. Stewart): The point appears to me to be well taken. Mr. Butters.

MR. BUTTERS: No, sir. The point is that if a report is required on a teacher or a probationary teacher and that report is to be delivered to the Commissioner or somebody, that the person upon whom the report has been made should see and sign it. Otherwise it becomes like a secret service. I do not think there is any reason why the individual should not know of the report that is being presented to the Commissioner and what it contains. We are understanding now that the federal government is suggesting that various files of various organizations should be opened to individuals so that one knows what exists about them on their files, the files being held in various government offices. All that is is a continuation of that same requirement, the right to know of an individual who is being assessed, just what that assessment is. In the event the assessment is made and it is very damaging, then the individual has some opportunity to attempt to counter that assessment. I think it is a basic right, sir.

THE CHAIRMAN (Mr. Stewart): Thank you. Mr. Minister.

Article 22, Agreement Between Government And NWTTA

HON. ARNOLD McCALLUM: Mr. Chairman, when reports are made on teachers, the teacher always receives a copy of that report. If I may, I could read the articles or the sections of Article 22 of that agreement.

THE CHAIRMAN (Mr. Stewart): If it is not too long, it may be well to have it read in.

HON. ARNOLD McCALLUM: Article 22.0.1 states that: "When as a result of a formal review of an employee's performance the performance of an employee is judged to have been unsatisfactory, the employee concerned must be given a copy of the formal review report."

Article 22.0.2 deals with the employer agreeing not to introduce as evidence in a hearing relating to a disciplinary action any document from the file of an employee the existence of which the employee was not aware of at the time of finding or within a reasonable period thereafter.

Article 22.0.3 "An employee may have access to his official personal file at his regional and/or Yellowknife headquarters at times convenient to the employer and in the presence of an authorized representative of the employer."

Article 22.0.4 "Upon presentation of a written request from the employee an accredited representative of the association, the NWTTA, may be supplied with information and/or copies of documents from the employee's personal file providing the employee has specifically identified what information and/or documents are to be made available to the representative." That is an agreement that the NWTTA. That is an article that the NWTTA agreed to with the Government of the Northwest Territories and I would suggest that the same holds true when they are employed with school boards.

MR. BUTTERS: I wonder, as the section is being set aside, if we can leave the motion hanging there and the Hon. Member might provide me with a copy of the material he just read.

HON. ARNOLD McCALLUM: I am sorry, Mr. Butters, of what I just read?

MR. BUTTERS: Yes, please.

HON. ARNOLD McCALLUM: Yes, certainly.

Motion Withdrawn

THE CHAIRMAN (Mr. Stewart): So I do not get fouled with my records, I take it you have withdrawn your motion, but I will allow you time to reintroduce it later when we come back to that section.

MR. BUTTERS: I will just leave the motion there. I did not necessarily want to withdraw it unless you suggest it...

THE CHAIRMAN (Mr. Stewart): I just thought it would be better when we all had copies.

MR. BUTTERS: I will withdraw it with the provision that I may re-enter it later.

THE CHAIRMAN (Mr. Stewart): Thank you. Ready for the discussion on clause 4? Is it agreed that we shall set this aside until we have legal advice relative to the possible corrections in clause 3? Is that agreed?

---Agreed

Organization And Operation Of Education Districts.

THE CHAIRMAN (Mr. Stewart): PART II on page eight, the organization and operation of education districts. Mr. Steen.

MR. STEEN: Just a point of interest. I was just wondering how much power will these committees have and when does the power start? I would like to ask the Department of Education that.

THE CHAIRMAN (Mr. Stewart): Thank you. Mr. Minister.

HON. ARNOLD McCALLUM: Mr. Chairman, the powers are listed for the community education committees as to what they may or shall do, and that is contained in clause 16 on page 14: "Every community education committee shall...". It lists five areas.

In clause 17 on pages 15 and 16: "A community education committee may..." and again it lists five areas and the power given the community education committees would come into effect on the granting of this status to a particular committee and, subsequently, the power granted to an education society comes into effect when that education society is formed and so as well with a board of education. Those powers that they have, the committees, a society or a board of education, take up the next -- from where we are now on page ten all the way over to page 48 dealing with a committee, with a society and with a school board, or board of education, rather. The last few pages deal with a board of education and concern as well a separate board of education, but those sections are anywhere from pages ten over the next 39 pages.

THE CHAIRMAN (Mr. Stewart): Mr. Steen.

