

LEGISLATIVE ASSEMBLY OF THE  
NORTHWEST TERRITORIES  
10<sup>TH</sup> ASSEMBLY, 9<sup>TH</sup> SESSION

TABLED DOCUMENT NO. 82-87(1)

TABLED ON JUNE 16, 1987

TABLED DOCUMENT NO.  
TABLED ON

92-87(1)

JUN 16 1987



Northwest  
Territories Legislative Assembly

## STANDING COMMITTEE ON LEGISLATION

Report on Bills Reviewed for the  
Ninth Session of the Tenth Legislative  
Assembly

R.H. MacQuarrie  
Chairman



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Northwest  
Territories Legislative Assembly/Standing Committee on Legislation

This is the final report of the Standing Committee on Legislation [SCOL] to the 10th Legislative Assembly.

The goal of the SCOL, first and always, has been to try to ensure that the best possible legislation is passed in the Legislative Assembly of the NWT. This means legislation, that is passed, not for its own sake, but for the benefit of the people of the Northwest Territories. And this, in turn, means legislation that is effective in attaining its purpose, but at the same time that is sensitive to the legitimate needs and interests of all those who will be impacted by it.

This goal can be met only if two things can occur. First, legislation must be presented to the Committee early enough so that the SCOL can be thorough and deliberate in its review. Second, part of that review must include input from particularly affected parties of varying persuasions.

During the course of the 10th Assembly significant progress was made towards attaining that goal. But the goal is not yet reached. That fact is particularly obvious when one considers the high number of significant and lengthy Bills that were introduced virtually at the last moment prior to the final session of the 10th Assembly. It is clear that further work must be done to ensure that there is thoughtful co-operation between the Executive Council and the Committee in the development of legislation in its presentation for Committee review and finally in its introduction into the House.

As Chairman, I would particularly like to thank those members of the Committee who were regular participants in the Committee's review proceedings. If the Committee is now a more valuable part of the legislative process than it once was, much of this success is attributable to their thoughtful dedication.

Bob MacQuarrie  
Chairman



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E. Lawrence  
S. Gargan  
M. Appaqaq  
J. Arlooktoo  
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Gail Mrazek - Recording Secretary

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**AN ACT TO AMEND THE ADVISORY COUNCIL  
ON THE STATUS OF WOMEN ACT**

The Standing Committee on Legislation [SCOL] met to review proposed Bills received from the Government for the 9th Session of the 10th Legislative Assembly on February 23, 1987 in Yellowknife.

The Bill was introduced by the Minister responsible for the Status of Women, Mr. Pedersen. The Minister explained to the SCOL that the purpose of the amendment was to make small changes to the Act. The first change is to allow the Minister to appoint substitute members for a term of three years to the Advisory Council. The present legislation allows for the appointment of substitute members for the remainder of a term only. Secondly, an amendment is proposed to allow appointing two Vice-Presidents, rather than just one, in order to allow for greater ease of operations and decision-making purposes on the Advisory Council. The third change would allow the Vice-President to act for the President, should the President be incapacitated.

A member of the SCOL inquired as to how the Vice-President would be appointed. Would it be through the Legislative Assembly, such as the case of the appointment of a person to the Workers Compensation Board through a motion of the Legislative Assembly, or would the appointment be made by the Minister? The Minister replied that he would appoint members to the Advisory Council after conferring with Members of the Legislature, Advisory Council members and interested groups, such as the Native Women's Association and Inuit Women's Association.

The Chairman asked if the proposed changes were a result of advice from the Advisory Council members. The Minister stated that this was the case in the first two proposals. The third proposal was a result of legal advice made to clarify the duties of the Vice-President as being capable to act for the President.

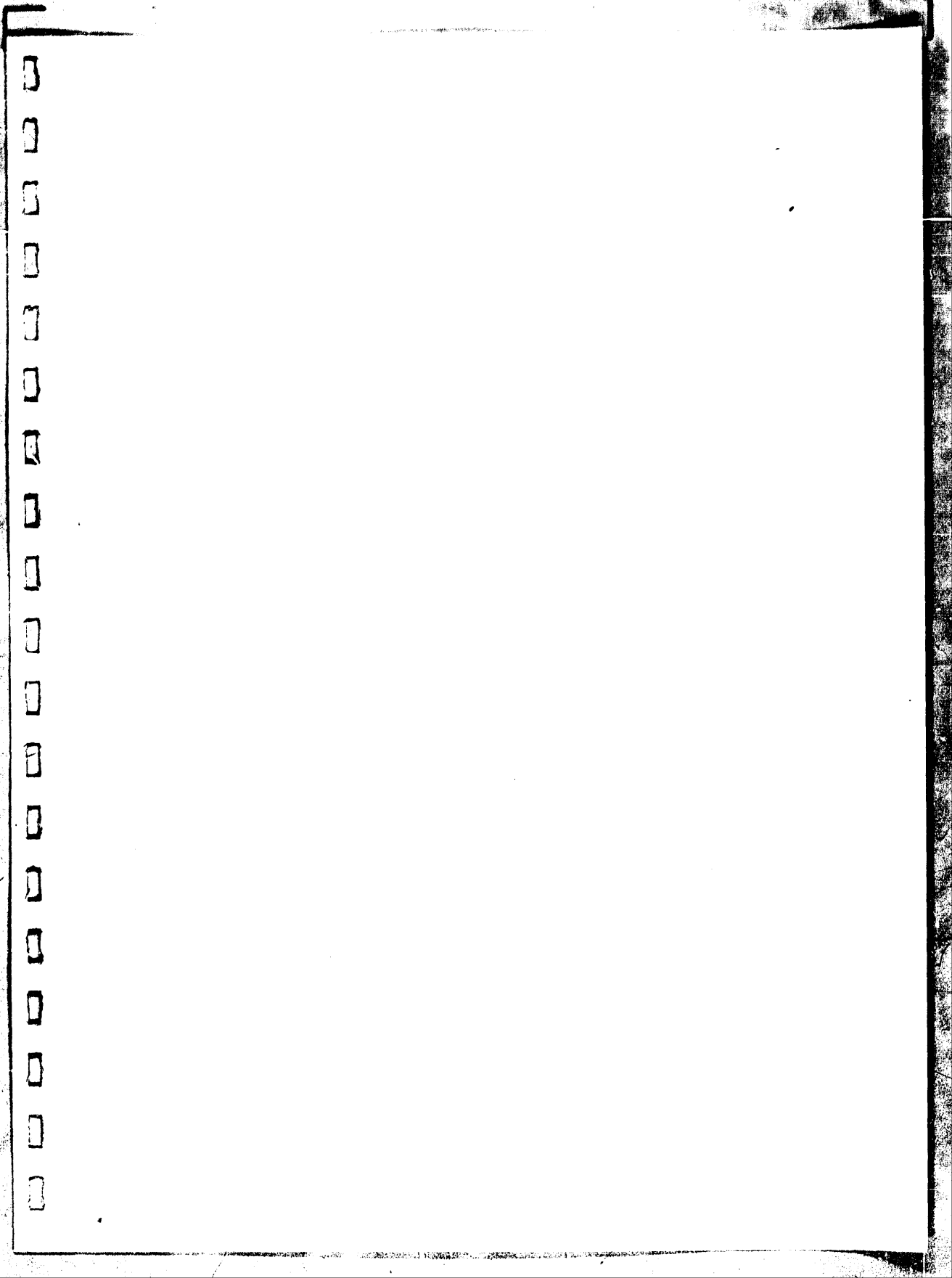
**CLAUSE BY CLAUSE REVIEW OF THE ACT**

The five clause were reviewed as amended.

**Motion:**

**Chairman: Move to refer the Bill to the Committee of the Whole.**

**Members: Agreed.**



## AN ACT RESPECTING CHARTER COMMUNITIES IN THE NORTHWEST TERRITORIES

The SCOL met on May 7, 1987 to review the Bill. The Minister of Municipal and Community Affairs, M. Wray, introduced the Bill by stating that the purpose of the Charter Communities Act [short title for the Act Respecting Charter Communities in the Northwest Territories] is to provide for the establishment of charter communities and their administration, powers and duties. A Charter Agreement with the Government of the Northwest Territories would provide a unique form of government in a community that has both an active Band and Settlement Council, for example. The Charters will be created by consultation.

The Minister continued by stating that it is a unique piece of legislation not found in other jurisdictions. The Government has received no negative responses to the Bill.

### Definition of a Charter Community

A Charter community is a new concept where a charter agreement is created which sets out the powers and responsibilities of a municipal government. The Minister of Municipal and Community Affairs may, on his own initiative, or at the request of at least twenty-five residents in a settlement establish a charter community.

However, no charter community can be established by the Minister unless consultation with local aboriginal organizations, band councils or other persons takes place. In addition the proposed community charter must be approved by 60% of the voters in the proposed municipality, section 5 Charter Act. For the purpose of the vote, the Minister shall exercise all the powers and may perform all the duties of a council under the Local Authorities Elections Act.

The status of other communities can be changed to a charter community by the request of council or by the Minister's initiative. In addition, the boundaries of the municipality can be varied by the Minister, upon the recommendation of the Executive Council.

### Contents of a Community Charter

A community charter *must* contain certain provisions which specify the composition of the council, for example: the length of terms of office; how terms are to be allocated and staggered; and how council members are to be appointed or elected, section 11 Charter Act.

The charter *may*, amongst other conditions, vary the provisions of the Local Authorities Election Act, except for those sections of the Act relating to controverted elections, offences and penalties, section 12 Charter Act.

**Motion:**

**Chairman: Move that a review be done of the Local Authorities Election Act to note items which should not be negotiated in a Charter Agreement and specifically that a requirement for a secret ballot not be an item that can be altered in a Charter.**

**Carried.**

**\*The Minister agreed**

**Municipal Council**

When the charter community is declared to be a municipal taxing authority, the term of office for council members ends on the 1st Monday in November. Otherwise, the terms of office and composition of council members are set out in the Charter Agreement, section 14 Charter Act.

The language of record for council by-laws, resolutions and minutes need not be English and can be in a language of the council's choosing.

The council, if it wishes, may call the mayor, deputy mayor and councillors by other names. Nevertheless, the mayor is the senior executive officer of the municipal corporation. The senior administrative officer is an employee who must be bonded and perform specific mandatory and other duties, section 51 Charter Act. The council shall also, by by-law, make rules respecting the calling of meetings, procedures, conduct of members and others present at meetings, and the establishment and appointment of committees of council.

**Roads**

As in the proposed Cities, Towns and Villages Act and The Hamlet Act a Charter Community has the power to make by-laws with respect to opening, closing and maintaining roads within the municipality.

**Ambulance Service**

As in the proposed Cities, Towns and Villages Act and the Hamlet Act council may, by by-law, provide for the establishment and operation of an ambulance service or enter into an agreement with the Government of the NWT respecting ambulance services, section 106, Charter Act.

### Animal Control

As in the proposed Cities, Towns and Villages Act and the Hamlet Act council may, by by-law, be allowed greater control to regulate and prohibit all animals within its jurisdiction, section 120-123 Charter Act. In the Municipal Act references are made to control of dogs, primarily

### The Acquisition and Disposal of Real and Personal Property

The acquisition and disposal of real property belonging to the municipal corporation *must* be done by procedural by-law. In addition, council *may*, by by-law, acquire, hold, develop and dispose of real property in the municipality for the purpose of generating revenue for the municipal corporation, section 136-137 Charter Act. However, no council may provide for the acquisition, development and disposal of real property in the municipality to carry on a business [other than the the provisions of service authorized under this Act] unless the Minister deems such business to be in the public interest and for municipal purposes.

The existing Municipal Act, section 184, states that council *may* make the passing of by-laws in this area of activity. But the areas of council responsibility in the Municipal Act are not as broadly stated as the powers allowed under the new Act. This new authority is also found in the proposed Cities, Towns and Villages Act, and the Hamlet Act.

### Budget and Financial Provisions

Under the Hamlet Act, and the Charter Act Part IV, Financial Affairs section 140 and following, the fiscal year for the municipal corporation is the 1st day of April to the 31st of March. The budget for the next fiscal year must be approved and passed by council resolution prior to the beginning of the next fiscal year. The budget must include estimates of expenditures, revenues, (including property taxes received if that municipal corporation is a municipal taxing authority), school taxes collected and forwarded, and any sum required to meet a deficit of the municipal corporation, if any, in the preceding fiscal year. The contents of Financial Statements must include certain provisions and the requirements are more concise than the existing requirements under the Municipal Act, sections 185-190, 261.

The Hamlets Act and the Charter Act, section 154 and following, allow for a council, by by-law, to borrow money on a temporary basis from a bank in order to meet expenditures for which revenues received are insufficient. This borrowing must not exceed 85% of the estimated revenues set out in the budget for that fiscal year.

Long term borrowing, on the security of debentures, is allowed for a municipal corporation, if it is a municipal taxing authority. The total amount to be borrowed must not exceed 10% of the total current assessed value of all property in the municipality on which taxes are paid or grants are received in lieu of taxation. Every long term borrowing by-law must be approved by ratepayers and the Minister.

However, for the purpose of borrowing for a local improvement, the borrowing by-law does not need the approval of the ratepayers, if the charges for a local improvement will be completely financed by those affected. The consent of those affected, 60% of the ratepayers who would be compelled to pay the local improvement, is required before third reading of the local improvement by-law, Charter Act, section 162-167.

#### Loans and Guarantees

Municipal corporations are prohibited from making loans to any person and from guaranteeing the payment of a debt owed by any person, section 171-172, Charter Act.

#### By-Law Enforcement

The proposed Hamlet Act, Cities, Towns, Villages Act and Charter Communities Act, section 176-192, provide for the appointment of By-Law Officers [rather than constables] and municipal inspectors who have prescribed duties to enforce by-laws and other Acts, to inspect buildings and to issue tickets for violations.

Every by-law levying charges for municipal services, such as sewage drainage and water delivery, must be approved by the Minister.

#### Motion:

Chairman: Move to refer the Bill to the Committee of the Whole with one recommendation.

Moved: M. Gargan.

Seconded: M. Cournoyea.

Carried.

