



LEGISLATIVE ASSEMBLY OF THE NORTHWEST TERRITORIES  
**DEBATES**

61st Session



Official Report

THURSDAY, FEBRUARY 10, 1977

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

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YELLOWKNIFE, NORTHWEST TERRITORIES

THURSDAY, FEBRUARY 10, 1977

MEMBERS PRESENT

Mr. Steen, Mr. Stewart, Mr. Lafferty, Mr. Lya11, Mr. Fraser, Mr. Whitford, Hon. Arnold McCallum, Mr. Evaluarjuk, Hon. Peter Ernerk, Mr. Kilabuk, Mr. Pudluk, Hon. David Searle, Hon. Dave Nickerson.

ITEM NO. 1: PRAYER

---Prayer

ITEM NO. 2: QUESTIONS AND RETURNS

SPEAKER (Hon. David Searle): Item 2, questions and returns. Hon. Peter Ernerk.

HON. PETER ERNERK: Mr. Speaker, I have two returns.

Return To Question W31-61: Economic Feasibility Study

On Tuesday, February 8, 1977, Mr. Steen asked Question W31-61, concerning economic feasibility studies for proposed small businesses.

As part of its mandate the Department of Economic Development and Tourism will carry out a feasibility study to determine the need for and viability of a business before it attempts to set up one, or set one up, or to advise an entrepreneur to set one up. This service is available to anyone who requests it, but the advice need not be taken.

Question W23-61, asked by Mr. Pearson.

Return To Question W23-61: Canada Works, Make Work Program

On Thursday, February 3, 1977, Mr. Pearson requested my assurance that the new federal "Canada Works" program and the territorial STEP, Subsidized Term Employment Program, would not run in conflict with each other.

Officers responsible for the Government of the Northwest Territories' short-term employment program, and the federal Canada Works program have already consulted as to means of achieving maximum benefits from the co-ordination of both programs in the communities. Co-operation and co-ordination of both programs started some months ago when several of the applications received under LIP, Local Initiative Program, were turned down. These applications for the most part were referred to STEP, regional committees and many were approved and funded through the STEP program. It is not anticipated that the programs will conflict with each other, on the contrary, with the co-ordination and planning which has been demonstrated by the two agencies concerned in the past we see them complimenting each other to the benefit of all concerned.

MR. SPEAKER: Are there any further returns? Deputy Commissioner Parker.

Return To Question W18-61: Government Boards, N.W.T.

DEPUTY COMMISSIONER PARKER: Mr. Speaker, on Wednesday, February 2, 1977, Mr. Butters asked Question W18-61 requesting that the House be provided with a list of Northwest Territories government boards and committees now in existence in the Northwest Territories, complete with names of those persons comprising such boards and information respecting appointments to such boards. This information has been provided as an attachment to this return and will be circulated to Members by the Clerk of the House in the usual manner.

Return To Question W20-61: Federal Government Interim Policy, Construction Tenders

On Wednesday, February 2, 1977, Mr. Butters asked Question W20-61 requesting that the administration obtain from the federal government details on its interim policy on northern contractors bid differential.

A telex was received February 9, from the Department of Indian and Northern Affairs stating the present policy being followed by the department on this matter re the federal government's interim policy on northern contractors' bid differential. The telex reads as follows:

(A) This department implemented the interim policy in May, 1976. Other departments have been requested to consider similar action.

(B) General guidelines of the policy are: (1) Policy is applicable to northern contractors who: a) are licensed in the territories; b) had annual gross sales in territories in past year exceeding 50 per cent of total gross sales; c) had more than 50 per cent of total permanent staff living and working in territories in past year; d) have capital investments in territories exceeding 50 per cent of total fixed assets. (2) Contractor must be considered to have the integrity and the financial, technical and managerial competence to discharge contract. (3) Each contract allowing northern preference must be approved by Treasury Board. (4) A tender by northern contractor is considered for contract award if his tender less applicable bid preferential is less than lowest tender. (5) Bid preferentials are: ten per cent for tender of \$500,000 or less; five per cent for tender over \$500,000.

(C) Maximum preferential bid is ten per cent as per (B)(5) above.

(D) Criteria for eligibility contained in (B)(1) and (2) above.

Return To Question W30-61: Appointment Of A Commissioner

On Monday, February 7, 1977, Mr. Butters requested a legal opinion from the administration as to whether there were other constitutional manners or methods for effecting the appointment of the Commissioner of the Northwest Territories.

It is the considered opinion of the Legal Advisor that the office of Commissioner of the Northwest Territories is established by the Northwest Territories Act and the method of appointment is set out in section 3. No other method can be used to make the appointment other than that set out in the Northwest Territories Act.

MR. SPEAKER: Before going on to written questions, I am sure Members would like me on their behalf to welcome Mr. Kilabuk here.

---Applause

Item 2, written questions. Mr. Steen.

Question W40-61: DREE Program

MR. STEEN: Mr. Speaker, I wish to ask a written question: What follow-up has been made by the Government of the Northwest Territories regarding the announcement that the DREE, Department of Regional Economic Expansion program is to be expanded into the Northwest Territories?

MR. SPEAKER: Deputy Commissioner Parker.

Return To Question W40-61: DREE Program

DEPUTY COMMISSIONER PARKER: Mr. Speaker, with regard to the Minister's announcement concerning DREE, we have been preparing a recommendation to the Legislature and due to our requirement, as we saw it, to consult with the DREE officials to ensure that what we are saying fell in line with the DREE policy, we have not before this time had this recommendation ready. Due to the time that seems to remain within this session we had not thought of bringing this forward but perhaps it would be wise if we were to do so, even though the Legislature may not have time to consider it. So, I would be prepared to have this recommendation typed in final form and tabled before the Legislature probably tomorrow morning, if Members will understand that it does not necessarily have to be considered at this session, but at least it would be available for their information and discussion as they see fit.

SOME HON. MEMBERS: Agreed.

MR. SPEAKER: Is it agreed?

---Agreed

Any further written questions? Mr. Lyall.

Question W41-61: Recreation Trapping Licence

MR. LYALL: Mr. Speaker, I would like to ask the administration about a licence called a recreation trapping licence. I have never heard of this licence before and I would like to know what it is about and who is eligible to obtain this licence.

MR. SPEAKER: Deputy Commissioner Parker.

DEPUTY COMMISSIONER PARKER: Mr. Chairman, I will have to take that question as notice and file a reply.

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

Question W42-61: Fire Equipment For Resolute Bay

MR. PUDLUK: Mr. Speaker, I would like to ask a question about the fire regulations in Resolute Bay, in the settlement. This winter we had a fire in the low rental housing and the fire truck came out with the firefighters, but it was, by then, half gone. I am asking the administration to put in better fire equipment, and also a fire alarm in Resolute Bay, and I understand they are considering the project, but I would like to ask the administration to put that ahead. Thank you.

MR. SPEAKER: Deputy Commissioner Parker.

DEPUTY COMMISSIONER PARKER: I will have to take the question as notice, Mr. Speaker.

MR. SPEAKER: Are there any further written questions?

Item 3, oral questions.

Item 4, petitions.

Item 5, reports of standing and special committees. Mr. Lafferty.

MR. LAFFERTY: Mr. Speaker, I think I am out of order here so I will just sit down.

MR. SPEAKER: Item 6, notices of motions. Mr. Whitford.

ITEM NO. 6: NOTICES OF MOTIONS

Notice Of Motion 9-61: Review Of Mental Health Ordinance

MR. WHITFORD: Mr. Speaker, I give notice that on Friday, February 11, I will move the following motion:

WHEREAS the Mental Health Association of the Northwest Territories has requested a review of the Mental Health Ordinance;

AND WHEREAS it would appear that the ordinance is out of date and may be in need of an amendment;

NOW THEREFORE, I move that the administration be requested to review the Mental Health Ordinance, and if necessary bring forth suitable amendments for consideration by this House.

MR. SPEAKER: Are there any further notices of motions?

Item 7, motions for the production of papers.

Item 8, motions. Motion 5-61. Mr. Butters, are you prepared to go with that today?

MR. BUTTERS: I would prefer to defer, please.

MR. SPEAKER: Motion 5-61, deferred. Are there any further motions from the floor?

Item 9, tabling of documents.

Item 10, consideration in committee of the whole of bills and other matters.

ITEM NO. 10: CONSIDERATION IN COMMITTEE OF THE WHOLE OF BILLS AND OTHER MATTERS

This House will resolve into committee of the whole for continuing consideration of Bill 11-61, the Workers' Compensation Ordinance and Mr. Stewart is not here so Mr. Fraser, have you any objection to taking the chair?

MR. FRASER: No, Mr. Speaker.

MR. SPEAKER: With Mr. Fraser in the chair.

---Legislative Assembly resolved into Committee of the Whole for consideration of Bill 11-61, Workers' Compensation Ordinance, with Mr. Fraser in the chair.

PROCEEDINGS IN COMMITTEE OF THE WHOLE TO CONSIDER BILL 11-61, WORKERS' COMPENSATION ORDINANCE

THE CHAIRMAN (Mr. Fraser): The committee will come to order. Bill 11-61, An Ordinance Respecting Compensation to be Paid as a Result of Injuries or Death Caused to Workers in the Course of Their Employment. I think there was a motion on the floor. Hon. Peter Ernerk.

HON. PETER ERNERK: I wonder if we could again have Mr. MacLean and Mr. Laing appear as witnesses?

THE CHAIRMAN (Mr. Fraser): Is it agreed?

---Agreed



I believe there was a motion on the floor to proceed with Bill 11-61 clause by clause, and I do not know if that motion was voted on.

SOME HON. MEMBERS: Yes it was.

THE CHAIRMAN (Mr. Fraser): The Legal Advisor tells me it was voted on and carried, is that right?

LEGAL ADVISOR (Ms. Flieger): Yes, Mr. Chairman.

THE CHAIRMAN (Mr. Fraser): So, we agreed to start with definitions, clause 2, and go clause by clause through Bill 11-61, the Workers' Compensation Ordinance. Clause 2(1), interpretation. Mr. Lyall.

Motion To Amend Paragraph 2(1)(a)

MR. LYALL: Mr. Chairman, paragraph 2(1)(a) to add the words right after subparagraph 2(1)(a)(iii), "arising out of and during the course of the employment of a worker". That is under definitions.

THE CHAIRMAN (Mr. Fraser): Mr. Lyall, I understand on subparagraph 2(1)(a)(iii), is that right?

MR. LYALL: Under the interpretation in subclause 2(1), under the definitions, Mr. Chairman. Paragraph 2(1)(a) to add the words -- you have the old bill, Mr. Chairman.

THE CHAIRMAN (Mr. Fraser): "'Accident' includes arising out of and during the course of the employment of a worker," agreed?

