



LEGISLATIVE ASSEMBLY OF THE NORTHWEST TERRITORIES
DEBATES

60th Session

8th Assembly

Official Report

TUESDAY, OCTOBER 26, 1976

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

LEGISLATIVE ASSEMBLY OF THE NORTHWEST TERRITORIES

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RANKIN INLET, NORTHWEST TERRITORIES

TUESDAY, OCTOBER 26, 1976

MEMBERS PRESENT

Mr. Steen, Mr. Stewart, Mr. Lafferty, Mr. Butters, 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): Item 2, questions and returns. Are there any returns? Deputy Commissioner Parker.

ITEM NO. 2: QUESTIONS AND RETURNS

DEPUTY COMMISSIONER PARKER: Mr. Speaker, on Friday, October 22, Mr. Whitford asked Question W13-60 concerning the purchase of residential lots in Edzo. As a result of a land caveat claiming aboriginal interests which was registered in 1972 by Messrs. Arrowmaker and Charlo against lots 102 and 104 in Edzo, a temporary land freeze has been maintained on all lands in Edzo with the exception of what is required for government purposes. The temporary land freeze is to stay in effect until the caveat is withdrawn or dealt with.

On Saturday, October 23, Mr. Whitford asked Question W17-60, concerning town planning for Fort Rae. A town plan is being undertaken...

MR. SPEAKER: Excuse me, sir, I see we do not have any interpreters yet this morning and possibly the house could stand recessed for five minutes.

---Agreed

MR. SPEAKER: Members, the house will come to order. I recognize a quorum. Deputy Commissioner Parker, the one thing that you did do was give me the first opportunity I have had this session to use my override button. Would you, now that we have our interpreters, please give those returns afresh?

Return To Question W13-60: Land Purchase, Rae-Edzo

DEPUTY COMMISSIONER PARKER: Mr. Speaker, on Friday, October 22, Mr. Whitford asked the Question W13-60, concerning the purchase of residential lots in Edzo. As a result of a land caveat claiming aboriginal interests which was registered in 1972 by Messrs. Arrowmaker and Charlo against lots 102 and 104 in Edzo, a temporary land freeze has been maintained on all lands in Edzo with the exception of what is required for government purposes. The temporary land freeze is to stay in effect until the caveat is withdrawn or dealt with.

Return To Question W17-60: Town Plan Study, Fort Rae

On Saturday, October 23, Mr. Whitford asked Question W17-60, concerning town planning for Fort Rae.

A town plan is being undertaken for Fort Rae and money to fund the plan has been voted in supplementary estimates at the current session of this Assembly. During the course of this study Local Government representatives will work in close liaison with the Fort Rae hamlet council.

Return To Question W18-60: Gravel Supplies, Yellowknife Highway.

On Saturday, October 23, Mr. Nickerson asked Question W18-60, concerning gravel supplies on the Yellowknife highway. There are no crushed gravel sites between Cameron River and Mosquito Creek. Survey teams are looking for considerable gravel reserves near the highway. As soon as an economically producing location is found, the Department of Public Works, highways division, will start crushing.

MR. SPEAKER: Further returns? Hon. Peter Ernerk.

Return To Question W8-60: Funding, Transient Centre Operations For Cambridge Bay

HON. PETER ERNERK: Mr. Speaker, on October 20, Mr. Lyall asked Question W8-60, concerning what steps, if any, have been taken towards getting moneys for getting the transient centre in Cambridge Bay back in operation because of the fact that Gjoa Haven, Spence Bay and Pelly Bay have asked the Commissioner and myself if that centre would be reopened for their benefit. During the fifty-eighth session I indicated we were planning to include an amount of \$165,000 in our capital forecast for 1977-78. Our initial submission did include this amount. I regret to say, however, this item has had to be deferred from our proposed 1977-78 capital program because of the limited funds which could be allocated to my department.

It was a matter of looking at the priorities and frankly we could not give a high priority to the construction of a new in-transit centre because on the average there are only one or two persons per day requiring in-transit accommodation when going through Cambridge Bay going to or from medical treatment. The present arrangement in Cambridge Bay is to place such persons in boarding homes. These homes must maintain a high standard of care or we will take them off our list.

Last January, I also indicated we would look at the possibility of repairing the transient centre, that is house, we had used during the past few years. We found that it would be impossible to bring the centre up to health and safety standards and consequently did not proceed with repairs or renovations. One factor which affects the needs for such a facility is the specific schedules set by the air carriers serving the area. For example, the air schedule allows for travel from Edmonton and from Yellowknife to Spence Bay and Gjoa Haven in one day. Obviously, this is a matter which we will have to keep under consideration.

If the present arrangement proves unworkable either because of the number of patients or an insufficient number of boarding homes, then we will need to look at other alternatives such as an arrangement for service from the local motel or construction of a small centre.

MR. SPEAKER: Are there any further returns? Written questions?

Item 3, oral questions.

Item 4, petitions.

Item 5, reports of standing and special committees.

Item 6, notices of motions. Mr. Fraser.

ITEM NO. 6: NOTICES OF MOTIONS.

Notice Of Motion 21-60: Forest Protection, Low Priority Zones.

MR. FRASER: Mr. Chairman, on October 27th, I would like to move a motion.

NOW THEREFORE, I move that the Commissioner inform the Minister that his officials responsible for forest protection in the Northwest Territories should (a) decentralize the discretionary decision authority to begin in fighting fires in low priority zones when such zones contain good trapping areas; and (b) that such regional superintendents work in close co-operation with band councils and hunters' and trappers' associations when determining action to be taken regarding fires occurring in low priority zones.

Notice Of Motion 20-60: Employment, Great Bear Lake Lodges.

On October 27th, I would like to move another motion in regard to fishing lodges on Great Bear Lake.

NOW THEREFORE, I move that the minister of Economic Development immediately investigate and ensure that the fishing lodges on Great Bear Lake are utilizing to their fullest the talents of the people of Fort Franklin, Fort Good Hope, Fort Norman and other settlements in the operation of the fishing lodges.

MR. SPEAKER: Are there further notices of motions? Mr. Butters.

Notice Of Motion 22-60: Amendments To The Rules Of The Assembly.

MR. BUTTERS: Mr. Speaker, I wish to give notice that I will at the first opportunity move five amendments, I believe it is, to the Rules of Council.

MR. SPEAKER: Thank you, Mr. Butters. Further notices of motions?

Item 7, motions for the production of papers.

Item 8, motions. Motion 13-60, Mr. Butters.

ITEM NO. 8: MOTIONS.

Motion 13-60: Codification Of Northern Entrepreneur.

MR. BUTTERS: Mr. Speaker.

WHEREAS the economic base of the Northwest Territories is demonstrably inadequate;

AND WHEREAS the Hon. Judd Buchanan, the former minister of Indian Affairs and Northern Development, saw fit to establish and fund a northern business preference task force as a step toward rectifying that situation;

AND WHEREAS that task force comprised of residents of the Yukon and the Northwest Territories did hold meetings in many northern communities;

AND WHEREAS one of the major considerations of that task force was to define the word "northern entrepreneur" and recommend that a northern bid differential be established and followed by the territorial administration when calling for and receiving tenders for goods or services required in the administration of the Northwest Territories.

NOW THEREFORE, I move that this house direct the Executive to codify and include the intent of and criteria for the definition of "northern entrepreneur" as developed by the northern business preference task force in all territorial legislation and where applicable in the regulations.

MR. SPEAKER: I must say, Mr. Butters, the only word that bothers me in your motion is the word "direct". "I move that this house direct the Executive to codify..." I must say that I do not think we can direct the Executive. I think we can recommend that the Executive codify. I know what you want to achieve and I would think you might want to seek the indulgence of the house to change those words.

Motion Reworded

MR. BUTTERS: Mr. Speaker, I accept your kind offer. I would request the indulgence of the house to change the word from "direct" to "recommend".

MR. SPEAKER: Agreed?

---Agreed

Now the motion would read "Now therefore I move that this house recommend to the Executive...". Moved by Mr. Butters. Is there a seconder? Mr. Pearson. Discussion, Mr. Butters.

MR. BUTTERS: I will be very brief, sir. The northern business preference task force was just that, set up, as I understood, to determine ways to ensure that the northern businessman and the northern commercial operation receives preferential treatment especially in the eyes of government, both territorial and federal. I believe, I feel, that many of the very excellent recommendations of this body are still to be implemented and I think that the administration of the Northwest Territories might give leadership in this area to codify and develop a method, a mechanism, by which a northern bid differential is established to give preference to those businesses operating and having their head offices in the territories.

MR. SPEAKER: Further discussion? Mr. Nickerson.

Definition Of Entrepreneur

MR. NICKERSON: Mr. Speaker, I think it would have been useful if we could have had available to us a copy of this definition. I do not know if that can be arranged on short notice, but I would have preferred to have studied it again. The trouble with the particular definition given in that task force report seems to be that anybody who can avail himself of the services of a reasonably proficient lawyer can find loopholes in it big enough to drive a Euclid truck through. I hope that Mr. Butters is not suggesting that we adopt that particular definition because I think that particular definition might very well exclude people who would under normal circumstances be considered northern entrepreneurs and allow other people, by legal manipulation, to claim that category when in fact they are not. I certainly support the intent of this motion and I understand that in certain tender documents a definition of "northern entrepreneurs" is already used. I know this definition might not be satisfactory for all purposes because I think the wording goes something of the nature "as may be determined by the Commissioner," and maybe we would want to restrict it a little bit more than that. I think I would be inclined to support this motion,

provided that the mover can assure us that the intent is to develop the definition, rather than strictly adopt the one that is used in the northern business preference task force report.

MR. SPEAKER: Further discussion?

SOME HON. MEMBERS: Question.

MR. SPEAKER: Do you wish to sum up, Mr. Butters?

MR. BUTTERS: Mr. Speaker, I just wish to reply. I can not circulate the definition, but I can read it at this time. "In these recommendations where a northern business or entrepreneur is referred to, it shall be considered to include all of the following criteria. (a) A corporation must be registered with the companies office of either the Governments of the Yukon or the Northwest Territories. Head office and the administrative offices of the corporation must be located in the territories. (b) The percentage of revenue earned in the territories must exceed 50 per cent of total revenue earned in Canada. (c) The percentage of employees employed on a permanent basis in the territories must exceed 50 per cent of total employees permanently employed in Canada. (d) The percentage of capital investment and fixed assets in the territories must exceed 50 per cent of the total capital investment and fixed assets in Canada."

There may be holes in the definition, I suggest, sir, but certainly any organization meeting those criteria is well within the rules of being a northern business. The Executive Member shakes his head, but if this is approved it will be referred to him as one of the Members of the Executive Committee, and we know what happens when things go to the Executive, we have no say over it. I did want to include the intent of this, and I mentioned the criteria, but I suggest that you take this as a recommendation, as the Honourable Speaker said, to ensure that northern businesses get preference in some way. If you have some magic formula, some wisdom that was not possessed by the northern business preference task force, then use it to do what they were seeking to do. Thank you.

Motion 13-60, Carried

MR. SPEAKER: The question. The question being called. On the motion, all in favour? Contrary? The motion is carried, and I believe unanimously.

---Carried

The next motion is Motion 16-60, Mr. Nickerson.

Motion 16-60: Appointment Of Next Commissioner

MR. NICKERSON: Mr. Speaker:

WHEREAS the present Commissioner, after nearly ten years of dedicated and productive service, has made it known that he may not continue much past his tenth year in that office;

AND WHEREAS the people of the Northwest Territories will be greatly affected by and have a legitimate interest in the appointment of his successor;

NOW THEREFORE, I move that the responsible federal authorities be requested to consult with and solicit the recommendations of the Legislative Assembly of the Northwest Territories before appointing the next Commissioner or Lieutenant Governor, as the case might be, of the Northwest Territories.

MR. SPEAKER: Is there a seconder? Mr. Butters. I suspect they will get our advice whether they want it or not. Nevertheless, Mr. Nickerson, proceed, please.

MR. NICKERSON: On several occasions, Mr. Speaker, in the last two years, and at least once during this session of the Legislative Assembly, the Commissioner has publicly stated that when he originally took on the job it would be for a period of ten years, and this ten year period is now nearly expiring. It may be that he is trying to tell us something by the repeated public announcements of the proximity of the expiry date of his term. Therefore, I thought it would be a very useful thing to have on the books, so to speak, a motion to the effect that we were very interested in who the successor might be. Obviously, as you commented earlier, Mr. Speaker, we would give this advice whether it was requested or not, but I think if it is written down somewhere, if this information can be conveyed to Ottawa and conveyed to other interested parties, it might make some difference in whether or not they formally solicit our advice. Now, I think it is important they do so because we are well aware of what happened very recently in the Yukon where somebody who would not, I am sure, be considered by most Yukoners to be a suitable Commissioner, was appointed, and this caused a great deal of local consternation. I think people would have much rather, at that time, have had someone who they considered to be a local appointee, someone who was more knowledgeable of how people in the Yukon felt, and I believe that people in the Northwest Territories would feel the same way. We certainly would not want an ecologist from New Brunswick or something of this nature, we would like one of our people to be appointed the next Commissioner, or hopefully the next Lieutenant Governor.

MR. SPEAKER: Is there any further debate?

SOME HON. MEMBERS: The question.

Motion 16-60, Carried

MR. SPEAKER: The question being called. All in favour? Contrary? The motion is unanimously carried.

---Carried

Is Motion 17-60 translated yet, Mr. Remnant?

CLERK OF THE HOUSE (Mr. Remnant): No, sir.

MR. SPEAKER: Negative?

CLERK OF THE HOUSE: Negative.

MR. SPEAKER: Do you wish to leave Motion 17-60 for the moment, Mr. Pudluk, or would you like to proceed with it?

MR. PUDLUK: Possibly later on today when it is translated I will try to move it.

MR. SPEAKER: Will you move it later on, Mr. Pudluk?

MR. PUDLUK: Yes.

MR. SPEAKER: Motion 18-60, Mr. Kilabuk.

Motion 18-60: Broughton Island Gymnasium

MR. KILABUK: Mr. Speaker, in my constituency in Broughton Island, I want to talk about the gymnasium which is too small, and also the present building they are using now is used for various activities such as a school, a workshop, a sewing shop, and also a gymnasium.

MR. SPEAKER: Excuse me, but you have to move the motion, and once you have moved it then you can discuss it. We must get a seconder first.

MR. KILABUK: I am sorry, I made a mistake.

WHEREAS the present gymnasium in Broughton Island is too small;

AND WHEREAS it is also used at various different times as a classroom, a workshop, a sewing centre and a gymnasium;

NOW THEREFORE, I move that this Assembly request the administration to give consideration to providing funds for and building a gymnasium addition on the Broughton Island school in 1977.

MR. SPEAKER: Is there a seconder? Mr. Pearson. Now, Mr. Kilabuk, you may argue the motion, or debate it.

MR. KILABUK: Mr. Speaker, now, I visited Broughton Island in September and I was with the superintendent of schools from Frobisher Bay, and we observed the inside of the school and we also looked around to see what was happening there. Now, they have a small school there, there were too many activities happening in one room as they were using the one room, which they use for various things, for three things. First it was used as a school, and also as a carpentry workshop for young men, and the girls were using it as a sewing shop; and also they were using it as a gymnasium. It seems that they were doing too many things in one small room, and we became aware of that when I was with the superintendent of education from Frobisher Bay. Therefore I would like to say to you what was recommended to me by my constituents. I want my colleagues here to help me in considering some funding to help and see if they could get a new gymnasium in Broughton Island.

MR. SPEAKER: Mr. Commissioner.

Capital Planning Program For Schools.

COMMISSIONER (Mr. Hodgson): Mr. Speaker and Members of Council, perhaps it would be wise if we advised the Members of Council our capital planning program based on a five year projection for schools. This of course depends on maintaining the present amount of funding that we have been able to negotiate from the Government of Canada and assuming that we are able to assign the amount of money that we have had these last few years. The schools for 1977-78, that is next year, are Pine Point, Cape Dorset, a new separate school for Yellowknife, various portables and furniture and equipment. In 1978-79, Resolute Bay, Fort Norman, Coral Harbour, a new roof for Tuktoyaktuk, and we then will have the second part of a three year program for the separate school at Yellowknife. Now, 1979, a gymnasium for Broughton Island, a school for Norman Wells, a school at Snowdrift, and the start of the first high school that we will have built in some time. In 1981 we will begin work on a second high school, and both of these high schools are envisioned for the Arctic. There is some additional schooling at Hay River, more at Yellowknife because of the rapidly increasing enrolment, and work on the college for the Northwest Territories, if the program is approved by this Council. By 1981 we think then we will have caught up with the school construction program and we will be able to slacken off. So this is the program as we see it up to this time.

MR. SPEAKER: Is there any further discussion? On Mr. Kilabuk's motion then, the question.

SOME HON. MEMBERS: The question.

Motion 18-60, Carried

MR. SPEAKER: The question being called. All in favour? Contrary? The motion is carried.

---Carried

Motion 19-60, Mr. Kilabuk.

Motion 19-60: Land For Housing In Pangnirtung.

WHEREAS there is an urgent need for additional houses in Pangnirtung and no houses were built in 1976 because no land was available to build them on;

AND WHEREAS the only suitable building land in the hamlet is owned by the Hudson's Bay Company, the Royal Canadian Mounted Police and the Anglican mission;

AND WHEREAS the hamlet has been informed that 18 houses are to be shipped in, in 1977;

NOW THEREFORE, I move that this Assembly request the Commissioner to undertake the action necessary to make land available so that these houses may be built when they arrive in 1977.

MR. SPEAKER: You wish to move that this house request the Commissioner to undertake the necessary action to make land available so that houses may be built when they arrive. This was moved by Mr. Kilabuk, and is it seconded? Mr. Butters. Would you like to debate that now, Mr. Kilabuk?

MR. KILABUK: Yes. Mr. Speaker, since I am living in Pangnirtung, I know how the land is used in that community, and right now they are trying to get sites so they can build more houses in Pangnirtung. There are three groups of people, three companies who own land in Pangnirtung; the Hudson's Bay Company, the RCMP and the Anglican mission. Those three have big pieces of land which are not used for anything right now and there is not enough land where houses can be built. So for the summer of 1976, the supplies that came in, that were supposed to come in the summer, never came, because there was no room. There is no land where they can build these houses, and it is too hard to work on the land that is left because they do not have the right materials.

Available Land Not Suitable

Now, the land that is not owned is not good enough. If they have to build on another piece of land they would use more cement and it would take a lot of money, that is if they built on some of the other pieces of land. Then as well the lake where they get their water is much too close to where they would have to build the houses. So the hamlet council of Pangnirtung are trying really hard to get this land, but were told that in 1977 the prefab houses are going to come, supplies for 18 houses are coming, and before that time they want to find out exactly where they can build those 18 houses. The piece of land that is owned by those three companies, they would like to know if they can make it available to them somehow, some of those pieces of land.

We want to know exactly where we can build those houses when we get the material for them, but we know that if we do not take any of the land that is owned right now, the government will have to spend a lot more

money if the houses are going to be constructed on a piece of land that is not good enough to build on. We would really like to have those house sites made available for public housing in Pangnirtung. I would like to know what your idea on this is.

MR. SPEAKER: Further discussion? Mr. Pearson.

MR. PEARSON: Mr. Speaker, I rise to support Mr. Kilabuk and his motion as I once had the pleasure of representing that community of Pangnirtung. During my term of office I brought to this house the same matter, as many other people have done before, but alas, to no avail. The RCMP, and the church have enormous pieces of land which are not available and prevent the land in that community from being utilized. Of course the real serious problem in Pangnirtung is that there is an airstrip right down the middle of the community which absorbs most of the available land. I do not know whether the administration of the Northwest Territories has ever considered a five year or a ten year development for Pangnirtung. Where in the hell are they going to live? There is just no land left. Of course...

MR. SPEAKER: Mr. Pearson, excuse me. If you do not mind, I will ask you kindly not to use the word "hell". It is unparliamentary. I have let it pass with various Members on various occasions but I think that we have to clean up our language. Proceed.

Community Development Plans Needed

MR. PEARSON: I apologize, Mr. Speaker. I do not know whether the administration has ever considered the future of these communities that seem to be growing at such an alarming rate, absorbing every piece of land available within a reasonable distance. The community of Lake Harbour is another example of a community that has expanded so quickly people now actually live in the graveyard and I think that the administration would be well advised to re-examine and look at a five year or ten year prognosis for these communities that are growing so quickly and try to come to an agreement or, rather, to develop a community development plan so that we will not run into these ridiculous situations.

MR. SPEAKER: Mr. Pudluk.

MR. PUDLUK: Mr. Speaker, I rise in support of Mr. Kilabuk in his motion. This is the same problem we have in many of the communities. In Pond Inlet six graves have been dug up and put into another place because they are going to build a house because there is no room to build houses. The RCMP, Hudson's Bay Company and the Anglican mission were the first ones to claim some land in the North and the pieces of land which they have are much too big, so I support Mr. Kilabuk in his motion that he wants some land available to build houses on.

MR. SPEAKER: Thank you. Mr. Evaluarjuk.

Good Land Owned By Hudson's Bay Company

MR. EVALUARJUK: Mr. Speaker, I am in full support of the motion that was just made because I have been to Pangnirtung a couple of times and have seen where the houses are built. In the other settlements I have heard that the Hudson's Bay Company are always being talked about and it is the same thing in my home town. The Hudson's Bay Company has taken all of the good pieces of land. We know that they are not going to use it all but they are always very stubborn when they are asked for it, for a piece of their land because I know they have headquarters down South or maybe they are friends with the government and I have not pushed enough. Maybe it is because of the taxes that they pay that they seem to never be bothered too much about their land. Sometimes it almost seems impossible to even try and get the land that they own. I have heard this in many settlements and I know this has happened myself. I think it is because of the taxes they pay to the Canadian government that they are not bothered too much so I am in full support of this motion.

MR. SPEAKER: Mr. Commissioner.

Pressure For More Reasonable Allocation

THE COMMISSIONER: Mr. Speaker, and Members of the Assembly, this has been a problem for some years. I think probably what happened was that it was the RCMP and the church and the Bay that located at a specific spot and staked out an area as their reserve. This seems to have been recognized some years ago by the Government of Canada and when the territorial government came north and certain lands were turned over, that land had already been recognized as belonging to, being on reserve, for those institutions. We have been petitioning the church, the RCMP and the Hudson's Bay Company for years to narrow their reserve and make this land, some of the land available. In some places we have been successful. In others we have not been, but we are still working on it. We agree with the need for making more land available in the communities. As Mr. Evaluarjuk has just said, we will continue to press the churches, the RCMP and the Bay for a more reasonable allocation of the land.

With reference to Pangnirtung, and the location of the airstrip, exactly the same situation exists at Holman Island where the airstrip is in the centre of town. I suppose at Lac la Martre or Nahanni Butte or Fort Liard, if they were to expand, say, double the population, we would find the same situation there. The problem no doubt was no one envisioned the communities would grow as large in such a short time as they did. We are looking at relocating, next year, the airstrip at Holman and there is no doubt in my mind that before too long we will have to do the same at Pangnirtung. It is a question, I guess, of completing some of the strips in the eastern Arctic, in areas where there are none and once that has been completed then we certainly will have to undertake a major relocation of the strip at Pangnirtung.

MR. SPEAKER: Further discussion? Mr. Kilabuk, you can sum up if you wish.

MR. KILABUK: Mr. Speaker, I thank the people who have supported my motion and thank you, Mr. Commissioner, for your comments. For the year 1977 the 18 houses that are supposed to be coming are still important because of a shortage of houses. In this coming summer, houses will have to be built because there is a shortage of houses for the people there. I know there is a shortage of houses in all communities, but this summer we never got one single unit because there is no land available. Now the Commissioner has said that he knows they are going to work on it and we want to try harder and we want everybody else to try harder so that we can get what we want.

Since 1970 we have been pressing for these pieces of land and now it is 1976 and we just heard this year that the RCMP might give us some of their land but it will not be enough for the houses that we are supposed to be getting. We are going to try very hard until we get what we want.

Motion 19-60, Carried

MR. SPEAKER: Thank you. Question. Question being called. All in favour? Down. Contrary? The motion is carried.