**A REPORT OF THE STANDING COMMITTEE ON LEGISLATION**

**CONCERNING THE REVIEW OF**

**AN ACT RESPECTING CHILD DAY CARE FACILITIES**

**Chairman: Robert H. MacQuarrie**

**This report contains a review of the proposed new Act Respecting Child Day Care Facilities. Included in the report is related background information on the purpose, key issues and costs: sections 1.0, 2.0 and 3.0.**

**Observations on the Bill made by respondents to the Standing Committee's request by interested parties are included in the clause-by-clause review of the Bill conducted with the Government. This is found in section 4.0. Recommendations to the Government made by the SCOL at the meeting to review the Bill on May 7, 1987 can also be found in this section.**

## 1.0 What is the purpose of the Bill?

The Northwest Territories is the only jurisdiction in Canada which does not have Child Care legislation. This Act will provide regulations for the operation and licensing of child day care facilities. It will also provide for the appointment and specify the duties and powers of a Director of Child Day Care services. The duties of an operator of a child day care facility and the requirement for providing parental involvement in the operation of a child day care facility are also specified.

The Bill does not provide financial assistance to child care facilities or operators to meet licensing standards. The Minister responsible will set licence standards by regulations which are not provided with the Bill.

## 2.0 Who will be affected?

At present, there is reported to be approximately twenty-four (24) child day care facilities, including nursery schools, operating in the Northwest Territories. This figure does not include family child care home facilities, that is people who take children into their homes and provide day care. Although family home child care is the most prevalent form of day care in the Northwest Territories, it will not be necessarily regulated by this Act.

Child day care centres which will be licensed and regulated are group care facilities defined in the Bill as "an establishment where care, instruction or supervision is provided to five or more children in the absence of the parents or guardians of those children by a person who is not a relative of a majority of the children," [Definitions-p.1].

Child day care centres, can be non-profit or private, profit operated facilities which offer group care for infants, preschool and school-aged children. Care is usually offered on weekdays, on a full-day basis from the hours of approximately 7:30 a.m. to 6:00 p.m. for children whose parent(s) are most often employed. Structured programs and activities which are usually offered include indoor and outdoor play, storytime, arts and crafts activities, snacks and meals.

The quality of available child day care centres varies considerably. It depends on such factors as: the number of staff, their training and capabilities; the physical facilities; parental involvement; and the adequacy of funding available to run the centre.

The intent of the proposed Act is to licence child day care centres so that facilities throughout the Northwest Territories will be uniformly regulated and will meet standards for health, safety and reliability.



### 3.0 Introduction

Attitudes have changed greatly in the last ten years towards work and the role of men and women in the labour force. For example approximately 90% of elementary school students at the Frame Lake South School in Yellowknife have two full time working parents or rely on a single working parent. This situation can also be found in communities, such as Ikaluit and other centres in the Northwest Territories. This means that the demand for Day Care facilities is very high because, while at work, parents need a place to put their infants and toddlers during the day and a place for children and young adolescents to go after school.

The first Day Care center in the NWT was opened in Yellowknife about twelve years ago. But progress in this area has been inconsistent and difficult to achieve. Day care has been a shaky financial venture in smaller communities with centres opening and closing. As of January, 1986, there were twenty four child day care centers (including nursery schools) in the NWT. Day Care supporters believe that this number is inadequate.

Space for child day care is needed in the NWT for a statistically estimated 2,500 school aged children. Yet, the recent Report of the Parliamentary Special Committee on Child Care indicated that the NWT had a total of 305 day care centre spaces and 30 family home day care spaces, screened by social workers, for a total of 335 spaces - less than 15% of the total required for school aged children, let alone those children who are younger. One of the reasons for the lack of day care space throughout Canada and in the Northwest Territories is the expense of child care.

Finding an organized and safe day care facility is important to parents, but the cost of day care often restricts many parents from enrolling their young children. There is a subsidy program in the NWT that provides parents who require financial assistance of up to \$20/day for their child to attend an organized center.

However that figure does not always reflect what the parent actually receives. In the NWT, parents go through an enriched needs test administered on a monthly basis to obtain the subsidy. Essentially, all the parent's expenses are added up and compared with their revenue. The subsidy cheque is issued for the difference between the parents' expenses, including day care, and their revenue. The total amount which the GNWT spends on the day care subsidy is cost-shared with the Government of Canada on a 50-50 basis through the Canada Assistance Plan. The annual NWT/Federal per capita expenditure on child care in the NWT is approximately \$57 per child, the second lowest expenditure of any jurisdiction in Canada.

It costs an average of \$425.00 per month for a child to attend an organized child day care centre in the NWT. It is slightly less if children are in a private home. In the smaller communities, without organized day care centres, parents are paying close to \$400.00 a month for what is basically a babysitting service.

Parents who do not receive help through day care subsidies can claim up to \$2000.00 per year per child as a Child Care Expenses Deduction on their income tax. Since the fee of \$425/month adds up to over \$5,000.00 a year, parents end up paying for more than half of the cost of care for their children from after-tax dollars.

Many low income parents often look for lower cost care for their children. This can lead to children being left in make-shift care centers or with homes that provide care services that are not recognized and do not provide receipts to parents for tax purposes. In some cases children are left alone at home or are left in the care of a school aged sister or brother.

Most Day Care Centers require fund-raising in order to pay for staff salaries, equipment, food, diapers and operation and maintenance costs. Because, when the costs to parents becomes too high, parents pull their children out. This problem has troubled Day Care Centers in the NWT in the past. For example, in the 1970's a multi-lingual child care center serving both native and non-native people for three years in Ikaluit was forced to close down when federal funding ended and the director moved away.

Nevertheless, there have been advances underway to improve Day Care quality in the NWT. The City of Yellowknife does have a code of standards that must be followed by any child care center. Proper zoning for the facility is considered and annual inspections of the day care facility is done to ensure that fire, health and safety codes have not been violated.

In the fall of 1987 the NWT will have a two year training course for child care worker available at Thebacha College in Fort Smith. It will be the first training course for child care workers in the NWT. However day care centres will have to have a secure source of operational funding to be able to afford trained graduates.

The 1986 House of Commons Report of the Task Force on Child Care reported that the first priorities of government in the development of a child day care system should be:

- to improve and stabilize the financial situation of existing services;
- to increase the supply of quality licensed services;
- to improve the variety of services available; and
- to reduce user fees for the services.

#### 4.0 Clause by Clause Review

The Chairman summarized the Bill by noting that care is required for the children of people who are in working situations. Non-profit and private businesses have been created in the Northwest Territories to meet this need. They are not governed by legislation. People involved with Child Day Care are concerned over the costs and there are those who believe that the Government should be supporting the funding of Day Care operations.

The Minister, M. McLaughlin, introduced the Bill by stating that the objective of the Government was to set physical standards for Child Care facilities. It was not the intention of providing funding, however, as under the Education Act. Once the Federal government establishes a national program for Child Care, the NWT Government will adapt to Federal guidelines in a NWT program.

The Chairman noted that the SCOL submissions received from Day Care advocates had a common theme: inspections and standards set for facilities without provisions for financial assistance and guidance may result in the closing of existing Day Care; and the lack of regulations in the Bill precludes comment on standards and other matters of concern.

The Minister responded that his department had provided copies of the Bill to Day Care advocates, primarily located in Yellowknife, for comments. He also noted that the proposed Bill would be applicable across the NWT and that legislation in other jurisdictions was not compatible with the diversity of situations found in the NWT. The Government did not wish to close existing facilities.

The Chairman inquired as to resources available to the Government for supporting Day Care. The Minister replied that no funding was available in this area, and a broad Government policy was needed to use Government building space, for example, as Day Care facilities. There is an FMB proposal to re-hab some existing buildings, but this is not new money.

A parental subsidy program to help pay for child day care is available through Social Assistance and cost shared by the Canada Assistance Program. Total assistance in 1986 was \$140,000. The Government expects it to double this year.

The Chairman asked if there would be financial assistance for child care workers in the Bill. The Minister said no. The Deputy Minister, M. Cowcill added that the Government has plans to assist in upgrading facilities to increase spaces.

## Clause by Clause

### DEFINITIONS

Section 2, "child day care facility" - It has been noted that this definition is obscure and cumbersome, especially the expression: "who is not a relative of a majority of the children"; for example, if two children of five being cared for are related to the operator, a license is required; if three children of the five are related to the operator, a license is not required and the facility is not considered to be a child day care facility for this Act.

*\*The Minister noted that the Government had struggled with this definition and that they will attempt to clarify the intent.*

"non-application" - The Chairman asked should there be a definition for "casual and irregular babysitting", section 3(a); if schools provide space for after school child care to an operator, section 3(b), is that operator exempt from licensing; is child care licensing of receiving homes exempt where child care is provided.

*\*The Minister stated that the Government will look into excluding other groups and provide additional wording.*

"Power to delegate", section 6, - The Chairman observed that the Director is not required to have any specific qualifications to administer the Act, nor does it specify who will be delegated to carry out what responsibilities for the Director of Child Day Care Services. At present facilities are inspected by the fire marshal, building and health inspectors in order to look for compliance to local and national codes. What duties and powers would be delegated by the Director to whom?

*\*The Minister noted that the duties of the "Director" will be delegated to the appropriate field staff.*

### LICENSING

In section 11-20, the Chairman noted that respondents found this section difficult because of the lack of regulations in the Bill; what is the amount of fees, section 11, that would be prescribed; is the license on a yearly basis? A member also asked about nutritional standards and facilities for the storage of "country foods" at Day Care facilities.

*\*The Minister stated that these concerns would be dealt with in regulations.*

## APPEALS

In section 21 to 27, the Chairman noted that respondents to the SCOL questioned the fact that the Minister responsible hears appeals, delegates a third party who reports to the Minister and in the end may end up making the final decision. If the government wishes to avoid the courts, would an impartial tribunal be an option. Otherwise, the courts would allow the appeal process to have a public forum.

## OPERATORS

In section 28, "programs and services"; the Bill does not specify what the "prescribed programs and services" may be; who prescribes them; and what is the role of parental involvement in program determination, if any. In section 29, the "prescribed qualifications to provide care" are not specified and government financial assistance to meet the prescribed regulations for qualified staff is not provided in the Bill. In section 31, "records, returns and report" can be a costly item; and will these reports be consistent for non-profit and profit oriented centres. Section 32, "requirement for parental involvement" is vague.

*Motion: A member requested that section 24(3), "Parental Involvement", replace 24(2) in the Child Day Care Act Regulations; as a result parental involvement is not legislated for private day care facility.*

Second: M. Erkloo  
Discussion  
Carried

*The Minister advised that he will look into this.*

## REGULATIONS

The Chairman noted that section 39 was found to be of particular concern as the Minister has a great degree of authority in the Bill and would not be required to make regulations or the adoption of codes and standards available for public scrutiny, thereby precluding any comment by day care operators and people working in the field. The Chairman asked the Minister that regulations be revised for clarity and that they be submitted with the Bill for discussion in the House when the Bill is presented.

*\*The Minister stated that he would do this.*

Motion:

Chairman: Moved to refer to the Committee of the Whole with recommendations.

Moved: M. Cournoyea

Second: M. Arlookton

Carried.

## AN ACT RESPECTING CITIES, TOWNS AND VILLAGES IN THE NORTHWEST TERRITORIES

The SCOL met on 5 May 1987 to review the Bills received from the Government. The Chairman noted that the purpose of the Cities, Towns and Villages Act (CTV) [short title for An Act Respecting Cities, Towns and Villages in the Northwest Territories] is to provide for powers, duties and administrative procedures for regulating the activities of cities, towns and villages. This Act will replace the existing Municipal Act and provide for consequential amendments to other Acts, such as the Curfew Act, Expropriation Act, Interpretation Act and Summary Conviction Procedures Act. References in the Bill are also made to the Property Assessment and Taxation Act. The Chairman informed the members that this taxation bill was not made available to the SCOL in sufficient time to complete the review during the May meeting of the Committee.

The Chairman also advised the Government that the CTV Bill had been sent to various interested parties for comments and that the concerns raised would be brought up in the review from time to time.

The Minister of Municipal and Community Affairs, M. Wray, in his introductory remarks, advised the SCOL that a how-to-manual was being prepared by his department which would assist in the understanding of the Act by affected municipalities which are by and large are tax based communities which receive the bulk of their operating funds locally.

### SHORT TITLE:

The Chairman reported the Inuvik Council recommends that the title be shortened to the Municipal Corporations Act or Municipal Act for brevity and clarity. The Minister replied that he believed that the title was clear.

### DEFINITIONS:

Page 2 - "local improvement"

The Inuvik Council reported to the SCOL that the definition was found to be too general, in that any work done to structures or land could be considered as a local improvement. A more detailed definition indicating the scope of work required to be considered as a local improvement is preferred. The Minister replied that the Government wished the definition to remain as flexible as possible.

### Ministerial Authority

It is not stated in the Definitions, but it is implied, that the Minister referred to in the Cities, Towns and Villages Act [CTV Act], is the Minister of Municipal and Community Affairs, unless otherwise stated.

In this new Act, the Minister has acquired all the powers of the Commissioner designated in the Municipal Act. However many of these powers have changed. Under the existing Municipal Act, for example, the Commissioner has the authority to declare a community a city or a town, if it has a certain minimum population and a taxable land assessment that exceeds a certain amount of money. Under the CTV Act, the Minister, on his own initiative or at the request of at least twenty-five residents who are eligible to vote, can establish a city, town or village. The population and taxable land assessment requirements have been abolished.

*\*In section 3(1) , "Public notice of establishment of municipality", the Minister will include, after "twenty-five residents who [on the date of the request would be] eligible to vote..".*

### Definition of a Municipality

Under the Municipal Act, a municipality is a corporate entity defined as a city, town, village or hamlet which is restricted to a specified geographical area. The CTV Act makes a distinction between a "municipal corporation"[which is a corporation established or continued under the Act as a city, town or village] and a "municipality" [which designates the geographic area of jurisdiction of a municipal corporation].

As a result, the status or boundaries of a community can be changed at the discretion of the Minister, section 6-9 CTV Act, for example: "Where the Minister considers it to be in the public interest, the Minister, upon the recommendation of the Executive Council, may, by order, vary the boundaries of a municipality and provide for such transitional matters as may be necessary", section 8.[2] CTV Act.

The Chairman inquired of the Minister: could a provision be placed in the proposed Act allowing people who will now be included within the boundaries of a municipality to write to the Minister with objections, if they so wish?

*\*The Minister stated that he would look into providing wording which would allow legal objection.*



In section 6 (2) "Change in status of municipal corporation", the Chairman reported that the Inuvik Council is "totally opposed to the Minister having the unilateral authority to change the status of a community... This Ministerial power is an unacceptable infringement on the powers of the municipality to control their own affairs". There is no proposed mechanism to appeal or oppose a Ministerial decision. "The preferred option is to retain the system now in place where designation is dependent on a population and taxation base".

The NWTAM [Northwest Territories Association of Municipalities] recommends that the proposed legislation contain guidelines which will provide a criteria for the establishment of various levels of tax-based municipal corporations.