HON. DAVID SEARLE: Mr. Chairman, I want to be sure on that. I understood Mr. Lyall to have added those words after subparagraph (iii) the words that say "disablement caused by an industrial disease arising out of and during the course of the employment of a worker." Is that not right, Mr. Lyall?

MR. LYALL: Right, Hon. David Searle, yes.

THE CHAIRMAN (Mr. Fraser): What did I say?

HON. DAVID SEARLE: As I understand you, you added them to subparagraph 2(1)(a)(iii), "'accident' includes ..."

MR. LYALL: Subparagraph 2(1)(a)(iii).

HON. DAVID SEARLE: I understood Mr. Fraser to add them after ...

THE CHAIRMAN (Mr. Fraser): The Legal Advisor wants to correct that.

LEGAL ADVISOR (Ms. Flieger): I wonder if the purpose is to add those additions to the definitions, going out to the margin again, after that subparagraph (iii), going back to the margin so that the words cover all three of the subparagraphs.

HON. DAVID SEARLE: Then how would it read?

LEGAL ADVISOR (Ms. Flieger): The definition would then read "'accident' includes ... " skipping some of the words " ... fortuitous event ..." (ii) "occasioned by a wilful or intentional act, and (iii) disablement, caused by an industrial disease." Then going back to the margin add the words "arising out of and during the course of employment of a worker."

Motion To Amend Paragraph 2(1)(a), Carried

THE CHAIRMAN (Mr. Fraser): Agreed?

---Carried

Clause 2, interpretation, agreed?

MR. BUTTERS: No. Paragraphs 2(f) and (p.1) where medical aid is defined further. I just want to make sure medical aid here includes rehabilitative procedures and programs. The only thing under medical aid is on page four where it says "appliances". I just wonder if that one word "appliances" includes all of the rehabilitative services or programs that an injured or disabled worker may require.

THE CHAIRMAN (Mr. Fraser): Paragraph 2(f), is that right?

MR. BUTTERS: The definitions, yes, paragraph (f) and I relate it to paragraph (p.1) on page four and I am trying to determine if "medical aid" includes rehabilitative programs and services and whether that word "appliances" in the fifth line so refers.

THE CHAIRMAN (Mr. Fraser): Thank you, Mr. Butters. Mr. Laing or Mr. MacLean, could you answer that?

MR. MacLEAN: Yes, Mr. Chairman, it does. That phrase "special treatment and appliances" covers rehabilitation. You will also notice at the end of the paragraph "and such other things as the employer or board may authorize or provide as medical aid for an injured worker;". It leaves wide discretion in the hands of the board in order to supply all necessary rehabilitation treatment or appliances that may be necessary.

MR. BUTTERS: Thank you.

THE CHAIRMAN (Mr. Fraser): Thank you. Clause 2. Hon. Dave Nickerson.

HON. DAVE NICKERSON: On this particular subject that Mr. Butters brought up, Mr. Chairman, I think subclause 51(2) elaborates on that matter. That would be on page 53.

MR. BUTTERS: Agreed.

Motion To Amend Paragraph 2(1)(v)

HON. DAVE NICKERSON: On page five in paragraph 2(1)(v) I would move that words to this effect, if the Legal Advisor considers it necessary to alter this wording, I would move that the following words be added: "but does not include any payments in respect of special expenses incurred by reason of the nature of the employment."

THE CHAIRMAN (Mr. Fraser): That is paragraph 2(1)(v)?

HON. DAVE NICKERSON: Yes.

THE CHAIRMAN (Mr. Fraser): Will you repeat that, Hon. Dave Nickerson? She did not quite get it.

HON. DAVE NICKERSON: If you would like, Mr. Chairman, I would undertake to have this typed out and circulated. It might be easier that way. We could leave that clause 2 for the time being.

MR. LYALL: Mr. Chairman, could we have a consultation, please, with the Legal Advisor, or the other advisers, please?

THE CHAIRMAN (Mr. Fraser): On what, Mr. Lyall?

MR. LYALL: On what Hon. Dave Nickerson is adding to paragraph 2(1)(v).

THE CHAIRMAN (Mr. Fraser): He has not added anything yet. He wants to get it typed out so we can see it.

MR. LYALL: Can we get the Legal Advisor ...

THE CHAIRMAN (Mr. Fraser): She has not got it either, Mr. Lyall. Mr. MacLean, did you get that change that Hon. Dave Nickerson put on the floor? Could you reply to it, please?

Special Expenses

MR. MacLEAN: Yes, Mr. Chairman. I am not quite clear as to what the Hon. Dave Nickerson has in mind, but I would take it that these special expenses might include transportation allowances to and from work. If that is what the Hon. Dave Nickerson has in mind, it seems quite logical that an amendment of this nature should be accepted as far as the board is concerned.

THE CHAIRMAN (Mr. Fraser): Thank you, Mr. MacLean. Hon. Dave Nickerson, I wonder if you could just repeat that so the Legal Advisor can get it before we go through all the work of typing it out, please?

HON. DAVE NICKERSON: Certainly, Mr. Chairman. The wording I have is to add after the word "money", "but does not include any payments in respect of special expenses incurred by reason of the nature of the employment."

THE CHAIRMAN (Mr. Fraser): Did you get it? The change is on interpretation, paragraph 2(1)(v) and after the last word in (v) "money", our Legal Advisor will read the change.

LEGAL ADVISOR (Ms. Flieger): I do not have the last few words. I think I have the substance of it, Mr. Chairman. The change would be a change in the definition of "remuneration" which now lists all of the things that are included and concludes with the words "or any other remuneration in kind or other substitute for money" -- "but does not include any payments in respect of special expenses incurred by reason of the nature of the employment."

THE CHAIRMAN (Mr. Fraser): Is that correct, Hon. Dave Nickerson?

HON. DAVE NICKERSON: Yes.

THE CHAIRMAN (Mr. Fraser): You have all heard the change. Mr. MacLean, can you see any problem with that change?

MR. MacLEAN: No, Mr. Chairman.

THE CHAIRMAN (Mr. Fraser): Thank you.

Things Included In Remuneration

LEGAL ADVISOR (Ms. Flieger): The words themselves give some trouble because of the all inclusive nature of the words that come before. Remuneration includes, for example, cash equivalent of board and lodging, store certificates, credits of any kind and after that we are saying "but does not include payments in respect of special expenses incurred by reason of the nature of the employment". That could, for example, be clothing, I would think, special clothing.

HON. DAVE NICKERSON: I think I can see the obvious faults with the wording that I suggested, Mr. Chairman. The intent is to remove from the definition of "remuneration" such things as travelling expenses which would no longer be required by somebody who was not working or special asbestos suit for smelter workers for instance. He would not require that it has to be provided if he was not working, so perhaps the Legal Advisor could take the intent into account and work out some better wording.

THE CHAIRMAN (Mr. Fraser): Thank you, Hon. Dave Nickerson. Could that be done?

LEGAL ADVISOR (Ms. Flieger): Yes.

THE CHAIRMAN (Mr. Fraser): Agreed?

---Agreed

MR. LYALL: Mr. Chairman, I think at the committee meeting that this was brought up and the committee felt that it was not needed in there. Is there any reason why we did not agree with that, Ms. Legal Advisor? I know that when Hon. Dave Nickerson brought it up at the committee meeting we disagreed with it.

Effect On Pensions

LEGAL ADVISOR (Ms. Flieger): Mr. Chairman, you might want to look at what effect this would have in respect of the pension that is based on this figure. Perhaps Mr. Laing could give us some advice there. For example, this is the way I see it, if transportation costs are paid and under our definition as it stands perhaps it would be included in remuneration, then this might have the effect of raising a workers' pay level to the maximum of whatever the maximum is at that, \$14,500, let us say, so that if he were injured he would then be entitled to the maximum payment. If this were not included then it might have some effect on how much pension he has. That is the effect of it and I suppose the question is really what is included in the words "special expenses incurred in the nature of employment". How much effect it would have.

THE CHAIRMAN (Mr. Fraser): Thank you. Mr. Laing, could you possibly give us a little on that, on that added paragraph?

MR. LAING: Yes, Mr. Chairman. I think there are two effects and one is that it increases the remuneration for the purposes of assessment on the employer and secondly, if it were included it would, in fact, increase the benefits. I think I should say that these expenses are excluded in the Alberta act and we did originally have a section in the present bill excluding it and it was taken out in committee.

THE CHAIRMAN (Mr. Fraser): Thank you, Mr. Laing. Do you still wish the Legal Advisor to go ahead, Hon. Dave Nickerson, and get us something and bring it back again and then we could come back to clause 2 if there is nothing else? Hon. David Searle, I think you have something.

Years Maximum Assessable Remuneration

HON. DAVID SEARLE: Mr. Chairman, if I may, I would like to go to paragraph 2(1)(z), assuming there is nothing between those two subsections, and paragraph (z) deals with the years maximum assessable remuneration, and indicates a figure of \$14,500, effective from January 1, 1977. I have had distributed to Members a piece of paper which sets out various comparisons, a 1971 census showing people employed in the Yukon as 7700 and the Northwest Territories as 10,500, and the average wages and salaries in the Yukon and Northwest Territories as of May 1976, average weekly, that is, \$350 in the Yukon and \$278 in the Northwest Territories. You will see what appears in the various pieces of legislation and we are proposing \$14,500 and the Yukon is at \$13,000, Alberta is \$14,500, etc.

I guess the only question I think we have to decide is whether the \$14,500 should stay at that level which as you can see is at the upper level. There is one other jurisdiction, Alberta, which is the same and three others that are higher, British Columbia, Ontario and Manitoba. I guess my question is I think we are presently at \$10,000, it is presently \$10,000 under the present act and we are jumping 45 per cent or \$4500. I guess my question is whether we should not be more in line with the Yukon in view of the comparison of wages and number of employees which is what, as I understand it, the fund is based on and whether we should not be somewhere around the \$13,000 rather than \$14,500.

THE CHAIRMAN (Mr. Fraser): Thank you. Are you finished?

HON. DAVID SEARLE: I would just like, Mr. Chairman, to maybe direct a discussion to that as to whether \$14,500 or \$13,000, whether that might not be a better figure.

THE CHAIRMAN (Mr. Fraser): I think Mr. MacLean has all those figures, and would you explain it or could you circulate them possibly to the Members or have you copies, Mr. MacLean?

Canadian Employment Benefits And Pension Guide Reports

MR. MacLEAN: Mr. Chairman, I wonder before you enter into a discussion if I might point out that in connection with the figures that the Hon. David Searle has circulated, they do not agree with the figures we have from the latest edition of the Canadian Employment Benefits and Pension Guide Reports. If you want to bear with us, Mr. Chairman, we could give you those figures now, and I will ask Mr. Laing to do that.