---Carried

The motions left therefore are Mr. Pudluk's motion and the motion moved by Mr. Butters with respect to the amendment of the Rules. I would propose to come back to motions later on to do those two; when Mr. Pudluk's motion has been translated and in the case of the motion moved on behalf of the Rules committee by Mr. Butters, when the Rules, the proposed amendments have been circulated together with the corresponding motion. Is that agreed?

---Agreed

Item 9, tabling of documents.

ITEM NO. 10: CONSIDERATION IN COMMITTEE OF THE WHOLE OF BILLS, RECOMMENDATIONS, OTHER MATTERS AND INFORMATION ITEMS

Item 10, consideration in committee of the whole of bills, recommendations, other matters and information items. Mr. Butters, the chairman of the Education Ordinance, has indicated he wishes to get the various amendments put together before he goes back in on that. What bill, therefore, would the Executive wish this house to proceed with while that is being done?

HON. ARNOLD McCALLUM: Bill 2-60.

MR. SPEAKER: This house will resolve into committee of the whole for consideration of Bill 2-60, Teachers' Association Ordinance with Mr. Stewart in the chair.

---Legislative Assembly resolved into Committee of the Whole for consideration of Bill 2-60, Teachers' Association Ordinance with Mr. Stewart in the chair.

PROCEEDINGS IN COMMITTEE OF THE WHOLE TO CONSIDER BILL 2-60, TEACHERS' ASSOCIATION ORDINANCE

THE CHAIRMAN (Mr. Stewart): The committee will come to order to study in committee of the whole Bill 2-60, An Ordinance Respecting the Northwest Territories Teachers' Association. Does the legislation committee have any comment on this? Mr. Nickerson.

MR. NICKERSON: It is the recommendation, Mr. Chairman, of the standing committee on legislation, that this bill be submitted to the committee of the whole as is, subject to one or two minor amendments which I will bring up at the opportune time.

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

MR. BUTTERS: I recognize that Mr. Nettleton is in the house, the executive director of the Northwest Territories Teachers' Association and I wonder if his services might be of assistance to the committee when we are discussing this ordinance.

THE CHAIRMAN (Mr. Stewart): The suggestion has been made that this committee...

MR. LAFFERTY: Mr. Chairman, could I get a copy of the ordinance? I do not have it in my book.

THE CHAIRMAN (Mr. Stewart): We are short one copy of the ordinance as Mr. Lafferty does not have one in his book. The suggestion has been made. Is it agreed?

SOME HON. MEMBER: Agreed.

THE CHAIRMAN (Mr. Stewart): I only have one "agreed". Would you join us at the table, please, Mr. Nettleton? Now, Mr. Butters, I am sorry, I missed the name.

MR. BUTTERS: Mr. Winston Nettleton, the executive director.

THE CHAIRMAN (Mr. Stewart): Welcome, Mr. Nettleton. Are there any comments of a general nature? Mr. Butters.

MR. BUTTERS: This is very general and it seems to me that over the past two or three years there has been a growing move towards permitting the professional associations to govern themselves and rule with regard to the qualification of their members. I can recollect a number of years ago a number of the members of the various professions appeared before this body. I wonder if we could just have a rundown of the number of professions which have now had established a professional ordinance, or professional ordinances, recognizing those rights and objectives, and, if it is the intent of the administration to permit other professions to do likewise.

In the May session it was for the legal profession that an ordinance was developed to permit such self-management, but what other professions are being considered for similar provisions?

THE CHAIRMAN (Mr. Stewart): I do not know if anyone here can answer. Mr. Minister.

Provision For Self-Management For Professions.

HON. ARNOLD McCALLUM: Mr. Chairman, I think there have, as Mr. Butters has indicated, been a number of professional people and I can think of one or two where there is a possibility, being accountants, certified general accountants, registered industrial accountants, chartered accountants, and the possibility of engineers. We have had, as you are well aware, nurses, lawyers, and outside of those two, that is outside of the two that I indicated, accountants, all three kinds, and engineers, I do not know of any other group who has approached the government. Those certainly are two other professional groups who have asked us to consider some legislation.

MR. BUTTERS: Thank you, sir.

THE CHAIRMAN (Mr. Stewart): Thank you. Any further comments of a general nature? Mr. Nickerson.

MR. NICKERSON: Yes, Mr. Chairman. I notice in this bill there are a number of cross references to the Education Ordinance. It would appear that since a good deal of the Education Ordinance yet remains to be translated, we probably will not be able to deal completely with this until the January session of the Legislative Assembly, or an extended session of this Legislative Assembly after a considerable adjournment. Therefore, I wonder, in order to avoid setting up this ordinance and having these cross references to the Education Ordinance, whether or not it would be the intention of the administration not to have the Teachers' Association Ordinance come into effect until such time as the Education Ordinance is passed into law.

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

HON. ARNOLD McCALLUM: Mr. Chairman, there are cross references to the Education Ordinance, certainly in the definitions as they relate to boards of education and, as you are aware, that is where we stopped in our discussion of the Education Ordinance. However, I am not of the opinion that it is absolutely necessary to stand this ordinance aside, pending the final outcome of the Education Ordinance. I appreciate and recognize Mr. Nickerson's concerns about cross references, but I think there are relatively few of them, and I think they relate basically to the board of education, and that is pretty well what we covered in terms of our discussion on the Education Ordinance.

THE CHAIRMAN (Mr. Stewart): Thank you. Hon. David Searle.

HON. DAVID SEARLE: It would seem to me, Mr. Chairman, that since Mr. Nickerson has raised it, we might as well come out with it. If this house is simply adjourned and we go back into session for a couple of days in January, then it seems to me that there is no problem in giving this bill an examination in committee, third reading, and even assent because of its clause 35, indicating its coming into force, because obviously the Commissioner could not fix its date of coming into force until after the Education Ordinance is completed in January. So it would be a piece of legislation, although completed as far as we are concerned, that would have no effect until and if, I assume, the Education Ordinance is enacted. So I think we could proceed on that basis unless Ms. Flieger saw any difficulty.

THE CHAIRMAN (Mr. Stewart): Madam Legal Advisor?

Coming Into Force Of Bill

LEGAL ADVISOR (Ms. Flieger): The coming into force provision which is clause 35 of the bill, allows the ordinance to be brought into force. Different parts of it may be brought into force on different days, and so if there was any part of it that requires the Education Ordinance, that part could be delayed.

THE CHAIRMAN (Mr. Stewart): Does that satisfy your question, Mr. Nickerson?

MR. NICKERSON: Yes, sir.

THE CHAIRMAN (Mr. Stewart): Are there any other comments of a general nature? Hon. David Searle.

HON. DAVID SEARLE: In a general way, Mr. Chairman, the thing that bothers me about this ordinance, and I have read it and I appreciate entirely its purpose, is the fact that it is really a two purpose organization. One, of course, is to act as a normal professional association and concern itself with the licencing and the standards of education, and the other aspect, of course, is to bargain on behalf of its membership. So it is an organization which in effect is a hybrid; first of all it has professional aspects, and secondly it has union-like aspects.

I notice that superintendents may be associated members and I know that principals are active members, and I appreciate that the reply I undoubtedly will get is that they are professionals and should belong to the professional organization, but I have always felt it to be strange that those persons in a school and in the system indeed who within a normal corporate entity would be regarded as supervisory or management would find themselves as members as well of a union or of the organization which acts as a union and negotiates on their behalf.

Position Of Principals And Superintendents

I have often felt that principals and superintendents certainly should be forbidden membership in this organization for the simple reason that I do not know how they can be supervisors on the one hand and be part of the association that licenses on the other hand. I suppose you could get to the incredible situation where complaints could be made by teachers against their principal for disciplining them in the normal course of their work, and tremendous pressure could be brought to bear against them, depending upon the strength of the teachers in the professional association, and I have heard of this happening. I have had vice-principals tell me that teachers they have disciplined have carried the grievance to the professional association who has then brought the vice-principal before it to answer for the actions which they were compelled to do as supervisors of the teachers.

That of course is an incredible situation, putting management virtually between a rock and a hard place, and removing indeed any semblance of management of the schools themselves. I just wondered why it is that the Department of Education has not shown any initiative to come to grips with this obvious conflict in the light that this ordinance includes principals, vice-principals and superintendents.

THE CHAIRMAN (Mr. Stewart): Mr. Nettleton, would you care to answer that, or Mr. Minister?

Problem Has Been Recognized

HON. ARNOLD McCALLUM: I guess, Mr. Chairman, that that is a question that obviously deserves some attempt at an answer. I would have to, Mr. Chairman, suggest that first of all I may have a bias. I do not necessarily agree, and I should not say "I do not necessarily." I do not agree with Hon. David Searle, or with his statements that not only the department has not come to grips with it, but as well, that principals and superintendents should not be members of the Northwest Territories Teachers' Association. I recognize that there are times of possible conflict. However, in my experience, which does not cover that much time, 20 years or so, but I have not had that conflict. Principals and superintendents are concerned primarily with ensuring that education programs are carried out in a school or in an area. It is not that the department or the administration has not concerned itself with the question or questions that Hon. David Searle raises. I guess if you had X number of opinions on this particular aspect you would get Y and Z answers.

Certainly in our discussion in proposing the ordinance, as I have indicated, we discussed this, not so much at this Assembly's standing committee, but primarily within the administration, and it has been left with the idea that these people are eligible to become members and it does not indicate that they have to become members of the association. Superintendents of schools are either employed by a local education authority or the department, and are eligible for membership if they apply. In no way is it obligatory for these people to become members. As regards principals, in terms of their membership, they have been identified and defined as being teachers and, in cases of schools where in fact a person has taken on the responsibility of a principal, and then either relinquishes that responsibility by himself or herself, or by other means, they are still defined as being a teacher and, for those particular reasons, and very generally, it was felt that these people should be members of the teaching profession.

THE CHAIRMAN (Mr. Stewart): Hon. David Searle.

HON. DAVID SEARLE: Did I understand Hon. Arnold McCallum to say that principals were not required to be part of the Northwest Territories Teachers' Association?

HON. ARNOLD McCALLUM: No, you did not. Hon. David Searle did not, Mr. Chairman, understand me to say that principals are not required. I said superintendents are eligible to apply for membership. I said that principals, as defined here as well as in the Education Ordinance, are defined as being teachers and as such are members of the teaching profession and association.

THE CHAIRMAN (Mr. Stewart): Hon. David Searle.

HON. DAVID SEARLE: Just to follow up, Mr. Chairman, that it seems to me that a principal who has not taught any classes...

HON. ARNOLD McCALLUM: That is not correct, Mr. Chairman.

HON. DAVID SEARLE: He might escape being a member of the organization.

Very Few Principals Do Not Teach

HON. ARNOLD McCALLUM: Certainly within the Department of Education, teachers who are employed by the government and principals who are employed by the government, like Ivory soap, 99 and 44/100 per cent of them teach at some time within the school. There are very few principals within the Department of Education and the Government of the Northwest Territories who do not teach at some time. Let me say that again: not all of them, but most of them. As regards school boards, I do not know whether principals in fact teach part of the time but a principal is defined by the Education Ordinance and in this particular ordinance as a teacher. A principal is a teacher.

HON. DAVID SEARLE: Mr. Chairman, I am not going to pursue this much longer. I appreciate how we got where we are and I doubt there is very much we can do about it unless we want a virtual revolution on our hands. However, I must say, speaking personally, I would have preferred, had I had my way about this matter, to see two separate organizations, one solely for the purpose of collective bargaining, the membership in which would be precluded to principals and superintendents or anyone of a supervisory nature. Then, secondly, a purely professional organization concerned with professional standards, like licensing and those things to which all teachers could and indeed should belong for the purposes of standards and keeping them up.

Organization Should Be Responsible To Management

This particular organization, unfortunately, does both and I must say that I have always been extremely unhappy to find the supervisory staff part of the same organization. I just do not know how you overcome it now unless you go to the system of removing the supervision in schools from teaching staff and putting it in administrative like you do in hospitals. So, the board and department have at least one person in the facility who is responsible solely to management. However, those are my views. They are personal and I am not going to press them any more. They are unacceptable obviously both to the administration and to the Northwest Territories Teachers' Association. If I had my druthers, that is the sort of thing I would come up with.

MR. NETTLETON: If I might respond to Mr. Searle, to come directly to the issue, I think what you are proposing does not directly concern the subject of collective bargaining. I think it concerns the subject of discipline within the profession which at the present time the profession does not have, that is, the profession does not have the right to discipline its own members. Mr. Searle is quite correct when he says that a principal attempting to discipline one of his professional colleagues could indeed get himself into difficulties if he proceeded in an improper manner, but that is true of anyone, any teacher and anyone in our association would have the same right as the principal in the area of discipline. We do not think that it provides difficulties for the management of the system. We see it as a legal system and we see the principal's right to discipline members being regulated in the same way as any other teacher.

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

Consultation With Teaching Professions

MR. BUTTERS: Thank you, Mr. Chairman. I think that the situation that was outlined by Hon. David Searle very clearly summarizes the attitudes I have received from teachers in my constituency. I do not know who developed this ordinance but I doubt that there was a great deal of request for input from the profession itself. Maybe one does not do this, but I think there was some concern on the part of teachers that two aspects, the labour aspect, the negotiating aspect, was combined with the professional one. As we know, we already have on the books a Teachers' Association Ordinance which does indicate their bargaining rights and privileges and negotiating procedures, but I am just wondering whether or not we could have some indication as to how this ordinance was developed. Who developed it and how much consultation was carried out with the Northwest Territories Teachers' Association or other teaching professions in the territories before it was put together?

HON. ARNOLD McCALLUM: I will respond for the administration and perhaps Mr. Nettleton would like to respond after on behalf of the Northwest Territories Teachers' Association. I want to assure Mr. Butters as well as other Members of this house that there was in fact a great deal of consultation with the association of teachers in the development of this particular piece of legislation. It is, as with all ordinances, all pieces of legislation, a product of the administration of the government, but let me assure you again that there was in fact a great deal of consultation with the association.

THE CHAIRMAN (Mr. Stewart): Thank you.

Input By Association

MR. NETTLETON: If I might respond on that issue, Mr. Butters, the association feels it has been very adequately consulted on this and we have had considerable input into it. Our ruling body within the association has passed over a series of some seven years resolutions on the subject and we feel that both the teachers throughout the territories have had a considerable amount of input through our association and likewise that we have been afforded that kind of input to the administration of this government.

THE CHAIRMAN (Mr. Stewart): Thank you. Any further comments of a general nature? Mr. Pearson.

MR. PEARSON: Mr. Chairman, I understand there is a rather large difference of opinion between the members of the association in the East and the West and I wonder how this would affect this kind of legislation.

MR. NETTLETON: I think Mr. Pearson is quite correct and he refers probably to a resolution passed last year at the Baffin regional conference of the Northwest Territories Teachers' Association. There have been differences within our organization and I hope there will continue to be differences but I do not think that there is any real difference in basic intent. The annual assembly, Mr. Pearson, of the Northwest Territories Teachers' Association has passed resolutions asking for automatic membership for the eastern Arctic as well as the western parts of the Northwest Territories.

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

MR. PEARSON: How would this ordinance relate to hopefully the greater increasing numbers of native people coming into the teaching world, not necessarily as bona fide teachers, but as paraprofessional people?

MR. NETTLETON: It does not relate to them at all, Mr. Pearson. It concerns the teachers who are given a licence to teach by the Commissioner of the Northwest Territories and does not include classroom assistants. It does include any teacher who would have a licence to teach issued by the government.

THE CHAIRMAN (Mr. Stewart): Thank you.

MR. PEARSON: So, what happens, as I say, to the paraprofessionals or those who teach but who are not called teacher?

Paraprofessionals Should Be Members

MR. NETTLETON: The association's position on that particular subject has been that these people should also be members of our association. This ordinance does not provide for that. The association has decided that it provides a number of other things that are needed and for that reason our position on the classroom assistants has been for the moment as far as this ordinance is concerned, set aside.

MR. PEARSON: Your position has been set aside on it, is that what you said?

MR. NETTLETON: Our position remains the same and that is that classroom assistants should be part of the association.

HON. ARNOLD McCALLUM: Mr. Chairman, I should point out that classroom assistants are members of the Public Service Association, not members of the Northwest Territories Teachers' Association. Whether that is by their own accord or the Northwest Territories Teachers' Association or the Public Service Association, they in fact are members of the Public Service Association. This ordinance deals with anybody who, as Mr. Nettleton suggests -- it says "The holder of a subsisting certificate of qualification to teach in the Northwest Territories..."

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

MR. PEARSON: That seems to me to be a very broad statement and I would have thought that if native people involved in the teaching profession ...

HON. ARNOLD McCALLUM: Mr. Chairman, native people who are involved in teaching in the Northwest Territories are holders of a teaching certificate in the Northwest Territories. They are teachers.

THE CHAIRMAN (Mr. Stewart): Thank you. Any other comments on the bill as a whole? Are you ready to go clause by clause? Clause 2, interpretation. Mr. Nickerson.

MR. NICKERSON: In paragraph 2(j) the standing committee on legislation suggested that the words "issued by the Commissioner" be inserted after "qualification". This would make it sure that the word "teacher" is defined as someone licensed to teach in the Northwest Territories; otherwise, it might be construed that somebody holding a teaching certificate from one of the other provinces might become eligible for membership in the Northwest Territories Teachers' Association which is not really the intent here. Also we discussed at the time that we should add "or letter of authority" as well as "subsisting certificates of qualification" and this was to take into account people temporarily employed as teachers.

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

HON. ARNOLD McCALLUM: Well, Mr. Chairman, anybody who is issued or who holds a subsisting teacher's certificate, be he from anywhere, one of the southern hordes or one of the European hordes, any one of a horde, he still has a teaching certificate, or certification, and he is then certified by this government to teach in the Northwest Territories and that includes a letter of authority.

MR. NICKERSON: Excuse me, Mr. Chairman, would I be correct in assuming from the Minister's answer that somebody with a teaching certificate or some form of qualification from Outer Mongolia could walk into the Northwest Territories and immediately be eligible to join the Northwest Territories Teachers' Association? Surely, what happens really is that certain qualifications issued by the other Canadian provinces, for instance, and perhaps the United States, would be recognized by the Department of Education as qualifications similar in nature to their own and they would immediately, upon presentation of these, issue a certificate of qualification so that these people could teach in the Northwest Territories but that might not be true of all jurisdictions. Presumably in certain countries they have a standard for teachers which is lower than ours and their qualifications would not be recognized in the Northwest Territories.

THE CHAIRMAN (Mr. Stewart): This comes to a cross reference type of thing and goes back to the Education Ordinance, and on page 57 of the Education Ordinance the words "qualification of certificate" is defined.

Teachers Judged On Qualifications

HON. ARNOLD McCALLUM: In terms of this particular ordinance the membership in the association is listed in clauses 16 and 17 as far as becoming a teacher and certified in the Northwest Territories is concerned. That is true, a guy or gal could be from Timbuktu and if he or she has the qualifications and they are judged on their qualifications, they may in fact be issued a certificate to teach in the Northwest Territories. As with many other people in the territories and many other professions, many other walks of life, barriers are not put up in the Northwest Territories.

THE CHAIRMAN (Mr. Stewart): Thank you.

SOME HON. MEMBERS: Agreed.

THE CHAIRMAN (Mr. Stewart): I have several "Agreeds" to the interpretation clause as it stands. Are you ready for the question? All those in favour? Opposed? Clause 2 is carried.

---Carried

Clause 3, the Northwest Territories Teachers' Association, the establishment of the association. Mr. Nickerson.

Motion To Amend Subclause 3(2), Carried

MR. NICKERSON: It would be our recommendation that the words "at Yellowknife" be deleted from subclause 3(2) as we feel the Northwest Territories Teachers' Association should be able themselves to determine where they wish to have their head office, as long as it is in the Northwest Territories.

SOME HON. MEMBERS: Agreed.

THE CHAIRMAN (Mr. Stewart): Is it agreed? Are you agreed to the deletion of the words "at Yellowknife"?

---Agreed

So, we will delete "at Yellowknife" and it will now read "The head office of the association shall be in the Northwest Territories". Is it agreed?

---Carried

Clause 4, objects of the association. Mr. Butters.

MR. BUTTERS: I wonder if in view of the fact we have Mr. Nettleton with us, he might explain how the association would see itself achieving paragraph 4(d) "to encourage the entrance of residents of the territories into the teaching profession" and also to ensure that these people meet the standards for certification.

MR. NETTLETON: There are several things that the association has to this point done. We sit on the teacher education program advisory board and I think we have had some influence in...

THE CHAIRMAN (Mr. Stewart): I would ask the witness not to speak too quickly as the interpreters are having difficulty.

Scholarships Available

MR. NETTLETON: I am sorry. The association has a representative on the teacher education program advisory board, and I think we have had some influence on that program. We certainly intend to continue in our support of that program and in getting more people into it, and more people subsequently into the classrooms. We ourselves spend a portion of money from the teachers' fees each year on scholarships, some of which are only open to native persons. Those are two of the direct influences we have and undoubtedly there will be more in future.

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

MR. BUTTERS: Just a very brief comment. It would seem to me that as the members of the association are, in the main, working teachers, working in the classrooms from kindergarten to grade 12, and probably in the best position to see a budding teacher at say the grade five level, grade seven level or grade nine level, I wonder if the association can do anything to encourage young people as they are coming up to look at the profession as a very worth-while objective for a life's work and to encourage them, even before they reach grade 12 and are looking at graduation and where do they go from there.

MR. NETTLETON: If I might respond to Mr. Butters I think that that is a very worth-while objective and is probably one of the things, one of the most important things that teachers have done toward getting residents of the Northwest

Territories into the profession, but for the association to take that kind of position I think goes beyond what we can legitimately do. However, teachers undoubtedly do encourage students to get into the profession, but I think they have to remain impartial enough that they can also encourage them into many other walks of life.

THE CHAIRMAN (Mr. Stewart): Clause 4. Is it agreed? Mr. Nickerson.

MR. NICKERSON: A brief comment on paragraph 4(g), Mr. Chairman. Would not the committee agree that the phrase "for the purpose of concluding collective agreements" is completely redundant in that clause? Perhaps it might be advisable to ask the Legal Advisor on this matter.

THE CHAIRMAN (Mr. Stewart): Madam Legal Advisor, would you care to give us an opinion on paragraph (g) of clause 4?

LEGAL ADVISOR (Ms. Flieger): I think I agree with Mr. Nickerson.

THE CHAIRMAN (Mr. Stewart): You think it is redundant and not required?

LEGAL ADVISOR (Ms. Flieger): I think it is somewhat redundant.

THE CHAIRMAN (Mr. Stewart): I think that is a good interpretation "somewhat redundant". The legal opinion is that it is somewhat redundant.

MR. NICKERSON: What does "somewhat redundant" mean? Is it redundant, is it necessary or is it unnecessary?

LEGAL ADVISOR (Ms. Flieger): I think it is not necessary but on the other hand I do not think it is completely redundant. It states that the purpose of the collective bargaining negotiation is to arrive at an agreement and perhaps that goes without saying but, on the other hand, it is not completely a repetition of the first line.

THE CHAIRMAN (Mr. Stewart): If these things were written in a manner that we could all understand then we would not need lawyers.

MR. NICKERSON: I have no serious objection to it being included, it just seems to me it serves no useful purpose whatsoever.

THE CHAIRMAN (Mr. Stewart): What is the advice of the committee?

HON. ARNOLD McCALLUM: If Mr. Nickerson has no serious objection I suggest we leave it there.

THE CHAIRMAN (Mr. Stewart): Is that agreed? Clause 4 as it stands? Mr. Pearson.

MR. PEARSON: I have a point concerning clause 4 because there is reference, it says "to promote high ethical standards ... to promote additional education, training, skill and proficiency of members" but more specifically the matter of the conferences held in the regions every year by teachers and I gather this would be an aspect of their bargaining position. The people in my constituency have expressed great concern over the amount of time that teachers spend having meetings and their annual conference, smack in the middle of the school year, leaving schools empty for days, weeks on end in many cases, and many of them are shortly after the Christmas holidays when they flock down to Frobisher Bay to hold their teachers' conference.