*\*The Minister stated that the Government will revise this section and attempt to tie-in the status of a community to a tax based "assessed value of land" provision.*

*\* In section 6(2)(b) providing the financial resources necessary for communities to make "transitional matters" will be looked into by the Minister.*

#### Terms of office

The length of the term of office for Council members of cities, towns and villages has been revised from the Municipal Act so that council members hold office for three years, commencing from noon on the first Monday of November following their election. The Council may, by by-law, reduce the term of office for members to two years [sections 15 & 16 CTV Act].

#### Variation of number of council members

The Chairman noted that in section 14(1) the Inuvik Council and the NWTAM prefer that the Minister should act to vary the number of council members, only at the request of Council; and the proposed Bill should be reworded to specify this.

*\*The Minister agreed to revise the section to read : "The Minister may at the request of the Council..."*

*\* The Government advised the SCOL that it would inform communities of the implications of section 16(2), the "effect of variation" in the term of office.*

### The Use of Other Languages

A council may conduct its meetings and transact business in the language of its choice. Translations of its proceedings may also be provided in a language of its choice, during or after proceedings.

Record-keeping, such as by-laws, resolutions and minutes of every council need not be kept in English [sections 20-22 CTV Act]. The Chairman pointed out that this is a change from earlier drafts of the Bill which required that record-keeping be kept in English and noted that it might contravene the Charter in the sense that every Canadian should be able to demand Government services in one of the two official languages of the country. This change may have implications for audit purposes, should an auditor not be able to read minutes or resolutions concerning spending, for example.

*\*The Minister agreed to revise section 21(1) to specify the NWT Official languages, but would not alter it to require English. The Minister also noted that one or more languages could be used and that he believed auditors should be responsible for providing translations if they required them.*

### Public Notice

The Chairman noted that in section 26(2), the NWTAM believes that it is not necessary to give public notice before each regular meeting. An annual public notice in the local newspaper or a display in a public place describing the meeting schedule should suffice. Also the annual schedule of regular meetings could be established in the procedures by-law [ ex. First and Third Mondays of each month]. A suggested wording could be: "The council shall ensure that public notice of the time and place of regular meetings of council is given."

### Council Procedures By-Laws

Under certain sections of the existing Municipal Act, for example section 9, councils "may pass a by-law" on council procedures. This has been changed to "every council shall, by by-law, make rules respecting" the following: the calling of council meetings and committees; the procedures of council and the establishment, appointment and duties of committees of council; and including rules for the behaviour of council members and other persons present at meetings of council and its committees [section 30&31 CTV Act].

*\*The Minister advised the SCOL that an extensive education process will be put into place to advise councils on procedures and by-laws of the Act.*

### Keeping of Minutes

The Chairman observed that in section 38, the NWTAM recommends that the words "in writing" be replaced with "in written form" to clarify that typed minutes are acceptable. A further recommendation is that a subsection be provided authorizing audio and/or video recording of all council meetings which could be regulated through a procedure by-law. A subsection could read: "The council may, by by-law, permit, restrict or prohibit the audio and/or visual recording of such meetings."

*The Government representative explained that "in writing" applied to all written forms and that through by-law, councils can decide appropriate methods to record meetings.*

### Deputy Mayor

The Chairman noted that in section 43, the NWTAM recommends that the Deputy Mayor appointment be delegated to the Mayor. A member added that a provision should be included for replacing a Mayor and a Deputy Mayor, since in small communities people may be traveling and may be not available for meetings.

*\* The Government will review these recommendations.*

### The Senior Administrative Officer

Section 44, the title of Secretary-Treasurer, under the Municipal Act, has been changed to "senior administrative officer", section 44 and following of the CTV Act. The mandatory and other duties of the senior administrative officer are more precisely defined in the proposed Act when compared to the responsibilities of the Secretary Treasurer in the existing Municipal Act, section 133 and following.

### PART III - BY-LAWS

The Chairman reported to the SCOL that in Section 55 and following, the Inuvik Council supports the idea of having the powers to raise revenue, adopt community plans and to zone lands, for example, [as specified in other Territorial Acts], identified in this Act by giving reference to other Acts where details can be found. In this manner the new Act could be more of a stand alone document which would indicate all the powers, rights and obligations of the municipality in one document.

*\*The Minister explained that these provisions will be in other Acts and that the Government was reluctant to list them in the Bill less some Acts be overlooked. This type of information will be available in the Manual.*

*\* In section 57(2), "number of readings at a meeting of council", the Government will add wording to prevent possible abuse.*

### Roads/Removal of Snow and other obstructions

The Chairman noted in section 73(b), the NWTAM does not agree that removals of snow, garbage etc., should be the responsibility of the adjacent property owner as this person has no control of what is deposited there. Also a third party should not be responsible for another's carelessness.

*\*The Government will look into this.*

In 76(2) the Chairman noted that the Inuvik Council observed that should a council temporarily close a road, the right of "reasonable compensation" and/or access are unclear.

*\*The Government will revise the wording for clarity of intent.*

### Roads and Highways

Under the Municipal Act [section 160-173] detailed provisions are established for maintaining roads including the requirement that every by-law for opening, establishing, widening, closing or diverting a highway, for example, shall first be approved by the Commissioner.

Under the CTV Act, section 70-78, the need for approval by the Commissioner or the Minister responsible for Municipal and Community Affairs is not required. Council and the municipal corporation has greater authority over roads in the new Act, except for roads designated as a "primary highway" under the Public Highways Act.

### Fire Prevention Agreements

In section 100, the Chairman noted that the NWTAM supports this clause, but would like it expanded to include agreements outside of municipalities, so that fire-fighting and ambulance service agreements could be accommodated with the government. For example, there are a number of residential areas that are outside of municipal boundaries in the South Mackenzie area: Hay River-The Corridor; Fort Smith-Salt River; and Pine Point-Buffalo Junction. Municipal corporations should be allowed to provide certain protective services there under agreements.

*\*The Government will place in this section a clause which will allow agreements with the Government of the NWT*

### Business Licensing

*\*The Government will look into revising the "definition of business", section 110, to include "services".*

### Animals

A member of the SCOL recommended to the Government that in section 119, snares and traps, the rights of aboriginal people for hunting and trapping should be clearly stated in the Act.

*\*The Minister agreed to provide a provision for protection of aboriginal rights in Definitions or place it in this section.*

### Miscellaneous Powers

In section 129 the Chairman noted that the Inuvik Council believes that the power to declare a Civic Holiday should be included in this section. A member asserted that she believed a municipality should be allowed to declare a holiday.

*\*The Government promised to look into this matter and consider placing a provision for holidays in this section.*

### The Acquisition and Disposal of Real and Personal Property

The existing Municipal Act allows for the passing of by-laws in this area of activity. The proposed CTV Act requires that a procedural by-law be passed in order to acquire, hold and dispose of real and personal property.

### Contracts

Section 133 of the proposed CTV Act requires that "no council may provide for the acquisition, development and disposal of real property in the municipality to carry on a business" [other than authorized under this Act] "unless the Minister deems such business to be in the public interest and for municipal purposes".

*\*The Minister will revise 133(1) to "No council shall.."*

### Budget and Financial Provisions

The CTV Act has significant differences from the existing Municipal Act regarding the budget and financial provisions, sections 136-171. For example, the fiscal year for a municipal corporation is the calendar year and the budget for the next fiscal year must be passed by resolution prior to each fiscal year. The budget must include estimates of expenditures, revenues, school taxes collected and forwarded and any sum required to meet a deficit of the municipal corporation, if any, in the preceding fiscal year. The contents of financial statements have been specified.

Borrowing procedures and restrictions have been revised. However the total allowed maximum amount borrowed continues to be restricted to 20%, in the case of a city or town and 10%, in a village, of the total current assessed value of all property in the municipality on which property taxes are paid or which grants are paid in lieu of taxes. Every borrowing by-law must be approved by the Minister and the ratepayers. The exception is in the case if the borrowing is for a local improvement which will be financed by local improvement charges. Under these conditions the borrowing by-law is exempt from ratepayer approval, section 163 CTV Act.

#### Contents of the Budget

The Chairman noted that in section 137 (2)(d), "The budget must include estimates of ... (d) any sum required to meet a deficit of the municipal corporation, if any, in the preceding fiscal year." The NWTAM recommends to the Government that this provision be applied to the senior levels of government.

#### Deposit of Moneys

In section 141 the Chairman noted that the Inuvik Council questions whether or not foreign banks, with offices in Canada, and trust companies are acceptable for municipalities to deposit funds [also in section 156, Borrowing, which follows are these banks and trust companies acceptable for municipalities to borrow from] ?

*\*The Government observed that banks referred to in the Bill are banks as specified in The Bank Act and this is the intent of the Bill.*

*\* In 142(1)(b), "disbursements", the government will make languages and intent clear.*

*\* In 146(2), "prohibited auditors", the Government will make changes to close any "loopholes" that might result in a possible conflict of interest.*

#### Borrowing

In section 149 to 157 the Chairman pointed out that the Inuvik Council proposes that this section be divided into two separate and distinct sections in order to distinguish between by-laws for temporary and long term borrowing. It appears that the proposed Bill requires that the procedures which apply to "temporary borrowing" [section 150] also apply to "long-term borrowing" [section 151]. A distinction for procedures would eliminate any possible confusion or misconception; unless, of course, it is the intent of the Government that the requirements not differ.

In section 151(3), "Long term borrowing", requires that the by-law be approved by the ratepayers; however there are no rules and procedures identified regarding how the approval of ratepayers is to be obtained.

The NWTAM recommends that the amount that a municipal corporation is allowed to borrow be tied to the indebtedness of the municipal corporation. Public approval should be required, irregardless of whether the funding is taken from the municipal reserve fund, or is borrowed.

Concerning section 150, "temporary borrowing", the Chairman noted that the NWTAM further recommends that if the total amount to be either borrowed or drawn from the municipal reserve fund on a temporary basis does not exceed 25% of the estimated revenues, as set out in the budget for the fiscal year, the borrowing by-law should require only the approval of the municipal council. If the total amount to be either borrowed or drawn from the municipal reserve fund on a temporary basis exceeds 25% of the estimated revenues as set out in the budget for the fiscal year, the borrowing by-law should require ratification by both the municipal council and by the ratepayers.

*\*The Government stated that it will provide in the Manual explanations for the procedure of long and short term borrowing and that the titles in the sections of the Bill will be made clearer.*

#### Local Improvements

The Chairman observed that in section 161, "Consent of affected ratepayers" the Inuvik Council asks if, for the purposes of local improvement by-laws, the Governments of Canada, the NWT or other tax exempt organizations, such as churches, are considered as ratepayers?

Governments pay grants in lieu of taxes, if a local improvement affects government housing, the grants in lieu of go up; consequently, governments may wish to have a say with regard to local improvements. There appears to be no mechanism outlined in the Act that would provide governments with a say, similar to other ratepayers, concerning local improvements.

For example, in Inuvik large sections of housing are owned by governments. Under the proposed Act the Inuvik Council could approve a local improvement, such as the replacement of a utilidor, without any approval. Is this the intent of the Act?

In addition, communities, such as Inuvik, have a considerable number of ratepayers [persons and corporations] who own private property and who live outside of the municipality. Should a clause be added under the "consent of affected ratepayers" stating that ratepayers must respond within (90) days; after that date the municipal corporation will assume that the ratepayer has no objection to the local improvement?

*The Government asserted that it did not wish to vote on the approval of local improvement by-laws.*

#### By-Law Enforcement

The proposed CTV Act provides for the appointment of By-Law officers, rather than constables, and municipal inspectors, section 172 to 192, who have prescribed duties to enforce by-laws, other Acts and to issue tickets for violations.

Amendments to the Summary Conviction Procedures Act will allow tickets to be used by By-Law officers, section 177 CTV Act. The maximum amount of fines for offences under the by-law have been increased for individuals and for corporations.

There appears to be no provision in the proposed Act for languages used in the issuance of tickets for offences under the by-laws. Similarly, reports appear to not specify a language or translation requirement.

*\*The Government has agreed in "service of notice", 179(6), to provide provisions to assure that communities which do not have a newspaper will be capable of providing public notice.*

#### Heritage

The Chairman pointed out that the City of Yellowknife Heritage Committee requests that a provision be included in the Bill that would provide for by-laws protecting Heritage buildings.

*\*The Minister agreed to look into this recommendation.*

#### Motion:

Chairman: Moved to refer the Bill to the Committee of the Whole with recommendations.

Moved M. Cournoyea

Second: M. Angottitaurug

Carried.



## AN ACT TO AMEND THE CRIMINAL INJURIES COMPENSATION ACT

The SCOL met on February 24, 1987 to review the Bill. The Minister of Justice, Mr. Ballantyne, introduced the Bill by stating that the amendments were of a technical nature so that the changes in the Criminal Code of Canada would be included in the Northwest Territories Act. The changes reflect the re-definition of rape and attempted rape in the Criminal Code of Canada. Also, torture is now included on the Schedule as an offence.

The Chairman asked: what is the purpose of the Act? The Minister explained that the purpose of the Act is to compensate victims of crime, some of whom may be left with permanent physical or psychological injury. If a person is injured by a criminal act, up to \$15,000 can be received in compensation from the government.

The Chairman inquired as to when criminal charges are laid, are the victims of crime made aware that they are eligible for compensation?

The Minister replied that, at present, victims are not made aware that they may possibly receive compensation. However a campaign will be started to inform the public. It is hoped that more publicity will be generated about this fact in conjunction with the introduction of the amendments to the Criminal Injuries Compensation Act.

A member of the SCOL inquired as to who is responsible for explaining to the public this type of compensation at the community level? The RCMP do not believe that it is their responsibility, the member asserted.

The Minister responded by stating that it was the responsibility of the Department of Justice. He also expected that the Legal Education Society would assist with publicity, as well as the RCMP with pamphlets in their offices and at the offices of the community councils.

A member requested an explanation as to why the Criminal Code differentiated between sexual intercourse with females under 14 and under 16 years of age?

The Minister replied that there are two different penalties: under 14, the penalty can be a life sentence; 14 to 15 years of age, the penalty can be up to five years.

The Chairman asked if there was a distinction in sentencing because of the age of the male and the female; for example, what if the male was 17 years of age and the girl was 14 years of age?

The Minister replied that this type of situation was being looked into.

A member asked: if in the case of a young man who was stabbed to death, would the elder that he was supporting be eligible for compensation?

The Minister responded by stating that, depending on the circumstances, the survivor in such a case could be eligible for compensation. The Courts would have to rule in such a case. It would be worthwhile for such a dependent to apply to the Minister, if such a case did exist.