MR. LAING: Mr. Chairman ...

THE CHAIRMAN (Mr. Fraser): Would it be possible to have copies made and have it circulated after you give us the figures?

MR. MacLEAN: Yes, it would and if the Clerk of the House, if I could give this to him then copies could be made.

THE CHAIRMAN (Mr. Fraser): Thank you. Mr. Laing.

MR. LAING: This CCH publication, Mr. Chairman, shows Quebec as \$13,500, not \$9000; it shows New Brunswick as \$12,000, not \$9000; Newfoundland \$12,000 instead of \$9000; and Prince Edward Island is \$12,000 instead of \$8000.

THE CHAIRMAN (Mr. Fraser): There is no change in the rest of them, is that right?

MR. LAING: No change in the others as far as I can see. Now, if I could speak to the question of the average remuneration in the Northwest Territories, I was able to get the latest industrial composite average weekly wage from Statistics Canada at noon today, and the estimated figure for November 1976, is \$311.63 per week which is \$16,205 per year. The latest final figure available is for September 1976, and that was \$310.98 per week or an annual figure of \$16,171. It has in fact gone up quite rapidly since November 1975 when the figure was \$282.56 per week or \$14,693 per year. Now, that is the industrial composite average weekly wage, for industrial workers in the Northwest Territories.

THE CHAIRMAN (Mr. Fraser): Thank you.

MR. LAING: Excluding government employees.

Gradual Approach Suggested

THE CHAIRMAN (Mr. Fraser): Thank you. Hon. David Searle, do you want to follow that up?

HON. DAVID SEARLE: Well, Mr. Chairman, the increases for the maritime provinces and Quebec, be that as it may, I guess it does not affect the point I am raising in that none of them, of course, are in excess of \$14,500. I think possibly going to \$14,500, is not bad, you know, it is not a bad figure, it is right around with what is done in other jurisdictions and my question is whether you should necessarily do it in one big hop as we have done. What we are going from is \$10,000 to \$14,500 in one jump, and in view of the fact that we are looking at a reassessment of this fund over a year I wonder if a more gradual approach to the subject would not be wise, say \$13,000 or \$13,500 and in a year a reassessment of going up to that figure of \$14,500. I am not on one side of it or the other, I am just raising the question.

THE CHAIRMAN (Mr. Fraser): We went through this in the committee meeting and I think Mr. Laing explained it very well, but he could probably explain it again, the reason for going to \$14,500.

MR. LAING: The reason for going in such a big step all at one time is that the \$10,000 figure has been in force too long, it should have been raised some time ago.

THE CHAIRMAN (Mr. Fraser): Thank you, Mr. Laing.

MR. LYALL: Mr. Chairman, in respect to what Mr. Laing stated, I personally feel, and I think other committee Members feel that these ordinances are put on the shelf too long without being looked at and, as Mr. Laing stated, it has been on the shelf for too long and this is more likely the correct jump it should be taking, because it is since 1971 and the rest of the ordinances should be looked at on a yearly basis and not leaving them as long as we have with this one. This amount of \$14,500 is based on the fact that this has not been looked at since 1971.

THE CHAIRMAN (Mr. Fraser): Thank you, Mr. Lyall. Clause 2, definitions. Except for that small change that we are going to look at, we could come back to clause 2 when the Legal Advisor has got the wording right. Is that all right with you, Hon. Dave Nickerson?

Agreement Between Commissioner And Board

HON. DAVE NICKERSON: I have one question on subclause 2(2), Mr. Chairman. On page seven, clause 2, subclause (2). I wonder if I could possibly ask Mr. Laing what would be the main points in the agreement which is to be made between the Commissioner and the board under this subclause?

THE CHAIRMAN (Mr. Fraser): Mr. Laing, did you get the question?

MR. MacLEAN: Inasmuch as the agreement would be, or the basis of the agreement would be by way of order of the board if I could answer that question. As far as I see it the agreement would be with relation to the payment of administration costs, the cost of administering the fund, which would include all salaries and all expenses of the board in relation to their day to day work.

THE CHAIRMAN (Mr. Fraser): Hon. Dave Nickerson, does that answer your question?

HON. DAVE NICKERSON: It does, Mr. Chairman, but I just wondered, maybe as a subsidiary question, whether a draft agreement has yet been drawn up and whether there is one in existence.

MR. MacLEAN: No, there is not, Mr. Chairman, at the present time. As the committee, the standing committee is well aware, this clause just came in again because the difficulty in relation to the employees of the board is with regard to the fact that they are members of the union, they have certain pension rights and the reason for this clause is to allow them to continue and to receive the benefits that they are receiving now as employees of the territorial government. At the same time this allows the board a certain amount of freedom with relation to administering the fund with respect to those expenses. The funds in the accident fund are trust funds and the board has the sole responsibility with respect to the expenditure of those funds, and as I see it any agreement between the board and the Commissioner could only be in relation to the day to day administration expenses to be paid out of the fund.

THE CHAIRMAN (Mr. Fraser): Thank you, Mr. MacLean. Clause 2, interpretation. Mr. Butters.

Rescue Workers

MR. BUTTERS: Mr. Chairman, on page four, paragraph (r) which refers to mine rescue work. It appears to me that there is a comparative situation experienced in the work of fire departments and while members of fire departments are referred to in subparagraph (x) (iii), I wonder if it might be wise to give them the same consideration we are giving mine rescue workers because it mentions in here, "repair of equipment used in and the training for such work," but in reference to the fire brigade it does not so designate.

THE CHAIRMAN (Mr. Fraser): Mr. MacLean.

MR. MacLEAN: Mr. Chairman, the clause of course includes rescue work and rescue work would include a voluntary fireman. As we go through the ordinance and I do not have the exact number of the clause here, there is a clause that specifically provides for payment to those engaged in rescue work and that includes volunteer firemen and people who might go up in airplanes for search and rescue and that sort of thing.

THE CHAIRMAN (Mr. Fraser): Thank you, Mr. MacLean. Mr. Butters.

MR. BUTTERS: I saw that in here too and I wondered why the volunteer firefighters seem to get less consideration than the mine rescue people. As far as I am concerned the degree of danger is just about the same and the job is just about the same.

The other aspect was on subparagraph (x) (iii) and Mr. MacLean has made reference to this but the phrase I am referring to is "... and any other person engaged in rescue work on a part time basis." Now, as this chamber heard, and Mr. Lyall again raised the point with reference to the need for a community based immediate reaction search and rescue teams of local people and if such ever gets put together with the administrations's assistance and possible funding, I assume that that clause would include members of such a group.

THE CHAIRMAN (Mr. Fraser): Mr. MacLean.

MR. MacLEAN: Yes, Mr. Chairman, that is correct. That is exactly what we want in here. I hope that if there is any doubt about the fact that we are not treating volunteer firemen the way we should, that we might look at this at a later date. Our concern for volunteer firemen, the board's concern is just as great as Mr. Butters' because they do a marvellous job. I think the definition of "mine rescue work and rescue work" includes volunteer firemen and it is there so that if they are repairing equipment at the fire house or somewhere and there is an accident they are covered, although there may not be a fire.

Clause 2, Deferred

THE CHAIRMAN (Mr. Fraser): Thank you, Mr. MacLean. Clause 2, agreed, subject to the change made, that we will come back to clause 2. Agreed?

HON. ARNOLD McCALLUM: We have to come back to vote on the amendment, is that correct?

THE CHAIRMAN (Mr. Fraser): That is correct. Once the Legal Advisor finds out whether it is legal or not. Is that agreeable with you, Hon. Dave Nickerson?

HON. DAVE NICKERSON: Yes.

THE CHAIRMAN (Mr. Fraser): Agreed?

---Agreed



Workers' Compensation Board, PART 1 on page seven, clause 3. Hon. Dave Nickerson.

HON. DAVE NICKERSON: I refer specifically to subclause (2) of clause 3, Mr. Chairman and it says, "The board shall consist of not fewer than three members ..." I would like to know what the practice will be, whether it will be three or if it is expected to be more than three. Also it says "one of whom shall be designated as chairman". By whom is the designation to be made? Is that to be made by the other board members or is that to be made by the Commissioner?

THE CHAIRMAN (Mr. Fraser): Mr. MacLean.

MR. MacLEAN: It is my understanding that the chairman of the board will be appointed by the Commissioner. It does not spell it out, I agree with you there. The practice at the present time with respect to the board, it has been three members and I believe the wording "not fewer than three members" was put in there in case that the board wished to expand or there were requests from labour and management to expand it and then it could be done without coming back to the Assembly for an amendment.

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

Size Of Workers' Compensation Board.

HON. DAVID SEARLE: Mr. Chairman, I have had some experience with the board and in my view the board should consist of not fewer than five, of which three should be a quorum. The reason for that is that generally the make-up of the board, if it were to sit as three, and I would not envisage it ever sitting as five or as four, but rather, as three. Normally it is made up of a labour representative and a management representative and an independent chairman, not necessarily labour and management representatives but people who come from those respective disciplines. There are always cases where either the management or the labour person or persons from those disciplines might have a matter before the board concerning their old employer, their previous employer or indeed if the person is still active in management, it could be his current company.

The same applies to labour, of course, where if you have an active labour representative you could have a matter before the board being pursued vigorously by the union that he is presently connected with or, if he is retired, by the union he was previously connected with. It seems to me that if you have only a board of three it is very difficult for that person to do what he should do, which is to declare a conflict and back out of the discussion because then that leaves just two and it leaves that worker not having the proper balance brought to bear in the judgment of the particular case.

So it is my view that what you really should have is a board comprised of two people from management discipline, two people from labour discipline and an independent chairman and at any one time have only three of them sitting but if on the agenda there is a particular matter that gives one a conflict that one can stand down and another person from that discipline can take his place. I bring this forward as a matter of having had some experience seeing a conflict which, had there been a large enough board, presumably would not have occurred. I am not saying that the board should be five and the five always sit, but that it should be five with discretion in the chairman to call in one person from the management discipline and one from the labour discipline, depending on what is on the agenda with the chairman obviously not setting matters down for that particular session that concern any of the other board members, employers or unions. That is kind of the thought behind it. I am just wondering if we were to say that the board shall consist of not fewer than five members, three of whom shall constitute a quorum, it seems to me then we could leave it for the board to settle the matter of conflicts in a normal intelligent manner.

THE CHAIRMAN (Mr. Fraser): Thank you, Hon. David Searle. What is the practice right now, Mr. MacLean? Maybe you could explain it.