The hostel in Frobisher Bay is an establishment that houses some Metis kids who go off for their Christmas holidays and return to Frobisher after the holidays are over and then -- this is the usual pattern within a few weeks or a month, there is a teachers' conference called and they are all marched back to the hostel and locked up there for as long as ten or 15 days while the teachers have another meeting.

Now, the view of many people in the eastern Arctic is that these conferences should be held at the end of the school year or during the actual Christmas holiday, so that the kids all do not get dragged back and then sit around for 15 days while the teachers have a conference.

HON. ARNOLD McCALLUM: I do not think this concerns this particular section, it has nothing to do with conferences.

MR. PEARSON: Clause 4 has to do with conferences.

HON. ARNOLD McCALLUM: I would object to that. I do not believe that teachers, or the Department of Education holds conferences of 15 days in length or duration, three weeks at any time during the year and that is a generalization that has been made that is away out in left field.

THE CHAIRMAN (Mr. Stewart): I was just about to tell the speaker that he is basically out of order and he had made his point but it is not part of clause 4. However, his statement is on record and we will leave it at that. Clause 4, objects of the association, is it agreed?

---Agreed

MR. PEARSON: Nay.

THE CHAIRMAN (Mr. Stewart): Clause 5, the bylaws of the association. Mr. Nickerson.

MR. NICKERSON: We had originally proposed the bylaw concerning the custody of the seal. The committee did not think it was necessary and perhaps you could ask the Legal Advisor whether or not this is necessary as in most of

our ordinances regarding professional organizations we have this in. It is not a particularly important matter and perhaps you could inquire what is the current thinking on this type of question.

THE CHAIRMAN (Mr. Stewart): Madam Legal Advisor, about the seal.

LEGAL ADVISOR (Ms. Fliieger): Could I check some of the other legislation and reply?

MR. NETTLETON: May I respond to that? Paragraph 5(1)(1) provides for that.

MR. NICKERSON: I am sorry, Mr. Chairman, apparently it was put in at the end and we suggested that it be put in at the beginning of clause 5. I see that is covered.

Motion To Add Subclause 5(3)

Secondly, Mr. Chairman, It was our suggestion, and I would so move, that a subclause (3) be added, worded as follows: "Notwithstanding subsections (1) and (2) the Commissioner may at any time declare any bylaw to be null and void ab initio."

THE CHAIRMAN (Mr. Stewart): Do you so move?

MR. NICKERSON: Yes.

THE CHAIRMAN (Mr. Stewart): Could we have that typed up, please? In the interim, it now being 11:00 o'clock a.m., we will adjourn for coffee. Pardon me, could I have permission to report progress? There is a possibility I will be leaving this afternoon, and I have several items under the Education Ordinance I handled that I would like the amendments to go through so the section I handled will be clear. Do I have permission to report progress at this time?

---Agreed

MR. SPEAKER: Mr. Stewart.

Report of the Committee of the Whole of Bill 2-60, Teachers' Association Ordinance

MR. STEWART: Mr. Speaker, your committee has been studying Bill 2-60, An Ordinance Respecting the Northwest Territories Teachers' Association, and wishes to report progress at this time.

MR. SPEAKER: Mr. Stewart, with respect to the Education Ordinance, would you like to report your part of it out now or after coffee?

MR. STEWART: I would prefer to do it after coffee. However, if you would like at this time to put us back in committee on the Education Ordinance, I could carry on immediately after coffee.

MR. SPEAKER: Let us recess for coffee and then we will go back in. The house stands recessed for 15 minutes for coffee.

---SHORT RECESS

MR. SPEAKER: The Chair recognizes a quorum. This house will resolve into committee of the whole for continuing consideration of Bill 1-60 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 to continue the study of Bill 1-60. What we are doing is sorting out the amendments that have been made to the Education Ordinance so that when the translation is made it will be an up-to-date version that will be available to our Members from the eastern Arctic.

Summary Of Clauses Already Dealt With

Going back to clause 1 on the Education Ordinance, this was set aside because of (h): "Executive Member", and it is our legal advice that it remain as written. Are we agreed?

---Agreed

Clauses 2 and 3, Agreed

Pardon me, that is clause 2. Clause 2, "Adult Educator" was added in the section and it becomes paragraph (b); and (h) remaining as it is, clause 2 then has been agreed to.

Clause 3 was rewritten and agreed to previously so clause 3 has now been amended and is agreed to, according to my records. Is there any disagreement

Clause 4 was set aside for the word "Commissioner" to be changed. This has been done, so clause 4 with this change should be all right. Is that correct? Mr. Butters?

MR. BUTTERS: Mr. Chairman ...

Motion To Amend Subparagraph 4(2)(e)(ii)

THE CHAIRMAN (Mr. Stewart): I am sorry, this would be to subparagraph (e)(ii) that Mr. Butters has suggested an amendment, as to the teachers' contract. We find the contract contains the protection he wished to have in the ordinance, but he may wish to have it in the ordinance anyway. The contract itself contains the protection he was speaking of.

MR. BUTTERS: Yes, sir. I did receive a copy of the specific provision in the contract, but I think, and I suggest to all Members of the house that the right to know what your superiors, government agencies or other bureaucratic organizations have about you on file, that should be put down in law. I do not think that has been the case in the past. We are beginning to have indications from Ottawa that there is a move on the part of the federal government to, in more cases than at present, open their files so that individuals can see what is written about them on file and correct that material.

The clause as it presently is drafted would permit a report to be required by the Commissioner, made, and the individual upon whom the report is made

would not have the right to see that report. I think that the protection within the agreement is too narrow, and I can foresee situations and circumstances where a report can be requested and there is no requirement to make known the contents of that report by the administration, so what I am asking Members is that we believe people should have a right to know what the government is putting into its files about them. We should incorporate that right into this section.

As I said earlier, I did not know what the interpretation or legal phraseology should be, but I would move that the Legal Advisor develop phraseology which would provide for such a right to be included in legislation, the right to appeal and the right that a person may sign the report that is made upon them and in the event that the Northwest Territories Teachers' Association should request a copy with the individual's permission that they be provided a copy of that report.

THE CHAIRMAN (Mr. Stewart): As was done in the past, is it agreeable to the principle, and then if it is defeated we will not have to do the legal work making up such an amendment, because we do not have one made? Madam Legal Advisor, would you care to give us your interpretation of this section?

LEGAL ADVISOR (Ms. Flieger): I do not understand exactly what it is you want. The section requires that the superintendent inspect every probationary teacher, any teacher, whom the Commissioner or Executive Member requests be inspected, and any teacher who himself requests an inspection. Mr. Butters, I think, then would add words to that paragraph requiring that the inspection report be given to the Northwest Territories Teachers' Association at the request -- to the teacher?

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

LEGAL ADVISOR (Ms. Flieger): I thought he mentioned the Northwest Territories Teachers' Association.

MR. BUTTERS: I did, but that is one of two things. The individual upon whom the report is written or about should not only know the report has been written but should sign the report as having seen it.

LEGAL ADVISOR (Ms. Flieger): I would suggest that if he is given a copy of the report he might prefer that to signing it. It sometimes is objectionable to people.

MR. BUTTERS: I accept the direction of the Legal Advisor, Mr. Chairman, on that point.

THE CHAIRMAN (Mr. Stewart): I will put the question. Does everybody understand what Mr. Butters is attempting to put in as an addition? Do you want that addition put into this subparagraph or not? Could we have a show of hands? Those in favour of having that addition made?

HON. ARNOLD McCALLUM: Mr. Chairman, may I comment? I would still hold the position that what Mr. Butters is requesting is within the agreement negotiated by the association on behalf of its teachers, and I am of the opinion that it should not be here and that this kind of thing should be open to negotiation by the association on behalf of the teachers or the teacher concerned.

THE CHAIRMAN (Mr. Stewart): Thank you. Does anybody else wish to speak to the matter? Mr. Butters.

MR. BUTTERS: I agree that it was within the negotiations, but I do not think that this body, which is a legislative body, should permit itself to be diverted from the responsibility that it holds to ensure the rights of all of its citizens, and I suggest agreements can be torn up, torn down, thrown out, changed, but it is a little bit more difficult to change law, and I think that the rights of individuals are better protected if they are enshrined in law.

THE CHAIRMAN (Mr. Stewart): Thank you.

HON. ARNOLD McCALLUM: Mr. Chairman, I do not know the particulars of the Public Service Association in this regard. I would like to look at that as it stands now. You are obviously going to take the question through agreeing in principle. I think our position is that we would feel again that it is well within what already exists.

Motion To Amend Subparagraph 4(2)(e)(ii), Carried.

THE CHAIRMAN (Mr. Stewart): Thank you. On this basis I shall set aside clause 4, and it will be brought back. However, I would like a direction. Do you want the Legal Advisor to make up the necessary addition to this, to do what Mr. Butters has requested? A show of hands. All of those in favour? Four, five, six. Opposed? The motion is carried.

---Carried

At the same time, Hon. Arnold McCallum, you will have a chance to look up the other section and you can debate that at the time when the amendment is brought in.

Clause 5, Agreed.

Clause 5 was set aside, and that was relative to a motion that had been brought forth on subclause (5) and that was voted on. It was relative as to whether teaching personnel are eligible to be elected, and I believe, if my records are correct, that teaching personnel are not eligible to be appointed members of a committee, the education committee or community education society. The words "to be elected or" were dropped. Was that defeated?

MR. BUTTERS: The amendment was defeated.

THE CHAIRMAN (Mr. Stewart): So, the section stays as it is, is that correct?

MR. BUTTERS: That is correct.

THE CHAIRMAN (Mr. Stewart): Okay, as is. I am sorry, then, clause 5, is it agreed?

MR. NICKERSON: Mr. Chairman, did we not change -- I am sorry, I see, I am in error here. It was clause 6.

THE CHAIRMAN (Mr. Stewart): I made the same mistake myself yesterday. Clause 5, is it agreed?

---Agreed

Amended Clause 6, Agreed.

Clause 6 was changed and we brought back an amendment and this amendment was carried. Do you wish me to read it? As amended, clause 6, is it agreed?

---Agreed

Clause 7 was set aside. Subclause (1). This was the addition of a few words in subclause (1). Madam Legal Advisor, would you read that please?

Amended Clause 7, Agreed.

LEGAL ADVISOR (Ms. Flieger): Subclause (1) of clause 7 was amended by adding at the end of the sentence the words "...and every school shall be in an education district".

THE CHAIRMAN (Mr. Stewart): That is agreed to. Clause 7, is it agreed?

---Agreed

Amended Clause 8, Agreed

Clause 8 was set aside. Now, this has not been agreed to as I understand it, it was asked for a rewrite and this is the rewrite. Clause 8, community education committees, "Every education district for which a community education committee has been designated as the local education authority shall have a committee consisting of five members, not including ex officio members, elected or appointed in accordance with this ordinance and the regulations. Subclause 8(2), increase in membership. A community education committee may, after consulting the voters of the education district at a general meeting held pursuant to paragraph 16(b) increase the number of members to a total not exceeding nine." Clause 8, as amended, that was the discussion held and that was the wording. Is it agreed?

---Agreed

Clause 9 As Amended, Agreed

Clause 9 was not approved, and this has not been before the committee. This is clause 9 subclause (4), tenure, "except as provided in subsection (5) the members of a community education committee shall hold office for a term of two years and an election shall be held each year to replace any member whose term expires that year or whose seat is otherwise vacant". Is it agreed?

---Agreed

Subclause 9(5), "The two successful candidates receiving the least number of votes at the first election and the member elected under paragraph (1)(c) shall hold office for a term of one year". Is it agreed?

---Agreed

Subclause 9(6), "A community education committee may appoint persons to fill vacancies on the committee until the next election is held". Is it agreed?

---Agreed

Acclamation, subclause 9(7), "Where the number of persons..." I am sorry, it is a repeat of what was subclause (6) and is now (7), "Where the number of persons nominated for election as members of the community education committee is equal to or less than the number of vacant seats on the committee, the returning officer shall declare the persons so nominated duly elected,...". Is it agreed?

---Agreed

Clauses 10, 11, Clause 12 As Amended, Clause 13 As Amended, Agreed

Now, clause 9, are these agreed?

---Agreed

Clause 10 was agreed.

Clause 11 was agreed.

Clause 12 was agreed with an amendment "for three consecutive regular meetings"

instead of the word "months" which was deleted.

Clause 13 was agreed with the amendment "committees shall be transmitted to" and the words "filed with" were deleted.

Clause 14 As Amended, Agreed

Clause 14 was set aside, subclause (2) and it has been amended as follows: "Every principal shall, from time to time, as required by the community education committee, report to the committee on the progress of education programs, and plans for future programs". With the amendment, is the amendment agreed to?

---Agreed

So, clause 14 as a whole, agreed?

---Agreed

Clause 15 And Amended Clause 16, Agreed

Clause 15, my records indicate was agreed to.

Clause 16 was set aside. Have you got anything on clause 16, Madam Legal Advisor? Thank you. Clause 16 was set aside, paragraph 16(d) was the culprit and it now reads "advise on appointments of staff for student residences in the education district, review plans for the operation of the residences and advise the superintendent with respect to such plans;". Is it agreed?

---Agreed

Then, clause 16, is it agreed, with the amendment?

MR. NICKERSON: There was a minor amendment made to paragraph 16(e) was there not?

THE CHAIRMAN (Mr. Stewart): The word "voters" was replaced with "residences", according to my records. I am sorry, thank you. With those two, is clause 16 agreed?

---Agreed

Clause 17 As Amended, Agreed

Clause 17, this was set aside. Subparagraph 17(a)(i) "advise on and assist in the establishment and operation of special, adult or vocational education centres in the education district, and (ii) to review the selection of students for and their placement in special, adult and vocation programs and advise the superintendent on these matters;". We are having a bit of trouble with all the paper we have acquired. Clause 17. Madam Legal Advisor, did you say there was a correction in the amendment?

LEGAL ADVISOR (Ms. Flieger): In the second to last line the word ought to be "vocational" programs so the "a" is missing.

THE CHAIRMAN (Mr. Stewart): We will take that as a typographical error and the word should be "vocational". To the amendment, is it agreed? Mr. Butters.

MR. BUTTERS: If you remember, Mr. Chairman, this was just about the time at which we changed places and I had put an amendment, a suggestion which came out as paragraph 17(g) and this has been circulated to Members.

THE CHAIRMAN (Mr. Stewart): We have that but we are just voting on the amended clause and not asking for the whole clause, so we are dealing with paragraph (a). Are we agreed to (a)?

---Agreed

Then, we have added a new paragraph 17(f).

MR. NICKERSON: I believe, Mr. Chairman, a small amendment was made to paragraph 17(b), was it not?

THE CHAIRMAN (Mr. Stewart): "Pay to each of its members an honorarium and expenses" -- so we added the words "and expenses" -- "as prescribed by regulation;". Is it agreed?

---Agreed

Then we have paragraph 17(f) "appoint a committee to investigate and report to the community education committee on such matters as the community education committee considers advisable". Is it agreed?

---Agreed

Then, clause 17 with its three amendments, is it agreed?

MR. BUTTERS: This is where I said we changed over. Before assuming the chair I had made an amendment with regard to paragraph 17(g) and that was provided by the Legal Advisor, paragraph 17(g), I circulated the amendment and it has gone around.

THE CHAIRMAN (Mr. Stewart): Paragraph 17(g), "organize and finance from its fiscal grant supervised lunch hour programs for the benefit of students who wish to participate". Mr. Nickerson.

Motion To Amend Amended Paragraph 17(g)

MR. NICKERSON: Mr. Chairman, I would move an amendment to the amendment which would be as follows: that the words "and finance from its fiscal grant" be stricken out.

HON. ARNOLD McCALLUM: Do you have an extra copy of that? I do not seem to have one.

THE CHAIRMAN (Mr. Stewart): I can not find my original either.

HON. ARNOLD McCALLUM: I have one now.

THE CHAIRMAN (Mr. Stewart): I have one here. Does everyone else have one? This is paragraph 17(g). I have an amendment to the amendment: "organize and finance...". We should drop the words "and finance from its fiscal grant" and leave it as "organize supervised lunch hour programs for the benefit of students who wish to participate".

MR. BUTTERS: I welcome the amendment. It improves it.

THE CHAIRMAN (Mr. Stewart): It improves it. Mr. Minister.

HON. ARNOLD McCALLUM: Does the amended amendment now read "organize and finance supervised lunch hour programs for the benefit of students who wish to participate."?

THE CHAIRMAN (Mr. Stewart): That is the way it reads.

HON. ARNOLD McCALLUM: On a point of information, would you advise me what meaning you give to the word "supervised"?

MR. NICKERSON: Mr. Chairman, on a point of order, that is not the amendment which I moved, the way you restated it. As amended by myself, it would read: "organize supervised lunch hour programs for the benefit of students who wish to participate".

MR. BUTTERS: What was that again, please?

MR. NICKERSON: "Organize supervised lunch hour programs for the benefit of students who wish to participate", and I would speak to that when I may, Mr. Chairman.

THE CHAIRMAN (Mr. Stewart): Your question, Mr. Minister, was relative to the word "supervised", the meaning of the word "supervised" relative to this.

Lunch Hour Supervision

MR. NICKERSON: Mr. Chairman, the reason I moved this amendment was because elsewhere in the ordinance where we are prescribing the powers and duties of various committees we never say "and finance from its fiscal grant". If you look, for instance, under paragraph 17(d) it says "organize" etc., and so, it would be my assumption that the words are redundant or, alternatively, if we put them in here, we would have to go through the whole ordinance and put them in similar clauses. I think it can be assumed that if the powers to do this are granted to one of these organizations, they obviously have the power to finance it one way or another, or they obviously do not have the power, but they have some manner of control over the necessary finances to conduct and carry out that which we have assigned to them.

THE CHAIRMAN (Mr. Stewart): There was one question asked by the Minister relative to the word "supervised" and do you wish to comment on that, the intent of the word?

MR. BUTTERS: Well, "supervised" suggests to me that the supervision would be done by responsible adults, not a monitor or by other students. By "supervision required", I think that means someone who is able to take the responsibility, to ensure that that responsibility is fulfilled.

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

HON. ARNOLD McCALLUM: That is fairly broad. Could it be a little more specific? Is the mover of the amendment, or the mover of the amended amendment, or either or are both, excluding anybody from this?

THE CHAIRMAN (Mr. Stewart): You want to put the cat among the pigeons but you do not want to lay down the responsibility on teachers for supervising lunch periods.

HON. ARNOLD McCALLUM: That is not my point. I want to know if the mover of the amendment or the mover of the amended amendment is in fact including teachers as responsible adults?

MR. BUTTERS: I assume the Minister is sure that teachers are responsible adults.

HON. ARNOLD McCALLUM: Very much so. Supervision of the lunch hour programs, Mr. Chairman, is part of the responsibility of the teacher and if that is the intent of the mover or within the intent of the mover, I have no difficulty with it.

MR. BUTTERS: Mr. Chairman, it certainly includes teachers as responsible adults but I would not say it restricts supervision to teachers.

Motion To Amend Paragraph 17(g), Carried

THE CHAIRMAN (Mr. Stewart): All right. To the amended amendment which reads: "organize supervised lunch hour programs for the benefit of students who wish to participate". Any further discussion? On the amended amendment, all those in favour? Opposed? The amendment is carried.

---Carried

Clause 17 as amended with the new paragraphs (e) and (f) added, agreed?

---Agreed

Pardon me, it should be (f) and (g). Thank you.

Clause 18 is where Mr. Butters took over this committee so this will conclude my section. Mr. Butters, are you prepared now to take over to clear this off?

MR. BUTTERS: No, Mr. Chairman. I have arranged to get together with the Legal Advisor, as you did, and ensure that I have all the amendments correct and in sequence. With the permission of the committee, it would probably be ready by this afternoon.

THE CHAIRMAN (Mr. Stewart): If that is the case then, may I report progress on Bill 1-60?

---Agreed

MR. SPEAKER: Mr. Stewart.

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

MR. STEWART: Your committee has been studying Bill 1-60 and at this time we wish to report progress. I would like to thank the house for their indulgence to permit me to do this at this time.

MR. SPEAKER: Mr. Stewart, in that this concludes your part of it, I think you could report clauses (a) to (m) or whatever, on how many you handled as ready for third reading and then Mr. Butters could report, I should think,

the others ready. Do you not think so? We have on the list what parts essentially you handled and are ready for completion.

MR. STEWART: On Bill 1-60, Mr. Speaker, I would like to report clauses 2 to 17 inclusive ready for third reading.

MR. SPEAKER: Thank you.

MR. STEWART: Pardon me, with the exception of clause 4. Is that clear?

MR. SPEAKER: Clauses 2 to 17 with the exception of a section in clause 4 has been completed by yourself?

MR. STEWART: That is correct, Mr. Speaker.

MR. SPEAKER: The balance of the bill to the extent we have done it will be reported by Mr. Butters at a later date?

MR. STEWART: That is correct, Mr. Speaker.

MR. SPEAKER: With respect to Bill 2-60, the Teachers' Association Ordinance, I assume we are to go back into committee on that. Mr. Stewart, you will not be available from now on. While we are therefore out of committee, is there any report as chairman that you feel you should make? In other words, do you wish to indicate you have completed clauses 2 to whatever and then when we put it back into committee we will put it back in with Mr. Butters in the chair for the balance of the clauses?

Report Of Chairman On Progress Of Bill 2-60, Teachers' Association Ordinance

MR. STEWART: Yes, Mr. Speaker. On Bill 2-60, An Ordinance Respecting the Northwest Territories Teachers' Association, I wish to report that clause 2, clause 3, as amended with the deletion of the words "at Yellowknife" and clause 4 have been completed and are ready for third reading.

MR. SPEAKER: Mr. Butters.

MR. BUTTERS: I beg your pardon, I was not paying close enough attention. Do I understand that when we go into committee of the whole I will be taking the chair for the Teachers' Association Ordinance?

MR. SPEAKER: You or someone else because Mr. Stewart must leave now. He will be unavailable likely for the balance of the session. Do you have any objection to taking the chair on the Teachers' Association Ordinance?

MR. BUTTERS: I have a number of points I wish to make if it can be done before 1:00 o'clock p.m. I have them itemized.

MR. SPEAKER: The Rules permit us to have in the chair either the chairman, the deputy chairman or any other Member. Is there a Member who would be willing to volunteer to take the chair for the balance of the committee examination of the Teachers' Association Ordinance? Hon. Peter Ernerk, would you be prepared to take the chair?

HON. PETER ERNERK: Yes, Mr. Speaker.

MR. SPEAKER: This house will resolve into committee of the whole for continuing consideration of Bill 2-60, the Teachers' Association Ordinance.

---Legislative Assembly resolved into Committee of the Whole for consideration of Bill 2-60, Teachers' Association Ordinance, with Hon. Peter Ernerk in the chair.

PROCEEDINGS IN COMMITTEE OF THE WHOLE TO CONSIDER BILL 2-60, TEACHERS'
ASSOCIATION ORDINANCE

THE CHAIRMAN (Hon. Peter Ernerk): The committee will come to order. I understand we were on clause 5. Are there any further comments with respect to the Teachers' Association Ordinance?

MR. BUTTERS: I wonder if our witness, Mr. Nettleton, may again join the committee?

THE CHAIRMAN (Hon. Peter Ernerk): Agreed?

---Agreed

Further Discussion On Motion To Add Subclause 5(3)

MR. NICKERSON: Mr. Chairman, there is a motion on the floor which as been circulated and it reads as follows: "Notwithstanding subsections (1) and (2) the Commissioner may at any time declare any bylaw to be null and void ab initio".

THE CHAIRMAN (Hon. Peter Ernerk): May I have a copy of that motion?

MR. NICKERSON: Mr. Chairman, I am advised by the Legal Advisor that the words "null and" should be taken out so it will read as follows: "...declare any bylaw to be void ab initio".

THE CHAIRMAN (Hon. Peter Ernerk); We have a motion on the floor. Any discussion?

MR. NICKERSON: Mr. Chairman, I think I should point out how this motion came into being. It was the position taken by the Northwest Territories Teachers' Association that, with the exception of bylaws covering discipline and eligibility for membership which were, of course, covered in subclause 5(2), they wanted full control over their bylaws and they would not stand for any messing about with them by the Commissioner. On the other hand, Mr. Chairman, the position taken by the administration was that all bylaws should be submitted to the Commissioner and would not be approved and come into effect until such time as the Commissioner had looked at them and decided that they would be allowed by him. This then is a compromise which was arrived at when the standing committee on legislation met on this matter. It appeared that it would probably meet with the satisfaction of both parties involved.