Another member asked, if someone had been permanently injured, could that person be eligible for a few months or several years?

The Minister replied that a permanent injury is not necessary. Compensation would depend on the extent of the injuries. The maximum lump sum payment is \$15,000 with up to \$50,000 to cover payments over a period of time.

A member asked if in the case of husbands who beat their wives, would the wives be eligible for compensation?

The Minister stated that the wives would be eligible for compensation, if they had suffered injuries.

The Chairman inquired: if there was no conviction, would compensation be awarded to a victim?

The Minister replied that if a person were not found guilty on a technicality, for example, there still may be grounds for compensation. The Courts would have to decide.

Another member inquired at what would happen to a victim who applied to the government for compensation; and there was no money left in the compensation budget? Should this be discussed in the House?

The Minister replied that the budget was low - \$60,000. But that this would be increased to \$120,000. Additional Federal money will be sought. In addition, the Legislative Assembly will have to decide to give this item a priority for funding.

A member observed that if all victims of crime were to apply for compensation, the government would run out of funds.

Another member pointed out that section 231, the offence of setting traps likely to cause bodily harm, should be explained in the house.

A member observed that if someone were killed by a trap, would compensation to a person's dependent children be available? And how much time must elapse after which a claim cannot be made?

The Minister responded that this was the intent of the Bill. The surviving parent or relative could make a claim. In the case of no relative, the Court could appoint a guardian who could make a claim. The Courts have extended the time limit past one year.

The Chairman asked if costs were involved in making a claim? Does a claimant file before a Judge?

The Minister replied that there have been no costs to claimants to date. The government is also looking into the possibility of replacing the Courts with a Victim's Compensation Board. As to paying for these initiatives, the government may recommend that there be a surcharge on all fines in the NWT. Also the federal government has made this a major initiative, so there may be funds available from them.

A member inquired as to what would happen if an application were made for compensation and there is no money left in the fund - where does the obligation rest to respond to this request?

The Minister responded by stating that this was a valid question. He explained that since many people in the past did not know of this provision within the law, there were few requests for compensation. The GNWT is responsible for the funds and the Courts are not going to make decisions based on budget considerations.

The Chairman asked if someone applies this year, could the case take precedent in the following year?

The Minister replied that the time limit is one year for a claim, but the courts can order an extension in extenuating circumstances. At present, if there was a court order recommending compensation, it would have to be paid.

A member requested that the Minister outline these circumstances to the Legislative Assembly when the Bill is brought forward, so that everyone is aware of what is proposed under this Bill.

The Minister responded by stating that the Legislative Assembly may have to decide on what to do about the Act if it is too expensive to administer.

A member asked what was meant in the Act by the offence, "abandoning child"?

The Minister stated that he understood that if a child were left on someone's doorstep or left without being looked after, any injuries sustained by the child would become a criminal offence.

The Chairman asked if the child would be eligible for compensation. The Minister stated that he believed that the child would be eligible.

A member asked how large the complete Act was and does the Act define offences?

The Minister replied that the definitions of offences are in the Criminal Code and that he would send a copy of the complete Act to the members.

#### **CLAUSE BY CLAUSE REVIEW OF THE ACT**

##### **Section 2.**

A member: Concerning section 393, false fire alarm, if a false fire alarm were rung and some one was injured by the fire truck, would the person who rang the alarm be guilty of an offence? Would the person who was injured be eligible for compensation?

Minister: A person could be found guilty if someone is harmed; and the person injured could be eligible for compensation.

Chairman: Would this Bill be tabled before the end of the 10th Session?

Minister: He would prefer to have the Bill passed through the current session.

##### **Motion:**

**Chairman: The SCOL agrees to forward the Bill to the Committee of the Whole.**

**Members: Agreed.**

## AN ACT TO AMEND THE ELECTIONS ACT

The Standing Committee on Legislation [SCOL] met to review proposed Bills received from the Government for the 9th Session of the 10th Legislative Assembly on March 16, 1987 in Yellowknife. The Bill was introduced by the Clerk of the Legislative Assembly who stated that the purpose of the Bill was to amend the Elections Act, which governs Territorial elections, with minor technical corrections.

### CLAUSE BY CLAUSE REVIEW OF THE ACT

In Definitions, "Property", section 76, drop the reference to "ballot boxes"; section 93[6][c] complete the sentence missing from the Act; section 113[3][b] change reference from "section 111" to "section 113"; section 165[1][c] to include the phrase "during a campaign period"; section 241, "where an agreement exists" now makes reference to the Elections Act, 1978 and the Chief Elections Officer for Canada; section 245 is repealed.

Motion:

Chairman: Move to refer to the Committee of the Whole

Members: Agreed.

## AN ACT RESPECTING HAMLETS IN THE NORTHWEST TERRITORIES

The Minister responsible for Municipal and Community Development introduced the Bill by noting that the purpose of the Hamlets Act [short title for An Act Respecting Hamlets in the Northwest Territories] is to provide for the administration, powers and duties of communities designated as Hamlets. This Act will also replace the existing Municipal Act. The proposed Local Authorities Election Act also applies to Hamlets with regard to the conduct of elections.

### KEY ISSUES:

#### Definition of a Hamlet

A "hamlet" means a municipal corporation with the status of a hamlet and a "municipal corporation" means a corporation established or continued under this Act as a hamlet.

As in the other proposed Local Government Acts, the Minister of Municipal and Community Affairs may, on his own initiative, or at the request of twenty-five residents in a settlement, establish a municipality. In this case, a municipality can be established as a hamlet, section 3 Hamlet Act. A population figure or amount of taxable property in a community need not be established to reach hamlet [or any other] status, as in the existing Municipal Act.

In the order establishing the municipal corporation as a Hamlet, the Minister must fix the name and status of the municipal corporation; determine the boundaries of the municipality; and provide for the first election of council members in accordance with the proposed Local Authorities Election Act.

#### Change in Status of a Community

The Minister is also empowered to change the status of communities without having to meet any prescribed criteria. For example, the Minister may change the status of a Charter community to a Hamlet. Where a municipal corporation changes status, the mayor and councillors continue in office until their successors have been elected. In the transitional process the status of employees, by-laws and resolutions and assets and liabilities, for example, do not change.

The council may also request the Minister to vary the boundaries of the municipality. If considered, the Minister may vary the boundaries, upon the recommendation of the Executive Council, section 6-8 Hamlet Act.

### Taxation

The Minister may also authorize a municipal corporation, under the Hamlet Act, to become a municipal taxing authority. This would allow a Hamlet to assess property for taxation purposes and allow long term borrowing by way of the security of debentures.

### Hamlet Council

The Hamlet Council is made up of a Mayor and eight Councillors. The Minister may appoint council members in addition to those that are elected, section 12 Hamlets Act. The Minister, by order, may also vary the number of council members, section 13 Hamlets Act. But the number of council members appointed must not exceed one third of the total number of council members who comprise the council.

Council members hold office for two years commencing at noon on the first Monday in January following the election. At the first election the staggered terms are as follows: the four candidates receiving the highest, second highest, third highest and fourth highest number of votes hold office for a term of two years; and the balance of the successful candidates hold office for a term of one year.

*\* Motion: That section 14 be amended to include reference to the Mayor serving a three year term in office.*

*Moved: M. Erklou*

*Second: M. Arlookto*

*Carried.*

*\* The Government will amend section 16, "Transitional" to include in the text " in November in the year before the year in which".*

Under the Municipal Act council may pass by-laws with regard to procedures. In the Hamlet Act, section 30 [and in the other proposed Local government Acts] every council shall, by by-law, make rules respecting the calling of meetings of council and committees; the procedures of council; the behaviour of council members and other members present at meetings; and the general transaction of business.

### Other Languages

As in the other proposed Local Government Acts, a Hamlet council may conduct meetings and transact business in the language of its choice. The by-laws, resolutions and records of council need not be kept in English, section 20-22 Hamlet Act.

### Emergency Meeting

There are provisions for holding emergency meetings, section 28 Hamlets Act.

### Senior Executive Officer/Senior Administrative Officer

The Mayor is the senior executive officer who provides direction to the officers of the municipal corporation. The principal officer or manager is the senior administrative officer, who may be called by another title. Like other officers, this person must have, upon appointment, no direct or indirect interest in a contract with the municipal corporation. The mandatory and other duties of the senior administrative officer are specified in sections 48-49 of the Hamlet Act.

### Authority over Roads

Like the other proposed Local Government Acts (except for the Settlements Act), the municipal council under the Hamlet Act, section 70-78 has the power to make by-laws with respect to roads in the municipality. In the Municipal Act approval by the Commissioner or the Minister is required. However, no council may make by-laws in respect to a "primary highway" designated under the Public Highways Act, except in accordance with an agreement made under that Act.

### Ambulance Service

As in the proposed Cities, Towns and Villages Act and the Charter Communities Act council may, by by-law, provide for the establishment and operation of an ambulance service or enter into an agreement with the NWT Government respecting ambulance services, section 102, Hamlet Act.

### Animal Control

As in the proposed Cities, Towns and Villages Act and the Charter Communities Act council may, by by-law, be allowed greater control to regulate and prohibit all animals within its jurisdiction, section 116-119 Hamlets Act. In the Municipal Act references are made to dog controls.

### Adult Publications

A council may by by-law regulate the display, distribution and sale of adult publications, such as a book, magazine, film or videotape, section 123 Hamlets Act. An "adult publication" is defined.

### Inoperable Vehicles

Inoperable, wrecked, dismantled and abandoned vehicles may be removed and disposed of by council by-law, section 126 Hamlet Act. Similar provisions are provided for in the Cities, Towns and Villages Act and the Charter Communities Act.



### The Acquisition and Disposal of Real and Personal Property

The acquisition and disposal of real property belonging to the municipal corporation *must* be done by procedural by-law. In addition, council *may*, by by-law, acquire, hold, develop and dispose of real property in the municipality for the purpose of generating revenue for the municipal corporation, section 132-133 Hamlets Act.

The existing Municipal Act, section 184, states that council *may* make the passing of by-laws in this area of activity. But the areas of council responsibility in the Municipal Act are not as broadly stated as the powers allowed under the new Act. This new authority is also found in the proposed Cities, Towns and Villages Act, and the Charter Communities Act.

### Contracts

However, Section 133 of the proposed Hamlets Act also requires that "no council may provide for the acquisition, development and disposal of real property in the municipality to carry on a business" (other than authorized under this Act) "unless the Minister deems such business to be in the public interest and for municipal purposes".

### Budget and Financial Provisions

Under the Hamlets Act, Part IV, Financial Affairs section 136 and following, the fiscal year for the municipal corporation is the 1st day of April to the 31st of March. And the budget for the next fiscal year must be approved and passed by council resolution prior to the beginning of the next fiscal year.

The budget must include estimates of expenditures, revenues, [including property taxes received if that municipal corporation is a municipal taxing authority], school taxes collected and forwarded, and any sum required to meet a deficit of the municipal corporation, if any, in the preceding fiscal year.

The contents of Financial Statements must include certain provisions and the requirements are more concise than the existing requirements under the Municipal Act, sections 185-190, 261.

The Hamlet Act, section 149 and following, does allow for a council, by by-law, to borrow money on a temporary basis from a bank in order to meet expenditures for which revenues received are insufficient. This borrowing must not exceed 85% of the estimated revenues set out in the budget for that fiscal year.

Long term borrowing, on the security of debentures, is allowed for a municipal corporation, if it is a municipal taxing authority. The total amount to be borrowed must not exceed 10% of the total current assessed value of all property in the municipality on which taxes are paid or grants are received in lieu of taxation. Every long term borrowing by-law must be approved by the Minister and the ratepayers.

However, for the purpose of borrowing for a local improvement, the borrowing by-law does not need the approval of the ratepayers, if the charges for a local improvement will be completely financed by those affected. The consent of those affected, 60% of the ratepayers who would be compelled to pay the local improvement, is required before third reading of the local improvement by-law, Hamlet Act, section 158-163.

#### By-Law Enforcement

The proposed Hamlet Act, section 172-188, and the proposed Cities, Towns, Villages and Charter Communities Act provide for the appointment of By-Law Officers (rather than constables) and municipal inspectors who have prescribed duties to enforce by-laws, other Acts, to inspect buildings and to issue tickets for violation.

Amendments will be required to the Summary Conviction Procedures Act to allow tickets to be issued by By-law officers. In addition, the duties of the By-law officer will be defined in the Vehicles Act; and the proposed Property Assessment and Taxation Act will relate to collections.

#### Motion:

The Bill is approved and referred to the Committee of the Whole with recommended changes, including the SCOL motion to amend the length of term for Mayor to three years.

Moved: M. Erklon

Second: M. Arlookton

Carried.

## **AN ACT TO AMEND THE HOME OWNER'S PROPERTY TAX REBATE ACT**

The SCOL met on the 4th of May, 1987 to review the Bill. The Chairman noted that the primary purpose of the Bill was to provide for the payment of a homeowner's property tax rebate directly to the owner; and to extend the rebate to housing co-operative association members and those people living on Crown and Commissioner's land who pay property taxes.

The Minister of Municipal and Community Affairs, M.Wray, in response to members questions on how the rebate system worked, pointed out that in the case of tax based communities the rebates were paid through the municipality to the homeowner upon receipt of the payment of property taxes by the municipality. The municipality acts in the role of the Minister and does the Rebate Officers job. This creates an efficient form of payment as the list is kept locally and payments are made on a periodic basis. In General Taxation Areas the payments of homeowners are made to the Government and the rebates are issued to the homeowner.

### **Clause by Clause Review**

#### **Motion:**

**Chairman: Move to refer the Bill to the Committee of the Whole.**

**Moved: M. Cournoyea**

**Second: M. Lawrence**

**Carried.**

## AN ACT RESPECTING ELECTIONS FOR LOCAL AUTHORITIES

The SCOL met 4 May 1987 to review proposed Bills received from the Government. The Chairman explained that the purpose of the Local Authorities Election Act [short title for An Act Respecting Elections for Local Authorities] is to establish simplified and common procedures for carrying out elections to municipal councils and local education authorities throughout the Northwest Territories. The Bill has sections which apply to all authorities and sections which apply only to municipal councils.

The Minister responsible for Municipal and Community Affairs, M. Wray, introduced the Bill as one of several pieces of Local Government legislation intended to replace the current Municipal Act. The Government plans to request the Legislative Assembly to debate and study this Bill and other related local government legislation in the 1987 Spring session.

The Minister asserted that the proposed legislation is "legislation for the communities" and that a "how to manual" will also be produced to introduce the new legislation at the community level with workshops. The consultation with communities by government to develop this legislation has taken over ten years to complete.