Composition Of Present Board

MR. MacLEAN: Yes, Mr. Chairman. The practice right now is a three member board. Hon. David Searle is quite correct. One is nominated by labour and one is nominated by management and there is an independent chairman, I hope. I would like to direct the committee's attention to subclause 5(1). We have had problems in the past in relation to a member being absent or being ill and therefore having only a two member board. Subclause 5(1) is in this ordinance and indicates that the Commissioner, if one of the members is absent or ill, the Commissioner may appoint any other person to act in his place during the time of the absence or the illness. That is another reason why subclause 3(2) was worded in that manner, so that the continuing member, although he is absent, can still be a member of the board. Another member could be appointed for a period of two or three months, whatever was needed and at that time the appointment would lapse and it would return to a three member board. I just point this out for the edification of the Assembly Members.

THE CHAIRMAN (Mr. Fraser): Thank you, Mr. MacLean. Do you want to follow up on that, Hon. David Searle?

HON. DAVID SEARLE: I appreciate that is an essential clause but it does not really cover entirely the point I made which was that, putting it simply, I think the board should be by statute five, with a quorum of three, and then the board sitting as three and have that built-in flexibility from the beginning. When you get into five, then you are going to have special commissions, appointments for special occasions and you have to be able to foresee the conflict I guess is what I am saying, which is not always possible, so I think that Mr. MacLean would find it much simpler the way I am proposing it, frankly.

THE CHAIRMAN (Mr. Fraser): Thank you, Hon. David Searle. I do not think there would be any objection to changing it to five if you want to make a motion and bring it before the Assembly. Then we will see what happens.

Motion To Amend Subclause 3(2) And Subclause 4(2)

HON. DAVID SEARLE: I do not want to propose the exact wording because that is up to our Legal Advisor but the thought I have and I therefore would like to move that subclause 3(2) be altered to provide for a board with a membership of five and to include provisions for a quorum of three.

THE CHAIRMAN (Mr. Fraser): Thank you. Ms. Legal Advisor, could you give us a little on that?

LEGAL ADVISOR (Ms. Flieger): Perhaps Hon. David Searle would want to propose an amendment to subclause 4(2) at the same time and that is the provision that deals with a quorum. Perhaps the amendment to subclause 3(2) would be to simply change "three" to "five" and the opening words of subclause 4(2) would be "Three members constitute a quorum."

HON. DAVID SEARLE: Mind you, a majority would be three in any case, would it not?

LEGAL ADVISOR (Ms. Flieger): A seven member board would still be a possibility.

HON. DAVID SEARLE: Yes, I agree with that.

THE CHAIRMAN (Mr. Fraser): So now we change "three" in subclause 3(2) "The board shall consist of not fewer than five ..." in place of "three." On page eight, subclause 4(2) "Three members constitute a quorum." Did everybody get that? The motion is on the floor: "I move that subclause 3(2) be altered to provide for the board members as five and subclause 4(2) to provide provisions for a quorum of three." Does that sound right, Hon. David Searle?

HON. DAVID SEARLE: Yes.

Motion To Amend Subclause 3(2) And Subclause 4(2), Carried.

THE CHAIRMAN (Mr. Fraser): To the amendment. The question has been called. All in favour? Six. The amendment is carried.

---Carried

MR. LYALL: There were only six votes, were there?

THE CHAIRMAN (Mr. Fraser): Seven I got. Let us try it again. To the amendment, all in favour? Eleven. Thank you.

HON. ARNOLD McCALLUM: Seven come 11, roll the dice.

THE CHAIRMAN (Mr. Fraser): Clause 3. Mr. Butters.

Motion To Further Amend Subclause 3(2)

MR. BUTTERS: Mr. Chairman, I have an amendment to the same clause and I would like to see in the second line the words "appointed by the Commissioner in Council" or "appointed by the Commissioner on recommendation of Council."

THE CHAIRMAN (Mr. Fraser): That is subclause 3(2)?

MR. BUTTERS: Yes.

THE CHAIRMAN (Mr. Fraser): Could you say that a little slower so that the Legal Advisor can have it?

MR. BUTTERS: Subclause 3(2) in the second line the amendment should again be left to the Legal Advisor but it would either be "... members appointed by the Commissioner in Council" or "... appointed by the Commissioner on the recommendation of Council."

THE CHAIRMAN (Mr. Fraser): The Legal Advisor says it is one or the other. Do you want me to decide?

LEGAL ADVISOR (Ms. Fliieger): The second alternative is the better of the two.

MR. BUTTERS: That would be acceptable to me.

LEGAL ADVISOR (Ms. Fliieger): The Commissioner on the recommendation of Council.

THE CHAIRMAN (Mr. Fraser): Can you see any problems with that, Mr. MacLean?

MR. MacLEAN: It is a legal matter as far as I can see. If the legal counsel says it can be done, it can be done, in Council.

LEGAL ADVISOR (Ms. Fliieger): The proposed amendment would result in the board appointments being made by the Commissioner on the recommendation of the Legislative Assembly, or Council.

MR. BUTTERS: I do not think that would be acceptable to the Minister.

LEGAL ADVISOR (Ms. Fliieger): The Commissioner on the recommendation of Council.

MR. BUTTERS: I am doing that for Councillor Allmand, the privy council.

---Laughter

THE CHAIRMAN (Mr. Fraser): So, we have an amendment to subclause 3(2) and the Legal Advisor will read the amendment.

LEGAL ADVISOR (Ms. Fliieger): "The board shall consist of not fewer than five members appointed by the Commissioner on the recommendation of Council, one of whom shall be designated as chairman."

THE CHAIRMAN (Mr. Fraser): Does that sound right? To the amendment.

SOME HON. MEMBERS: The question.

THE CHAIRMAN (Mr. Fraser): The question being called. All in favour?

HON. DAVE NICKERSON: I wanted to ask a question.

THE CHAIRMAN (Mr. Fraser): We will give you that privilege.

Civil Servant As Chairman Of The Board

HON. DAVE NICKERSON: The question, Mr. Chairman, is I would assume that as an administrative convenience it would be normal for a territorial civil servant to be appointed the chairman of the board. I wonder if any of the witnesses could give us their ideas whether or not that factor should continue or if in their opinion it is a good practice and whether, if this amendment was to be accepted they could foresee any difficulty.

THE CHAIRMAN (Mr. Fraser): Mr. MacLean.

MR. MacLEAN: Mr. Chairman, at the present time, I think it is a good practice. I foresee the day when the board may become completely autonomous, but that day is not for several years yet. At the present time, to have an employee of the territorial government act as chairman, has distinct advantages administratively. As we move along though and as the board gets more experience and the fund grows, hopefully, more autonomy will be needed by the board in relation to the administration of its own affairs. More expertise will be gained, there will probably be a widening of the medical advisory committee, perhaps another step in the appeal procedure will be put in, and these things I can see coming about as we gain more expertise and, at that time, I would think that probably, whoever is appointed chairman, whether or not he is a government employee would have little or no effect on his administrative abilities.

THE CHAIRMAN (Mr. Fraser): Thank you, Mr. MacLean. Hon. David Searle.

HON. DAVID SEARLE: I guess the only problem I see in the matter of having the appointments made by Commissioner in Council, or on the advice of Council is that should one or two members resign between sessions you may be in the same situation I understand we are in with respect to the Northwest Territories Water Board, and it seems one does not remember to get the necessary thing up at the next session with the pressure of other things to do and we end up with the board limping along very substantially below number, and I think we are in that position, are we not, with the Northwest Territories Water Board? In other words, if the vacancies are not promptly filled, and particularly when you get a statutory provision such as the previous change requiring there to be a minimum of five members, what happens if one resigns between sessions, how does the board carry on? Constitutionally it has to have a minimum of five, and yet if you have someone who has resigned and there is an Assembly session three or four months away so does all its business -- I know you can proceed with a quorum of three, but if the board itself must be five and in fact you only have four, I am wondering whether you do not have a problem there.

THE CHAIRMAN (Mr. Fraser): On page eight, clause 5. That may clarify that, but perhaps Mr. MacLean could explain it.

Short-Term Appointments To Board

MR. MacLEAN: I was just going to say that if the committee reads subclause 5(1) as it stands, then that difficulty would be overcome because the Commissioner could make appointments if there was an absence, a long absence or sickness for short-term appointments, he can make them without the recommendation of Council.

SOME HON. MEMBERS: Agreed.

THE CHAIRMAN (Mr. Fraser): I understand you do not want that change made or do you still want that amendment put in?

MR. BUTTERS: I thought the amendment was passed.

THE CHAIRMAN (Mr. Fraser): No, we are still discussing the amendment.

MR. BUTTERS: I think that clause 5 covers the concern raised legitimately by the Member from Yellowknife South.

THE CHAIRMAN (Mr. Fraser): So, you will cancel your amendment?

MR. BUTTERS: Put it in.

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

HON. DAVID SEARLE: I agree that clause 5 solves the problem, and it solves it so well that after the initial appointment of the board by the Commissioner with the advice and consent of Council all vacancies thereafter can be, as they occur, filled by the Commissioner. So, I suspect that what we are going to succeed in doing is having the five positions originally recommended by Council and thereafter pursuant to clause 5, and from time to time as vacancies occur. If we are going to leave those sections as they are the net result will be just that. You have an input with respect to the original slate but thereafter they shall never again be heard from.

THE CHAIRMAN (Mr. Fraser): Thank you. I think if you go through this book, you will find the Commissioner's name on just about every page and if we change it now we might as well change the whole book. Mr. Butters.

MR. BUTTERS: Just to say that clause 5 is permissive, "the Commissioner may appoint," I think the Commissioner recognizes the aspirations of this body and this House and I doubt if he would go ahead arbitrarily unless the requirement was really necessary. So, I think that the amendment will still be effective, even after the original appointment.

THE CHAIRMAN (Mr. Fraser): Mr. MacLean.

Status Of Present Board

MR. MacLEAN: I am not sure of my legal ground on this. I am wondering out loud, if the ordinance is passed and this stays as it is, does that mean that the present members of the board, there has to be a recommendation from the Council to the Commissioner to reappoint the present members? If the ordinance passes we may not have a board at that point in time.

THE CHAIRMAN (Mr. Fraser): Very good thinking. We will just look that up. While she is looking that up, Mr. Butters, you still want your amendment to stand, do you?

MR. BUTTERS: That is right, sir.

THE CHAIRMAN (Mr. Fraser): I beg your pardon.

MR. BUTTERS: Yes, I do, sir.

THE CHAIRMAN (Mr. Fraser): To the amendment. The Legal Advisor has the answer for us now.

LEGAL ADVISOR (Ms. Fliieger): The Interpretation Ordinance would contain the appointment of the present board until they were replaced.

MR. MacLEAN: Thank you.

THE CHAIRMAN (Mr. Fraser): To the amendment. Could you read that amendment?