THE CHAIRMAN (Hon. Peter Ernerk): Are you finished, Mr. Nickerson?

MR. NICKERSON: Yes.

THE CHAIRMAN (Hon. Peter Ernerk): Mr. Nettleton, you had your hand up.

Control Over Bylaws

MR. NETTLETON: Yes, I would like to speak to this point. I do not think we said, Mr. Nickerson, that we did not "want the Commissioner messing about" with our bylaws. There is, however, a provision in the current ordinance which provides that the Commissioner may declare any of our bylaws null and void. We do not see the need for that. Indeed, if we had our way, I believe that we would pass all of our own and have control over all of our internal affairs. We do recognize, however, that the Government of the Northwest Territories feels that it must have ultimate control over our discipline and eligibility bylaws and in recognition of that the teachers have suggested that they are not opposed to the idea of the Commissioner having the final say on the discipline and eligibility bylaws while leaving our other internal affairs to the association itself.

I think that if you were to pass that particular motion that Mr. Nickerson has proposed, you would in fact be negating a great deal of what this ordinance purports to do. We certainly do not see it as being necessary. An association such as ours would be making a very grave error if we were to pass a bylaw that would be so objectionable that the Commissioner would have to see fit to overrule that bylaw. I frankly do not foresee that happening. We feel that this provision would be a very retrograde step.

THE CHAIRMAN (Hon. Peter Ernerk): Thank you, Mr. Nettleton. Any further comments? You have the motion on the floor or the amendment...

Right To Self-Govern

HON. DAVID SEARLE: Mr. Chairman, Members will recall this discussion I think at the last session in Yellowknife when the Legal Profession Ordinance was put forward. The lawyers argued that the Commissioner should not have to approve their bylaws and rules, for such approval takes away from the self-governing aspect of the society and in effect makes it not self-governing. I think that is obviously the same case here with the teachers. In other words, you either have a self-governing group or you do not, in my view. It seems to me that they might well be self-governing but what bothers me are certain other aspects of the ordinance. I would not deny them the right to self-govern but I think I might cut down on certain other things such as exclude management people from their organization. In other words, let them be self-governing to the extent of the people that you wish to be in the organization but maybe exclude principals, vice-principals and superintendents. Ideally, of course, divide the one organization into two. However, I am not prepared to hold this legislation up to do that. My view would be that this amendment should not pass but that we should concentrate on other things. In other words, give them the right to fully self-govern those people which we think should properly be part of their organization.

THE CHAIRMAN (Hon. Peter Ernerk): Mr. Butters.

MR. BUTTERS: Mr. Chairman, I think the Hon. David Searle has very ably capsulized the situation and put it in a nutshell. I support his position very strongly. I remember in the summer the same argument was raised. The professionals objected very strenuously and rightly, I think, and this Assembly felt, because it approved their objection. You will recollect too that in the summer we also enacted a provision which would see placed on such a professional body, for want of a better word, a lay person who would be sort of a window into the professional cloister to ensure that there was communication between the two sides of the street, the layman and professional. So I strongly support the position advanced by the Hon. David Searle that we reject the amendment.

THE CHAIRMAN (Hon. Peter Ernerk): We have had a comment on clause 5. Are there any other comments? All those in favour?

MR. NICKERSON: I must say I am obliged to vote for my amendment, although it is the committee's decision and not necessarily mine.

Motion To Add Subclause 5(3), Defeated

THE CHAIRMAN (Hon. Peter Ernerk): Okay, I will read out the new addition subclause 5(3): "Notwithstanding subsections (1) and (2) the Commissioner may at any time declare any bylaw to be void ab initio". Excuse me for my unfamiliarity with these kinds of words. Mr. Butters.

MR. BUTTERS: On a point of order, a vote has been called on this in favour, but is there to be a vote called to the contrary?

THE CHAIRMAN (Hon. Peter Ernerk): Contrary then? Five. That is the amendment to clause 5. It is defeated.

---Defeated

HON. ARNOLD McCALLUM: I would just like to make a comment...

THE CHAIRMAN (Hon. Peter Ernerk): I take it that the amendment is defeated.

Now, clause 6, central council. I will read out the clause here: "(1) The affairs of the association..."

MR. BUTTERS: Just one question, with your indulgence, before we get to clause 6. In subclause 5(2) what would the protection be given there? Any discipline that has been suggested by the association would be examined by the Commissioner or the bylaw respecting discipline. What is the reason for that? I am curious.

THE CHAIRMAN (Hon. Peter Ernerk): Mr. Nettleton.

MR. NETTLETON: I missed the last part of Mr. Butters' question.

MR. BUTTERS: In subclause 5(2), where it says "The association shall file with the Commissioner ... and no such bylaw respecting the discipline ... shall become operative" without the approval of the Commissioner. Now, what is that provision in there for?

Establishing Discipline Procedures

MR. NETTLETON: The major objective of this ordinance, I believe, is to establish discipline procedures within our association, to be run by the association. The association at this point has only very rudimentary, very simple discipline procedures, and what this says is that the association will be developing discipline bylaws which will then be submitted to the Commissioner for his approval before we can begin to use them.

THE CHAIRMAN (Hon. Peter Ernerk): Mr. Butters, are you satisfied?

MR. BUTTERS: I am satisfied.

THE CHAIRMAN (Hon. Peter Ernerk): Then we will continue with clause 6, central council. Are there any comments, anyone? Is it agreed? Mr. Nickerson.

MR. NICKERSON: Apparently you do not see my hand here. I wonder, Mr. Chairman, if we could perhaps be told of the differences between the central council and the central executive and what each particular group does, which group, for instances, has the overriding power, which group is involved with, shall we say the more or less day-to-day aspects of the operation?

THE CHAIRMAN (Hon. Peter Ernerk): Mr. Nettleton.

MR. NETTLETON: The central council to which subclause 6(1) refers is the legislative body of our association and passes all policy and all discipline bylaws and all routine bylaws by which the association is governed. The central executive is a body of five people elected by the central council and the executive then would proceed to run the day-to-day affairs of the Northwest Territories Teachers' Association.

THE CHAIRMAN (Hon. Peter Ernerk): Any further comments? Mr. Nickerson, are you satisfied?

Appointment Of Layman

MR. NICKERSON: I am satisfied, but one item of discussion was to whom, or sorry, to which body the layman appointed by the Commissioner should go. There was some discussion as to which particular body held the real power, and it would seem to me that after the explanation given by Mr. Nettleton that the central council is the particular body to which the layperson should be appointed as is of course contained in this legislation.

THE CHAIRMAN (Hon. Peter Ernerk): I see the Commissioner with his hand up. Mr. Commissioner.

THE COMMISSIONER: I am sorry. Mr. Chairman, I just thought I would beg the Council's leave, as I have been invited to speak at the university in Regina this evening, and that is the college of which your old colleague,

Dr. Lloyd Barber, is now the president. I am sure this house would want me to bring greetings from the territorial Council and also to kind of tell him how things are, how things really are in the North. I should be back about 3:00 o'clock or 4:00 o'clock tomorrow morning, and I will see you at 9:00 o'clock.

THE CHAIRMAN (Hon. Peter Ernerk): Thank you, Mr. Commissioner. Mr. Nettleton, would you like to reply to Mr. Nickerson?

MR. NICKERSON: I think both myself and Mr. Nettleton and the administration are in agreement on this particular point at the present time.

THE CHAIRMAN (Hon. Peter Ernerk): Do we agree? Are we agreed?

---Agreed

Clause 7, powers of the central executive. Is it agreed?

---Agreed

Clause 8, officers of the association. Is it agreed? Mr. Evaluarjuk.

MR. EVALUARJUK: I do not know what page we are at, but if someone could kindly find the page for me. I am lost now.

THE CHAIRMAN (Hon. Peter Ernerk): We are on page seven, and I am afraid I do not have the translated version of the Teachers' Association Ordinance.

HON. ARNOLD McCALLUM: Mr. Chairman, I think the real problem is ...

THE CHAIRMAN (Hon. Peter Ernerk): We are on the Teachers' Association Ordinance on page 7.

HON. ARNOLD McCALLUM: Just a second here. I think we can get it here.

THE CHAIRMAN (Hon. Peter Ernerk): Are we okay? Clause 8, officers of the association. Is it agreed?

---Agreed

Clause 9, is it agreed? This is on meetings.

---Agreed

Clause 10, meetings. Is it agreed?

---Agreed

PART II, registration and membership of the Northwest Territories teaching register, clause 11. Is it agreed?

---Agreed

Clause 12, membership, qualifications and eligibility for membership. Mr. Nickerson.

Membership In The Northwest Territories Teachers' Association

MR. NICKERSON: Mr. Chairman, we now come to what I consider one of the most important aspects of this bill. You will notice that in clause 12 it requires: "Every teacher who is employed by a board of education or by the

government of the territories ... to be a member of the Northwest Territories Teachers' Association". In fact, what we are doing here is setting up a closed union shop. If you read clause 12 in conjunction with clause 14, you will notice in clause 14 "The association may declare that a person employed as a teacher is not eligible for membership..." and what we are doing, were we to accept clauses 12 and 14, would be to give complete control over who is employed as a teacher in the Northwest Territories to the Northwest Territories Teachers' Association.

MR. PEARSON: Hear, hear!

MR. NICKERSON: I do not think that this is the proper way to do things. I have no objection to the teachers forming a union, should they wish, to try and get themselves a better deal from their employers, this is only a natural right, but when it comes to a union dictating who can act as a teacher in the Northwest Territories I for one can not accept this. I think that that has to be something, that has to be a power which the government has to keep to itself.

THE CHAIRMAN (Hon. Peter Ernerk): Mr. Nettleton.

MR. NETTLETON: In response to what Mr. Nickerson has said, Mr. Nickerson is quite correct. The government has retained for itself who will and will not be members of the Northwest Territories Teachers' Association. Indeed what clause 12 does is removes from the association the right to determine who will be a member and who will not, it provides that every teacher that a board or the government employs will automatically become a member of our association. The government certifies, the school board and the department hire, and once those two functions have been carried out, then the association has no more control over that person's entry into the profession than does any other individual or organization, with the one exception of the eligibility bylaws, which I would stress to you are not yet set up, but if we look to other teacher organizations across Canada, what you can anticipate in the bylaws which we would propose to the Commissioner would be very simply bylaws relating to whether or not a man had a certificate, whether or not that man had ever had a certificate removed in another province, those are the kinds of things that the eligibility bylaws deal with. Further, or to conclude, all of these bylaws must meet with the Commissioner's approval, and it seems to us that that gives the government the final say over who in fact will be members of the profession.

THE CHAIRMAN (Hon. Peter Ernerk): Thank you. Mr. Nickerson, are you finished? Before you go on, Hon. David Searle, I have Mr. Butters on the list ahead of you.

MR. BUTTERS: Thank you, sir. Mr. Nickerson raised a point, or brought into the discussion clause 14, and related it to the section we are now covering, saying that clause 14 gave them too much power. I saw clause 14 just as a disciplinary provision provided by the society so that they could remove a non-professional or undesirable person who is on the rolls. However, there does seem to be a conflict there because they could refuse to register that person, and I think it is in conflict with clause 12 as Mr. Nickerson suggests.

Motion To Amend Clause 12.

I would move an amendment in the third line that he "upon employment be automatically registered" so there is no discussion as to whether the association could not have any influence or effect on whether that person could be registered or not.

THE CHAIRMAN (Hon. Peter Ernerk): Hon. David Searle.

HON. DAVID SEARLE: Well, my inquiry was along the lines both as indicated by Mr. Nickerson and Mr. Butters. I must say that on the face of it clause 12 appears to require the association to register any teacher who is employed as such by the government, or by a board, but then clause 14 on the face of it appears to say that the association may reject that teacher for membership and terminate his membership. I must confess that I am therefore confused as to which section has paramountcy. I assume clause 14 must have, otherwise it would not make sense. I wonder if we could ask our Legal Advisor to explain the relationship between clauses 12 and 14.

LEGAL ADVISOR (Ms. Flieger): Mr. Chairman, as I understand it, there is an automatic registration. The words, I think, are there without adding the word "automatic". When a teacher is employed either by the government or by a board of education that teacher would become a member of the

association and remain a member unless the membership was terminated. Under clause 14 "The association may... terminate membership". If I can suggest why that might be there, I think there is a compulsory checkoff immediately and that can cease if the association later for some reason finds that the person is ineligible for membership. I would also draw your attention, Mr. Chairman, to the words in the education bill which do not impose any obligation on people employing teachers to employ only members of the association, which I think is Mr. Nickerson's point. I do not think it is a closed shop. There is a compulsory checkoff.

THE CHAIRMAN (Hon. Peter Ernerk): Mr. Nettleton first, and then Mr. Butters. Excuse me, Hon. David Searle, go ahead.

Effects Of Withdrawing Membership

HON. DAVID SEARLE: Well, I guess I now may be a little more confused than ever. I would assume that if under clause 14 the association withdrew membership in the association from a teacher for whatever reason, then would the person not have to be dismissed by the government or the board in question?

MR. NETTLETON: Might I respond to that, Hon. David Searle?

HON. DAVID SEARLE: I would hope I could direct Ms. Fliieger's attention to this question and your response. My question was: If under clause 14 the association withdrew membership from a teacher, then must that teacher be dismissed by the board or by the government?

LEGAL ADVISOR (Ms. Fliieger): My answer to that is no. I think there is no compulsion on the employer to look to the membership or non-membership in the union or association.

THE CHAIRMAN (Hon. Peter Ernerk): Mr. Nettleton.

MR. NETTLETON: In further response to the Hon. David Searle, the only situations with which I am familiar where membership was withdrawn have invariably gone hand in hand with a recommendation to the Minister of Education to withdraw certification, that is, they are of such a severe professional nature that the Minister is requested to withdraw certification at the same time as the association withdraws membership. In that way, once again, it is a joint control over this kind of thing, and perhaps that will serve to allay some of the concern that the Hon. David Searle has been expressing.

One further point, if I might. Clause 14 is not vital in our opinion. What it does do is prevent the association from having to go through the entire discipline procedure somewhere in the future with an individual who should never have been registered in the first place. I think that is all I will say on that.

THE CHAIRMAN (Hon. Peter Ernerk): Mr. Butters.

MR. BUTTERS: The Legal Advisor, when referring to clause 14, mentioned "may terminate" and failed to mention "may fail to register". In clause 12 it says "...upon employment be registered", and it says "may refuse to register".

LEGAL ADVISOR (Ms. Flieger): I think that is a good comment. I think that should probably be removed because I think the checkoff works whether or not the person is registered.

THE CHAIRMAN (Hon. Peter Ernerk): Thank you.

Motion To Amend Clause 12, Withdrawn

MR. BUTTERS: I withdraw my amendment about "automatic".

THE CHAIRMAN (Hon. Peter Ernerk): Mr. Pearson.

MR. PEARSON: On a point of clarification, if a teacher were removed or were not a member of the Northwest Territories Teachers' Association and the membership were removed, the school could still employ him in theory?

MR. NETTLETON: If I understood Ms. Flieger correctly, that is what she has said, and she is, I believe, interpreting the Education Ordinance.

MR. PEARSON: But you go on then to say not only would he be cast out from the society, but also that his teaching certificate be revoked. The school or the education group, whoever they were, school board or what have you, would then be unable to employ a non-certified teacher.

MR. NETTLETON: What I said, Mr. Pearson, was that in my experience these kinds of cases almost invariably, in my experience invariably, have involved both of those two actions. The association in such a severe case as removing membership and, secondly, requesting that the government remove certification, and then in fact by your Education Ordinance it would be impossible for anybody to employ that individual, but these are surely very severe cases.

THE CHAIRMAN (Hon. Peter Ernerk): Any further comments on this from any Members? Hon. David Searle.

HON. DAVID SEARLE: I am wondering if the legislation committee has a recommendation with respect to forbidding membership in the association to supervisory staff generally, that is the superintendent, the principal, and the vice-principal? If they did, I would assume this would be in either clause 12 or clauses 12 to 15, somewhere in there that it would go. It is a question of Mr. Nickerson's.

THE CHAIRMAN (Hon. Peter Ernerk): I am sorry.

Membership For Supervisory Teachers

HON. DAVID SEARLE: I asked Mr. Nickerson a question, Mr. Chairman, whether or not the legislation committee has considered recommending that supervisory teachers not be permitted membership in the association.

MR. NICKERSON: Mr. Chairman, if you will refer to paragraph 2(j) you will see that for the purposes of this ordinance "teacher" does not include a superintendent, so of course the superintendent is excluded from this ordinance. We did consider the possibility of having principals and vice-principals also excluded from this ordinance, but it was the opinion of the committee that the bill should be left as is.

THE CHAIRMAN (Hon. Peter Ernerk): Is that satisfactory to you, sir?

HON. DAVID SEARLE: I would be interested in knowing the reasons why the committee arrived at that opinion.

MR. NICKERSON: Mr. Chairman, if I remember correctly, there was a very strong case put by the administration as to why they wanted the ordinance passed as it is. The arguments to the contrary were, of course, that principals and vice-principals are in a managerial-type responsibility and it is rather unfair that they might, for instance, discipline members of the teachers' union or the Northwest Territories Teachers' Association and the teachers would then complain to the union, so you would have a union member against another union member, so to speak. That would not really work out too well. However, at the committee meeting, the views of the administration did prevail.

THE CHAIRMAN (Hon. Peter Ernerk): Thank you, Mr. Nickerson. Mr. Nettleton, you wanted to speak?

Associate Membership

MR. NETTLETON: Yes, I would like to respond to that issue. First of all, as Mr. Nickerson has pointed out, management personnel are excluded. You exclude them in paragraph 2(j), you exclude the superintendent. I assume you also exclude the assistant superintendent. We have suggested that they be provided with associate membership if they so wish. That membership would be purely on the professional, informational grounds. The association does not see principals as "management" individuals. We see them as being colleagues, and we see nothing contradictory in the fact that two members of the same association might be in a position to discipline one another. In fact, the disciplinary procedure within the association would in all likelihood be left open to not only the principal to use, or the vice-principal, but to any other teacher to use, and indeed any member of the public to use, and the fact that one person happens to be a principal or a vice-principal, we certainly do not see as having any negative effect on his ability to discipline another member of the profession.

THE CHAIRMAN (Hon. Peter Ernerk): Thank you. Hon. David Searle.

HON. DAVID SEARLE: Well, Mr. Chairman, I want to say that I wholeheartedly and completely disagree with that view. I do not think superintendents are the only management people. I think that principals and vice-principals are management, and I do not think that they should be part of the Northwest Territories Teachers' Association, unless an associate membership which was restricted to an informational, professional sort of relationship. I would like to suggest that we consider whether or not we want the people who are in charge of each and every school to be part of this organization or whether we want them to be part of management. I think that is a policy decision for us. The Executive obviously has a position which has been expressed by Mr. Nickerson, and I guess based on the current collective bargaining agreement in existence, it would be inconvenient to have their agreement amended by law. However, the law does override agreements, and it is for us to decide the law and if we decide the law shall say that principals and vice-principals are management and they shall be prohibited, it will override the agreement.

Motion To Amend Clause 12

I suggest we discuss that, and to that end, see what the view of this house is. I would like to move that the principal and vice-principal be regarded as management and hence prohibited from the definition of "teacher" and consequently from being required to membership, indeed prohibited from having membership except in an associate capacity.

THE CHAIRMAN (Hon. Peter Ernerk): Madam Legal Advisor.

LEGAL ADVISOR (Ms. Flieger): Mr. Chairman, I would just like to remind you of the sections of the Education Ordinance that were just approved and which may conflict with that somewhat in that "teacher" includes principal and so on.

HON. DAVID SEARLE: I am very pleased to be reminded of that provision and when we deal with that ordinance later, presumably it would have to be consistent one with the other. So, we would have to take another look at that then, but dealing as I am only with this one, and this is the policy one that that sort of consideration would flow from, I suggest that we get the Members' views on the point here and then make the consequential changes in the Education Ordinance when we next consider it.

Provision For Teachers To Be Designated Principals

MR. NICKERSON: Mr. Chairman, I think on the whole I agree with Hon. David Searle, but there is one question that bothers me in that in the Education Ordinance we have made provision for teachers to be designated principals by the Department of Education and then for that designation to be revoked by the Department of Education, and undoubtedly when we get to this section of the Education Ordinance there will be some discussion as to the manner in which the revocation can take place. The thing that bothers me is if a teacher is appointed a principal one day and has to then cease to become a member of the union, a few days later his designation of a principal could be revoked and he would be back as a teacher and would have to rejoin the union. Another couple of weeks later he could again be appointed as principal and would have to leave the union and if we make this clear distinction that principals are management people then we are obliged to make their designation as a principal not subject to the discretion of the Department of Education. Otherwise it would seem unfair to me because where it acts to their detriment they are treated as management and again where it acts to their detriment they are treated as ordinary teachers. If we make this distinction it must be made plain and they must be treated for all purposes as management people and subject to the same rights, and have the same rights as other management people.

THE CHAIRMAN (Hon. Peter Ernerk): Mr. Pearson.

Principals Should Be Designated As Management

MR. PEARSON: I just wanted to concur with Hon. David Searle's view and also with Mr. Nickerson that they should be designated as management, treated as management and the likelihood of a person being appointed principal today and teacher tomorrow is most unlikely and, if it were to happen, then it is a simple matter of some bookkeeping and application to become a member of the Northwest Territories Teachers' Association again. However, that is unlikely to happen. But, I do think there should be a strong distinction between a principal, as management and the teachers as staff. I think this is one of the problems that exists with education in the Northwest Territories, that there is such a fine line or seems to be such a fine line between teachers and management of schools, to the point where principals are not really given that much strength and backing, as it were, by legislation and I think this would be a very good move. I wholeheartedly support the Hon. David Searle's motion.

THE CHAIRMAN (Hon. Peter Ernerk): Mr. Minister.

HON. ARNOLD McCALLUM: Mr. Chairman, I disagree with the views that have been expressed. I believe the principal to be an administrator of the school, not in terms of a manager but he is responsible in terms of seeing that the programs in education -- he simply organizes his classrooms and has responsibility for the programs and the children in it. I do not think that principals should be excluded from this association ordinance, and that is the feeling of the department, and I would suggest of course that the administration of the government as a whole. I believe that there is a distinction now and I believe of course that principals do in fact get support from the department.

That obviously is a prejudiced viewpoint, considering where I am now and where I was. I think that a principal is a teacher. I made the point before of saying that the principals do teach and I made the point that it may not be in all schools, but it is the department's policy that a principal teaches, and does some teaching because he is a teacher. Certainly that has been my experience. If we arrive at a situation where that person who is to be placed in and given the managerial responsibilities of a school, where that person does not require a teaching certificate, it very well may be, but I would suggest that that is not what you are going to do, to put a person in to operate a school who is not a teacher. A principal is a teacher. Now my experience when I was a principal was that I taught, I was a teacher and while I was a principal I was an administrator of the school, to administrate the programs and I do not support the motion in terms of excluding principals from this piece of legislation.

THE CHAIRMAN (Hon. Peter Ernerk): Hon. David Searle first and then Mr. Butters.

HON. DAVID SEARLE: Mr. Chairman, I would like to say that I have the greatest admiration for the Hon. Arnold McCallum, and I have the greatest of respect for what he said. However, I may be a little thick but I do not understand the difference between an administrator and a manager. It seems to me that ...

HON. ARNOLD McCALLUM: In that case possibly I could give you assistance.

HON. DAVID SEARLE: Please do.

Responsibility Of A Principal

HON. ARNOLD McCALLUM: In terms of the responsibility of a principal with teachers, the supervision of the teacher's ability within a school, in terms of it, but the principal is there to assist the staff, the other teachers in that school in carrying out their function in a learning situation. The superintendent is the person who, if I say, supervises teachers, that is evaluates them, to use a term, he evaluates them, that is my interpretation of a manager. It would be involved with the evaluation of that teacher in terms of a decision whether or not a teacher is to remain, but that is not to say that the supervisor does not consult or talk to a principal but the principal as a teacher is there to assist the teacher in making the learning situation, the learning environment for which the teacher is responsible a more positive one. Now, a supervisor or a superintendent evaluates that particular teacher and that to me is the distinction.