There are significant differences between the Local Authorities Election Act and the existing Municipal Act.

These differences were reviewed by the SCOL. Included in the review were observations of respondents who reviewed the Bill at the request of the SCOL and comments by SCOL members.

### Ministerial Authority

Page 1 - DEFINITIONS - "appropriate Minister"

In this new proposed Act the powers of the Commissioner, as outlined in the present Municipal Act, are omitted and replaced by the "appropriate Minister responsible for the enactment establishing the local authority": in some cases, it could be the Minister responsible for Local Government [now called the Minister of Municipal and Community Affairs] and in others, it could be the Minister responsible for Education, due to the definition of a local authority.

*"election officers" definition will be revised for clarity especially with the reference to 'special constables'; a SCOL member suggested to the government that a terminology be used that is not confusing to residents;*

*\* The Minister agreed to make the change in the Bill.*

### Local Authorities Defined

Page 2 - DEFINITIONS - "local authority" refers to a city, town, village or charter community council. A Charter community is a new concept where communities can enter into an agreement with Government to develop their own election procedures, but the rules in the Local Authorities Election Act [LAE] concerning corrupt practices and controverted or disputed elections apply. The rules and procedures for elections of a "Local Authority" also apply to a local education authority. At present, these include a variety of responsibility levels, such as: a community education society, a community education committee, a Board of Education, a community education council, a Divisional Board and an Advisory Board.

### Conduct of Elections

Section 5(1), The purpose of "Minister's Directions" is to provide informal guidance to local officials in conducting elections. There is no Chief Electoral Officer. This function is carried out by administrative staff in the Dept. of Municipal and Community Affairs who will provide advice through policy directives.

### Election Dates

Section 11 - There is a proposed change from the Municipal Act in the day established for holding elections. For a city, town, village and municipal taxing authority the general election day for the mayor and councilors will be the third Monday in October. Since a local education authority may have its election at the same time as the municipality a change is required in the Education Act.

*\*The Government has proposed that the Education Act be changed to allow for local authorities to sit in November, if elected in October.*

For a hamlet and charter community, other than a municipal taxing authority, and a settlement corporation, it is the second Monday in December [LAE section 11]. The election date for local education authorities is the same as for the municipality it is situated in.

In Section 11, the Inuvik Council expressed a concern that changing the date of elections may also require that the fiscal year be also changed, as one Council would be spending or allocating under another council's decisions. It should also be noted that at present School Boards, for example, have yearly elections with elected members sitting in three year staggered terms.

*A SCOL member proposed that the Bill be amended to allow the dates for elections in some communities to be the 1st week in January and to sit in the 1st week of February in order to allow people living off the land to participate;*

*\* The Minister agreed and that the Government will look into providing flexible dates for elections in January.*

#### Ward System Option

Section 15, A city or town council may pass a by-law, which would have to be approved by the Minister, dividing the municipality into wards or geographic areas which would elect councilors. This is not provided for in the present Municipal Act. The Mayor would be elected by the voters of the municipality voting at large.

#### Language Option on the Ballot

Section 17 - New provisions concerning the ballot or any form required for an election, provide for a local authority to include the use of an official aboriginal language or French, in addition to English.

*\* French should be added to the marginal note in 17(2).*

#### Persons Eligible to Vote

Section 18 - The residency requirements under The Municipal Act have been changed from "ordinarily resident in the municipality for six months immediately preceding the day of the close of nominations of candidates for election" to "a resident of the electoral district for at least twelve consecutive months immediately preceding the day on which he votes; and is a resident of the electoral district on the day on which he votes".

The Election Courts of Revision under the present Municipal Act, which specifies application to a Territorial Judge, has been replaced with LAE section 26 where a voter may apply to the Registrar, at least ten days before the election date, to have the list of voters revised to include persons eligible to vote, who have been omitted or incorrectly listed, or to identify persons not eligible to vote, who are on the list of voters.

#### Persons Eligible and Not Eligible to be Candidates

Section 19 - Under the proposed Act, persons holding certain offices or having committed certain acts are not eligible to run for office in a local authority. They include Judges and Youth Court Judges, Justices of the Peace, members of the Legislative Assembly, election officers, persons convicted of a corrupt election practice within three years before an election day and those persons who were convicted in the last three years of a criminal offence with a maximum penalty of five years or more in prison.

Section 18/19 - The Northwest Territories Association of Municipalities (NWTAM) reports that tax-based municipality members of their organization recommend that an amendment be added for communities which fall under the proposed Cities, Towns and Villages Act to allow them the option of choosing either a six-month, or a twelve-month residency period for voting and for seeking office.

*The Chairman noted the request from residents of larger communities to have the residency changed to six months. The Minister stated that the Government preferred to remain consistent throughout with one year.*

**Ineligibility of candidates for a local education authority**

Section 20 - Candidates for a local education authority are not eligible to stand for office if that person is a teacher, a classroom assistant or an adult educator, as defined in the Education Act. However, it is not clear if a teacher is excluded from being a candidate for a local education authority if he or she is not an employee. For example, can a teacher employed by a Separate (Catholic) School Board in a community be excluded from standing as a candidate for a Public School Board election in the same community?

*\*The Minister stated that this matter would be referred to the Minister responsible for Education.*

Changes from the existing Municipal Act also apply to persons who are not eligible to run for municipal or settlement council (mayor or councillor). They now include persons who owe \$500 or more for more than 90 days to the municipality, other than current taxes; and persons who have a controlling interest in a private or public corporation which owes the municipal or settlement council more than \$500 for more than 90 days, excluding current taxes [ see LAE section 21].

**Ineligibility of Candidates for mayor or councillor**

**Section 21 - "Controlling Interest"**

The NWTAM recommends that the definition of "controlling interest" should also include a senior managerial position. Although such a position may not include any equity in a corporation, it does imply a vested interest and could be seen as a conflict of interest in the event that a corporation is indebted to the municipal corporation for the prescribed amount stated in the proposed Act.

In a city, town or village a person may only be nominated for mayor or councillor, but not for both [see LAE section 37].

In a hamlet, a person may be nominated as a candidate for both mayor and councillor. However, if a person is already on a council, that person must resign from the council in order to run for mayor in the new general election [see LAE section 38 for recommendations].

#### Councillor running for Mayor

Section 38(1) - Inuvik Council requests that a change be added which requires that all councillors who are running for mayor should resign from council. There may be occasions where two or more sitting councillors are running for mayor. One councillor, who is also a mayoral candidate, but whose term of office does not expire in the year of the election, would have to resign from council in order to run for mayor. Another councillor, who is also a mayoral candidate, but whose term does expire in the year of an election may have an unfair advantage over another by being on council for several meetings prior to the election, because he/she would not be compelled, according to the proposed legislation, to resign in order to run for mayor.

*\*The Minister recognized the problem and the potential difficulties and stated that this would be looked into.*

A procedure has also been instituted that allows the Returning Officer to require candidates to sign declarations of eligibility if the nomination is considered questionable [ LAE section 39].

*Section 39(4) is (3) not (1) in the subsection.*

#### Extension of Time

Section 40(2) - The NWTAM recommends that this provision be eliminated, as a municipal corporation could allow a period of longer than two weeks to receive nominations by declaring nominations to be open at an earlier date.

*Section 43(2) add "charter communities".*

#### Allocation of terms of office for acclaimed candidates

Section 45(3) - The Inuvik Council believes that a random selection process [ballot draw, for example] rather than ranking candidates in alphabetical order by surname, would be the most fair procedure.

*\*SCOL members questioned which language would be used to determine the alphabetical order of the surname. The Minister stated that this section will be revised and may be omitted.*



**Withdrawal of nomination**

Section 47 (1) - The NWTAM recommends that nominated candidates should be able to withdraw nominations irregardless of the total number of nominations.

*\* The Government will make the wording clearer in intent.*

**Vacancies in Office**

Section 48 (1) - "Appointment or by-election"

The NWTAM recommends that should a resignation occur before a councillor's term of office is half-completed, a by-election would be mandatory. Should the resignation occur after the councillor's term is half-completed, the council would have the option of filling the vacancy by either appointment or by-election.

**Photographic Placard Option**

Section 53 - Another innovation is that the local authority may authorize the use and establish standards for photographs of candidates on a photographic placard which can be posted in a conspicuous place at each voting station.

**Proxy Voting**

Section 54 - However, if a person is eligible to vote and is unable to vote at the advance poll or on election day, a proxy certificate could be applied for from the Returning Officer which would authorize another voter in the electoral district to vote on his or her behalf. The person who votes on behalf of someone is allowed to be a proxy voter for no more than three voters. Proxy voting procedures are also outlined.

**Number of proxies**

Section 55(1) - The NWTAM believes that the proxy vote should be limited to one proxy vote per voter who carries out the vote, as this would be consistent with practices carried out in federal elections where one voter may only exercise one proxy vote.

*Section 58, drop "proxy certificate".*

**Marking the ballot**

Section 72(1)(b) - The NWTAM recommends that "making some other mark clearly indicating his choice" be clearly defined, in order to avoid any confusion which might lead to a spoiled ballot.

*Section 71(4) and 77(2) add "charter community".*

*Section 74(1) correct "was" to "has" and drop "then".*

**Administrative Recount**

Section 81, the SCOL suggested the government stay away from the use of agents for the purpose of recounts.

*The Government agreed.*

**Controverted Elections**

*The Government will look for a place in this section to include an allowance for candidates to advertise in vehicles which take voters to the polls.*

**Election Petition**

*Section 96(a), the government will attempt to clarify the meaning.*

**Commencement and Transitional**

The Government stated that they would like the Bill to come into force in January, 1988.

*In 117(2) add the term, after, in the year "following the year".*

**Education Act**

Yearly elections to local education authorities, section 125, may require funding from the Department of Education.

**Motion:**

**Chairman: Move to refer the Bill to the Committee of the Whole with recommended changes.**

**Moved: N. Cournoyea**

**Second: M. Gargan**

**Carried**

## AN ACT RESPECTING THE ENFORCEMENT OF MAINTENANCE ORDERS

The Chairman, introducing the Act, pointed out to the Minister of Justice and the SCOL that this Bill is a major revision of existing legislation.

The Minister explained that the existing Act is outdated and the Government wishes to repeal it. Because of divorce, a person may be obligated to pay a support order. In some cases, people have not undertaken their responsibility to pay support. As a result, the people who should be receiving support end up receiving social assistance. This Bill will place in the Northwest Territories comparable legislation with other jurisdictions and allow for reciprocal agreements to enforce support orders. This will mean that if a support order payment must be paid, a Maintenance Enforcement Administrator from the Department of Justice will enforce the support order.

The Chairman inquired of the SCOL members if they found it acceptable to proceed with the Bill, as there has been little time to review it and there is no translated summary of its contents.

A member asked if the Administrator position identified in the Bill existed?

The Minister replied that existing staff of the Justice Department would be handling the work and that he did not expect the additional work to be a burden on the staff.

The Chairman asked if new positions will be required?

The Minister responded that new mechanisms will not be required. It would be a straight-forward task. There is no need for new positions.

The Chairman asked if the Government knew what the cost was to support families on Public Assistance who should be receiving support payments?

The Minister replied that he did not know.

A member stated that she supported legislation which would enable reciprocal agreements between jurisdictions to be carried out. However, she believed that the Government should not raise expectations of the public over "false agreements", in that these agreements may not be collectible, especially in common-law relationships; and would these types of collections be feasible when applied to native people. It is useless to pass a bill that is little understood by the public and probably not enforceable, she observed.

A member added that since the Bill was not translated, there were matters which he did not understand. For example, if there was a person who did not pay alimony - would the Government pay? It is true that there are many foster and illegitimate children in the settlements - will this Bill help them? In the regions there are things that are not clearly understood by Social Workers - will they be instructed to inform the public about this Bill?

The Chairman explained that this Bill applied to spouses who leave their families. The Courts may order that support be paid. According to this Bill, the Government would carry out an order for support and pursue the spouse for payment. The Administrator could go to the employer of the spouse and garnishee wages in order to pay for family support.

A member stated that he would support this legislation, because garnishment through the Courts is not working in the Northwest Territories. How would this Bill work, the member added, if a person is supposed to receive support payments, but does not receive them?

The Minister replied that a creditor, the Director of Social Assistance or a person from another jurisdiction who performs a similar function as the Administrator, would go to the Government Administrative Officer and file a maintenance order to be enforced. The Maintenance Order would be paid to the Administrator who would distribute the money. If the Order is refused and is not carried out, the Administrator has a wide range of powers available to enforce the order, including garnishment, attaching wages and having property seized. However, the Minister pointed out, that this legislation can only enforce orders from divorce or separation agreements. If a couple should break-up and separate without an agreement taking place, or if they were unemployed, this legislation would not be applied. It is also limited in scope, in that it cannot assist children who are left in the care of grand-parents, for example.

A member inquired as to how this Bill would be locally administered in the settlements, should a court order take place in Yellowknife, for example? How would a unilingual person in Pond Inlet contact the Administrator?

The Minister responded by stating that the Government would be obligated to inform the public about the administration procedures of the Bill at the community level, one resource could be the community social worker.

The Chairman asked the Minister to explain the difference between the enforcement of an "agreement" and a court order.

The Minister explained that a court order is automatically enforced by the Administrator, while an "agreement" requires that the Government be requested to enforce it.

The Chairman asked the members that since the Bill has not been fully translated and since the implications of cost to the government to administer the program have not been worked-out, do members wish to continue reviewing the Bill, or should it be reviewed between sessions?

The members agreed to proceed with the reading of the Bill.

#### CLAUSE BY CLAUSE REVIEW OF THE BILL

In the Definitions a member asked: what are the procedures in a "maintenance order" should a mother and father abandon children, leaving them in the care of grandparents?

The Minister responded that the portions of the maintenance order which are for the care of the children would go to the guardians of the children.

The member followed with the inquiry: But what is the procedure at the community level to enforce the collection of support and the follow-up?

The Minister responded by saying that he did not know how support could be enforced if there was no court order or written agreement to provide support.

The Chairman suggested an alternative to the Minister in that a Court Order could be applied for later, should an informal support agreement fail.

The Minister replied that the problem of illegitimate children is a difficult one that raises many questions. This proposed legislation is better than what we have. But it does not deal with problems raised by members of the SCOL.

A member noted that section 4.[2] of the Bill refers to "maintenance orders". He suggested that the clause should include a reference requiring that the Administrator file in the local community where the circumstances are known.

The Minister asked if it was the intent of the member to have the role of the Social Worker written into the Bill?

A member stated that the intent is to make the order known to the community.