LEGAL ADVISOR (Ms. Flieger): Subclause 3(2) "The board shall consist of not fewer than five members appointed by the Commissioner on the recommendation of Council, one of whom shall be designated as chairman."

THE CHAIRMAN (Mr. Fraser): To the amendment. Hon. David Searle.

HON. DAVID SEARLE: Mr. Chairman, I generally support the House having a say in the appointments to boards, but this is a fairly technical one where I am sure a lot of people on both labour and management side would have to be canvassed and recommendations by labour made, recommendations by management made, and frankly, it does not seem to be one that we should be involved in, because the administration will have to do the canvassing well in advance and make recommendations to us. We then in turn say "That is right, we will recommend these people to you" because there is no machinery where we would presumably go out ourselves canvassing for these people. It is a very technical matter and, frankly, if you have confidence in the Commissioner to appoint replacements and others to act, in case of illness, I would think we should leave the appointment to the Commissioner and not make it upon the advice and consent of Council. There are other boards where I think we should have a say but this one is a pretty highly technical area and you will probably not find a wealth of people with experience. I mean, you will not produce a list of a lot. So, contrary to my sort of general response to this approach to life I personally think this would be a board that we would not want to be advising the Commissioner on. That is my gut reaction to it.

THE CHAIRMAN (Mr. Fraser): To the amendment. Mr. Butters.

Input By Legislative Assembly.

MR. BUTTERS: I think that the principle that we are looking at is not whether the board is technical, or non-technical as Hon. David Searle says. I think that suggestion is a red herring or a rabbit down the trail. I think the principle is whether or not this body wishes to have input into some of these other quasi-judicial, quasi-legislative bodies which have a very great effect on our lives. Legislatures, both the national legislature and provincial legislatures have dissipated and delegated a lot of their powers to boards, boards that once they receive this power, no longer have any responsibility to the legislature that originally set them up. I am saying I do not care whether the body is technical or not. We should have input into the naming of every board that exists in these territories. Every board, Hon. David Searle, and certainly the administration will recommend to us as it usually does, a list of names of people who would be able to serve on these boards and we would look at them and probably use their valuable judgment and valuable recommendations. I think to delegate this authority to the Commissioner so easily and without argument is most difficult to understand. So, I suggest to Members it is not a matter of a technical board or a non-technical board; it is a determination of whether we wish to have some kind of authority or to give some kind of direction.

THE CHAIRMAN (Mr. Fraser): I wonder if I could say something at this time. I am not clear what you are trying to get at. This means that if you want the Council to recommend board members that you would have to call a Council meeting every time you wanted to hire somebody.

MR. LYALL: Mr. Chairman, I think the thing that is missing in here is that if we do want to have input, if this legislative body wants to have input into appointing members to the board, it is very clear, I think that if somebody dies on the board, or if they were dismissed for misbehaviour, or they were ill, that the Commissioner should, in my opinion, fill that board until such time as this body meets and we could appoint someone who was recommended by this body. At such time we would have people recommended to this Assembly to be appointed to that board. I think there is a temporary need to fill the board between Assembly sessions.

I think there should be a clause put in there that there is a temporary need and we know there would be a temporary need if one of the board members should collapse or could never attend a meeting, so I think there is a need for that if there is going to be a meeting of the board, that there should be a temporary person put in there by the Commissioner until such time as our recommendations have been filled.

THE CHAIRMAN (Mr. Fraser): Thank you, Mr. Lyall. To the amendment. Mr. Lafferty.  
Authority Over Boards In N.W.T.

MR. LAFFERTY: Mr. Chairman, speaking to the amendment and reiterating Mr. Butters' comments, I feel the same way as he does. I feel that it is not so much to have an input into everything. The Commissioner is already allowed powers to make temporary appointments in the event that someone falls ill or is absent because of some reason or other, it is there. None the less I feel this Legislative Assembly should have an input or should get final authority as to all boards that are operating in the Northwest Territories, to whom they must account. Too many times, as Mr. Butters says, boards are appointed by this body. They have been delegated authority by this body, and they do not even have to report back or stand accountable to this body. On that principle I favour the amendment of Mr. Butters. Thank you, Mr. Chairman.

THE CHAIRMAN (Mr. Fraser): Thank you, Mr. Lafferty. To the amendment. The question has been called. We will just read that amendment once more, please?



LEGAL ADVISOR (Ms. Flieger): "The board shall consist of not fewer than five members appointed by the Commissioner in Council, one of whom shall be designated as chairman."

Motion To Further Amend Subclause 3(2), Carried

THE CHAIRMAN (Mr. Fraser): The question has been called. In favour of the amendment? The question was called. All in favour? Five. The amendment has been defeated. Contrary, if any? Three.

HON. ARNOLD McCALLUM: Let us have coffee.

THE CHAIRMAN (Mr. Fraser): Let us try that again.

HON. ARNOLD McCALLUM: Best two out of three?

THE CHAIRMAN (Mr. Fraser): The question has been called. All in favour? Five. Six. Contrary? Three.

HON. ARNOLD McCALLUM: That is better.

THE CHAIRMAN (Mr. Fraser): That is better, yes. The amendment is carried.

---Carried

Clause 3, continuation of board, agreed?

---Agreed

Clause 4, chairman, agreed?

---Agreed

Clause 5, where board member unable to act, agreed?

---Agreed

HON. DAVID SEARLE: Mr. Chairman, in clause 4, subclause (2) as amended where it says presently "A majority of the ...", it should say "Three members constitute a quorum ..."

THE CHAIRMAN (Mr. Fraser): Ms. Legal Advisor, would you read that amendment?

LEGAL ADVISOR (Ms. Flieger): "Three members constitute a quorum ..." and so on.

THE CHAIRMAN (Mr. Fraser): Agreed as amended?

---Agreed

Clause 5, agreed?

---Agreed

Clause 6, office and meetings, agreed?

---Agreed

We are going real well here. Clause 7, board responsibilities. Mr. Butters.

MR. BUTTERS: Subclause 7(4) "The board may appoint doctors, ...". These are individuals who work in the sense of witnesses for a specified period of time only and not continually as members of the board or part of the board's staff?

THE CHAIRMAN (Mr. Fraser): Could you answer that, Mr. MacLean?

MR. MacLEAN: I did not get the gist of that question.

MR. BUTTERS: Subclause 7(4) "The board may appoint doctors, lawyers, accountants, actuaries ..." This is temporary employment and not an ongoing portion of the board's staff?

Employees On Time Spent Basis

MR. MacLEAN: That is basically correct, Mr. Chairman. It is on a time spent basis. For instance, in order to have a medical doctor who we can depend upon to service our needs we have to say to him, "We are going to need your services one day a week at a minimum." Similarly with a lawyer, we have a lawyer in town we use as counsel, and similarly with respect to Mr. Laing. He is on a straight time basis. If we need the services of an actuary, we use Mr. Laing. The main thrust of the clause is to protect the board with respect to paying for these people out of the fund. As you will notice near the end of the clause, "... shall be fixed by the board and the remuneration shall be paid out of the accident fund." Without that power if we employed anyone else who is not a full time member of the board there might be some doubt as to our legal liability in doing so.

THE CHAIRMAN (Mr. Fraser): Thank you, Mr. MacLean. Mr. Butters.

MR. BUTTERS: I guess my concern related to the fact that there is no requirement here that I can see for the board to advertise such a need so that all the barristers who might be available would know of such a need and may make application. It seems to permit the board here to approach a particular individual. I just wonder if this is the best practice or whether it might not be better to advertise the need and receive applications from individuals who would be interested and be available, sort of a competitive thing.

THE CHAIRMAN (Mr. Fraser): Do you have an answer to that, Mr. MacLean?

MR. MacLEAN: With all due respect, the result may be exactly the same. Certainly the board attempts to acquire the very best of professional help. It is on that basis that selections are made and no other basis. If we have to go to so-called tender every time we want a doctor or a lawyer, it would not only create administrative difficulties, but I suggest the end result could possibly be the same. We need someone who has got the time to spend with us, is very competent in his field and will take the time to understand what workers' compensation is all about.

THE CHAIRMAN (Mr. Fraser): Thank you very much, Mr. MacLean. I recognize the time is past coffee time. The House will recess for 15 minutes and we will come back to clause 7 after coffee, Mr. Butters.

---SHORT RECESS

THE CHAIRMAN (Mr. Fraser): The Chair recognizes a quorum so we will continue with clause 7 of Bill 11-61. Mr. Butters.

MR. BUTTERS: Just briefly, sir, to say that Mr. MacLean pointed out that it seems rather foolish to hold a competition every time you wish to hire an expert and I agree. I was under the impression that these were long-term appointments of professionals to the board, not short-term requirements, so that is satisfactory.

THE CHAIRMAN (Mr. Fraser): Thank you. Clause 7, agreed?

--Agreed

Clause 8, jurisdiction of the board. Mr. Butters.

#### Appeal Provisions

MR. BUTTERS: This matter of no appeal except where there has been a denial of natural justice, I find this very difficult to understand. Does it mean that there is an appeal provision to the courts but that appeal provision has to be based on the denial of natural justice? I was going to ask the Legal Advisor.

LEGAL ADVISOR (Ms. Flieger): Mr. Chairman, technically speaking this proceeding is called certiorari which is the proceeding which would be taken to quash a decision because of a lack of natural justice is not an appeal but although the effect of a certiorari application, if it is successful, would be the same in that the decision is quashed but it is not an appeal in that the whole matter that was before the board is not reviewable on that kind of application. You are restricted to a question of jurisdiction or a question of natural justice on the proceeding. Technically certiorari is not an appeal really. There is a difference.

MR. BUTTERS: If you believe a denial of natural justice has occurred, on what grounds is such a denial usually determined?

LEGAL ADVISOR (Ms. Flieger): This would be in the case of the failure to allow someone to be heard. That would be one example. It could be bias on the part of some member of the board. It could be failure to give proper notice. There are a number of headings under which denial of natural justice can be found.

MR. BUTTERS: Bias is something like conflict of interest. How can you prove something like bias?

LEGAL ADVISOR (Ms. Flieger): I do not think I could answer that in a general way. It could be because of a previous involvement of some person hearing the matter in the substance of the case before him.

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

MR. BUTTERS: Let somebody else ask a question.

THE CHAIRMAN (Mr. Fraser): Clause 8, jurisdiction of the board. Hon. Dave Nickerson.

HON. DAVE NICKERSON: Referring, Mr. Chairman, to subclause 8(5) on page 11, I would recommend, Mr. Chairman, that all the wording after the word "case" is unnecessary. Surely it would be sufficient to say: "All decisions of the board shall be given according to the justice and merits of the case."