THE CHAIRMAN (Hon. Peter Ernerk): Thank you, Mr. Minister. I notice that the clock now reads 1:00 o'clock p.m. and is it the wish of the committee to break for lunch now and continue at 2:30 o'clock p.m.

---Agreed

---LUNCHEON ADJOURNMENT

THE CHAIRMAN (Hon. Peter Ernerk): This committee will come to order. We left off with Hon. David Searle's motion, and I will read it out to you: I move that principals and vice-principals be regarded as management and hence prohibited from the definition of "teachers" and, consequently, from being required to membership. Is there any further discussion on this?

HON. ARNOLD McCALLUM: Mr. Chairman, I think first may we have Mr. Nettleton in on this?

THE CHAIRMAN (Hon. Peter Ernerk): Please.

HON. ARNOLD McCALLUM: Secondly, the two Members of this Assembly who I thought were for this amendment are not here and I hate to waste all the thunder we were going to shoot. Regardless, I think I would like to impress upon other Members as well a little more of what I indicated earlier this morning in terms of the responsibilities, and this may be to a degree preaching to the converted, but I think that the one thing that I would again like to reiterate is that a principal is the principal teacher in his school. All the principals, as I indicated before, except maybe those in larger schools, or in the largest ones, and I indicated that in one of the large ones in my experience the principal taught anyway, certainly all vice-principals have to teach, they must and some of them teach full time.

The other thing I think we have to bear in mind is that we have principals in a one room school just as well as we have principals in a school with 40 or more teachers and they all have a variety of administrative responsibilities, those as I indicated from a one room school to a large school, such as the one in Inuvik, either the elementary or the senior high school.

Requirements Of A Principal

What is required primarily of a principal in a school is professional responsibility and leadership, he attempts to improve the educational program by working with other teachers in that capacity. He has the responsibility of advising and counselling, not only the staff members with him but also in terms of the students. He of course is responsible for student welfare. Within the Department of Education or within an education system the management of the education program is the responsibility, as I indicated, of the superintendent. He is responsible for the inspection and evaluation as I said before of teachers, he maintains the standards of education and, if you will recall back to the Education Ordinance which we discussed it is brought out there under the responsibility of superintendents, and as well with the Education Ordinance and this Teachers' Association Ordinance we have a difference and I think that we should be consistent.

On the one hand in the Education Ordinance we have done everything, or a great deal to make sure the principal is a teacher. Now, under the Northwest Territories Teachers' Association we are going to make sure he is a manager. Under the Education Ordinance a principal has no more tenure than that accorded other teachers and if the principal is now removed from the Northwest Territories Teachers' Association he will not have any tenure at all. What we have attempted in this ordinance is what is going on in other jurisdictions, used in most provinces in the country, or maybe all of them, and I think again that for us to place principals and designate vice-principals as not being members of the teaching profession or of the Northwest Territories Teachers' Association would be wrong.

THE CHAIRMAN (Hon. Peter Ernerk): Thank you very much, Mr. Minister. First Mr. Butters and then Hon. David Searle.

A Move Backwards.

MR. BUTTERS: Mr. Chairman, I will vote against the amendment and I must admit that I vote in large part as a result of the strong defence that has been put by the Minister of Education for the clause as it appears in our books. I think there is a danger here as we are seeing two things occurring in this ordinance: One, the sort of development of the association, the union, the negotiating aspect of the body, and that is what the amendment refers to and is concerned with and about, but I think what we are forgetting, if we approve that, is that the most important concern, relates to the professional aspects of the ordinance. If, in effect we approve the amendment we would take away from teachers currently practising in the territories rights and privileges they presently hold under existing ordinances, as far as I understand it. In effect, the amendment requests that we -- what is the word used -- we move backwards anyway, in terms of evolving legislation. The Minister noted that jurisdictions across the country contain legislation similar to this. So, I fear that if we are taking away from teachers something that already exists, and what is existing if it is causing no concerns or problems then I think we should leave things as they are.

I suggest, and this is probably my main concern, in excluding the principals from this ordinance and remembering that the principal is a principal teacher, we are excluding that professional from the disciplinary action which his peers, his professional peers can bring upon him and I know that the principals and vice-principals do teach a great deal, they spend a great deal of time in the classroom and I see no reason why they should not have to obey the same professional rules and regulations that we are approving in this ordinance for the teachers that they direct. So, I support the position of the Minister.

THE CHAIRMAN (Hon. Peter Ernerk): Thank you. Hon. David Searle.

Being Consistent With The Education Ordinance

HON. DAVID SEARLE: Mr. Chairman, with respect to being consistent, as between this ordinance and the Education Ordinance, surely I hardly need say that with respect to the Education Ordinance the qualifications, certificates etc., with respect to teachers begins with PART V, clause 83 which is a part or a section of the Education Ordinance that we have not yet reached. In the Education Ordinance we are still back a few sections before that dealing with those sections that establish school districts. So, in other words we have not yet done anything inconsistent with what the motion suggests but rather I would foresee, if this motion passed, an instruction to the Legal Advisor to prepare for January 20th amendments to the Education Ordinance which would be consistent with this motion. So that, with all due respect to my learned friend, seems to be a slight "red herring" as Mr. Duncan Pryde would say.

The business about other jurisdictions having legislation consistent for the proposed bill is indeed, from what I can understand, true. However, I think that the other jurisdictions referred to are going in the wrong direction and they are doing so as a result of the extremely strong teachers' lobby that has been extremely effective, a course of action which we in this house need not necessarily agree with, but I suggest that is essentially what we would be doing, simply to follow their lead because they happen to have chosen that direction.

Subject To Disciplinary Action

As to the matter raised by my colleague, Mr. Butters, or at least emphasized by him, that principals and vice-principals should be subject to the disciplinary action of their peers, I submit that if principals or vice-principals did anything in a school that should cause them to require disciplinary action, then as managers the appropriate body to discipline them would surely be their school boards, school committees or school societies taking appropriate action and making the appropriate recommendations as the case may be. I think school principals and school vice-principals are managers as well as carrying various loads of teaching responsibilities. In the large schools they would probably teach less than they would in a smaller school. I do not think there is any doubt about that. In the large schools they would have more management responsibility than they would have in the small schools.

What impresses me is that we put millions of dollars into facilities. I do not know what this facility would cost -- several million dollars. I do not know what the operating budget would be. It would probably be as much again per year and here we have running the school, not people who are part of management but, rather, people who are part of the Northwest Territories Teachers' Association. In this particular school I am told by a member of the staff here today that the principal happens as well to be the president of the Rankin Inlet local. Gentlemen, what kind of a position is that for the manager of a multi-million dollar facility with millions of dollars of operations and maintenance being as well the president of the local? I see no reason why the principal and vice-principal can not be regarded in the same category as the superintendent. They are teachers, they have associate privileges in the association. They have a limited communication and professional association which is all they need, but they would not be regular members in the sense of being part of the bargaining unit. That is all that I am attempting to get, their exception or exclusion for purposes of being part of the bargaining unit. It is not, gentlemen, a matter of my choice that both the professional aspect and the bargaining aspect are in one organization. To the contrary, as I have said, if I had my way, there would

be one organization concerned with the professional aspect and a separate organization concerned solely and completely with being the bargaining agent.

The choice is the Northwest Territories Teachers' Association's choice to be both. That is where the thrust comes. It is hardly for them therefore to say that to exclude them because they are part of the bargaining agent, that excludes them because of the professional aspect and that the responsibility for doing so is mine or yours. It is not our proposal. My suggestion again is to exclude them as part of the bargaining agent, to give them the associated status which we have been told -- and I emphasize we have been told -- is given to superintendents, put them in the same position as superintendents from the Northwest Territories Teachers' Association's point of view and enjoin associate, professional and communication status. The status should not be that of their peers but that of their employers to whom as managers they are responsible.

In Comparison To Other Organizations

Gentlemen, that is my position in summary and I would just like to say that if you compared the education system to any other organization you would find in industry and if you say that only the superintendents, as is being said here today, are proper managers, then I am afraid that I have never seen so much light management for the money that is being spent. How many superintendents are there in the whole of the territories? I understand eight or nine. If that is your management talent on the ground, it is pretty light. Surely we must admit that the principals in charge of each school and their vice-principals are as much managers as they are anything else and a well run school has a good principal who is a good manager. As well he may be a good teacher for the several courses that he teaches, but I do not buy the suggestion that he is the principal teacher and co-ordinator only and not a manager. For those reasons, if you equate it to the operation of a hotel, a facility like this, you would have the manager, the assistant manager, the bar manager, the chef, the chief chef, the housekeeper and everybody head of each of the departments would be part of management. The thought that every single being in this facility is part not of management but on the other side, to my mind, is not only wrong but totally inaccurate.

What particularly bothers me is that I know that the teachers, the principals are very involved with the preparation of budgets for their particular school and we would be hard pressed to find any other group of people who are involved in the preparation of the budget, I should think, at the same time being part of the organization that negotiates on their behalf for their wage packet. These are the things that concern me. I suggest that we take what I would regard definitely as a different approach but one that has much more logic to it than that which is followed in other jurisdictions. Thank you, Mr. Chairman.

THE CHAIRMAN (Hon. Peter Ernerk): I recognize Mr. Nettleton, Mr. Pudluk and Mr. Butters.

Principals Are Not Managers

MR. NETTLETON: Hon. David Searle has made a very large number of comments with regard to principals in our professional association. I think that the basis of his argument is hinged on a concept of the school as an industry, as something that you manage, as something that you run as you might run a factory. The education profession in schools is not like that and if it is like that, then there is something seriously wrong with it. I object to people who want our schools run like factories. That is why when I used the term earlier "principals are not managers", that is why I used that term. What I see principals doing and what the association for whom I work sees principals doing is acting as a colleague, acting as an administrator but it is not acting in the terms of a manager of an industrial organization. That I think is perhaps where I find myself at considerable disagreement with Hon. David Searle. We know that principals go into classrooms. We expect principals to go into classrooms. We expect them to know what their teachers are doing and we expect them to tell teachers to change things if they do not like what is being done. They can do that only if they are part of the professional organization that you people employ.

I think that the appropriate body to discipline any member of a profession is that profession. I do not think that it is necessary for a school board to discipline teachers on disciplinary matters. There are areas where the school boards will want to remove a teacher from their employment and that is as it should be, or the government as the case may be. That does not mean that principals do not run their schools. They very definitely do. If they do not, they do not last very long. Principals are among the most responsible and knowledgeable members of our profession. If you want to create the kind of system where you do in fact have two kinds of organizations, as Hon. David Searle has been speaking of, you could very well create it by the legislation, by the amendment to the legislation you are now considering.

Driven Towards A Union Stance

I think that the teachers' profession in most parts of Canada and certainly in the Northwest Territories have acted over the years in a very responsible manner and I am sure you can find exceptions to that, but I think you will find them isolated exceptions. I think a good part of the reason for that is because we do have long-term teachers as principals who are members of the association, many of whom, as Hon David Searle has quite rightly pointed out, in fact, hold positions of leadership within our association. I fear that what you will do if you pass that amendment that you are now talking about, you will drive the Northwest Territories Teachers' Association away from being a professional organization as it is now. I fear you will drive us toward a much more union stance. It is true we now negotiate our salaries and that is a perfectly respectable way of arriving at one's salary and that is what your laws provide for. You will drive apart the professional team within the school. You will drive the principal and the teachers apart and you will create a situation I fear where each staff will, for want of a better word, be looking for a shop steward. I do not want that in education and my association does not want that in education.

I think that the present situation that exists with teachers and principals knowing their professional colleagues makes for responsible leadership and makes for a responsible staff to work with that principal. I think that, to conclude, Hon. David Searle's amendment will not only be bad for the association that I represent, but I fear it will be even worse for education in the territories. I think you are considering a very retrograde step in

this matter because contrary to what you have said to this point the motion as suggested does not remove principals from the bargaining unit. It for all intents and purposes removes them from their professional association and I think that you should leave them in for all of the reasons I have just suggested.

The only province to my knowledge at this point that does not have principals in their associations is in Quebec and I think that part of the reason that the rest of the provinces in Canada have teachers' associations which tend to be more professional and less "union" is because their particular level of administrator is within the profession.

THE CHAIRMAN (Hon. Peter Ernerk): Mr. Pudluk.

MR. PUDLUK: I just wanted to know where we are.

THE CHAIRMAN (Hon. Peter Ernerk): We are on page 8 of Bill 2-60, in clause 12. I now recognize Mr. Butters.

A Privilege And Right

MR. BUTTERS: I will be very brief, sir, just to say that my understanding is that principals do not, at least in the communities I am familiar with, prepare the budget. They may do so in Yellowknife where there is a school board but they certainly do not, I think, in the smaller regions. I would emphasize to Members that if we approve this amendment we are taking away from teachers operating in the territories something, a privilege and right they currently enjoy. We are removing something from them which I agree is a retrogressive step by this body.

THE CHAIRMAN (Hon. Peter Ernerk): Mr. Pearson.

MR. PEARSON: I have maintained throughout my career in this Assembly that the matter of principals is one that needs to be examined very carefully and the responsibilities that are put on their shoulders are ones which I think are excessive in many cases. You have principals who are responsible in the academic part of the building, of the school, but they are also the caretakers and general managers and of, in some cases, very large structures and very large businesses, for want of another name and I would use that word again "factories", in fact I have referred to them as sausage factories. However, be that as it may, I think there is a line. I know that in some places principals are expected to hold classes because of the small number of classes in the school and in other places they take classes because of desperation, staff shortages and all the rest of it.

The principal of the high school in Frobisher Bay for example on many occasions has to take classes and run a very large and complex structure. I feel as Hon. David Searle does, that the responsibilities of a principal are far more, are far greater than simply a matter of the academic program within the school. They should be, if they are not, very competent people capable of carrying out all those functions.

We find in the health industry the hospitals and they are run and operated not by doctors but by professional people, the hospital administrators, and that is a totally different profession altogether. I think that time has come in the North and I think that time is here. In many of the schools we have, when you consider the burden that is placed on the shoulders of these principals, it is too great for their ability unless they are trained in that profession. As far as the matter of self-policing is concerned, I think that was the term used, of the organizations, I recall Hon. David Searle's expression of concern when we dealt with the lawyers' matters here a couple of sessions ago.

HON. DAVID SEARLE: I did not participate.

Self-Policing

MR. PEARSON: The Hon. David Searle did not participate but it was a similar problem there where they should police themselves and I think they should police themselves as I think it is a professional thing, but I think if a man is to maintain that special position in an organization of maintaining authority, they should be very much apart and distinct from the rest of, in this case, the teaching body in order to maintain and perform their functions properly. If for some reason they want to go back to being a teacher it would be a simple matter to be reinstated in the union. That is all.

THE CHAIRMAN (Hon. Peter Ernerk): Deputy Commissioner Parker.

DEPUTY COMMISSIONER PARKER: Mr. Chairman, I would just like to say a word or two on the viewpoint held by the Executive on this subject. Now, my words would be in support of the position that was enunciated so well by

the Minister. The Executive Committee looked at this subject rather carefully and not over a short period of time, but rather over a period of years and, when I say we looked at it we have grappled with it, we have tried to discern the education mind, if I can put it that way, we have tried to look into the education mind, and I mean that in the very best sense.

We held at one time the view that Mr. Searle has been expressing but we have, on further reflection and with further experience, come to the conclusion that the ordinance should be as it is expressed here, the clause as it is expressed here and we arrived at that conclusion for a number of reasons and this was after a great deal of discussion. The problem of having a number of small schools, and we have more small schools than we have large schools and in those situations the principals are very much our teachers, and they must relate very, very closely to their teachers and we really can not afford to have any divisions arising between them. We do not want to see any of those divisions arise in the larger schools either but the case is a little different there. It probably would be better if it were possible to divide the question and talk about the principals of very large schools as being strictly managers and those of middle sized and smaller schools as being allowed to be members of the organization.

The Profession's Views Of Itself

One of the things that we have looked at very carefully is the view that the profession takes of itself and particularly the views that the principals take. Traditionally, and through their own expressed desires, they very much wish to relate very closely to their teaching staff. They do not wish to be separated from them by being prevented from being members. I think we have to look at the practice in other parts of Canada and the practice there by and large is that the principals and vice-principals have been permitted to continue their full membership in the professional associations.

We see a considerable difficulty if we in the Northwest Territories, which is a relatively small jurisdiction, small that is from the standpoint of numbers of people and numbers of schools, we see a difficulty in hiring and retaining principals and vice-principals if we take this step which is not the step that is proposed by the motion, which is not in tune with the rest of the country.

I suppose the final test that this question has to be put to is, does this cause management difficulties, that is, does this cause the Minister, the director of Education, members of the Executive Committee a problem, and it does not at the present time cause us a problem. Therefore, the Executive Committee does indeed support the clause as it is in the ordinance and does not support the amendment.

THE CHAIRMAN (Hon. Peter Ernerk): Are there any further comments? Mr. Nickerson.

MR. NICKERSON: I had some notes here some place, Mr. Chairman. Mr. Chairman, I would as a matter of general principle, be inclined to support the view taken by Hon. David Searle. However, for the time being I do not see how we can change this one bill, right now, without taking into consideration all the other things which would have to be changed, not only legislative things such as the Education Ordinance but the whole established system of interaction between the Department of Education and the Northwest Territories Teachers' Association. I do not think it is something we can do lightly. Although I would favour Hon. David Searle's approach, there are, especially at the present time, a number of good things to be said about the alternative position, the fact for instance that we have a large number of very small schools in the territories. It is quite conceivable that somebody could be a principal in Whale Cove one day and then take on an ordinary teaching position in Yellowknife soon thereafter. If this Assembly were to adopt the position taken by Hon. David Searle I think it would necessitate a rather lengthy and involved study into the whole situation to find out how both legislative and administrative things could be changed to suit this new concept.

So, I am afraid that at the present time, although I agree basically with what has been said, as a matter of expediency more than anything else I would be inclined to vote against it, and I would like to see this matter possibly raised again and possibly a session of the committee of the whole could be set aside to discuss it. Perhaps if a motion to that effect was put in the house as it sits as a Legislative Assembly and was adopted giving direction to all these various aspects of the situation to be studied, I think that would certainly be to everybody's advantage.

THE CHAIRMAN (Hon. Peter Ernerk): Thank you. Have we any further speakers on Mr. Nickerson's suggestions? Mr. Lafferty.

Two Authorities Under One Executive

MR. LAFFERTY: Mr. Chairman, there are many things about this ordinance that I do not really understand but I sense certain things in here that bother me and one of these, as I listened to people debating the matter, is that it is becoming more and more evident to me that there are two authorities under one executive and that is rather dangerous as I view it.

I agree with all the comments I have heard, particularly those of the Minister but I still have my doubts and I think, taking the benefit of the doubt, I think I would have to favour Hon. David Searle's motion because I keep wondering in looking at this document, and thinking about the tabled Education Ordinance, I do not see anywhere here that there would be anything that would presently allow some of our hopeful teachers to become participants in this decision making body.

I am not so concerned with whether the principals and so on are administrators managers or teachers, but what I am interested in is a safeguard for the teacher of northern people, so that they can become teachers and would have equal opportunities in this type of structure. I have not really had the time, nor do I possess the expertise to really understand fully and in detail, the document before me so I would have to say I must base my judgment on the feelings of the learned people in this area. All I can really say is that I sense things in here that I do not think would really be for purposes that are expressed and they could be used one way or the other. Thank you, Mr. Chairman.

THE CHAIRMAN (Hon. Peter Ernerk): Mr. Nettleton.

MR. NETTLETON: I understand Mr. Lafferty's concern and all I can do is say to Mr. Lafferty that I think that we are talking about another subject when we refer to the participation of various peoples in our association. The Northwest Territories Teachers' Association has for many years pushed for a broadening of entry into the profession of native peoples in particular. We presently spend money in this area to support that concept. Any teacher in the Northwest Territories, wherever he be trained or whatever his background is, has exactly the same rights as any other teacher. He has one vote. He has the same influence, the same right to run for office. We do have a fully functioning democratic system within our profession, and I think that answers Mr. Lafferty's concern.

If I might say, however, I do not think it relates to the question we are discussing now, the question of whether or not principals should be in the association. Every principal in the employ of the Northwest Territories government at the present time voluntarily belongs to our association. Every principal employed by the Yellowknife school board voluntarily belongs to our association. And I would hope that you would not take what I consider to be a retrograde step and remove them from the membership they presently have.

THE CHAIRMAN (Hon. Peter Ernerk): Hon. Arnold McCallum.

A Difficult Situation

HON. ARNOLD McCALLUM: Mr. Chairman, I would just like to reiterate again that I too in fact believe principals to be teachers and the principle teacher, and I think we have to consider that, as I said before, and as others have said, that we have a lot of schools, small ones and large ones, and in the one room schools or two room or three room schools it would be a very difficult situation were principals not members of the association in the manner that they now enjoy. I would suggest to you, Mr. Chairman, that were we in fact to remove the kind of membership that principals have now in the association, if we have not had problems within the department and the administration, we surely will. I would suggest to you, sir, that it would be very difficult for us to acquire principals of schools if we take away their present form of membership.

THE CHAIRMAN (Hon. Peter Ernerk): Are you through, Hon. Arnold McCallum?

HON. ARNOLD McCALLUM: Yes.

THE CHAIRMAN (Hon. Peter Ernerk): Are we ready for the question? Let me read the amendment again before you vote: "I move that the principals and vice-principals be regarded as management and hence prohibited from the definition of 'teachers' and consequently from being required to membership." Do we have that translated all right? Ready for the question? Mr. Butters.

MR. BUTTERS: In view of the seriousness of the matter before the house, would you record the vote, please?

THE CHAIRMAN (Hon. Peter Ernerk): Okay. Mr. Clerk, would you take a recorded vote? As we call the vote, each Member will have to stand up. All those in favour?

MR. NICKERSON: On a point of order, Mr. Chairman. If Mr. Butters considers this to be a matter of such importance that it requires a recorded vote, then I, although I would vote against it because I do not think it is that important at the present time, if a recorded vote is required, then I will have to change my mind and vote for the motion.

THE CHAIRMAN (Hon. Peter Ernerk): I think if you want to vote one way or the other, it is your business to stand up, and if you do not wish to vote on it, you remain sitting down.

MR. BUTTERS: In view of Mr. Nickerson's statement I will withdraw the request for a recorded vote.

THE CHAIRMAN (Hon. Peter Ernerk): All right. Ready for the question, gentlemen? All in favour? Four. Against? Four. It seems that it is a tie vote, and I guess I am required to vote as well to break the tie. Mr. Evaluarjuk.

MR. EVALUARJUK: Mr. Chairman, for our position, like before, I really did not understand because I did not want to stand for the Inuit people if we were going to talk about it. Maybe the white people understand it, but maybe if you would explain to us when they are going to vote, we would understand fully.

THE CHAIRMAN (Hon. Peter Ernerk): Thank you. I speak two languages, Inuktitut as well as English. I will read the translation itself here in Inuktitut. Is that agreed, gentlemen?

HON. ARNOLD McCALLUM: Mr. Chairman, I think that if you counted the negative votes you would have found there were five.

THE CHAIRMAN (Hon. Peter Ernerk): You are really telling me...

HON. ARNOLD McCALLUM: There were four affirmative and five negative votes.

THE CHAIRMAN (Hon. Peter Ernerk): What I am getting at here, Mr. Minister...

HON. ARNOLD McCALLUM: I think it is very good of you to do that, but I think there were five.

THE CHAIRMAN (Hon. Peter Ernerk): I think Mr. Evaluarjuk did not understand exactly what was happening, gentlemen. All right? Mr. Pearson.

MR. PEARSON: Mr. Chairman, there are nine members who voted. Rather there were eight members who voted, four in favour, and four against, and one did not vote.

HON. ARNOLD McCALLUM: There are ten people seated at the table. One did not vote, four and four -- that only makes nine.