The Minister replied that the confidential nature must be maintained. If there is no social assistance application, social services would not be involved.

A member observed that this Bill appears to be oriented to people living in a southern oriented society and that much of the Bill is not relevant to our needs. The communications-administrative steps are not in the Bill and probably will not be known at the local level. This Bill is to develop a working relationship between provinces and the territories.

The Minister stated that he did not think that the Government could put the process of administration in the Act. Maybe changes could be made to the Social Assistance Act. We may have to change regulations by other methods.

Concerning section 4[4], "Filing of maintenance orders made outside jurisdiction", a member asked if a spouse abandons children and leaves the NWT, would the family be entitled to support?

The Minister replied that a person living outside of the NWT could file to receive support through the NWT; and a person living in the NWT could receive support from a person living outside of the NWT.

A member asked if a claim for social assistance would be prejudiced, if a family was waiting for support payments from someone who left the NWT? Would this situation create another bureaucratic entanglement?

The Minister replied that a family may not be eligible to receive as much Social Assistance as they are entitled to, because payments are based on income received.

The Chairman observed that if people are not receiving Social Assistance and they require help, help may be given through social Assistance with the amount deducted from monies received later.

The Minister noted changes in the Bill as follows: section 4.[5], change "which it is filed" to "which has been filed"; section 7.[3] drop "in the regulations"; section 11.[2] drop the (s) in "Courts Act"; and section 13.[2] drop "prescribed" and replace with "fixed". The reference to French in section 13.[3](c) refers to the compulsory use of French in the NWT in 1989, he explained.

In section 6.[2] "enforcement by creditors" the Minister was asked by a member if he realized the number of arrangements and maintenance orders that would have to be carried out? Did he realize the depth of the problem in the Northwest Territories? Could he give the SCOL an assessment?

The Minister replied that the Department of Justice realized the responsibility of the work load, but believed it could be handled?

**Recess:**

Due to time restraints, the Chairman was compelled to call a recess in the review of the Bill at section 14, until the next meeting of the SCOL.

**Reconvene:**

Discussion of the Bill was renewed at the SCOL meeting of 1 May 1987 in Yellowknife.

## AN ACT RESPECTING THE ENFORCEMENT OF MAINTENANCE ORDERS

The SCOL met on May 1, 1987 to review the Bill. The Chairman reviewed the purpose of the Bill explaining that individuals who have taken on the responsibilities of child rearing should be required to continue providing support when they choose to leave their children. This Bill would also give the Government of the Northwest Territories the ability to collect support payments or maintenance through agreements with other jurisdictions.

A member questioned as to whether or not the enforcement of maintenance orders would serve the needs of aboriginal people who receive low wages and are affected by high unemployment. The Government representative noted that there is a provision for the Courts to recognize onerous Maintenance Orders and to take into account the economic situation. The Chairman added that the Bill would only apply where a Court Order took place or if the agreement was registered with the Government. Where there is no court order or agreement registered, no maintenance order would be put into place.

The Government representative added that the Government can reduce welfare costs through the implementation of this Bill. Those persons who flee their responsibilities in the Northwest Territories to other jurisdictions can be sought out for collections through reciprocal agreements with the Provinces.

### Clause by clause

In section 14, "Attachment of wages", a member asked what happens if a person refuses to make payments. The Government explained that if a person refuses, the document is served on the employer. The Law Clerk added that this Act will create priorities in that any money owed is directed towards Maintenance Orders first and other creditors later.

In section 14(5), "Exemptions", the Chairman inquired as to what is the definition of a dependent child for the sake of making deductions from wages by the employer? The Government replied that the employer and employee would decide this and the courts could instruct the employer otherwise. The Chairman asked if the portion of the debtor's wages exempt from monthly attachment could not be set in the Bill, but would be an amount not less than \$300 and be set in regulations. The regulations would also apply to the amount set aside for dependent children.

*\*The Government stated that this would be considered.*



The Law Clerk noted in section 14(10), "Motion to set aside", it is unclear as to which court is referred to.

*\*The Government will add "to the Court" which means the Territorial Court.*

In section 18(5), "Arrest of debtor", the Chairman asked: If the spouse did not want the husband to go to jail, could the party owed the money prevent the order from being put in place? The Government explained that if the warrant were issued, the court would have to decide if the warrant should be enforced. Withdrawal of the applicant would not stop proceedings, but it would be considered by the courts.

Motion:

Chairman: Move to refer the Bill to the Committee of the Whole with recommended changes.

Moved: M. Lawrence

Second: M. Angottitaurug

Carried.

## AN ACT TO AMEND THE MECHANICS LIEN ACT

The Minister of Justice, Mr. Ballantyne, introduced the Bill by stating that the amendments were that of a technical nature, in that under the present legislation it is possible for an owner, or a person having had work done, to holdback 10% of the contract price to ensure that the work has been properly done. This payment should take place after 30 days. However due to distances from small communities, extending the time from 30 to 45 days will give more time to complete the information and paperwork.

The Chairman asked if the Minister had proceeded with a process of public consultation on this matter of extended time.

The Minister replied that he had received complaints from the Government of the NWT Registries office, but that no formal consultations had taken place.

A member noted that the Minister should look at the problem from the viewpoint of the contractor who does not get paid within the thirty day period, in many cases.

The Minister replied that he agreed that there was an area of dispute, but the Bill was an attempt to arrive at a balance. He was aware that sub-contractors are often penalized with long waiting periods. He asked if the SCOL wished that the Bill be circulated for comments from the public?

The Chairman asked if this was the wish of the SCOL, to circulate the Bill to the Law Society, construction organizations and other bodies for their comments. The Committee instructed that this should be done in an informal way.

He also asked the Minister if he was considering bringing in other amendments to the Act? The Minister informed the SCOL that the Law Reform Committee is considering reviewing the entire Act.

A member asked would the proposed change allow the 10% to be heldback for 45 days rather than 30 days, even if everything was in order?

The Law Clerk advised that the way the Act reads, the amendment will not change and the holdback lien continues to be allowed, whether for 30 or 45 days. The Chairman explained that if the right is in law, people will holdback for 45 days.

A member observed that the extra lien period of an additional 15 days could be detrimental to the financial success of some contractors in the NWT.

The Minister responded by stating that the intent was to seek a balance and that the protection of the sub-trades, for example, was of greater priority than that of the general contractor. The intent in the proposed change is to protect the worker, sub-trades and suppliers.

A member added a concern that the Government was awarding contracts to companies that were bidding so low that the contracts do not allow for proper servicing and upkeep of equipment, for example. If this situation of awarding below a realistic price were corrected, the issue of holdback would not be of consequence.

The Minister disagreed and asserted that contracts are fairly let and are close to estimates. He stated that no matter what the Government does in this area, there will be a need for this sort of protection.

The Chairman asked the members what they wish to do with this Bill.

A member proposed that the Bill be postponed and that it be discussed during the next SCOL meeting, March 2, 1987.

**MOTION:**

**Chairman: Propose that the Bill be postponed to the March 2, 1987 meeting of the SCOL.**

**Members: Agreed.**

**Minister: Agreed and will not proceed with the Bill.**

**MEETING DATE:**

The Standing Committee on Legislation [SCOL] met to review proposed Bills received from the Government for the 9th Session of the 10th Legislative Assembly on March 9, 1987 in Yellowknife.

**AN ACT TO AMEND THE MECHANICS LIEN ACT**

The Chairman introduced the Minister of Justice, Mr. Ballantyne. The Chairman asked if any members had further comments concerning this Bill since the SCOL review of February 23, 1987, especially with regard to the holdback of 10% of the amount proposed for a term of 45 days.

A member inquired if the holdback was automatically enforced.

The Law Clerk explained that the holdback is mandatory in order to ensure that funds are available should a valid claim arise.

The member asked in what manner was the 45 days determined. Does the 45 days include all days - Sundays and Holidays.

The Minister replied that this was indeed the case; and that the last date can fall on any day.

The member responded by noting that contractors in her constituency were not opposed to the change to 45 days.

The Chairman noted that the Contractors Association did not comment on the proposed changes, but that the Law Society informed the SCOL by letter that the Act in their opinion requires extensive revisions.

Chairman conducted a Clause by Clause review.

Motion:

Chairman: Move to refer the Bill to the Committee of the Whole with no suggested changes.

Members: Agreed.

**A REPORT OF THE STANDING COMMITTEE ON LEGISLATION  
CONCERNING THE REVIEW OF  
AN ACT RESPECTING RESIDENTIAL TENANCIES**

**Chairman: Robert H. MacQuarrie**

This report contains an overall review of the proposed new Act Respecting Residential Tenancies. Significant aspects related to the purpose and intent of the Bill were reviewed at the SCOL meetings of December, 1986 and are found in Part One.

Discussions of the "Draft" Bill held before the SCOL with interested parties and the Government, represented by the Minister of Justice, are included in Part Two and Three. Motions and suggestions by members of the SCOL to the Government and Ministerial commitments made to the SCOL at those meetings to revise the "Draft" Bill are included in Part Four. The "page-by-page" review of the "Draft" Bill by the SCOL is found in Part Five.

Commentary is also provided in Part Five on the changes made, or not made, to the Bill by the Government, subsequent to the December, 1986 meetings and reviewed at the SCOL meeting of 8 May 1987. Comments from a submission and presentation by the Law Reform Committee of the Law Society of the Northwest Territories on the Bill to the SCOL are also included.

The Bill submitted to the SCOL and reviewed in May, 1987 as Bill 19 - 87(1), AN ACT RESPECTING RESIDENTIAL TENANCIES was referred to the Committee of the Whole on 8 May 1987.

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## AN ACT RESPECTING RESIDENTIAL TENANCIES

### 1.0 What is the purpose of the Bill?

This Act is intended to replace the existing *Landlord and Tenant Act* by introducing remedial legislation which attempts several things:

- A. To correct the imbalance between landlords and tenants over rights and obligations by improving the bargaining position of tenants and by making the freedom to contract more realistic.
- B. To strengthen and ensure the rights of tenants to premises that are in a good state of repair and fit for habitation within current housing standards.
- C. By proposing, through the office of a Rentalsman, effective procedures to ensure a speedy and inexpensive means for making corrections and repairs and for settling disputes between landlords and tenants.

### 1.1 Who will be affected?

The existing *Act Respecting Landlords and Tenants* has its origins in the ancient land law of England. As a result, not only is the present Act very difficult to understand, much of it is also not relevant to many of the situations that presently arise between landlord and renter. Overall, the existing NWT *Landlord and Tenant Act* favors the landlord and offers little protection for the renter. It also does not help in settling disputes.

In the Provinces legislation has been enacted similar to the proposed *Act Respecting Residential Tenancies* in order to ease the sometime hostile landlord and tenant relationships and to provide protection for the public from abuses that occur due to the widespread shortage of private dwelling accommodation in Canada. For example, the most common conflicts that occur, under present rental conditions, are disputes over security deposits and the completion of repairs.

The most important aspect in this new body of landlord tenant law is the appointment of an investigative and conciliatory organization or individual whose purpose is to assist in the settlement of disputes between landlords and tenants by mediation, rather than by way of formal intervention in the courts of law. In the proposed NWT Act, the mediator is a Rental Officer. This person is to assist both the tenant and the landlord in settling disputes quickly and without legal cost. Consequently, it is intended that both parties should be helped by this Act.

## 1.2 Significant Aspects of the Government Draft of Dec., 1986.

### Security Deposit [ Sec.15.1 etc.]

The amount of the deposit is defined and can be paid "at the discretion of the tenant" ... "over a three month period". The tenant is to be paid interest on the money by the landlord and the security deposit is to be placed in a "separate" trust account to be returned to the tenant with interest within ten days after the tenant leaves the apartment.

If repairs are required to the rental unit when a tenant leaves, the landlord must provide a notice to the tenant and the Rental Officer (Rentalsman) of his intention to withhold all or part of the security deposit. The landlord must also provide statements for repairs and return the balance of the account, if any, with interest to the tenant.

If the landlord does not return all or part of the security deposit with interest, the Rental Officer will inquire into the matter and make a decision that "is binding on the parties".

### Landlords Obligations - Repairs [ Sec. 30 (1)]

In the existing *Landlord and Tenant Act, Section 60*, it is required that "a landlord is responsible for providing and maintaining the rented premises in a good state of repair ... fit for habitation ... and for complying with health and safety standards, including any housing standards". It is also understood, in *Section 16 of the Act*, that the renter during the continuance of the lease must "yield up the demised land in good and tenantable repair, accidents and damage to buildings from fire, storm and tempest or other casualty and reasonable wear and tear excepted".

In the proposed *Act Respecting Residential Tenancies, Section 30 etc.*, the landlord is responsible for keeping all facilities in good repair and fit for habitation "whether or not included in a written tenancy agreement".

Any "substantial reduction in the provision of services and facilities" or withholding of services, such as heat, water, electricity by the landlord can be taken by the tenant to the Rental Officer (Rentalsman) who can require the landlord (1) "to comply with his obligation", (2) warn him "not to breach his obligation again", (3) to pay the tenant for repairs made to correct the problem, (4) and to compensate the tenant for loss that has been or will be suffered as a direct result of the failure to repair or take action.



If the landlord does not correct matters within ten days, the tenant can pay all or part of the rent due by the tenancy agreement to the Rental Officer. If the Rental Officer finds that the tenant "had no reasonable grounds", he can order the tenant to pay the landlord "reasonable expenses incurred" for collecting the rent from the Rental Officer.

Also a landlord "shall not disturb a tenant's possession or enjoyment of the rental premises or residential complex"; and he cannot seize the property of a tenant for any breach of the tenancy agreement or of the Act. Seizure can only be done by a sheriff with an order by a judge or the Rental Officer.

**Comment:**

Landlords often have included in written leases the common repair clause requiring the tenant to make repairs with "reasonable wear and tear excepted". People have been confused and have mistakenly thought that they were only required to repair "reasonable wear and tear". After careful reading, it is obvious that reasonable wear and tear are excepted, that is, not included. For example, it could be that, if the plumbing or refrigerator did not work for reasons other than wear and tear, the tenant would be responsible for repairs.

The existing *Act Respecting Landlords and Tenants*, allows the "reasonable wear and tear excluded" clause. However, *Section 60*, does require a landlord to provide and maintain the rented premises in a good state of repair. But there is nothing in the Act that compels the landlord to make repairs within a certain time period or to the reasonable satisfaction of the tenant.