THE CHAIRMAN (Mr. Fraser): Have you anything on that, Ms. Flieger?

LEGAL ADVISOR (Ms. Flieger): The effect of taking out the last three lines would considerably change the sense of that section because the words that are being deleted are the words which instruct the board to try any inferences or presumptions in favour of the worker. Those words do change the sense of it.

THE CHAIRMAN (Mr. Fraser): Thank you.

HON. DAVE NICKERSON: I wonder if one of the expert witnesses could comment as to the necessity of retaining that in there?

THE CHAIRMAN (Mr. Fraser): Mr. MacLean.

MR. MacLEAN: Well, I think it pretty well hinges around the word "justice" and it says "shall be given according to the justice and merits of the case" and, to strengthen the word "justice" the last paragraph, "draw all reasonable inferences and presumptions in favour of the worker" I think should be left in. If there is any reasonable doubt then that should go in favour of the worker, and this just makes it very clear that if a decision is made and there is a question of reasonable doubt and it does not go in favour of the worker then that is not justice. That is the reason for it being in there.

THE CHAIRMAN (Mr. Fraser): Thank you, Mr. MacLean.

Judgment Of Case On Its Own Merits

HON. DAVE NICKERSON: I am afraid I can not quite agree. I believe that the case should be judged on its own merits and according to the principles of justice. Surely, leaving that in might lead the board to find in favour of the worker in every case because there is always going to be some doubt left, I would imagine. I think that a case must be judged on its own merits in accordance with the principles of justice.

Motion To Amend Subclause 8(5)

I would move, Mr. Chairman, that all the words after the word "case" be deleted in subclause 8(5).

THE CHAIRMAN (Mr. Fraser): Clause 8, subclause (5) all the words after the word "case" in the second line so it will end "justice and merits of the case" that all the words after that be deleted. The amendment to clause 8. To the amendment. Mr. Stewart, if you will hold off for a moment, I had a comment from the interpreters that some of the wording in this ordinance was a little bit hard to translate and I wondered if I could ask Mr. Evaluarjuk, Mr. Pudluk and Mr. Kilabuk if everything was okay.

MR. EVALUARJUK: Yes.

THE CHAIRMAN (Mr. Fraser): Mr. Pudluk?

MR. PUDLUK: Yes.

THE CHAIRMAN (Mr. Fraser): I am also instructed that we are going a little too fast, and there are some words they do not understand and they wondered if they could get an explanation from somebody, but it is only right that they understand what the ordinance is all about. Thank you. Clause 8, subclause (5). Mr. Stewart.

MR. STEWART: Mr. Chairman, I wonder if the Legal Advisor would give us some advice on this suggested amendment.

THE CHAIRMAN (Mr. Fraser): Ms. Legal Advisor, could you give us some instructions on subclause (5) of clause 8?

LEGAL ADVISOR (Ms. Flieger): Mr. Chairman, I think that in fact those words, the words that are proposed to be deleted, do have an effect and they are in fact an instruction to the board too, wherever there is a reasonable inference or presumption that can be drawn in favour of the worker, they are instructed to do that. When those words are deleted, they are not instructed to draw every possible inference in favour of the worker.

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

MR. STEWART: On that basis I will have to oppose the amendment.

THE CHAIRMAN (Mr. Fraser): To the amendment? Hon. Arnold McCallum.

Right To Compensation

HON. ARNOLD McCALLUM: It would seem to me that this particular section, or the amendment to delete may be taking something away from a right to compensation, and I wonder if we could have a comment from our witnesses on it.

THE CHAIRMAN (Mr. Fraser): Thank you, Hon. Arnold McCallum. Mr. MacLean.

MR. MacLEAN: Well, every statute has to have an underlying basic philosophy to it or, every group of statutes, there must be a meaning for it, and with respect to workers' compensation the basic philosophy is to provide every means of protection to the worker in case of injury or disability, along with removing the onus of liability from the employer for any civil actions that the employee may have during the course of his employment.

The latter part of this clause goes right to one of those points of the basic philosophy, that is if there is an accident in the course of and during employment, arising out of the course of employment, then everything should be done towards helping that worker with respect to the injuries suffered.

THE CHAIRMAN (Mr. Fraser): Thank you, Mr. MacLean. To the amendment? Clause 8, subclause (5), all the words after "case" in the second line be deleted.  
Hon. David Searle.

HON. DAVID SEARLE: Mr. Chairman, as Mr. MacLean has said the reasoning behind the words "in favour of the worker" are essentially because this ordinance takes away his right to sue his employer for any accident, injury or other harm done to him. Therefore, it is designed, because he has lost that right, to give him protection. It seems to me that if you are going to remove that, those words, you may, as well, have to consider giving him some limited right back, to sue his employer. In other words, if you take a person's rights away in total on the one hand, that is why the burden really, the burden of proof is really on the side. In other words, if all things were otherwise equal you would give the benefit of the doubt, so to speak, to the worker. Unless you could devise a scheme somehow to give him his rights back, in certain cases, to sue his employer then you have really got him in a tough spot, and notwithstanding the fact that I have in these cases generally acted, I may say, for management, I can not support the amendment. I think that the philosophy of workers' compensation is such that it would be unfair to the worker to remove those words and still remove his right of action.

THE CHAIRMAN (Mr. Fraser): Thank you, Hon. David Searle. Clause 8, subclause (5), to the amendment.

SOME HON. MEMBERS: The question.

Motion To Amend Subclause 8(5), Defeated

THE CHAIRMAN (Mr. Fraser): The question being called. To the amendment. All in favour? Three. Contrary? Five. It is defeated.

---Defeated

Clause 8, subclause (5) stays as it is. Clause 8. Is it agreed? Mr. Butters.

MR. BUTTERS: Mr. Chairman ...

THE CHAIRMAN (Mr. Fraser): PART 2, application of the ordinance. Mr. Butters.

MR. BUTTERS: Subclause 8(2), and I just wonder how the costs associated with bringing a case before the board are paid for in the case of an individual who is unable to afford such services.

THE CHAIRMAN (Mr. Fraser): Mr. MacLean.

MR. MacLEAN: The individual, the worker, I take it is what Mr. Butters means, but he is never assessed with the cost of anything that the board examines or inquires into. On occasion the employer may be.

MR. BUTTERS: Thank you.

Clause 8, Agreed

THE CHAIRMAN (Mr. Fraser): Clause 8. Is it agreed?

---Agreed

PART 2, application of the ordinance, clause 9. Is it agreed? Hon. Dave Nickerson.

HON. DAVE NICKERSON: Subclause 9(1) allows certain industries, employers and workers to be exempted under the ordinance. I wonder which industries will be exempted.

THE CHAIRMAN (Mr. Fraser): Mr. MacLean.

MR. MacLEAN: At the present time we do not see exempting any of the industries. We are conducting or have started conducting, and we have not gone far on it, some preliminary inquiries and studies into classes such as trappers and fishermen and the like, in relation to how we may make certain that they are all covered. If we run into problems along these lines there is always the possibility that one or more may be exempted, but our thought at the present time is to include all workers in the Northwest Territories.

THE CHAIRMAN (Mr. Fraser): Thank you. Hon. Dave Nickerson.

HON. DAVE NICKERSON: In the list of various classes and subclasses that were circulated, fishermen are not listed, and I understand this to be the most dangerous industry in the Northwest Territories and I wonder whether you had exempted that one on purpose or not.

Industries Covered In Agreement

MR. MacLEAN: No, Mr. Chairman, under the existing ordinance fishermen and trappers are exempted. These classes were drawn up in accordance with the legal authority we have under the existing ordinance and we could only draw up those classes and subclasses with respect to those industries that are covered under the existing ordinance. It was in that connection that the board made its order. Now, if and when this ordinance is passed, the board would then go back to that classification with respect to -- those classes and subclasses would not be complete and we would have to fill in the blanks with respect to those industries that are not covered at the present time.

THE CHAIRMAN (Mr. Fraser): Thank you, Mr. MacLean. Do you want to follow that up, Hon. Dave Nickerson, or is that satisfactory?

HON. DAVE NICKERSON: That is quite satisfactory.

THE CHAIRMAN (Mr. Fraser): Mr. Steen on clause 9.

MR. STEEN: I would like to ask the witnesses, suppose trappers came under the Workers' Compensation Ordinance, would they be required to pay a premium to get themselves covered and how much would that premium be?

THE CHAIRMAN (Mr. Fraser): Mr. MacLean.

MR. MacLEAN: That, of course, is one of the difficulties and that is why they are not covered at the present time, but, as I say, we have started inquiries or studies if you may want to call them that into the question of fishermen and trappers and we hope that we can come up with some sort of a system that will cover all of them. There may have to be some exemptions but, in any event, we are making contact with those associations that are connected with this matter, such as fishermen's groups, co-ops and trappers' associations, and attempting to determine the number of people so engaged in those activities and the nature of their work with respect to whether or not they are in fact employed by someone else or if they are independent. We hope, everything working out as it should, that we will be able to provide coverage for them.

MR. STEEN: Mr. Chairman, I do not think the last question has been answered. I wanted to know what percentage of the premium ...

THE CHAIRMAN (Mr. Fraser): Mr. MacLean.

Rates Not Set For Fishermen Or Trappers.

MR. MacLEAN: That is something we do not know, because any rates that will be set have to take into consideration the benefits that are provided for under the statute and, although we did establish some tentative rates up until now on the classes that are in existence under the present ordinance, rates, the final rate that might be assessed with respect to a fisherman or trapper can not be determined until this ordinance, if in fact this ordinance comes into being and sets the years maximum assessable remuneration at \$14,500. I would only be too happy to follow this up with you after the legislation is dealt with by the Assembly in relation to what we are attempting to do for the trappers.



Clause 9, Agreed\_

THE CHAIRMAN (Mr. Fraser): Thank you, Mr. MacLean. Clause 9, PART 2, application of the ordinance, agreed?

---Agreed

Clause 10, exclusions, agreed?

Motion To Amend Paragraph 10(1)(b)

HON. DAVE NICKERSON: It would appear to me, Mr. Chairman, that in paragraph 10(1)(b) the listing of various professions is incomplete. I would recommend, Mr. Chairman, that architects and engineers, being fairly common professions, should be included in this list. To take care of the more esoteric professions like micropaleontologist or something like that, you might want to reword it "legal, medical, actuarial, dental, pharmaceutical, architectural or similar professions."

THE CHAIRMAN (Mr. Fraser): Did everybody get that? It was a pretty big word, Hon. Dave Nickerson. Did you get that, Ms. Flieger?

Clause 10(1)(b), is that correct, Hon. Dave Nickerson?

HON. DAVE NICKERSON: That is correct, Mr. Chairman.