THE CHAIRMAN (Hon. Peter Ernerk): Let me repeat what I said earlier. I take it that Mr. Evaluarjuk did not understand what we were getting at in the beginning and for that reason I am attempting to explain to him again, and perhaps after he understands what was being said we would vote on it again. Agreed?

---Agreed

Motion Translated In Inuktitut

With your permission, gentlemen, I will talk in Inuktitut for a minute, just explaining what this motion is all about. Agreed?

---Agreed

Chairman reads the motion in Inuktitut. Is that as good a translation as possible?

MR. PEARSON: It was not translated into English. Would you like to try for the third time?

THE CHAIRMAN (Hon. Peter Ernerk): Is that all right, Mr. Evaluarjuk? Having said that, gentlemen, should we call for a vote again?

MR. EVALUARJUK: Mr. Chairman, I feel that I understand it now. Are we talking about all of the teachers in the Northwest Territories and also the educational committees and board committees? Are we talking about only the teachers at the moment?

THE CHAIRMAN (Hon. Peter Ernerk): Hon. Arnold McCallum.

HON. ARNOLD McCALLUM: I think, Mr. Chairman, that there must be some way that we could communicate that we are talking or the motion deals with excluding principals as members of a teaching association. I do not think Mr. Evaluarjuk understands that, at least in the translation I heard.

THE CHAIRMAN (Hon. Peter Ernerk): Mr. Pearson.

MR. PEARSON: Mr. Chairman, would you kindly explain again to Mr. Evaluarjuk the motion, exactly what the motion is, and may we have simultaneous translation in Kabloonanaktivut so that we can follow along, please, because it is obvious Mr. Evaluarjuk is not on the same wavelength.

THE CHAIRMAN (Hon. Peter Ernerk): Very good. Shall I read the motion again then? I will read it as slowly as I can. I move that ...

MR. PEARSON: We know the motion. Mr. Evaluarjuk does not, and if you would explain it in Inuktitut.

THE CHAIRMAN (Hon. Peter Ernerk): I thought this was translated. Mr. Evaluarjuk.

MR. EVALUARJUK: Mr. Chairman, this question that I asked before when Hon. David Searle stood up, this is the question I am asking, which part was the one that we wanted to count the voters?.

THE CHAIRMAN (Hon. Peter Ernerk): Gentlemen, Mr. Butters suggested that we have a vote, and everybody who is in favour of this or against it, you should have a standing vote. Is that the proper term to use for it? Recorded vote. Mr. Butters later withdrew his suggestion.

Motion To Amend Clause 12, Defeated

THE CHAIRMAN (Hon. Peter Ernerk): Are we ready to vote? All those in favour raise your hands. Three. Four. Against? Five, six. Do I count six? The amendment is defeated.

---Defeated

Continuing on with this piece of legislation, any comments from anybody with respect to clause 13, notice. I see there is an amendment here where it says: "Where a school board ..." has now been changed to "where a board of education ..." pardon me, that should be changed to "where a board of education..." rather than "where a school board ...". Agreed?

---Agreed

Clause 14, refusal to register. Agreed? Mr. Nickerson.

MR. NICKERSON: Mr. Chairman, I suggest that we look at clauses 12 and 14 together. There would seem to be two ways of getting around the obvious conflict between clauses 12 and 14. The first approach would be to look at clause 12 which is the membership clause, and I would suggest that we can either amend clause 12 so that we have a situation such as it is today where people voluntarily become members of the Northwest Territories Teachers' Association and not compelled to be, and so we could say there something of this nature "every teacher who is employed by a board of education or by the government of the territories, shall, upon employment be entitled to be registered as a member of the association and shall be entitled to continue to be a member ..." etc., etc. That would be the most preferable way of doing it as far as I am concerned.

Now, alternatively, if we keep clause 12 in we would then be obliged, more or less, to take out clause 14 all together. So, in order to deal with this I would move, Mr. Chairman, that clause 12 be amended adopting the wording that I proposed previously.

THE CHAIRMAN (Hon. Peter Ernerk): Mr. Nickerson, if I might be allowed to comment very briefly, it seems that we have already considered the three clauses together. I thought that this was what the whole situation was about, but anyway, I am going to get the Clerk of the House here and have him assist me. In the meantime, is it the wish of the committee to go onto clause 15 or shall we wait? I will see if the Clerk of the House is here.

HON. ARNOLD McCALLUM: With all due respect to Mr. Nickerson, we have already agreed to clause 12.

THE CHAIRMAN (Hon. Peter Ernerk): Members of the committee, looking at the Rule book here, the procedure for bills in committee of the whole which I was sort of questioning with Mr. Nickerson, it seems that where a bill is considered in the committee of the whole the preamble, if any, and a title are first postponed, and then every clause considered by the committee in its proper order and the preamble and the title shall be considered last. So, what I am getting at here is that we have already considered clause 12, we agreed to it, we have already agreed to clause 13 and now we are on clause 14.

MR. NICKERSON: Mr. Chairman, two votes were just taken on one motion and if that is your ruling here that we can not go back to clause 12 and consider it in conjunction with clause 14, with which it is naturally allied, then, sir, I would suggest that the last vote taken by this house is also out of order.

A Misunderstanding

THE CHAIRMAN (Hon. Peter Ernerk): Mr. Nickerson, as I understand it, there was some misunderstanding in the beginning.

MR. NICKERSON: There is some misunderstanding now.

THE CHAIRMAN (Hon. Peter Ernerk): Well, what is the wish of the committee? I read the procedures.

DEPUTY COMMISSIONER PARKER: Mr. Chairman, having sat in this house under two different sorts of circumstances over a fair number of years, if I could just observe that when the vote was put on the amendment, and it is regrettable that there was a discussion that developed, but perhaps that is water under the bridge, but in any event the vote was taken twice and the result was the same, both times, and had it been different the fat would have been in the fire, but it was not really that much different.

However, the usual practice in the past has been to then call the clause because really the vote was just on the amendment and, if I could suggest to you, sir, the usual practice would be to then call clause 12 and perhaps at that time there was some point that did not refer to the amendment that should be cleared up.

SOME HON. MEMBERS: Agreed.

THE CHAIRMAN (Hon. Peter Ernerk): All right then, we will go back to clause 12, gentlemen. Is clause 12 agreed?

MR. NICKERSON: Mr. Chairman, I have my hand up.

THE CHAIRMAN (Hon. Peter Ernerk): I am sorry.

Further Motion To Amend Clause 12.

MR. NICKERSON: I move that clause 12 be amended to read as follows, and this is the intent if the wording is not correct, perhaps the Legal Advisor could draft it correctly, and the new wording would be "every teacher who is employed by a board of education or by the government of the territories, shall, upon employment be entitled to be registered as a member of the association and shall be entitled to continue to be a member until his employment ceases..." etc., etc.

THE CHAIRMAN (Hon. Peter Ernerk): You have heard the amendment. Is there any discussion? Mr. Butters.

MR. BUTTERS: Mr. Chairman, what I understand is if the proposed amendment of Mr. Nickerson's is approved then it would go to the Legal Advisor for proper drafting.

THE CHAIRMAN (Hon. Peter Ernerk): Madam Legal Advisor.

LEGAL ADVISOR (Ms. Flieger): I think Mr. Nickerson's words convey his thought and no change is necessary as I see it.

MR. BUTTERS: Is it legally perfect as it is? Could it be circulated if it is a legal draft?

LEGAL ADVISOR (Ms. Flieger): I think the words can be inserted in handwriting if that is sufficient or would you like it typed?

MR. BUTTERS: There were a lot of words and I would like to look at them.

THE CHAIRMAN (Hon. Peter Ernerk): Did you have your hand up, Mr. Nettleton? Proceed.

MR. NETTLETON: If I might respond to Mr. Nickerson. This ordinance has one very beneficial aspect I believe for the general public, for the people of the territories that you should not lose sight of and that is that the ordinance gives the association the power to discipline its members.

Entitled To Membership

If you put in a provision in clause 12 that means they are only "entitled to membership" as Mr. Nickerson is suggesting and I think the inevitable result, Mr. Nickerson, would be that if the disciplinary action were launched that that teacher, would, in all likelihood, leave the association and the chief benefit as I see it for this Assembly, and for the people for whom you make laws is that that kind of thing not happen. If I understand you correctly, Mr. Nickerson, you are concerned about clause 14 and if that is the source of the problem, perhaps that is the one that should be changed, rather than clause 12.

THE CHAIRMAN (Hon. Peter Ernerk): I wonder if our Legal Advisor could read out the inserts.

LEGAL ADVISOR (Ms. Flieger): The motion moved by Mr. Nickerson can be shown in your books if you would insert in the third line after the word "employment" the words "is entitled to" so the words then read "upon employment is entitled

to be registered" and in the next line, that is, the fourth line after the word "and" strike out the word "shall" and insert the words "is entitled to" so the line reads "the association and is entitled to continue".

THE CHAIRMAN (Hon. Peter Ernerk): On the amendment, Mr. Butters.

MR. BUTTERS: I wonder if it could be circulated and possibly in view of the fact that we are caught up in the whole section, that the whole section might be stood down and put together properly because there is something wrong with clause 14 as well and so I am saying clauses 12, 13, 14 and 15 should go to the Legal Advisor for correction and then we could go on to clause 16 and come back to that later.

THE CHAIRMAN (Hon. Peter Ernerk): If you want to go on to clause 16...

MR. BUTTERS: This particular section on qualifications and eligibility for membership has caused quite a bit of discussion and thought and perhaps some of the suggestions that have been made can be built into it and brought back rather than writing little notes into our books.

THE CHAIRMAN (Hon. Peter Ernerk): All right, we will get it typed and come back to clauses 12 to 15 later this afternoon. Is that okay with the committee?

---Agreed

Then, we will go down to clause 16, categories of membership. Is there any discussion? Agreed?

---Agreed

Clause 17, associate members. Is it agreed?

---Agreed

Clause 18, life members. Agreed?

---Agreed

Clause 19, honorary members. Is it agreed?

---Agreed

Clause 20, students. Is it agreed?

---Agreed

Clause 21, rights of active members. Is it agreed?

---Agreed

Clause 22, other members. Is it agreed?

---Agreed

Review By Court

Clause 23, review by court. Mr. Nickerson.

MR. NICKERSON: Mr. Chairman, there is one very minor typographical error which I think occurs in the sixth line, the word "he" I do not think should be there, on page 11 in subclause 23(1) where it says "where, after the appeal has been heard, the person remains aggrieved, he..." should not the word "he" be there?

HON. ARNOLD McCALLUM: Mr. Chairman, someone must appeal or apply. Is it the pronoun "he" that is in contention?

THE CHAIRMAN (Hon. Peter Ernerk): It is on the sixth line. Is that it, Mr. Nickerson?

MR. NICKERSON: Yes.

THE CHAIRMAN (Hon. Peter Ernerk): Is that..

MR. NICKERSON: This is only a very minor point.

THE CHAIRMAN (Hon. Peter Ernerk): I am advised by the Legal Advisor...

MR. NICKERSON: The same thing occurs in the Education Ordinance and there the word "he" was left out and I note that here it has been put in and it is very, very similar.

THE CHAIRMAN (Hon. Peter Ernerk): Madam Legal Advisor? Can you assist us?

LEGAL ADVISOR (Ms. Flieger): As I read the section, the verb "may apply" has no subject, if the pronoun "he" is removed, but that may be because it is such a long sentence that the subject has been lost somewhere else. Perhaps Mr. Nickerson can find the subject for us.

MR. NICKERSON: Mr. Chairman, as I read this the subject would be "the person aggrieved" which occurs on the first line of page 11.

LEGAL ADVISOR (Ms. Flieger): If I could read that part out loud, it reads "and where, after the appeal has been heard, the person remains aggrieved, he may apply to the court ...".

MR. NICKERSON: It does not matter if the Legal Advisor thinks it is better the way it is.

THE CHAIRMAN (Hon. Peter Ernerk): I think so too. So, we will go on to clause 24, disciplinary proceedings. Discipline committee in PART III. I am sorry, Mr. Butters, you had your hand up.

HON. ARNOLD McCALLUM: Did we have agreement on clause 23?

THE CHAIRMAN (Hon. Peter Ernerk): Is clause 23, review by court, agreed?

---Agreed

Clause 24, discipline committee. Mr. Butters.

Discipline Committee

MR. BUTTERS: A very minor matter. In clause 24 it says "A discipline committee consisting of any three members of the association shall be appointed ..." In view of the fact that this is a serious situation where a person is called before a discipline committee, I wonder if an amendment might be considered with this intent and I will give you the intent first and that is, that three members of the association acceptable to the member being investigated and to the association. Now, the reason I say this is that I am quite sure that although this is a band of sisters and brothers, there could be animosity and disagreement within the group. It is possible that an individual sitting on a discipline committee could be, and be known to be, a strong enemy or very antagonistic to a person going to be called before that committee, and if they did not disqualify themselves because of some bias then they may sit there and prejudice the other two members. It is a small matter, but it might be considered.

THE CHAIRMAN (Hon. Peter Ernerk): Mr. Nettleton.

MR. NETTLETON: I understand Mr. Butters' concern and he is quite correct. You can not have that kind of thing on a disciplinary committee of any sort. But I would like to say, Mr. Butters, that the people who would sit on that discipline committee would be presumably chosen well in advance. They would have to be long term and respected members of the profession and the kind of thing to which you refer where there might be a bias on a committee member's part would have to mean that he was removed from that committee and the discipline bylaws would have to provide for that removal. You know, certainly the association would share your concern but I do not think on the other hand that you could have a man or a woman as the case may be choosing their own discipline committee who are then going to tell them whether or not they have done something they should not have done. I would trust to the bylaws and the Commissioner's wisdom in approving those bylaws to prevent that kind of thing.

THE CHAIRMAN (Hon. Peter Ernerk): Mr. Butters.

MR. BUTTERS: I did not say choose their own committee. If Mr. Nettleton was listening to what I said, I said "acceptable to the member" and there is a very great difference. In a court of law, at least from my reading of Perry Mason, you can call for bias a potential juror and have that juror discredited. I think there should be some provision within this ordinance which would permit the person who is alleged to be guilty to call for bias, an individual they believe may have cause for bias or be biased. I do not care. If he says it is fine, that is fine with me.

THE CHAIRMAN (Hon. Peter Ernerk): Mr. Nettleton.

MR. NETTLETON: Maybe this is something that the lawyers should comment on. I would be as concerned as Mr. Butters if I thought there was this kind of danger in the ordinance. I think clause 26 would also bolster or help prevent that kind of thing from happening and that if the individual ran into a discipline committee that he felt was not acting without bias, that he would at the very least appeal to the courts.

THE CHAIRMAN (Hon. Peter Ernerk): Members of the committee, we will break for coffee for 15 minutes and come back to it.

---SHORT RECESS

THE CHAIRMAN (Hon. Peter Ernerk): The Chair recognizes a quorum. Is it the wish of the committee that we go back to clause 12, to clause 15, or to continue on and finish PART III of the bill, disciplinary proceedings, and later go back? Okay. Are we agreed on clause 24?

---Agreed

Clause 25, professional misconduct.

MR. BUTTERS: We have not agreed on that. Do not rush. I do not feel that I have satisfactorily completed clause 24 yet. I just wanted to get some assurance that an individual who was called before a disciplinary committee would be able to question or have removed from that committee anybody he knows to be antagonistic, personally antagonistic to him or her, on grounds not related to the matter in question.

THE CHAIRMAN (Hon. Peter Ernerk): Thank you, Mr. Butters. Hon. David Searle.

Violation Of The Bylaws

HON. DAVID SEARLE: Mr. Chairman, I would like to suggest to Mr. Butters that you can not properly write into that particular section those concerns. The bylaws of the organization are the document which will contain how the disciplinary committee will be selected and in there will appear the necessary safeguards. Once you realize, of course, that the three members build in a safeguard in itself, in that even if there were one member of that committee who the teacher under investigation felt might be prejudiced to him or her, the mere fact that there are three tends to make sure that there is a fair hearing. I think what is most important is that I do not think there is anywhere where you can really pick your court, if you know what I mean.

For instance, if you take the legal profession I think that that group will likely come up with a suggestion whereby the discipline committee would be made up of a majority of non-resident, but Northwest Territories licensed practitioners to give the necessary degree of objectivity. The reason they will do that is the numbers in the bar are so small everybody knows everybody else very well. That same reasoning may very well not apply with respect to teachers because the numbers are so much greater. I would think that since the bylaws have to be enacted by the members, we can rest assured that the members will make sure as a very articulate group, no doubt having heard them here today, that they are quite capable of making sure that the bylaws are developed in a fair manner because, after all, it is governing themselves.

MR. BUTTERS: Hon. David Searle's explanation gives me much more confidence in the current wording of the draft.

THE CHAIRMAN (Hon. Peter Ernerk): Mr. Nickerson.

MR. NICKERSON: In reviewing the minutes of the standing committee on legislation meeting we had on this, it would appear that we had considerable discussion over the word "incompetence" where it appears there and where it appears later on in the ordinance and it was our recommendation at the time. I think we were being persuaded by the Northwest Territories Teachers' Association, that the word "incompetence" be deleted and in order to refresh my memory and perhaps enlighten some other Members of this committee perhaps it would be in order if you were to ask Mr. Nettleton's opinion on this particular word.

Authority To Judge.

MR. NETTLETON: Mr. Nickerson has taken me back some ten months and I am not sure that I recall the meeting to which he refers. The term "incompetence" is a very broad one. It is something that has been shied away from in other Teachers' Association Ordinances with which I am familiar. I suspect generally because governments did not want to extend that kind of authority to teachers' organizations. Currently you have in the proposed Education Ordinance given the authority to judge on competence and incompetence to the superintendent. I suspect that is the reason that it is not in this particular ordinance, because you have laid it out in the other one. Perhaps if there were something more specific I could respond to it more directly.

MR. NICKERSON: Perhaps, Mr. Chairman -- I noticed it was our recommendation that the words "or incompetence" be deleted. I notice they have still been retained in there. As a personal opinion it really does not matter that much to me but as I recall we took them out because the Northwest Territories Teachers' Association wanted them out and I wonder if I am correct in this assumption, in remembering this and if it is indeed the wish of the Northwest Territories Teachers' Association that that be taken out or otherwise be retained?

MR. NETTLETON: No, it is not the wish of the association that the word "incompetence" be deleted. I do not recall having taken that position when talking to the legislation committee. If you decide to include it, I can not see the association objecting to it.

MR. NICKERSON: In that case, Mr. Chairman, I am quite prepared to leave matters as they are.

THE CHAIRMAN (Hon. Peter Ernerk): Agreed?

---Agreed

Clause 25, professional misconduct. Agreed?

---Agreed

Clause 26, natural justice. Hon. David Searle.

Committee Of Inquiry

HON. DAVID SEARLE: Mr. Chairman, what is the difference between the discipline committee contemplated in clause 24 and the committee of inquiry contemplated in clause 26 or is it the same body?

THE CHAIRMAN (Hon. Peter Ernerk): Mr. Nettleton.

MR. NETTLETON: Mr. Searle raises an interesting question. I do not know. The association does not contemplate two different committees. I believe that the last time I saw the ordinance, which is quite some time ago, we said it should be all one committee.

THE CHAIRMAN (Hon. Peter Ernerk): Hon. David Searle.

HON. DAVID SEARLE: I rather suspect that what has happened is that over the various drafts the ordinance has gone through somewhere along the line the description of this body was slightly changed, either from discipline committee to committee of inquiry or the converse. I would like to just suggest, without dwelling on it any further, that maybe the Legal Advisor

just take a look and see if the ordinance reads as I think it does, that it is supposed to be one and the same group. If it is one and the same body, then I suggest we either refer to it as a discipline committee in capital letters or a committee of inquiry in capital letters, but not have any difference because otherwise you will be sure that the first court battle you have will be as to the fact it should have been reviewed by two different bodies.

THE CHAIRMAN (Hon. Peter Ernerk): I believe Mr. Nettleton had his hand up first and then we will get back to you, Madam Legal Advisor.

MR. NETTLETON: I just picked up the brief we presented to the legislation committee I believe on May 19th and what Hon. David Searle is suggesting now is exactly what we suggested last spring, saying that "The association has no objections to what we perceive to be the basic intention of your committee. We do however believe the revised wording will prove unworkable." So I agree with Hon. David Searle.

THE CHAIRMAN (Hon. Peter Ernerk): Madam Legal Advisor.

LEGAL ADVISOR (Ms. Flieger): I think Hon. David Searle is entirely correct and this section was added. I do not think it has anything to do with unworkableness as Mr. Nettleton suggests. It is an error in the drafting and it ought to be discipline committee lower case as defined.

THE CHAIRMAN (Hon. Peter Ernerk): Mr. Nickerson.

Motion To Amend Clause 26.

MR. NICKERSON: Mr. Chairman, the same occurs in subclause 26(3) and it should be changed there also.

HON. DAVID SEARLE: Possibly we could have the Legal Advisor please give us the wording. I think it likely starts in subclause 26(1) where it says, "A committee of inquiry .." would you say "a discipline committee" or "the discipline committee"? I wonder if you could give us the exact words, Ms. Flieger?

A Discipline Inquiry

LEGAL ADVISOR (Ms. Flieger): In subclause (1) of clause 26 I would say "a discipline committee."

Similarly in subclause (2) and again in subclause (3).

THE CHAIRMAN (Hon. Peter Ernerk): So the way it reads now, clause 26 would read "A discipline committee" and then subclause (2) "a discipline committee" and then in subclause (3) "a discipline committee". Is that agreed?

MR. NICKERSON: Mr. Chairman, the question which might properly be addressed to the Legal Advisor is if an inquiry is conducted in camera is this in accordance with the principles of natural justice?

LEGAL ADVISOR (Ms. Flieger): Yes, I think that an in camera committee can proceed under the principles of natural justice, that is to say the inquiry would not necessarily have to be a public inquiry in order to abide by these principles.

THE CHAIRMAN (Hon. Peter Ernerk): Hon. David Searle.

HON. DAVID SEARLE: An in camera inquiry dealing with the professional conduct or competence of a person is a very common thing, whether it be doctors, lawyers, teachers, etc., simply because the publicity at such an inquiry, if it were given in public, even if the person is cleared, has such a devastating effect that he might as well have been convicted.

THE CHAIRMAN (Hon. Peter Ernerk): Hon. Arnold McCallum.

HON. ARNOLD McCALLUM: Mr. Chairman, while we are changing that, and I do not know how it brought itself into the committee of inquiry, but while we are changing things in clause 26, clause 26, subclause (4) on page 13, the word "society" should read "association".

Motion To Amend Clause 26, Carried

THE CHAIRMAN (Hon. Peter Ernerk): All right. Are we agreed on clause 26, natural justice?

---Carried

Clause 27, temporary suspension. Mr. Nickerson.

MR. NICKERSON: While we are on this general subject of suspension and inquiries, disciplinary action, etc., I notice that in the Education Ordinance there is a parallel set of rules concerning the suspension of teachers, etc., etc., in that ordinance, and I wonder if we could be advised perhaps by the administration, by the Minister of Education, when action would be taken under the Education Ordinance and when they would approach the Northwest Territories Teachers' Association and ask them to take action against a particular teacher, or when would it work the other way around, when would the Northwest Territories Teachers' Association start proceeding against one of its members, or would they, or would they in fact ask the Department of Education to conduct investigations under the Education Ordinance?

Dismissal Of A Teacher

THE CHAIRMAN (Hon. Peter Ernerk): Mr. Minister.

HON. ARNOLD McCALLUM: Mr. Chairman, I do not know when the association would take action against a member, but as regards the department that would be done within the workings, as it were, of the people involved such as a superintendent who determines if a teacher -- for example, refused to teach a class or something, that teacher would then be reported to the superintendent who would then be in touch with the director, or that person within the department who is responsible in terms of the particular teacher's department.

We would then, in terms of taking them -- either dismissing them or looking into the situation, I can not recall -- I do not know of any and it has not been my experience for a teacher to have been taken into any kind of an inquiry, as it were. The teacher, usually what happens is that they would work things out, but I do not know where if we in fact did dismiss a teacher, we would then of course not certify that teacher, but whether the Northwest Territories Teachers' Association would exclude a person or drum them out of the association, I do not know. We would obviously work in connection with one another. Now, who would originate the action? I guess it would depend upon the action, or the incident that occurred within the school, or if it had other particulars -- in education we refer to dismissal of a teacher, as has been indicated, for cause, or for incompetence, and that is in the Education Ordinance, and that is what the responsibility of the superintendent is, as Mr. Nettleton has suggested. I would suggest that, you know, if it were brought to the attention of the department, we would initiate that action, but that is that way, and I do not know about the Northwest Territories Teachers' Association.