The proposed *Residential Tenancies Act* remedies this situation somewhat by (1) allowing the tenant to go to the Rental Officer for assistance, or (2) for the tenant to make the repairs and to charge the landlord (Section 30.4) or (3) if the repairs are not made in ten days, to pay the rent to the Rental Officer in order to compel the landlord to make repairs or take action. However, the proposed Act does not provide guidance as to the time frame or the procedures the Rental Officer will take to carry out these steps. In the Provinces they are included in the Act or in Regulations.

### **Tenant Obligations - Repairs**

In the existing *Landlords and Tenants Act, Section 60*, a tenant is responsible for "ordinary cleanliness", "to take reasonable care...and repair damage to the rented premises caused by wilful or negligent conduct" and to take all reasonable precaution to avoid causing a nuisance.

In the proposed *Residential Tenancies Act, Section 40*, the tenant is responsible "for the repair of damage to the rental premises and the residential complex, including all services and facilities provided by the landlord, caused by the tenant's wilful or negligent conduct or the conduct of persons who are permitted on the premises by him". "Ordinary wear and tear of rental premises does not constitute damage to the premises".

Under the proposed Act, Section 40.3, a landlord can apply to a Rental Officer to require the tenant to (1) comply with the tenant obligations under the Act; (2) the Rental Officer can prohibit the tenant from doing further damage, (3) or he can require that the tenant compensate the landlord, (4) pay reasonable expenses or (5) the Rental Officer can authorize repairs.

A tenant is also required (Section 41) not to disturb the landlord's or other tenant's "possession or enjoyment of the rental premises or residential complex". The tenant is also responsible for the conduct of guests.

If the landlord believes that a tenant is in violation of these obligations, he can apply to the Rental Officer who may (1) require the tenant to comply, (2) warn the tenant not to do it again, (3) require the tenant to compensate those persons affected for loss suffered.

If a tenant informs the landlord that another tenant has violated the obligations, the landlord is required (1) to look into the complaint and take action, (2) or inform the Rental Officer who "shall attempt by whatever reasonable means ... to resolve the complaint by agreement between the landlord and the complaining tenant".

### **Comment:**

The proposed *Act Respecting Residential Tenancies* defines the responsibilities of the tenant for repairs in a clearer fashion over the existing *Landlords and Tenants Act*. The proposed Act also provides remedies for landlords, through the use of a Rental Officer, when tenants do not comply to their obligations concerning repairs and general conduct. Consequently, practices by landlords, such as harassment of the tenant or the carrying out of retaliatory evictions, may cease.

The Act also provides remedies for tenant complaints concerning the conduct of other tenants - a not unusual problem in multiple units and high rise type apartments.

A Property Manager responded to the section of the proposed *Act Respecting Residential Tenancies* on tenant obligations and the rights of the landlord and other tenants to "quiet enjoyment" by proposing to the Standing Committee that... "We do not believe the remedies go far enough and that an additional clause ( 41.3 d) be added giving the Rental Officer the power to terminate the lease". The Property Manager also recommends that the same powers be given to the Rental Officer with regard to illegal activities, Section 44.

#### **Termination, Security of Tenure, and Rent Increases**

Under the proposed legislation *Respecting Residential Tenancies*, rent increases, Section 47, are restricted to a process where the landlord can only increase the rent once in a twelve month period, as long as landlords do not change in that period.

The landlord must give the tenant a three month notice before increasing the rent. Under the proposed Act, this section is not applicable to premises administered by the Government of the NWT, its agents or Housing Associations and Authorities.

Should a tenant desire to terminate a tenancy agreement sufficient notice must be given to the landlord: (1) a notice of seven days for weekly tenancy, (2) thirty days for a month-to-month tenancy, (3) and sixty days for a monthly tenancy which has existed for twelve months or longer.

Provisions are allowed for early termination of a tenancy agreement by a tenant (Section 51), due to instances of the poor health and/or death of the tenant. Meanwhile, the landlord is also allowed to give an early termination notice (Section 52) of at least thirty days (1) if the tenant has "unreasonably disturbed on a persistent basis" other tenant's property or the "enjoyment" of the premises by the landlord, or (2) if the tenant or guests causes extraordinary damage and failed to comply with an order of the rental officer, or (3) if the tenant refuses to pay the security deposit, (4) or if the tenant has breached "a reasonable term of the tenancy agreement" after receiving a written notice from the landlord, or (5) failure to pay rent on a "persistent basis", amongst other causes.

A notice to terminate by either landlords or tenants must be done in writing and by a prescribed process, Section 53. For a caretaker residence, the tenancy terminates on the day employment ends. The caretaker is allowed seven days to vacate the unit. If a caretaker fails to vacate, a judge may order an eviction.

A judge may order an eviction under other conditions, Section 55 and 57, if the landlord wishes to use the rental unit for his own personal or family use, Section 56, or if the unit is to be delivered vacant to a new owner. Under these conditions, a tenant is also allowed to terminate the tenancy early in a prescribed manner.

In cases where a judge determines that a tenant was compelled to vacate improperly by the landlord or purchaser who did not act in good faith, the tenant can be financially compensated for moving and other expenses, Section 58.

When a tenant abandons or surrenders the rental premises, Section 59, tenancy terminates at that time. But in the case of abandonment, the tenant is liable to compensate the landlord for loss of future rent. On application by the landlord to a judge for this type of action, the judge may make an order requiring the compensation to be paid to the landlord.

Orders of eviction in the proposed legislation are determined by a judge and carried out by a sheriff, Section 61.

Should a vacant or abandoned tenants property be removed by the landlord, it may be stored or disposed of according to Section 62 in which the rental Officer must be notified and various procedures must be followed regarding storage, disposal and sale, including unclaimed proceeds.

**Comments:**

The proposed legislation *Respecting Residential Tenancies* offers more precise procedures for both landlords and tenants concerning Rent Increases, Security of Tenure and Termination of an agreement than is now found in the current *Landlords and Tenants Act*.

Landlords, who have reviewed a draft of the proposed bill and have written to the Standing Committee, insist that the government and its agents should not be excluded from the Act in the areas of rental increase procedures or the condition that requires that tenants can sub-let in the private sector, but not if the landlord is the NWT government, its agents or a Housing Association or Authority: "We do not believe that there should be conditions imposed upon the private sector which cannot be complied by Government."

These views are also supported by the submission to the Standing Committee by the Yellowknife Local of the Consumer Association of Canada: "The Government of the Northwest Territories should not be exempt from this section" (45 and 47); and "Since the G.N.W.T. expects private landlords to allow sub-letting (section 23) unless they give reason the G.N.W.T. should also fall under the same obligation."

#### **Rental Officer [Section 69 etc.]**

The office and powers of a Rental Officer or Rentalsman do not exist in the present *Landlords and Tenants Act*.

The proposed *Residential Tenancies Act* has a Rental Officer, who may be appointed by the Minister, and who is responsible to (1) inform landlords and tenants on tenancy matters, (2) receive complaints and mediate disputes, (3) investigate allegations of violations of the Act, give reasons for and serve orders, (4) issue notices, (5) enter rental premises, (6) hold hearings and determine matters with the powers of a commissioner as specified under the Public Inquiries Act.

The order of a Rental Officer is binding on all parties, shall be registered with the Clerk of the Territorial Court and may be enforced in the same manner as a judgement of the Territorial Court.

Orders affecting a landlord or tenant can be appealed to a Judge. Offences, section 77, can result in fines, not to exceed two thousand dollars.

#### **Comment:**

Landlords in written submissions have noted to the Standing Committee that the intent of the Act cannot be carried out effectively without the Rental Officer. However, landlords have also noted that there are shortcomings throughout the Act with regard to the lack of "time limits or time frames established for the Rental Officer to deal with a complaint or to render a decision or issue an order. In particular, under Section 30, it is essential that a tenant who complains of non-repair, particularly if it deals with health, safety or heating should have the complaint dealt with promptly, otherwise it could become a life threatening situation.

A Landlord's complaint under Section 39, that the Tenant is not paying rent, has to be done within the same month that the non-payment occurs, otherwise the tenant can become hopelessly delinquent. It also becomes more critical to collect promptly when the remedy of distress has been abolished."

The Consumer Association objects to the fact that Rental Officer will be an employee of the NWT government: "Since the Government of the Northwest Territories is one of the largest landlords in the Territories it is crucial that the Rentalsman is independent."

The Consumer Association has also observed that "if a decision by the rentalsman is a judgement of the Territorial Court how can an appeal take place in the Territorial Court. One judgement of the court cannot judge another judgement of the Court therefore it appears that it would have to go to the Supreme Court."

The Consumer Association also "strongly supports the use of approved and standard forms".

Other jurisdictions which have Rentalsman, such as Manitoba, have prescribed forms for leases and other procedures which conform to the law. It makes the job of the Rental Officer more efficient, avoids confusion, and insures consistent applications of the Act.

In Ontario it is the municipalities which may establish a by-law for a Landlord and Tenant Advisory Board that provides information and conciliation services to landlords and tenants. However, these Boards have little powers of enforcement, as compared to the proposed Rental Officer in the NWT Act.

From the Manitoba experience it has been discovered that problems arise in carrying out the potential of the Act. For example, it is very difficult for the tenant, landlord or Rental Officer to obtain the necessary witnesses from the building trades to settle conflicting claims as to the state of repair and fitness of a rental premises for habitation and cleanliness. In addition, at a hearing, the tenant's evidence, especially when representing himself, is often insufficient compared to a landlord who may be professionally represented and be accompanied by tradesman.

To address this type of problem, must a Rental Officer first inspect the premises and be sufficiently trained and qualified in knowledge of the Act, building, health and safety standards, in order to make recommendations regarding the remedies and costs that are required to correct building deficiencies, make repairs and settle claims?

The *Residential Tenancies Act* will not become effective in practice, unless the proposed legislation has developed procedures and schedules in the Act or in Regulations for full and fair adjudication of matters arising under the Act and tenancy agreements.

## 2.0 Discussion of the Bill before the SCOL, Dec.9,10&11, 1986

The Standing Committee on Legislation met in Yellowknife on December 9,10 and 11 to discuss the Bill and other matters.

### 2.1 Introduction of the Bill: Statement of the Minister of Justice

The Minister of Justice, M.Ballantyne, introduced the Bill by stating that because of the public importance of the proposed legislation, which is intended to replace the existing Landlord and tenant Act, he has requested the Standing Committee on Legislation to consider this Bill as a proposal. He informed the members that the proposed legislation has not received the approval of the Executive Council.

The Minister stated that the Residential Tenancies Act has been tabled before the SCOL in order for the Minister to answer questions and hear comments. Once he has heard comments, a draft bill will be prepared to be reviewed by the Legislation and House Planning Committee and then by this Committee before introducing it to the Legislative Assembly.

The intent of the Residential Tenancies Act is to strike a balance between the interest of landlords and tenants by way of a prescribed tenancy agreement that would set out the rights and obligations of landlords and tenants. The points highlighted by the Minister include specific provisions on security deposits, the landlord obligations to repair, the tenant obligation to pay rent, the rights of landlords to enter premises in certain circumstances and the right of tenants to occupy rental premises in quiet enjoyment. The office of a Rental Officer will be established. The powers and duties of the Rental Officer are such that when a landlord or tenant does not fulfill obligations, the other party may apply to a Rental Officer for an order to oblige the defaulting party to comply.

The Minister informed the Committee that this proposal is the result of a study which held public hearings, a decision paper tabled in the Legislative Assembly and some comments received by the Department of Justice. In reviewing these comments the Minister concluded that additional details must be ironed out and additional points addressed, such as the Bill might be contrary to GNWT Staff Housing policy. In addition, Public Housing and sub-standard housing owned by private landlords will be at risk. Consequently, the Minister will submit changes to the proposal as the Committee proceeds. At this point, the Minister concluded his remarks and handed to the SCOL a seven page list of proposed changes to the Residential Tenancies Act, of which the majority were amendments, deletions, replacements and clarifications of wording, with some re-drafting of sections of the Bill and correction of technical oversights.

## 2.2 SCOL Discussion of the Intent of the Bill

The Chairman, advised the Minister that it was the understanding of the Committee that the Residential Tenancies Act was a bill that was prepared for passage. However, the SCOL, in its capacity to review legislation may assist in building a piece of legislation. But this may change the nature of how the Bill is dealt with.

A member of the Committee, asked if this procedure to review the Bill and to basically re-write it was premature. Would it not be more constructive to have the Government re-write the Bill?

The Chairman observed that in a strict sense this practice is not within the terms of reference of the SCOL. He inquired of members as to their willingness to take advantage to discuss the Bill or to proceed with the traditional course for reviewing proposed legislation.

A member, asserted that this was a drastic departure from tradition. If the Government sees some merit in having three-quarters of the Legislature drafting bills prior to review, as a goal, he saw no difficulty with that. However, this Bill does present problems. If this is a proposal, rather than a Bill, when will the Bill come before the House? And in what state will it be in?

Another member, stated that there are many people, especially in the eastern Arctic, who are rental tenants. And there are many elements in the Bill which are not relevant to their concerns. This is why he would recommend that the SCOL review the Bill.

Members agreed that it would be beneficial to get public input and to discuss the Bill with the Minister, but objection was registered to a clause by clause review, with preference given to limit discussion to the main issues and principles of the Bill.

The Minister explained that the Bill did not have much public input. This proposal is a basic skeleton of what is proposed. And he would appreciate hearing general concerns, to cast as wide a net as possible. This a draft Bill and he would be prepared to make adjustments.

A member stated that she was prepared to discuss the bill and the changes. She asked if it was the intent of the Government to present the draft Bill to the Assembly in February?



The Minister explained that this was a draft Bill and that his preference was to go through the Bill with the SCOL and to come back to the Committee, if possible, during the 2nd half of the next session in order to meet SCOL deadlines.

The Chairman polled the members and received their consent to discuss the Residential Tenancy Act, not clause by clause, but in general principles so as to give guidance to the Government in order that the concerns of the SCOL will be taken into account and that the Bill will be returned to the Standing Committee for review.

### 3.0 Witnesses before the SCOL

The Chairman invited concerned parties who had responded in writing to the SCOL review of the Bill to appear before the Committee. M. Gordon Carter, Property Manager, NWT Community Services Corporation, Yellowknife was introduced as the first witness.

M. Carter explained that he represents a non-profit group which owns United Place, a building in Yellowknife which, among other tenants, provides eighty-five rental housing units to transients, students and the elderly. The Community Services Corporation has not had a rental increase in four years.

M. Carter introduced his remarks with some general observations and suggestions concerning the Residential Tenancies Act:

- without seeing the Regulations, it is difficult to assess the effects of the implementation of the Bill;
- there are no time limits or time frames established for the Rental Officer to deal with complaints or to render a decision or order;
- with regard to the Security Deposit, no financially prudent tenant would pay the remaining 50% until the last day of the month; and the interest paid on the Security Deposit has no prescribed rate.