LEGAL ADVISOR (Ms. Flieger): The motion is to amend paragraph 10(1)(b) so that the last part of the provision would read "dental, pharmaceutical, engineering, architectural or other similar professions."

THE CHAIRMAN (Mr. Fraser): To the amendment?

SOME HON. MEMBERS: Question.

Motion To Amend Paragraph 10(1)(b), Carried

THE CHAIRMAN (Mr. Fraser): Question being called. All in favour? I have only got six. Against? The amendment is carried.

---Carried

Clause 10, Mr. Steen.

MR. STEEN: Mr. Chairman, another question here. Can I be informed as to why these people will not be covered under this ordinance? Like an owner of a business or someone ...

THE CHAIRMAN (Mr. Fraser): Which part?

MR. STEEN: Subclause 10(1) "The following persons shall not be considered to be workers for the purpose of receiving compensation under this ordinance:" and it lists under (a), (b), (c) and (d) that they will not be able to be considered or be considered workers.

THE CHAIRMAN (Mr. Fraser): Mr. MacLean.

MR. MacLEAN: The last point of your statement is the answer. They are primarily deemed to be employers in the true sense; those occupations which are listed in subclause 10(1), and that is the reason for them being excluded. At the same time when you get down to subclause 10(2) they may be included as

employees if they make application and the application is accepted by the board. The reason for doing it that way is to make certain that we have a hand on them and we know which people, although maybe deemed to be employers, have actually applied for or want to be a worker and covered by the act. This would include, of course, under paragraph 10(1)(c) "an employer or independent operator". That independent operator could very well be a trapper and if he wants to be covered all he has to do, and we will be contacting them, all he has to do is apply to the board and he will be covered. There may be some who do not want coverage.

THE CHAIRMAN (Mr. Fraser): Thank you. Mr. Steen.

MR. STEEN: Mr. Chairman, being an employer myself, you see, we have to put in a matching amount when we apply for workers' compensation, we have to pay directly to the board from the business and if it were not for us doing that, paying out, maybe I am saying this the wrong way, I should say because of our paying into the board we do not see any direct benefits coming from it to the owners of businesses.

Benefits To Owners Of Businesses

THE CHAIRMAN (Mr. Fraser): Mr. MacLean.

MR. MacLEAN: Maybe I did not make myself clear. The ordinance is to protect all of those workers in the Northwest Territories. What we are saying in this section here, or in this clause, is that people who may be employers can be covered but they have to apply to the board for coverage. In relation to payments that may be made, for instance, you are an employer, your payments come in and are credited to a certain class or subclass and although there may be difficulties in another class or subclass, that does not affect your rates. They are set out in separate categories. I do not know if you asked that question but it seems to me maybe that was part of the question.

MR. STEEN: Thank you.

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

MR. STEWART: Mr. Chairman, my question has been answered.

THE CHAIRMAN (Mr. Fraser): Thank you. Clause 10? Hon. David Searle.

HON. DAVID SEARLE: Mr. Chairman, I draw the committee's attention to subclause (2) of clause 10 which provides that "the board may deem a person mentioned in subsection (1) to be a worker" if the person is specifically named in an application and is approved by the board and the actual rate of remuneration is set out in the application. Of course, the appropriate assessment is paid. My only concern is that presumably, even if you are an executive officer making \$35,000 a year, you would be only entitled to the maximum of \$14,500, would you not?

MR. MacLEAN: Yes, Hon. David Searle.

HON. DAVID SEARLE: In that case, should you only therefore, have an indication that you are earning in excess of \$14,500?

MR. MacLEAN: That is correct for the purposes of the fund as long as he could establish he was earning more than \$14,500, then he would be entitled to three-quarters of \$14,500 if he hurt himself. An executive earning \$35,000 usually has his own insurance program, so he is not concerned with applying for membership under this plan. You are right, the only reason it is in there with respect to stating remuneration is for the board to decide whether or not they have reached the \$14,500 mark.

Motion To Amend Subclause 10(2).

HON. DAVID SEARLE: My point is that corporations and executives are generally fairly reluctant to have their salaries, what they are making in the hands of everybody. In my own experience government agencies, generally speaking, lack security of any kind when it comes to information like that and this section, could it not be amended in some way to take out the requirement where it says "and the actual rate of remuneration is set out in the application," but something to the effect that the remuneration exceeds the YMAR, years maximum assessable remuneration?

THE CHAIRMAN (Mr. Fraser): Mr. MacLean, can you see any problem in taking out that section?

MR. MacLEAN: Taking out the whole section?

HON. DAVID SEARLE: No, alter it to say that the declaration on the application must require that the remuneration received by the executive exceeds the YMAR, rather than indicating the actual amount of the executive's salary?

MR. MacLEAN: Any form of declaration under oath I think would be satisfactory.

THE CHAIRMAN (Mr. Fraser): Maybe we should ask the Legal Advisor what she thinks.

LEGAL ADVISOR (Ms. Flieger): Mr. Chairman, I am wondering whether Hon. David Searle is suggesting after the word "application" in the second last line we add some words to the effect that "the actual rate of remuneration as set out in the application or the application is accompanied by a declaration that the actual rate of remuneration exceeds the years maximum assessable remuneration."

HON. DAVID SEARLE: Something along that line. I would leave it to the Legal Advisor, of course, Mr. Chairman, to work out the exact wording, but possibly if you could seek agreement in principle to that, then we could leave the wording up to Ms. Flieger.

THE CHAIRMAN (Mr. Fraser): Thank you, Hon. David Searle. Could we receive approval to amend subclause 10(2) and come back to it once the changes have been made for approval, agreed?

---Agreed

Clause 10, exclusions.

Clause 10, Deferred.

HON. ARNOLD McCALLUM: We could stand it aside until we get the actual wording and go onto the next clause.

THE CHAIRMAN (Mr. Fraser): Agreed?

---Agreed

Clause 11, persons deemed workers, agreed?

MR. LYALL: Mr. Chairman, on clause 11 there was quite a bit of debate in the legislation committee meeting because of the fact that the Department of Social Development has opposed the inclusion of this provision on the grounds that it: (a) would appear to contravene the general belief that offenders must be punished by depriving them of their liberty and by suspending, for the period of their incarceration, certain civil rights. "Incarceration", for the benefit of the interpreters, means people in jail. It, (b) may inhibit the development of work training programs for inmates in that many of the tasks inmates are required to do at present are "domestic" in character because they are expected to assist in the operation of their temporary "home"; and (c) creates a potential for abuse in that some inmates may be encouraged to have an "accident". To a degree, then, our committee agreed with or accepted the position stated by representatives of the Department of Social Development.

THE CHAIRMAN (Mr. Fraser): Where are you reading from, clause 11?

MR. LYALL: Clause 11.

THE CHAIRMAN (Mr. Fraser): It is not in my book.

MR. LYALL: I know it is not in your book. This is a report I am giving you, Mr. Chairman.

THE CHAIRMAN (Mr. Fraser): Carry on.

Coverage For Inmates

MR. LYALL: On the other hand, the committee was most firmly of the opinion that the inmate who was disabled while in jail, particularly if engaged at the time in a work project instead of domestic responsibilities, must have the opportunity for adequate compensation which can only be provided by provision of workers' compensation coverage. Social Development officials explained that if an inmate were disabled during his period of imprisonment, on release he would be entitled to continuing receipt of social assistance. In at least some cases the amount available through social assistance would be far less than the amount available from workers' compensation thereby exposing such a former inmate to a very real and undeserved hardship.

The conclusion of this discussion was that the standing committee agreed to retain the provisions which would extend workers' compensation coverage to any type of correctional institute. Also, there was an argument before the standing committee, but we agreed to leave this clause in because of the fact that we argued to the point where a person who was in a prison, who may just be going in there for a week, and he might be an executive, may be earning \$35,000 a year and in that respect he would be deprived, really, of his real compensation because of the fact that if he was making over \$14,500, under social assistance he would be getting about maybe one-third of that. I think really the big reason that we decided to leave this in was to give the rest of the people here a chance to argue this point. I should have just kept quiet because it looked like we were going to ram it through with no debate at all.

THE CHAIRMAN (Mr. Fraser): Thank you, Mr. Lyall. Clause 11? Hon. Dave Nickerson.

HON. DAVE NICKERSON: No, sir, we just can not slide over this as this is a very important matter. Mr. Lyall gave a very good summary there of the reasons why people in jail should not be covered by workers' compensation and they were as follows: That prisoners as a punishment should be denied certain of their normal civil liberties; secondly, they are engaged while in jail in a number of what generally might be considered domestic tasks, that is making the beds, cleaning the floors, doing a little bit of gardening outside, generally cleaning up; and thirdly of course the potential for abuse because certain prisoners might deliberately do some harm to themselves just in order to collect compensation. Those to my mind are three very good reasons why the paragraph 11(2)(b) should not be omitted from the bill.

THE CHAIRMAN (Mr. Fraser): Thank you. You are saying that clause 11 should be omitted from the ordinance?

MR. LYALL: Amended.

THE CHAIRMAN (Mr. Fraser): Amended or omitted, clause 11?

HON. DAVE NICKERSON: We are discussing at the present time paragraph 11(2)(b).

THE CHAIRMAN (Mr. Fraser): Paragraph 11(2)(b). Hon. David Searle.

HON. DAVID SEARLE: Mr. Chairman, I think I would tend to agree with the Hon. Dave Nickerson with one very slight exception, and is, as I understand, one of the criticisms of implementing the diversion scheme which is where the courts, instead of sending someone to jail, say for a week, but instead order 40 hours of community work be done, say in the construction of a playground or repairing and maintenance of a park, or some such scheme. My understanding is that one of the criticisms that has occurred in the past is that first of all there is no supervision, and secondly, what happens when you have got this prisoner outside the confines of the institution, hacking or shovelling or drilling or hammering or sawing, or whatever he is doing, away, and he suffers an accident? There is no form of compensation.

#### Coverage Outside Institution Property

So, I am just wondering if there is some way, and I agree that if he is inside a correctional institute I do not think there should be coverage there, you know, he is properly incarcerated and he is obviously not the type that the authorities wish to be at large, so that is where he should be. The system is such that unless he injures himself or another prisoner injures him he is not likely to suffer anything there. However, if the diversion program is going to work it seems to me that we should consider how we could permit coverage outside the institution, and I do not mean outside the physical plant and in the grounds, working in the garden, but I mean completely off the institution property and say in downtown Hay River, painting Mr. Stewart's theatre or something like that. I am wondering how we could modify this section to permit the coverage while engaged in badly needed community exercises and not otherwise. In other words I guess I am half way between Mr. Lyall's committee recommendation and Hon. Dave Nickerson's.

THE CHAIRMAN (Mr. Fraser): Thank you, Hon. David Searle. Clause 11. Mr. Butters.