THE CHAIRMAN (Hon. Peter Ernerk): I recognize Mr. Butters.

Suspended From The Association

MR. BUTTERS: It all depends upon what the member would be suspended from, whether "suspended" means suspended from the classroom or suspended from the association. It would appear that this is being referred to as suspension from the association.

MR. NETTLETON: That in fact is the only power that the association would have, as the employer would have to suspend the individual from the classroom. I think Mr. Nickerson is anticipating my saying something about his question, and to reiterate what Hon. Arnold McCallum said, as to who takes action, it would depend upon what the problem was in most cases. If it is a matter with which the association has a code of ethics or if it were something that concerned the code of ethics, then anyone could initiate the action, any member could request an inquiry, and the inquiry would then be held and a formal charge would, in all likelihood, be laid by the association or it might be that the discipline bylaws would provide that the individual asking for the inquiry would have to lay the charge.

Either of these two practices are used elsewhere. If the superintendent wished to avail himself of our code of ethics and lay a discipline charge under that code of ethics, he would have the same right to do that as any other individual.

THE CHAIRMAN (Hon. Peter Ernerk): Mr. Nickerson.

MR. NICKERSON: I can see two problems arising, and I would kind of like to see how they might be resolved, and the first is when, for instance, the Department of Education dismisses a teacher, say for incompetence, they say, "You are incompetent and have to go", and then this member goes to the Northwest Territories Teachers' Association and says, "Could you please set up a disciplinary committee hearing as to my incompetence", and the disciplinary committee finds him not incompetent, is that case likely to arise, or if it did, how would it be resolved? Secondly, what happens if it happened the other way around, say the Northwest Territories Teachers' Association dismissed a member for breaking the code of ethics, would it be a natural corollary that the Department of Education would fire him?

Removal Of Certification

MR. NETTLETON: In answer to the second question, no, it would not be a natural corollary, that would be the decision, I presume, of the Department of Education. I would anticipate that the association would recommend his certificate be removed, if it was serious enough for us to suspend his membership. I know of no case where anything other than that has happened. I have forgotten the first question, I am sorry.

HON. ARNOLD McCALLUM: If I could refer to the first question of Mr. Nickerson, the department, as I have suggested in terms of a person who has been dismissed for incompetency, the department then would remove the certification of that particular teacher. The association, I suggest, is responsible for discipline within the association. They do not deal with the incompetency, if you like, in here, as I recall it, reading the formal complaint of professional misconduct, violation -- am I reading the wrong one? I am in clause 24, I am sorry, it does say "incompetence on the part of a member". However, the department would deal with the teacher primarily within the confines of the school. The association may deal with a member in terms of his membership within the association primarily, or at least that is the way I see it. It may be that they would recommend, and it would seem to me that they would recommend a member for professional misconduct which we in education, on the Education Ordinance, would think of as being a cause, but we would be able to resolve the situation between the two of us, we would both recognize that particular cause or professional misconduct. I do not see where there would be a problem.

THE CHAIRMAN (Hon. Peter Ernerk): Are you satisfied, Mr. Nickerson?

MR. NICKERSON: Fairly well satisfied. However, I have another question.

THE CHAIRMAN (Hon. Peter Ernerk): Go ahead, and then Hon. David Searle.

HON. DAVID SEARLE: I was going to try and answer Mr. Nickerson's question.

MR. NICKERSON: Perhaps you should take Hon. David Searle first.

HON. DAVID SEARLE: As I read the ordinance, particularly if Mr. Nickerson's amendment goes through in clause 12, that he is proposing, the Northwest Territories Teachers' Association first would be able to discipline only those people who are members of the association, and if they were not members then all of this is for naught.

Secondly, if the person is a member of the association, then it appears to me that once you get to clause 30, you can see that they speak of expulsion, suspension of membership in the association, or reprimand, but the department, and the procedures presumably set up under the Education Ordinance which we have not got to yet would be concerned more with termination of employment and that sort of thing. I suppose where you get the grey area is the position of say a school district. Presumably they could set up bylaw powers of discipline similar to that contained in the Education Ordinance unless it is covered in the Education Ordinance, or they might in effect accept the advice of the association and ask them to conduct an inquiry. However, with respect to this particular bill, surely they can suspend or terminate membership in the association only. Is that not correct, Ms. Flieger?

Expulsion From the NWTTA

LEGAL ADVISOR (Ms. Flieger): I think the difficulty we are experiencing is a result of not having finished the Education Ordinance, of course, and this provision is tied in, or becomes understandable, I think, when it is considered with the Education Ordinance. As I see it there are three possibilities: the employer can discipline, the Department of Education can remove the certification, or the association can discipline its members. Now, the possibility is that when any one of those actions is taken, others will follow, and the difficulty would arise only when there was disagreement between, for example, the disciplining body of the Northwest Territories Teachers' Association and the certification officials in the Department of Education. It would only be when there is disagreement on those things.

Now, it is fairly clear that suspension from the Northwest Territories Teachers' Association does not in itself affect the employment and similarly, presumably, firing a teacher would not lead to his expulsion from the Northwest Territories Teachers' Association, if the association decided to defend this member of the association.

HON. DAVID SEARLE: Continuing the discussion, that is exactly the reason why I think it should be in two separate bills, because in my humble opinion, if the department takes the one view first that the teacher should be fired, you would invariably find the Northwest Territories Teachers' Association as the bargaining agent for the teacher, taking a position in defence of the teacher. I think that is a fair statement.

HON. ARNOLD McCALLUM: Mr. Chairman, I maybe would just simply argue the "invariably". The adverb "invariably". I would simply leave it at that. I think that the possibility does exist.

THE CHAIRMAN (Hon. Peter Ernerk): Mr. Nettleton.

MR. NETTLETON: I think Hon. David Searle makes a good point in that he is saying that the association, when a teacher is fired, is going to support that individual and the likelihood is the association will provide support for that person, but then that is a pretty well known aspect of our legal system, I think, in this country. It does not prevent the association from proceeding on the same case either before or after the employer has proceeded on it. Indeed this happens.

THE CHAIRMAN (Hon. Peter Ernerk): Clause 27, agreed?

A Formal Complaint

MR. NICKERSON: No. The second inquiry I have, Mr. Chairman, is that I notice in this ordinance the manner in which a formal complaint is to be handled is to be left to the bylaws. In other professional legislation with which we have dealt the manner in which these complaints are to be dealt with has on occasion been specified within the ordinance. For instance, if I remember correctly, with the Legal Profession Ordinance, there was a special committee to be set up to initially handle complaints to see whether or not they were frivolous or whether or not they should be taken to the second stage which would be the discipline committee. Also with the legal profession they did have a separate committee of inquiry which could contain people expert in certain types of law which these people might not be available in the Northwest Territories who would work more or less under the direction of the discipline committee. That is where I suspect these committees of inquiry and discipline committees came from. I do not know whether the teachers would require such an elaborate set-up, but I would just be very interested to hear how would you deal with a complaint.

MR. NETTLETON: The Northwest Territories Teachers' Association would be very foolish to proceed with a system whereby the first step in any accusations of misconduct was a hearing in front of a discipline committee. I rather suspect that the kinds of bylaws that we will pass will include an inquiry stage prior to going to the discipline committee. This is not yet in our bylaws and they have not yet been written by us nor submitted to the Commissioner, but I would suggest to you that we would be very foolish not to have an initial inquiry to weed out the frivolous and vexatious sorts of charges. I have already so recommended to the people for whom I work.

THE CHAIRMAN (Hon. Peter Ernerk): Thank you. Any further discussion on clause 27, temporary suspension. Agreed?

---Agreed

Legal Counsel

Clause 28, legal counsel. Agreed? Mr. Butters.

MR. BUTTERS: Mr. Chairman, I wonder if the Legal Advisor might inform me whether or not under this clause 28 the person who is being investigated has a right to appear before the committee. They have a right to be heard, but can the discipline committee by any manner or means carry on an investigation when they are not present?

THE CHAIRMAN (Hon. Peter Ernerk): Madam Legal Advisor?

LEGAL ADVISOR (Ms. Flieger): I think there is no doubt that the person would have the right to appear. The words "has a right to be heard" are generally interpreted, so far as I know, as a right to appear. How else could he be heard?

MR. BUTTERS: I know that, but I was thinking not of the situation where they are heard, but where the discipline committee meets and discusses the case at which they are not present. It is not that "they may be heard" but the committee may meet to discuss the case of the individual when the individual does not know the discussion is going on and therefore is excluded from the discussion. It says "they may be heard".

LEGAL ADVISOR (Ms. Flieger): Well, I think ...

MR. BUTTERS: I am afraid the committee could meet without the individual alleged to require discipline being present.

LEGAL ADVISOR (Ms. Flieger): I think the individual would have the right to complain if a decision were reached without informing him that the decision was being taken and that he had the right to be heard.

MR. BUTTERS: That is contrary to natural justice?

LEGAL ADVISOR (Ms. Flieger): I think it would be contrary to this section too.

MR. BUTTERS: Thank you.

THE CHAIRMAN (Hon. Peter Ernerk): Clause 28, legal counsel. Agreed?

---Agreed

Clause 29, report and decision. Agreed?

---Agreed

Clause 30, discipline. Mr. Nickerson.

Discipline

MR. NICKERSON: Mr. Chairman, in reply to earlier questions, it was stated that one of the most likely disciplinary actions would probably be recommendation that the member's teaching certificate be rescinded. In clause 30 I would imagine that might or might not, I would have to solicit the Legal Advisor's advice on this, may come under "otherwise reprimand him". If this is not the case or to have greater clarity as to what powers have been granted the central executive here, it might be advisable to put in there "may recommend that his teaching certificate be rescinded".

THE CHAIRMAN (Hon. Peter Ernerk): Mr. Nickerson, would you repeat your question, please?

MR. NICKERSON: The question is: Would it be advisable to add in the fourth line after the word "time" "may recommend that his teaching certificate be rescinded" between the word "time" and the word "or"?

THE CHAIRMAN (Hon. Peter Ernerk): I see.

LEGAL ADVISOR (Ms. Flieger): I think it would be a policy matter and if you did insert those words, it would suggest to me that that recommendation has some weight which in fact I do not know that anything in the Education Ordinance dealing with this suggests that the department must listen to the Northwest Territories Teachers' Association on that matter.

THE CHAIRMAN (Hon. Peter Ernerk): Hon. David Searle.

HON. DAVID SEARLE: When it comes to recommending surely you know a group like this can recommend anything they want to whomever they want, but we need to only legislate the powers. When it comes to recommendations, surely that can be done. It is just like a jury. A jury can find you guilty or not guilty, but it can recommend whatever it wants as well, but the court does not need to bear it in mind.

The thing that bothers me about this section while I have the floor, if I may say so, Mr. Chairman, is the word "may" following the very first line "the central executive may, in accordance with the bylaws and on the advice of a discipline committee, order the suspension or expulsion of a member..." I would have rather thought that since you had a discipline committee that presumably it is recommending either expulsion or suspension, that the central committee should be required to comply with the recommendation much the same way as the position of the Commissioner, the position he was in under the last Legal Profession Ordinance. If he set up a board of inquiry and it recommended a course of action, the legislation said "The Commissioner shall in compliance with the recommendation do such and so". He is also in the same position, speaking again of the Commissioner, under our labour legislation where if the labour standards officer recommends a certain course of action, the Commissioner is obliged to carry it out. Why can we not say there "The central executive shall"? Or "The central executive shall" in the second line there. Why do they need discretion after a full and complete hearing and the body of three has come to a decision?

A Change Of Judgment.

MR. NETTLETON: In response to what Mr. Searle has just said I did not read clause 30 as saying the central executive could change the judgment of the discipline committee, only that it would assess the penalty, having received the judgment of the discipline committee, and do in essence what I believe a jury might do, that is, the jury would pronounce guilty or innocent and then recommend on the penalty, but someone else would determine the penalty itself. That is how I read clause 30 and that is what I understood it to be doing.

THE CHAIRMAN (Hon. Peter Ernerk): Mr. Nickerson.

MR. NICKERSON: Mr. Chairman, on this point I personally agree that it should be "shall" and there may of course be times when the member is guilty as charged. If anything, it is the discipline committee that acts as the jury and it is the central executive which is acting as the judge. If the central executive feels that their judgment should be tempered with mercy and that they do not think that they should take a real strong course of action in one particular case, of course, where it says "or may" and presumably we should change that also to "shall", otherwise reprimand him. That gives them all kinds of leeway. With that wording their punishment could be anything from expulsion to a very mild rebuke. With that in mind, I would support the change in wording there in both cases from "may" to "shall".

THE CHAIRMAN (Hon. Peter Ernerk): I take it, Mr. Nickerson, you are making an amendment to change it to "shall". So, I recognize Mr. Nettleton.

MR. NICKERSON: If it is necessary. I do not know whether Hon. David Searle formally moved this, it would seem to me to be a very simple matter. It would have seemed to me it would be something Members would be in general agreement about but if you feel that a formal motion is required presumably Hon. David Searle would be very pleased to put it that way.

THE CHAIRMAN (Hon. Peter Ernerk): Before we do that, could we hear from Mr. Nettleton?

A Legal Opinion

HON. DAVID SEARLE: I wonder if we could let Ms. Flieger think about it because there may be some objection to it. Can we leave it with her for the moment and go on to the other sections?

SOME HON. MEMBERS: Agreed.

LEGAL ADVISOR (Ms. Flieger): The difficulty I see is if the word "shall" is inserted in the first line then you get down to the fourth and subsequent lines and you have I think the same complaint because "they shall do certain things in accordance with the advice" or "they may otherwise reprimand" and so you are left again with an ambiguity.

MR. NICKERSON: That was the point I just brought up while the Legal Advisor was otherwise engaged and it is obvious that if you change it in the first place you should also change it in the second place.

LEGAL ADVISOR (Ms. Flieger): I think if the first "may" becomes "shall" then even making the next "may" into "shall" would not cure it. Probably you could consider whether or not to delete the rest of those words.

THE CHAIRMAN (Hon. Peter Ernerk): Mr. Nettleton, you had your hand up and we would like to hear from you.

MR. NETTLETON: I do not think you can delete the "otherwise reprimand", it seems to be essential, but it is immaterial to my way of thinking whether you say "shall" or "may". If this body feels that they want to put that compulsion upon the executive then you should by all means proceed and do so. Certainly it is not significant as far as the association is concerned. So, change them both to "shall" or whatever the Legal Advisor tells you and leave it at that.

LEGAL ADVISOR (Ms. Flieger): Mr. Chairman, the advice that Mr. Nettleton has just given is not the advice that I would have given on the effect of the last part of that section. I think putting "shall" in the first line effectively removes from the central executive the discretion as to what they will do to the person who has been investigated. In fact they are then bound to take the advice of the discipline committee. So, when you go on and say "or they may otherwise reprimand him" then you have told them to do something or maybe something else.

MR. NICKERSON: Mr. Chairman, it is obvious that if we change "shall" in the first place we have to change it in the second place and that is the question, whether we do that or leave it entirely as it is. I do not think anyone would suggest we change it in the first instance and not in the second instance.

THE CHAIRMAN (Hon. Peter Ernerk): Should we leave it with the Legal Advisor and in the meantime go on to other sections and bring it back later? Hon. David Searle.

HON. DAVID SEARLE: When I originally raised it I suppose I was wondering why the -- I am sorry the central executive should have discretion and maybe there is good reason for them to have discretion and either increase or decrease the recommended penalty. We are after all talking about membership in an organization, and no more than that, it is not as though we were talking about a prison term or even a dismissal from employment. So, I think that that being the case that I would go for just leaving the discretion with the committee, or with the central executive as it is drafted. In other words, I do not think we are dealing with a matter so serious as to necessarily affect a person's livelihood.

THE CHAIRMAN (Hon. Peter Ernerk): Shall we leave as it is?

---Agreed

Clause 31, appeal. Is there any discussion? Mr. Nickerson.

MR. NICKERSON: In the third line where it says section 32 that should be section 30.

THE CHAIRMAN (Hon. Peter Ernerk): That is just an error and should read section 30. Is it agreed?

---Agreed

Clause 32, general regulations. Is it agreed?

---Agreed

Clause 33, transitional. Is it agreed?

---Agreed

Clause 34, repeal. Is it agreed?

---Agreed

Clause 35, coming into force. Is it agreed?

---Agreed

Now, we have to go back to clause 12, am I correct, and I will just go ahead and read the new version here, and this is on page 8. Clause 12 now reads: "Every teacher who is employed by a board of education or by the government of the territories, shall, upon employment be entitled to be registered as a member of the association and is entitled to continue to be a member until his employment ceases or his membership is terminated in accordance with this ordinance, the regulations or the bylaws."

MR. BUTTERS: Mr. Chairman, I wonder if the Minister could indicate just what situation exists today relative to this amendment, or does it reflect the current situation?

THE CHAIRMAN (Hon. Peter Ernerk): Mr. Minister.

In Terms Of Exceptions

HON. ARNOLD McCALLUM: I just must stop and think in terms of exceptions. In effect I think today there are compulsory checkoffs at the present time and it would be my position on this in relation to clause 14, that I would rather see it in its original form and then in terms of clause 14 we should

delete clause 14. However, at the present time they do have compulsory checkoffs. I am not sure but again I would suggest Ivory soap and Mr. Nettleton could correct me, but it seems to me that the Northwest Territories Teachers' Association must have 99 and 44/100 per cent of the teachers in their association, if I understood it correctly.

THE CHAIRMAN (Hon. Peter Ernerk): Mr. Nettleton.

MR. NETTLETON: Every teacher employed by the Government of the Northwest Territories and by the two boards in Yellowknife and although membership is voluntary all these people belong to our association at the present time. The Yellowknife teachers in fact have gone so far as to put it into their collective agreement at their request. So, that is not changed.

THE CHAIRMAN (Hon. Peter Ernerk): Mr. Nickerson.

MR. NICKERSON: I take it then there is no trouble signing members up. You say at present it is done on an entirely voluntary basis and yet for all intents and purposes 100 per cent of the teachers in the territories belong to the association. Is that correct, Mr. Chairman?

MR. NETTLETON: With the exception of the teachers employed by the Rae-Edzo school society, all teachers do belong. The difficulty, Mr. Nickerson, comes in when you start discussing discipline. You see, you have just gone through a large number of discipline clauses which I would suggest to you would become inoperative the minute that a member can revoke his membership. If for example a principal in charge were disciplined and membership were optional we would find ourselves in the curious position of having all the discipline powers you have just been discussing and no members, and really it would make ineffective the entire section you have just discussed.

Two Separate Functions

MR. NICKERSON: Except for this, that I can not imagine a case when a teacher is found wanting by the Northwest Territories Teachers' Association, found to be incompetent or guilty of a breach of professional conduct, I can not imagine that teacher being kept on by the Department of Education. I think it all boils down to the fact, as Hon. David Searle brought out on several occasions, that it would make everybody's job a lot easier if there was one professional organization to which all educators could belong and then one separate union, so to speak, but you see we continuously have this difficulty because we are here trying to combine the two, the two separate functions under one organization.

MR. NETTLETON: No, I think Mr. Nickerson that that is not the difficulty here. The union activity, as you put it, has already been solved to all intents and purposes, all three of the agreements we have at the present time provide for that portion of the protection and that portion of membership. What is not provided for is the disciplinary ability of the association.

THE CHAIRMAN (Hon. Peter Ernerk): Mr. Butters and then Deputy Commissioner Parker.

MR. BUTTERS: Thank you, Mr. Chairman. That is the concern I have relative to the amendment, that it does allow a very large loophole for teachers who require discipline or are alleged to require disciplinary action to be allowed to escape such disciplinary action or by escaping a hearing by just ceasing to be a member of the association. What in effect we will do, if we approve this amendment, is draw their teeth, it would be like a dog without teeth.

Suspension Of Membership

HON. DAVID SEARLE: With all due respect to Mr. Butters I do not think that is so. The discipline section looks wide, with the powers to inquiry, but you have to realize that you have to ask yourself what is the punishment and it is the withdrawal or suspension of membership in the Northwest Territories Teachers' Association which, as has already been explained to us, need not necessarily affect at all the relationship of employee and employer, between that teacher and the Government of the Northwest Territories or the respective school boards.

In other words, the so-called disciplinary powers are presumably because they could also put it in the bylaws and, depending upon what the bylaws say, that could presumably be used -- in other words, the denial of membership, not just for ethical and discipline matters such as we are thinking, but in terms of making sure the membership sort of stays in line, but it is a question of withdrawing in any case the membership or suspending the membership in the association and the penalty is no greater than that.

So, unless you went the further step, Mr. Butters, and you gave the total discipline and the right to practice the profession of teaching over to the association and their withdrawal of membership amounted to a withdrawal of the teaching certificate, then you would be pulling their teeth obviously if you did not require everyone to be part of that group.

THE CHAIRMAN (Hon. Peter Ernerk): Mr. Butters.

MR. BUTTERS: It seemed to me that the Legal Advisor, and it seems a long time ago now, but in her estimation if one of the three bodies with some disciplinary powers began to take action relative to a teacher that it would set up a chain reaction process which would possibly affect the other two. So, I do not see that the removal of membership is just that, I think it is part of a chain reaction and an examination of that teacher's ability to practice. However, I have a question related to the other professional societies or associations in the territories.

Are provisions contained in the other professional associations that the person is entitled to be a member or is it mandatory, say in the Nursing Profession Ordinance?

THE CHAIRMAN (Hon. Peter Ernerk): Deputy Commissioner Parker, you had your hand up earlier. Did you wish to speak?

DEPUTY COMMISSIONER PARKER: Mr. Chairman, I can not answer Mr. Butters' question. Was it not a question?

MR. BUTTERS: Yes, but let us hear Deputy Commissioner Parker.

DEPUTY COMMISSIONER PARKER: Mr. Chairman, it seems to me that clause 12 as presented in the bill is pretty fundamental to the ordinance as it is presented, and I really think that if that is changed to make membership optional then you would make a very major change to the ordinance and not one that we would support. I think the suggestion, if I understand correctly, that Mr. Nettleton thinks is feasible, if clause 12 were left alone, clause 14 could come out, but if clause 12 is changed, then I suspect there are quite a number of other things that have to be looked at.

THE CHAIRMAN (Hon. Peter Ernerk): Thank you. Perhaps our Legal Advisor might be able to answer Mr. Butters' earlier question.

LEGAL ADVISOR (Ms. Flieger): Clause 29 of the Nursing Profession Ordinance prohibits any person from holding herself out as a nurse and so on and so on "unless such person is the holder of a subsisting certificate of registration issued pursuant to this ordinance". And a further prohibition "No person shall use the title 'registered nurse' or the designation 'RN' unless such person holds a subsisting certificate of registration issued pursuant to this ordinance."

MR. NICKERSON: An important point on that: Are these certificates issued by the Northwest Territories Nurses' Association or are they issued by some branch of government?

LEGAL ADVISOR (Ms. Flieger): In reply to that question, I understand the registration is done by the nursing profession itself, by the nurses.

THE CHAIRMAN (Hon. Peter Ernerk): I see.

Control Of Certification

MR. NICKERSON: Therein lies the big difference, Mr. Chairman. When you are dealing with teachers, the certificate of qualification is issued by the Department of Education. In dealing with nurses it would appear that the certificate of qualification is issued by the professional body. I presume this is a matter which Mr. Nettleton might like to consider at a later date. I would presume this is one of the things they would be working to when the Northwest Territories Teachers' Association gives the certificates of qualification rather than the Department of Education, and until that particular time occurs we have not got a fully fledged professional organization the same as we might have apparently with the nurses and certain other professions.

MR. NETTLETON: In response to Mr. Nickerson, we are not proposing that the association control certification. This ordinance provides us with considerably fewer powers, I think, than some of the other professions. I am not particularly familiar with the nurses, but it would appear from what your Legal Advisor has just said that they indeed have considerably more powers in that area. I think that this particular clause is essential and, as I say, considerably less than some other professions have.