Compulsory Education

MR. STEEN: Yes, Mr. Chairman. What I was wondering is that this brings the question up that I have been led to believe that this is compulsory education and that parents can be fined ten dollars for not sending their kids to school. If they do not send their kids to school, of course, some people deliberately keep their kids from school, and I have been told they can be fined ten dollars, but it is not shown in here. Is there any truth in that?

HON. ARNOLD McCALLUM: Mr. Chairman, on page 64, in that area, or PART VI, dealing with students, clause 97, it defines a child, it talks about compulsory education and then it deals with exceptions to compulsory education and in clause 97(3)(d) on page 65 it says: "(d) the principal of the school, after consultation with the parent, guardian or other person having charge of the child, has excused the child from attending school for such period as he may direct in order to allow the child to participate in traditional native activities on the land or other learning experiences away from the community;"

Now, in relation to the fine for an offence against this section, that is in clause 97 (4) and it is: "Every person who fails to comply with subsection (2) is guilty of an offence and liable on summary conviction to a fine not exceeding ten dollars..." But the exceptions that are noted in 97 (3) are wide enough that for a variety of reasons that fine may not be levied.

Now, that may be a long way around to answering Mr. Steen's question as to whether in fact a person may be fined, but that may very well be the option that a school committee, society and, in fact, board of education may want to impose and I would suggest in terms of these three that three kinds of education authorities, they would want to first, if they feel it is necessary, to hire an attendance officer who then, of course, would report to the local education authority of all three kinds, the committee, society or board and they, in fact, would have then the power to impose that if they want by law, but they can make up their minds in terms of that.

Right To Impose Fines

So, basically there is a clause that says, or deals with compulsory attendance for a child between such and such an age, but there are exceptions for that child not attending the school, but there is also a clause that says that if the local education authority wants to impose that fine they would have the legal right to do so.

THE CHAIRMAN (Mr. Stewart): Mr. Steen.

MR. STEEN: Mr. Chairman, I am still not clear whether or not the school board is responsible for advising the justice of the peace or the judge who will impose the fine. I do not think I have seen it, where these local school boards can advise whether or not the person is guilty of that offence. I think that the local school boards should be the ones to advise or even carry out this because each community is different and the judge usually comes into the community and perhaps he has not been around for a while and he does not really know the problem that exists with the parents. Is it really stated in the ordinance that the school board shall do this?

HON. ARNOLD McCALLUM: Mr. Chairman, in clause 99 on page 66, clause 99, subclause (2): "The board of education for an education district may

appoint an attendance officer for the district."

Subclause (3) indicates: "The Commissioner shall prescribe the powers and duties of attendance officer." So, in clause 99, subclauses (2) and (3) the board of education for an education district may appoint an attendance officer for the district.

MR. STEEN: What about the committees?

THE CHAIRMAN (Mr. Stewart): I wonder, as the hour is now 5:30 p.m., and it appears that this discussion might continue at some length, could I have your permission to report progress?

HON. ARNOLD McCALLUM: Could I answer that question about the committee?

THE CHAIRMAN (Mr. Stewart): Could you answer him, then?

HON. ARNOLD McCALLUM: Subclause (1) answers that: "The Commissioner may appoint an attendance officer in any education district other than a district for which a board of education has been elected or appointed."

THE CHAIRMAN (Mr. Stewart): May I report progress?

---Agreed

MR. SPEAKER: This house will come to order. Mr. Stewart.

Report of the Committee of the Whole of Bill 1-60, Education Ordinance

MR. STEWART: Mr. Speaker, your committee has been considering Bill 1-60 and would like at this time to report progress.

MR. SPEAKER: With respect to announcements, gentlemen, Dr. Williamson has asked Members to a sherry party from 5:30 p.m. until 7:00 p.m. at the ARTC. Are there any other announcements? Mr. Clerk, the orders of the day.

ITEM NO. 13: ORDERS OF THE DAY

CLERK OF THE HOUSE (Mr. Remnant): Orders of the day, October 20, 1976, 9:00 o'clock a.m., at the Maani Ulujuk School, Rankin Inlet.

1. Prayer
2. Replies to Commissioner's Opening Remarks
3. Questions and Returns
4. Oral Questions
5. Petitions
6. Reports of Standing and Special Committees
7. Notices of Motions
8. Motions for the Production of Papers
9. Motions

10. Tabling of Documents

11. Consideration in Committee of the Whole of Bills and Recommendations to Council: Bill 1-60, Bill 6-60

12. Orders of the Day

MR. SPEAKER: This Legislative Assembly stands adjourned until 9:00 o'clock a.m., October 20, 1976 at Maani Ulujuk School, Rankin Inlet.

---ADJOURNMENT

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