MR. BUTTERS: Just to say that Hon. David Searle's point should not be considered as something that is to be thrown out here, I think it is a most important point. There should be some amendment drafted to reflect the conditions which he outlined because it does affect the success of the diversion program. I do know that people on that program have been sentenced to work for a town, under the works foreman, so there is supervision, and I know in the case of juvenile court,

and I do not know if this provision would apply to juvenile court, but where youngsters have been required to do some community service. So, I think this aspect should be considered and perhaps the Legal Advisor could look toward to fashioning an amendment.

THE CHAIRMAN (Mr. Fraser): We are not throwing it out, we are just talking to the amendment that Hon. Dave Nickerson brought up and it is with respect to that same amendment, I believe.

MR. BUTTERS: No one has put an amendment on the floor yet that I have heard.

MR. LYALL: No.

THE CHAIRMAN (Mr. Fraser): Hon. Dave Nickerson has an amendment under paragraph ...

MR. BUTTERS: He did not, sir.

MR. LYALL: No.

MR. BUTTERS: No, with respect.

THE CHAIRMAN (Mr. Fraser): In clause 11 ...

MR. LYALL: Mr. Chairman ...

THE CHAIRMAN (Mr. Fraser): Paragraph 11(2)(b). Mr. Lyall.

MR. LYALL: One of the biggest reasons we were arguing this quite extensively was because of the fact that "confined in an institution" we considered, or at least when we argued it, that hostels are institutions, and if we were to delete this I think we would be taking away the rights of the people who are in the hostels and this is why we wished this to be put on the floor so that it could be discussed more thoroughly. I believe we asked, at the time, for the Education department to come and talk to us and they were adequately covered. If the Minister of Education could recap that for us it would be most helpful.

THE CHAIRMAN (Mr. Fraser): Thank you. Hon. Arnold McCallum.

MR. LYALL: Maybe, Mr. Chairman, I am being a little bit unfair to the Minister of Education because I do not think he was present at the time this was brought up.

THE CHAIRMAN (Mr. Fraser): Perhaps we could find someone who was there. I think maybe one of the witnesses could give us ...

Coverage Of Students

MR. LYALL: Mr. Chairman, going back to the minutes of our meeting, Mr. Mair advised the committee, and Mr. Mair came over from Education, and he advised the committee that students, including adults were covered while attending educational institutions in the territories by the government insurance policy. Students attending government operated education institutions in the provinces are covered by provincial workers' compensation schemes. Students attending independent colleges and universities in the provinces are covered by their insurance policies, but the practice is that the compensation is granted only following legal action. Mr. Mair recommended that a more beneficial course of action for students attending institutions, such as the Adult Vocational Training Centre could be extended workers' compensation coverage, to include them. The committee therefore agreed to put in the proposed paragraph 11(2)(a) to provide the recommended coverage.

THE CHAIRMAN (Mr. Fraser): Thank you, Mr. Lyall. Hon. David Searle.

HON. DAVID SEARLE: The difficulty I have with the section is because a correctional institution is included along with the other institutions, the hospital facilities, the universities and those places.

MR. LYALL: That was the difficulty we were having.

Motion To Amend Clause 11

HON. DAVID SEARLE: It seems to me that if we took out the correctional institution from paragraph (b) and left subclauses (2) and (3) and say put in a subclause (3)(a) which said something along the line with respect to correctional institutions that prisoners would be covered when working on community or other diversion type projects outside the institution. I am not suggesting for a minute that that be the correct wording, but if we could just pull the reference to correctional institutions out of there and give it a new subsection, limiting it to that sort of work, then that would meet with my satisfaction and, to that end, if I may, I would suggest that we ask if Members would agree with that in principle and if they did then I think we should leave it to Ms. Flieger to see what kind of wording she might come up with.

SOME HON. MEMBERS: Agreed.

THE CHAIRMAN (Mr. Fraser): Is it agreed?

---Agreed

Hon. Dave Nickerson, are you satisfied with that?

HON. DAVE NICKERSON: That would be completely satisfactory to me, Mr. Chairman.

THE CHAIRMAN (Mr. Fraser): Mr. Lyall, do you want to follow that up?

MR. LYALL: No, that is agreeable.

THE CHAIRMAN (Mr. Fraser): Agreed.

LEGAL ADVISOR (Ms. Flieger): Is the sense of that motion then, that subclause (3) be amended so that it applies only to the institutions in paragraphs (a) and (c) and that a new subclause be inserted after subclause (3) covering the institution described in paragraph (b) of subclause (2)?

Clause 11, Deferred

THE CHAIRMAN (Mr. Fraser): Thank you, that is agreed. So we will leave clause 11 and come back to clause 11 when we have the correct draft from the Legal Advisor concerning the corrections. Is that agreed?

---Agreed

Rights of action and subrogation, clause 12. Mr. Lyall.

MR. LYALL: Paragraph 12(2)(b) has a typographical error, the word in the third line on paragraph (2)(b) after "worker" it says "death of the worker" and then you have the word "causec" and that should be "caused".

THE CHAIRMAN (Mr. Fraser): I did not get that.

MR. LYALL: Paragraph 12 (2)(b) the word "caused" is misspelled.

THE CHAIRMAN (Mr. Fraser): Thank you. On page 17, paragraph 12(2)(b) there is a misspelling in the word "caused". Hon. Dave Nickerson.

HON. DAVE NICKERSON: I just wanted to point out for the benefit of Members of the committee that this is probably the most important clause in the whole ordinance in that it embodies the whole principle of workers' compensation, especially in subclause 12(2) where it states as follows: "The provisions of this ordinance and the regulations are in lieu of all rights and causes of action, statutory or otherwise, to which a worker or his legal personal representative or his dependants are or might become entitled against ..." And then it lists them. I would not like this opportunity to go by without commenting that this is the whole principle behind workers' compensation where in lieu of the other statutory rights that a worker might have against his employer or fellow employees he accepts compensation and if this is enacted into law, he will have to do this. He will have no other course. I do not want to amend it or anything else. I just wanted to point out the importance of this particular section.

THE CHAIRMAN (Mr. Fraser): Thank you, Hon. Dave Nickerson. Just looking at the clock here, we have a small presentation I think and I would like to report progress at this time. Agreed?

---Agreed

MR. SPEAKER: Mr. Fraser.

Report of the Committee of the Whole of Bill 11-61, Workers' Compensation Ordinance

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MR. FRASER: Mr. Speaker, your committee has been studying Bill 11-61 with some amendments being made and I wish to report progress.

MR. SPEAKER: Thank you.

MR. FRASER: Thank you.

MR. SPEAKER: Are there any announcements? Mr. Whitford.



Presentation To Mr. Lafferty

MR. WHITFORD: Mr. Speaker, in Rankin Inlet when the Assembly was there the Member from Mackenzie Liard, Mr. Lafferty, stated: "I do know that on the board of directors of the Housing Corporation there are hardly any people who are qualified to even construct an outhouse, sitting on the board of directors. If this is the case, how can we expect these people to design a house for one region throughout the Northwest Territories which is so different climatically from one area to the next?"

Mr. Speaker, since that time the Housing Corporation board of directors has pulled its socks up and we have taken the entire Housing Corporation and taken the designing department, the plumbing department, the electrical department and all others and today we have designed a building that we feel that Mr. Lafferty would appreciate.

This is the building. It has a door and hinges and it has a place where Mr. Lafferty can sit down in it. It is well ventilated and it certainly has a roof so it will not leak. If I may, I would like to give it to Mr. Lafferty.

---Applause

This is on behalf of the Housing Corporation.

MR. SPEAKER: Mr. Lafferty, I would caution you to wait until we have adjourned before you occupy it. Anything further by way of announcements? Hon. Arnold McCallum.

HON. ARNOLD McCALLUM: Mr. Speaker, I wish to just give notice that I would like to have a caucus meeting tomorrow at 2:00 o'clock p.m.

MR. SPEAKER: At 2:00 o'clock p.m., where?

HON. ARNOLD McCALLUM: In the Members' lounge.

MR. SPEAKER: Caucus meeting tomorrow at 2:00 o'clock p.m. in the Members' lounge. Mr. Butters.

MR. BUTTERS: Sir, I would hope that possibly Members of the elections committee which consists of yourself, Hon. Peter Ernerk, Mr. Evaluarjuk, Mr. Steen and myself might meet very briefly too, tomorrow at lunch, say at 1:00 o'clock p.m. and discuss a few things relative to the responsibilities of this committee.

MR. SPEAKER: Two committee meetings, one at 1:00 o'clock p.m. and the other at 2:00 o'clock p.m. Where is the meeting of that committee, Mr. Butters?

MR. BUTTERS: Room 303.

MR. SPEAKER: The Members' lounge as well. Mr. Lafferty.

MR. LAFFERTY: Mr. Speaker, I wonder if the caucus meeting can be determined at another time? I can not be present, and I wish to attend that caucus meeting, due to the fact that I have a medical appointment tomorrow afternoon at that time.

HON. ARNOLD McCALLUM: Mr. Speaker, I am not sure just when. Tomorrow is Friday and it is the end of the week. I think I can appreciate Mr. Lafferty's difficulty but I am not sure just when we would be able to get together.

MR. SPEAKER: Maybe Mr. Lafferty can change his medical appointment because it appears to me to be the only possible time the caucus will be able to meet.

MR. LAFFERTY: Yes, Mr. Speaker. I have changed several medical appointments to be here because I know it was in the very good press here that I am here infrequently. There have been several complaints and I feel that this House should know that it is not my fault and I wish to participate to the fullest extent but I can not continually delay my medical appointments and ask other people to wait.

MR. SPEAKER: Any further announcements? Mr. Clerk, orders of the day.

ITEM NO. 11: ORDERS OF THE DAY

CLERK OF THE HOUSE (Mr. Remnant): Orders of the day, February 11, 1977, 9:00 o'clock a.m., at the Explorer Hotel.

1. Prayer
2. Replies to Commissioner's Opening Address
3. Questions and Returns
4. Oral Questions
5. Petitions
6. Reports of Standing and Special Committees
7. Notices of Motions
8. Motions for the Production of Papers
9. Motions
10. Tabling of Documents
11. Consideration in Committee of the Whole of Bills and Other Matters: Bill 3-61, Bill 11-61, Bill 2-61, Bill 6-61, Motion 24-60, Sessional Paper 1-61, Territorial Government Policy as to Pricing Liquor, An Integrated Housing Policy for the Northwest Territories, Tabled Document 9-61
12. Orders of the Day

MR. SPEAKER: This House stands adjourned until 9:00 o'clock a.m., February 11, 1977, at the Explorer Hotel.

---ADJOURNMENT

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