HON. DAVID SEARLE: Mr. Chairman, I think the particular clause as recommended by Mr. Nickerson is the first step in his "right to work" legislation. I think we may as well call it what it is. I for one support it, but I suggest we call the question on it. Am I right, Mr. Nickerson?

MR. NICKERSON: Yes.

Motion To Amend Clause 12, Carried

THE CHAIRMAN (Hon. Peter Ernerk): Question? All those in favour? Five. Did I see your hand up, Mr. Pearson?

MR. PEARSON: Yes.

THE CHAIRMAN (Hon. Peter Ernerk): Six. Against? Excuse me. Mr. Fraser, you had your hand up earlier. I thought you put your hand up for a minute.

Let me call the question again. All those in favour? Five. Against? Three. The motion is carried.

---Carried

The clause with one or two new words added to it is carried.

MR. BUTTERS: The first plank for the "right to work" legislation.

THE CHAIRMAN (Hon. Peter Ernerk): Do we now go on to clause 13?

MR. BUTTERS: Mr. Chairman, I think that what we have just done is just about make this legislation useless. We have stripped it of its guts and I will be surprised now if it goes anywhere.

HON. DAVID SEARLE: Mr. Chairman, the section was voted on. I suggest, unless there are any other clauses outstanding, you report the bill ready for third reading as amended.

THE CHAIRMAN (Hon. Peter Ernerk): All right.

MR. BUTTERS: There are clauses 13, 14 and 15 outstanding yet, sir.

THE CHAIRMAN (Hon. Peter Ernerk): I am informed we have already agreed on clause 13, so we still have to do clauses 14 and 15. We will go ahead and do those two then.

Clause 14, refusal to register. Agreed?

---Agreed

Clause 15, fees and checkoff. Agreed?

---Agreed

Fees And Checkoff

HON. ARNOLD McCALLUM: Stop the music! Hold the phone! Clause 15 deals with membership paying fees to the association. With the passage of the amendment to clause 12, I would suggest that this then makes this particular section rather futile.

THE CHAIRMAN (Hon. Peter Ernerk): Are you through, Hon. Arnold McCallum?

HON. ARNOLD McCALLUM: I do not know whether to go on for a long time or not.

HON. DAVID SEARLE: With all due respect, it says "every member". A person becomes a member when they have exercised their decision to join the organization and then it says "every employer".

THE CHAIRMAN (Hon. Peter Ernerk): Order, please. Hon. David Searle, you have the floor.

HON. DAVID SEARLE: I have just said all I wanted to say, and that is that it does not. Clause 15 is not inconsistent with clause 12.

THE CHAIRMAN (Hon. Peter Ernerk): Now you can go ahead, Hon. Arnold McCallum.

HON. ARNOLD McCALLUM: It is all right.

DEPUTY COMMISSIONER PARKER: Mr. Chairman, perhaps Council Members do realize the import of what action they have taken with regard to this bill in clause 12, because they have changed the situation from the present status very substantially. It is true that the Northwest Territories Teachers' Association did not have the right to claim members by law, but they had the right to collect fees from every teacher. If I could just say, I think that is the case. Yes, the Legal Advisor nods that that is the case.

So you have changed the present situation and you have taken a very large step back from the present bargained position to a new position. There are those of you here who realize that this is what you have done, and I am not sure if it is broadly understood. I can only say at this time that the administration would have to review this matter very carefully. There is, of course, yet third reading, but I have no right to speak to persuade you, but I do want to underline the importance, the major nature of the change that has been made.

THE CHAIRMAN (Hon. Peter Ernerk): Mr. Nickerson.

MR. NICKERSON: I think, Mr. Chairman, in making this decision today, this amendment to clause 12, that we have made a very great step forward in fact toward the rights of people to belong or not to belong to associations should they wish or should they not wish, and that is surely what we as believers in democracy and freedom, freedom of the individual, should of course take. I agree wholeheartedly with Hon. David Searle that subclause 15(2), in that it just applies to members, should not necessarily -- there is no reason for it to be amended at this time at all.

Mr. Nettleton has told us that although at present there is no compulsion on the part of teachers to join the Northwest Territories Teachers' Association he has a virtual 100 per cent membership, so I would assume that state of affairs to continue, that by far and away the largest majority of teachers would still wish to be members of the Northwest Territories Teachers' Association. I think that subclause 15(2) is an administratively convenient clause, and I think it should certainly be retained.

THE CHAIRMAN (Hon. Peter Ernerk): Hon. David Searle.

HON. DAVID SEARLE: May I suggest you report the bill ready for third reading?

THE CHAIRMAN (Hon. Peter Ernerk): Agreed?

---Agreed

Do I hear a "nay"?

MR. SPEAKER: Hon. Peter Ernerk.

Report of the Committee of the Whole of Bill 2-60, Teachers' Association Ordinance

HON. PETER ERNERK: Mr. Speaker, your committee has discussed Bill 2-60, An Ordinance Respecting the Northwest Territories Teachers' Association, and we have added one or two new words to clause 12. It now reads "Every teacher who is employed by a board of education or by the government of the territories, shall, upon employment be entitled to be registered as a member of the association and is entitled to continue to be a member..." etc .

On page 12, clause 26, it now reads "a discipline committee..." and in subclause (2) "a discipline committee" and on page 13, subclause (3) "a discipline committee", and in subclause (4) it now reads "The association" etc., rather "the society". The bill is now ready for third reading.

MR. SPEAKER: Thank you very much, Hon. Peter Ernerk. It is past the well known time to adjourn for the day, but there is something however, that would be advantageous to complete, and that would be to go quickly back into committee of the whole and have Mr. Butters complete those very few amendments left on the Education Ordinance that were requested and drafted but not finally approved. You will recall Mr. Stewart got approval to about half of them and is it the wish of the house that we do that?

---Agreed

This house will resolve into committee of the whole for continued consideration of Bill 1-60, the Education Ordinance with Mr. Butters in the chair.

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

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

THE CHAIRMAN (Mr. Butters): The committee will come to order to consider the clauses covered during the time I sat as chairman over the past three or four days. Mr. Stewart, when he sat in the chair brought the work up to clause 17, up to and including clause 17 on pages 15 and 16 and if we could start at clause 18 there will be amendments to -- and you should all have these amendments before you, and I will read them out so people are aware. There will be amendments to clause 21, and these are major amendments, clauses 22, 36, 37 and 38. The minor amendments I will draw to your attention as we go through the ordinance.

Clause 18 And Amended Clause 19, Agreed

Now, clause 18, Members agreed to. Clause 19, transition, there is a minor amendment in subclause 19(4) in the third line where the word "society" was

deleted and the word "committee" was added. Mr. Nickerson.

MR. NICKERSON: When we were discussing subclause 19(3) the Legal Advisor undertook to check into that section to see whether it was necessary, that subclause 14(2) be added after where it shows sections 11 and 12. I wonder if the Legal Advisor could give us her opinion on that matter.

THE CHAIRMAN (Mr. Butters): Yes, proceed, Madam Legal Advisor.

LEGAL ADVISOR (Ms. Flieger): It was my opinion that there was no need to incorporate subclause 14(2).

THE CHAIRMAN (Mr. Butters): So, there was no need for any further amendment.

LEGAL ADVISOR (Ms. Flieger): Paragraph 21(e) seemed to cover Mr. Nickerson's question.

THE CHAIRMAN (Mr. Butters): With the minor amendment provided the committee is clause 19, transition agreed?

---Agreed

Clause 20 And Amended Clause 21, Agreed

Clause 20, that is agreed to.

On clause 21, there were two or three amendments and I will read these two anyway. Paragraph 21(1)(d), the (d) in the book is deleted and the following amendment inserted "Invite the superintendent or his delegate to attend regular meetings of the society from time to time as may be required by the society". This change was requested so that it would be in keeping with the phraseology for the pertinent section, community education committee. Do we have agreement on the amendment?

HON. ARNOLD McCALLUM: I think when we were discussing this particular point I raised the question. I am not concerned about the "from time to time as may be required", I am concerned about the first word to the amendment, the word "invite".

THE CHAIRMAN (Mr. Butters): May I bring up a point of order before it is raised. While that may have been decided or approved before, in view of the fact that this clause has again been opened, I will permit you to discuss the matter. If you will remember, Mr. Minister, a motion was made on this section and it was approved by the Members.

HON. ARNOLD McCALLUM: On the word "invite"?

THE CHAIRMAN (Mr. Butters): Well, "have" was deleted and there was an amendment to insert it there and this amendment was approved as I recollect.

Breakdown Of Communications

HON. ARNOLD McCALLUM: I am sorry, I do not have that noted here. Regardless, I think that our concern here is that we would want the community education society to have the superintendent present, to have him attend the meetings of the society as a means of knowing and letting them know what is going on. My concern was raised at that time, because if he is not invited it breaks down the communication between the society and the department and I also have the concern that the invite or invitation could go to the superintendent at times when it is not possible and what we were attempting to do would be as I say to make sure that the superintendent does in fact get there. I would suggest, sir, that now that that does not necessarily follow.

Motion To Amend Paragraph 21(d)

THE CHAIRMAN (Mr. Butters): The information you are now providing the committee was not provided earlier. Is it your intention with regard to the reason for the inclusion of the word "have", is it your intention to move an amendment to paragraph 21(d) as provided and substitute the word "have"?

HON. ARNOLD McCALLUM: That is my intention but I just want to clarify it. That is the point I was making during the first time around on this. I would differ with you that I did not express an opinion on it at that time. I would like, Mr. Chairman, then to make an amendment to the amendment so that it would read "have the superintendent or his delegate attend regular meetings of the society from time to time as may be required by the society;".

THE CHAIRMAN (Mr. Butters): I have indicated that and my understanding of the reasoning for your amendment, I see your hand Mr. Nickerson, I understand the reason of the amendment is to return it to what it was initially so that the superintendent would have an opportunity of visiting whether or not he is invited.

MR. NICKERSON: I think we had some legal difficulty with the word "have" and it was my understanding that when we discussed this earlier the Legal Advisor suggested that the words "arranged for" or something of that nature would be something better than "have" and perhaps you would like to inquire if or not that is her suggestion?

THE CHAIRMAN (Mr. Butters): Madam Legal Advisor, your assistance please.

LEGAL ADVISOR (Ms. Flieger): As I recall my comment at the time, it was in terms of putting the words "arrange for" and as I look at it now I wonder if you would like to consider "ensure that the superintendent or his delegate be present during..." and then I do not know from then on whether you are still arguing how many meetings he should attend.

THE CHAIRMAN (Mr. Butters): Did you hear the suggestion of the Legal Advisor, does that change your amendment?

HON. ARNOLD McCALLUM: No, I would certainly beg to her knowledge on it and I am satisfied with that, I am not hung up on the times, I am more hung up that the superintendent be there. I am not worried about the latter part and if "ensure" is the proper term, that is fine with me.

THE CHAIRMAN (Mr. Butters): I am advised by the Legal Advisor that if "ensure" were used the final phrase "from time to time as may be required by the society" negates the first part of the intent.

HON. ARNOLD McCALLUM: Then, if that is so, I can not go along with it this trip.

THE CHAIRMAN (Mr. Butters): I think the Members see what you are trying to do and I think there is sympathy for your position.

HON. ARNOLD McCALLUM: Could you tell me why we can not use the word "have"?

THE CHAIRMAN (Mr. Butters): Madam Legal Advisor. The word "have".

An Alternative Word

LEGAL ADVISOR (Ms. Flieger): There was some reluctance on the part of some Members to use the word "have" and I was just attempting to find an alternative word that would be more agreeable.

HON. ARNOLD McCALLUM: I thought there was something legal about it and that may be the point of contention, then, is that correct? If that is so, I would leave the word "have" in in my original amendment to this amendment.

THE CHAIRMAN (Mr. Butters): Mr. Nickerson. The word is "have".

MR. NICKERSON: I do not wish to speak, Mr. Chairman.

Motion To Amend Paragraph 21(1)(d), Carried

THE CHAIRMAN (Mr. Butters): The amendment to the amendment now reads "have the superintendent or his delegate attend regular meetings of the society from time to time as may be required by the society;". Any discussion? The question being called. All those in favour of the amendment to the amendment. First, I had better explain this: First of all, we are voting on Hon. Arnold McCallum's amendment, the word "have", an amendment to the amendment. All those in favour of the amendment as made by Hon. Arnold McCallum. Count them, Mr. Minister, you have support.

---Carried

The amendment as amended, so it now reads "have the superintendent or his delegate attend regular meetings of the society from time to time as may be required by the society;". Is that agreed?

---Agreed

So, that is paragraph (d). Now, the next one is paragraph 21(1)(f) and the amendment reads "review education program plans reported to the society by the principals and advise the superintendent with respect to such plans;" and (f) is just below the one we just previously dealt with. Is there any discussion on the amendment? Do Members agree with the amendment? Do Members agree with the amendment to paragraph 21(f)?

---Agreed

Now, over the page to 19, paragraph 21(m) and in the second line the word "voters", becomes "residents".

Amended Clause 22, Agreed

In clause 22, there is an amendment here. Paragraph 22(b) and it will read "advise on and assist in the establishment and operation of special, adult or vocational education centres in the district, review the selection of students for and their placement in special, adult and vocational programs and advise the superintendent on these matters;". So, on paragraph 22(b).

---Agreed

The clause as amended, is it agreed?

---Agreed

Now, I should have picked up paragraph (d) which is an addition to clause 22; I am sorry, and this would be the fourth paragraph in clause 22(d) "appoint a committee to investigate and report to the society on such matters as the society considers advisable". Is it agreed?

---Agreed

Now, clause 22 is agreed in its entirety.

---Agreed

Clause 23 was agreed.

Clause 24 was agreed too.

Clause 25 was agreed.

Clause 26 was agreed.

Clause 27 was agreed.

Clause 28 was agreed.

Clause 29 required a very small amendment in the very last line over on page 27 where the word "public" was deleted and it was left as "separate district" only.

Amended Clause 30, Agreed

Now, clause 30 required amendment, subclause 30(1) and it would read now "Every board of education shall meet within thirty days after the first day of January next following the election for the purpose of electing a chairman and vice-chairman and organizing and transacting such other business as may be required and shall meet at least once each month thereafter except during the months of July, August and December when meetings may be held if necessary". Is it agreed?

---Agreed

With that amendment, is clause 30 then agreed?

---Agreed

Clause 31 was agreed previously.

Clause 32 was agreed.

Clause 33 was agreed previously.

Clause 34 was agreed.

Clause 35 was agreed to previously.

Amended Clause 36, Agreed

Clause 36 was deleted and the new clause added under "vacancy" in clause 36: "Where a vacancy occurs in the membership of a board of education, the board shall appoint a person qualified to be elected as a member; and that person shall hold office until the next election". Agreed?

---Agreed

Amended Clause 37, Agreed

Clause 37, there is an amendment to paragraph 37(c), page 31 and the amendment is: "Every board of education shall review education program plans reported to the board by the principals and advise the superintendent with respect to such plans;". Is this paragraph 37(c) agreed?

---Agreed

Paragraph 37(j). "Every board of education shall provide, maintain and furnish school buildings and, in consultation with the director, prepare and execute plans for the construction and alteration of school buildings;".

---Agreed

Paragraph 37(k). "Every board of education shall recruit and appoint principals, teaching personnel and other staff for the education programs of the district;". Is paragraph 37(k) approved?

---Agreed

Is clause 37 as amended approved?

---Agreed

Amended Clause 38, Agreed

Clause 38 required the addition of subclause 38(2) over on page 35 which would read relative to educational leave: "A board of education may allow a teacher to take a leave of absence for educational purposes but no salary or grant shall be paid to a teacher on educational leave who does not pursue a course of studies approved by the board". Agreed?

---Agreed

Clause 38 as amended, clause 38, is it agreed?

---Agreed

Amended Clause 39, Agreed

In clause 39 there was a very minor addition in subclause 39(1), the second line where it would read "as soon as may be practicable after the final revision of the assessment roll". With that minor addition is clause 39 agreed?

MR. NICKERSON: Mr. Chairman, does it now read "as soon as practicable after the final..."? That is the note I have in my book.

THE CHAIRMAN (Mr. Butters): Yes, we will delete the word before "practicable" so "as may be" will be deleted so it now reads "every board of education shall as soon as practicable after the final revision of the assessment roll". With that minor amendment is clause 39 agreed?

---Agreed

HON. DAVID SEARLE: Is there such a word as "practicable" or is it "practical"?

LEGAL ADVISOR (Ms. Flieger): There is a word "practicable".

THE CHAIRMAN (Mr. Butters): Thank you. With that assurance is the clause agreed?

---Agreed

Clauses 38 and 39, agreed?

---Agreed

On clause 40 there is a minor change in the second line "chairperson" became "chairman" and that was agreed to I think before. Clause 40 was agreed.

Clause 41 was agreed.

Clause 42 was agreed.

Clause 43 was agreed.

Amended Clause 44, Agreed.

Clause 44, there is a minor change in subclause 44(5) on page 40 where the words "in so far as not inconsistent with the provisions of the ordinance..." was deleted and the words "mutatis mutandis" inserted. With that change or amendment is clause 44 agreed?

---Agreed

Clause 45 was agreed previously and I believe that is about as far as we got. We recessed or reported progress at clause 46. What is the wish of the committee?

MR. NICKERSON: Report progress.

Adjourn As Opposed To Prorogue.

HON. DAVID SEARLE: I think it would be appropriate to just make a brief statement here, Mr. Chairman, if I might, on behalf of the Assembly, indicating at this point we should simply report progress. This bill, the Education Ordinance, Bill 1-60 will receive no further consideration today, that it is clearly the intention of this Assembly to adjourn whenever we finish the other business and we should stress "adjourn" as opposed to "prorogue". To then reconvene this house, this very same session at Yellowknife two or three days in advance of the session, I believe the date was the 19th of January, and to then complete the outstanding clauses, clauses 47 onwards, and in the meantime to have prepared a much expanded translation of the remaining sections of the ordinance and I believe as well the preceding ones, to see that they get to the Members, the Inuit Members, that they get to them hopefully by no later than 1st of December, enabling them to examine them and to consult with their constituents.

Based on that assumption, we would then be in a position to proceed on approximately January 19th with the completion of the balance of this bill and only this bill and once completed the sixtieth session would then be prorogued and the sixty-first session the next day begun. Do I reiterate accurately the understanding, gentlemen?

---Agreed

THE CHAIRMAN (Mr. Butters): Two questions: One is when Mr. Stewart reported progress on the initial sections of the bill there was an outstanding matter relative to the right to know. I forget what section it was that I asked it to be put in. I think you will find it in the record and I would hope that that matter might be discussed by the house before we leave Rankin. I remember the Deputy Speaker referring to this item. The other matter, I just wanted to clarify, although we are reporting ready for third reading on these matters, is there anything that would prevent Members who are taking the translations into their constituencies and communities from opening up matters that have already been discussed? With the consent of the Members we could cover that. What about this other matter, could that be done tomorrow?

HON. DAVID SEARLE: If the amendment is ready, why not do it now?

THE CHAIRMAN (Mr. Butters): All right. Would it possibly be better if I retired from the chair and allowed Mr. Nickerson to take over and then report out?

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

MR. BUTTERS: I left the amendment with the Legal Advisor.

Motion To Amend Paragraph 4(2)(e)

THE CHAIRMAN (Mr. Nickerson): Mr. Butters' amendment reads as follows -- it will be attached after paragraph 4(2)(e) and it will not be indented but rather will -- the words will start out to the usual margin and will read as follows: "and present a copy of the report to the teacher whose work was inspected." Is the committee agreed with this amendment?

HON. ARNOLD McCALLUM: Mr. Chairman, that is to clause 4 of the ordinance?

Motion Carried

THE CHAIRMAN (Mr. Nickerson): Excuse me one moment. This goes on page 8, clause 4, subclause (2) paragraph (e) and after subparagraph (iii) and you notice in the wording of subclause (3) is indented and the wording here will go out to the -- will line up with the paragraph rather than the subparagraph wording. These words will be as follows: "and present a copy of the report to the teacher whose work was inspected." Is the committee agreed on this?

---Agreed

Can we now have agreement on the whole of clause 4, superintendents. Are we agreed?

---Agreed

Is it your wish that I report this matter, are these clauses with which we have dealt now ready for third reading? Is it your wish that I report progress? I am very sorry.

---Agreed

MR. SPEAKER: Mr. Nickerson.

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

MR. NICKERSON: Mr. Speaker, your committee has -- perhaps, Mr. Speaker, it would be advisable that the chairman who was looking after most of the committee discussion were to give the report rather than I.

MR. SPEAKER: Can we not just say that you report progress on Bill 1-60 subject to all of those amendments that are in the record just prior to this very discussion when Mr. Butters went through them all and subject to those amendments indicated earlier today by Mr. Stewart? That way we avoid going all the way through that.

MR. BUTTERS: I would say those words, sir.

MR. SPEAKER: Thank you. It is 6:15 o'clock p.m. in the evening and I do not think we could stand it. Gentlemen, we have left three bills, Bill 5-60, 7-60 and 3-60. What is your wish? Do you want to sit this evening?

MR. BUTTERS: No.

MR. PEARSON: Mr. Speaker, I think that is an excellent idea, at least for a couple of hours anyway.

MR. SPEAKER: Mr. Pudluk?

MR. PUDLUK: Mr. Speaker, I do not wish to sit tonight because we were sitting yesterday from 9:00 o'clock a.m. -- I do not care. I do not wish to sit tonight.

MR. BUTTERS: Mr. Speaker, I admire the energy of the Members, but we had a long day today. We started at 9:00 o'clock a.m. and we have a long day tomorrow starting at 9:00 o'clock a.m. and I suggest we can not do the work justice if we just went to supper now and then tried to remain awake.

Concerning An Evening Sitting

MR. SPEAKER: Let me then informally, since it is entirely at the Speaker's discretion, but let me just informally ask for a non-show of hands of those who want to sit tonight; in other words, who is prepared to indicate that they would like to sit? Mr. Pearson, Hon. Peter Ernerk and Mr. Steen. Now, those who do not want to sit tonight? Well, it looks like the "nays" have it, and therefore I think the Speaker reflects, as he must as a servant of this house, the wishes of this house, by exercising his discretion in not sitting. That is the only chance I get, Hon. Arnold McCallum, to make a little speech. Are there any announcements for this evening? Are there any meetings? Anything of the finance committee, etc.? Mr. Lafferty.

MR. LAFFERTY: Mr. Speaker, I indicated to the finance committee Members that there was to be a finance committee meeting tonight, but I think, with regard to the time allotted or left to us, and with regard to the coming finance meeting shortly, I think we can do what business we have to do tonight then.

MR. SPEAKER: What bill do you want to proceed with tomorrow morning, Deputy Commssioner Parker, Bill 3-60?

HON. ARNOLD McCALLUM: I would just like to speak, to say could we have one of Hon. Peter Ernerk's? My record is two for two, and there is no way I want a third.

MR. SPEAKER: Fine, then we will proceed tomorrow morning first thing with Bill 3-60. Orders of the day, Mr. Clerk.

ITEM NO. 11: ORDERS OF THE DAY

CLERK OF THE HOUSE: Orders of the day, October 27, 1976, 9:00 o'clock a.m., at the Maani Ulujuk School, Rankin Inlet.

1. Prayer
2. Questions and Returns
3. Oral Questions
4. Petitions
5. Reports of Standing and Special Committees
6. Notices of Motions
7. Motions for the Production of Papers
8. Motions
9. Tabling of Documents
10. Consideration in Committee of the Whole of Bills, Recommendations, Other Matters and Information Items: Bill 1-60, 3-60, 5-60, 7-60, Recommendation to Council 1-60, Tabled Document 2-60, Matters arising out of the recent tour of the Legislative Assembly to the State of Alaska, Information Items 1-60, 4-60, 8-60, 16-60
11. Third Reading of Bills
12. Assent to Bills
13. Orders of the Day

MR. SPEAKER: This Legislative Assembly stands adjourned until 9:00 o'clock a.m., October 27, 1976, at the Maani Ulujuk School, Rankin Inlet.

---ADJOURNMENT

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