A member asked what would he suggest as an appropriate procedure for Security Deposit collection?

M. Carter explained that his organization collected 50% of the rent as a security deposit at the time the tenant signs the lease and enters into occupancy. The money is not kept in a trust account. However interest is computed at 4% annually, credited to the tenant and paid back at the termination of tenancy. He proposed that the Bill should specify when the Security Deposit must be paid, but there is no prescribed remedy to collect, except to give Notice of early termination under section 52 [1][c] of the proposed Act.

The Chairman inquired as to what are the views of the Community Services Corporation with regard to Rent Controls and the rental increases and payment procedures specified in the Bill?

M. Carter stated that the Assignment and Subletting provisions should be deleted as it negates the rights of a large group of people, especially those on waiting lists for Senior Citizen units, for example. In addition, the government should not be excluded from this provision, if others are to abide by it. In another area, Section 39.4, the determination of an amount of rent owing would open up claims against landlords that could be used as an excuse by those who failed to pay rent and to meet their obligations. Rent Controls had not been discussed by his Board of Directors and he could not comment on the appropriateness of them.

The Chairman introduced the next witness, M. Donald Byrne, President of Yellowknife Developments Limited, a company with extensive rental property holdings in Yellowknife.

M. Byrne opened his remarks by making the general observation that he found, by and large, that the new Act appeared fair, and with the use of a rentalsman, will be controllable. He noted, however, that he would not like to see this Bill cut in stone and would hope that the Committee would recommend to the Minister of Justice that there be flexibility for change through the Rental Officer.

The principal areas of concern to M. Byrne are as follows:

- the Security Deposit held in a separate trust is a provision that should not be applied to landlords who live, work and spend profits in the Northwest Territories. In fact, he suggested to the SCOL that a Northern Preference be given to landlords, who bank, hire staff, establish a head office and return their profits to the Northwest Territories, so that they would be exempt from this provision of the Bill that requires that Security Deposits be placed in a separate, interest bearing account. Failing that, he suggested that a form of bonding be established through a reputable bonding company or the Government of the Northwest Territories. He also noted that there is no specific provision in the Bill that enables a landlord to apply the Security Deposit to the payment of rental arrears. He concluded that, at present, Security Deposits were to a great extent a significant contribution to the company cash flow and investment activity which would be restricted if this provision in the Bill were enacted.

The Chairman asked the Deputy Minister to explain the purpose behind the separate trust account requirement in the Bill for Security Deposits?

The Deputy Minister explained that the intent is to keep Security Deposits, which belong to the tenants, protected from bankruptcies and possible subsequent loss.

The Chairman asked if a company were registered in the Northwest Territories rather than in some other jurisdiction, in case of a bankruptcy or failure of the landlord would the tenant Security Deposit be protected?

The Deputy Minister replied that it would be more easily protected in that Security Deposits are not assets of the landlord and are not available to creditors. He added that in a number of jurisdictions there are restrictions on the use of the Security Deposit.

M. Byrne asserted that should the separate, trust account deposit of Security Deposits be required, his company would have a difficult cash flow problem next year.

A member inquired of the Deputy Minister if the Bill intended to allow the use of the Security Deposit to pay rental arrears?

The Deputy Minister stated that it was the intent, as could be seen from later provisions in the Bill, but that it was not stated specifically.

The Law Clerk suggested to the Government that this be stated in the Bill.

M. Byrne explained one other concern, that of the thirty day notice required to be given to the tenant for termination of the lease. He recommended that the Rental Officer be given the power to reduce this time period to as little as 24 hours for those tenants who are being evicted due to a failure to meet the rules and regulations of the proposed Act and those of the landlord. This, he advised, would prevent considerable disturbance to other tenants and reduce the possibility of extensive property damage.

The Chairman observed that Rental officers do not have the power to terminate a lease. In the Bill, some disputes between landlords and tenants will have to be resolved in the courts. If the Rental officer had greater powers, the majority of cases may not go to the courts.

M. Byrne concluded his remarks by responding to a member's question on the acceptability of the restriction of a rental increase to once a year. He stated that this was agreeable and a practice that he followed. He also noted that economic conditions dictate the rental rates charged to tenants.

The Chairman introduced the next witness M. Arlene Hache, Chairman of the Yellowknife Local of the Consumer Association of Canada.

M. Hache introduced her remarks by noting that the CSA Yellowknife Local supports the Bill. However there are certain provisions which they do not agree with and other areas which they believe have been inadequately dealt with or ignored, such as:

- the Government of the Northwest Territories should fall under the same obligations of other landlords with regard to the allowance of sub-letting and other provisions of the Bill;
- an area that has been overlooked in the Bill is the practice of landlords to require the first month and last month rent, including a Security Deposit, which results in a first time cost to a tenant in Yellowknife of up to \$2,000 to \$3,000.

When questioned by a member concerning Security Deposits used by landlords as part of their cash flow operation and rental payment practices in Yellowknife, M. Hache stated that the Consumer Association has found that there are few returns of damage deposits by landlords and that the role of the Rental Officer in settling disputes between tenants and landlords in this area would be welcome. Another beneficial step is to require that deposit money be held in trust in the Northwest Territories, as some residents have complained that a landlord who went bankrupt recently did not return Security Deposits and that the company was based outside of the Northwest Territories.

The Chairman asked as what the preference of the CSA was to the effect of allowing the Rental Officer to terminate a lease?

M. Hache replied that the CSA had no difficulty with that proposal as long as the termination procedures and the causes, for example non-payment of rent, were detailed in the Bill.

The Deputy Minister responded that the Government had come to the conclusion that it would not give the power to evict or terminate to the Rental Officer because the Legislation might be put into jeopardy. The question in other jurisdictions continues to be outstanding in his opinion and there may be difficulties and infringements to constitutional rights.

The Chairman recommended that the Government should take the bolder course and strengthen the powers of the Rental Officer to include the termination of a lease.

The final witnesses, M. Kolpitts and M. Neally of Midwest Property Management were introduced by the Chairman.

M. Kolpitts explained that Midwest Property Management has over 475 rental suites in the Northwest Territories but its accounts and banking operations are processed and held in Edmonton, Alberta. They are in favor of the Bill and believe that it will serve to improve harmony between landlords and tenants. However, they believe that the powers of the Rental Officer are not strong enough.

The Chairman inquired whether or not having the Security Deposit held in trust in the Northwest Territories would be a problem?

M. Kolpitts replied that a Security Deposit held in trust is not a problem, but for operational considerations they would prefer to place the funds in another place other than the Northwest Territories. The amount of interest received and other investment considerations should be considered.

A final consideration which they would like the SCOL to consider was the overall general weakness of the Bill, in their opinion, with regard to encouraging tenants and the landlords to attempt to settle disputes before approaching the Rental Officer, for example sections 71, 72 and 73.

The Chairman thanked the witnesses for appearing before the Committee and submitting written briefs.

#### 4.0 SCOL Discussion with the Government on principal issues.

- The applications of the Bill which exclude Government-Motion
- The Rent Control System
- Security Deposits held in trust
- Security of tenure and Termination
- Prescribed Forms and Regulations
- The role and authority of the Rental Officer

#### 4.1 First Issue: The application of the Bill excluding Government

The Chairman, observed that the Government is bound in some areas of the Bill and in others it is not. In comments received by the SCOL from those members of the public who reviewed a copy of the Bill, they asked: why should the Government and Housing Associations and Authorities, for example, not be bound, while the private sector landlord is? And in some areas where Housing Associations are bound, for example, to the obligation of the landlord to make repairs, the cost to carry out the Act to the government could be very expensive.

The Minister explained that the cost to operate and maintain NWT Housing Corporation units is shared with the Canada Mortgage and Housing Corporation. The Government is attempting to bring sub-standard units up to code. There are also GNWT staff who are required to live in Public housing due to staff unit shortages. For those GNWT employees living in staff accommodation and who are required to leave because of the one year enforced restriction, applicable to some communities on the road system, the shortage of adequate housing in the private sector could lead to further difficulties.

A member, observed that he could not understand how the Government, while being the largest landlord in the Northwest Territories, could put forward this Bill, especially with regard to sections 23.8, [the right of the tenant to assign and sublet], 46.3 [security of tenure] and 47.5 [rent increase restrictions], when the Government will not be required to abide by these sections. He believed that the Government should not be excepted.

The Minister replied that it is his intention to incorporate these concerns into the Bill and that the Bill must be practical and must work. He noted, however, that Public Housing rental scales change on a month to month basis tied to household income. He did not know how that could be accommodated under the Act. He also stated that he had problems with persons living in staff housing being allowed to sub-let for a profit motive. In addition, rental increases in staff housing will have to be discussed with the Executive Council.

The Chairman questioned: should the Government not be bound, if other landlords are bound and must the Government not justify exemptions?

**MOTION:**

That the Government should not be exempt from the Act, unless there is a practical reason that can be justified.

Second: M. McCallum

Carried

**4.2 Second Issue: Rent Control system**

The Chairman observed that the Government has decided that a Rent Control system will not be put into place. However, the one year restriction on rental increase, section 47, of once in twelve months has been put in. This control restriction appears arbitrary and to what purpose is it put in. Should it be a feature of the Act?

The Minister responded by stating that the observation of the Chairman was correct. The intention is not to put in place rent control. Although rent control appears politically acceptable, it is not. Because in the NWT rent control would cause few rental units to be built. As to the one year restriction for rent increase, the Minister noted that, due to zero occupancy rates, landlords have raised rents more than once a year. The one year rental increase restriction would provide some assurance to tenants.

A member, responded that the landlord, in order to look after his concerns and to protect his investment in the future, will raise rents at one time in the year. If there is a dearth of supply and great demand, landlords may make large increases in rent. Why does the Bill propose a yearly rental increase with no limits?

The Chairman added that if the intent of the one year increase is to limit increases, the protection is more apparent than real, if you are not insuring the amount of the rise, as well as the frequency.

The Minister insisted that this provision was an arbitrary act to avoid rent control and to protect tenants. It is still warranted as it gives the tenant some safeguard.

Committee consensus: That the once-per-year rental increase provision should be retained when the Bill is introduced.

#### 4.3 Third Issue: Security Deposits held in trust

The Chairman summarized the principle points as described by the witnesses to the SCOL.

The overall response by landlords to the Committee on the issue of Security Deposits held in trust accounts in the Northwest Territories is that they wish to have control over this deposit and object to having the money invested in a separate, interest bearing trust account.

One landlord pleaded for the Government not to enact these conditions. Another landlord requested that the restriction to a Northwest Territories location for the trust be removed to accommodate landlords who have centralized banking controls outside of the NWT. Another landlord stated in a written submission that the preference would be to use these Security Deposits to finance "the landlords operating and development budget". A landlord implied that, if they did not have access to security deposits to do with as they see fit, "landlords could counter this move by increasing their (rental) rate to generate revenue to replace the use of this money." Other witnesses objected to the allowance of the payment of the Security Deposit over a three month period and requested that the Government consider that 50% of the amount be paid prior to commencement of the tenancy.

The Consumers Association, representing tenants, observed that security deposits are withheld by landlords and there is great difficulty in obtaining repayment from landlords whether there is damage or not. Landlords admit that security deposits are actually used as added revenue or financing; while the Consumer Association points out that these funds belong to the tenants and that, as in the nature of borrowed money, interest should be paid to the tenant. In addition, these accounts should be kept separate in order to protect the tenant should the landlord have financial problems that may result in the loss of these funds to the tenant.

The Minister stated that the purpose of the trust account was to enhance protection for the tenant and to prevent the abuse of the Security Deposit by the landlord.

A member noted that one landlord had specifically requested a Northern Preference be considered for the Bill; where a company, if based and operating in the Northwest Territories could be differentiated from a company outside of the NWT and be allowed more flexible privileges with managing Security Deposits. Failing that, the landlord suggested that a form of bonding through a reputable company or the Government of the Northwest Territories be considered?



The Minister responded by noting that the risk of bankruptcy for a Northern company is just as great as one from other places. Northern landlords are also not compelled to invest their funds in the North and the Government does not wish to discourage capital investment from southern Canada by creating preferential regulations for some investors over others.

The Law Clerk advised the Government that another alternative may be considered if the Bill were to designate the Security Deposit funds as being held in Trust, even though the funds are not placed in a trust account. These Trust Funds would be assigned to the Trustee in case of bankruptcy and the Security Deposit would be paid back to the tenants first.

Committee Consensus: That the Government should examine various alternatives for dealing with security deposit funds to see whether adequate protection could be given to the tenants deposit without compelling landlords to place the funds in trust.

The Minister stated that if this would protect consumers, the Government would be in favour of it and would look into it.

#### 4.4 Fourth Issue: Security of Tenure and Termination

The Chairman noted that the Security of Tenure provisions of the Bill Respecting Residential Tenancies allows for a near automatic renewal of the lease to the resident tenant. Landlords who were witnesses before the SCOL did not challenge this area of the Bill.

However some members realize that there could be difficulties with an individual deciding to rent a personal residence to a tenant and then being unable to vacate the unit if it is required for use, unless it is required for personal or immediate family use. For example, under the Bill, terminating a lease of a tenant in order to rent to an uncle or related in-law, could not be considered as personal or family use. Also, is there a distinction in the Bill between a landlord who owns one holding and a landlord who owns five or six rental units.

The Minister replied that he will look at this provision of the Bill to see how a personal residence used as a rental accommodation can be treated in a manner which differs from the Security of Tenure provisions in the landlord-tenant relationship described in the Bill.

Another member pointed out that the principle behind the Security of Tenure provisions was to protect the tenant. Should the protection not be extended to those tenants for whom the Government is the landlord?

The Minister stated that in Public Housing programs, which are designated for low-income households, there should be some flexibility to move tenants out. For Government staff, housing is considered a benefit associated with employment. Consequently, the Government has proposed to exempt itself from this provision of the Bill. Nevertheless, the Minister undertook to look into this matter and come up with some practical reasons to justify these exemptions and report back to the SCOL.

The Minister indicated that the possibility of loss of employment forcing a rental termination would be looked at in a new draft of the Bill as a means of protecting "The Government's" interest where staff accommodation is concerned, rather than merely exempting the Government from the provisions of the Bill.

#### 4.5 Fifth Issue: Prescribed Forms

The Chairman pointed out that the Bill before the SCOL for consideration does not have any of the prescribed forms and other items related to penalties, late payments, interest rate, and deposits attached. For example, penalties could be put in the Act or placed in the Regulations. Thoughtful consideration should be given for provisions to deal with the failure to pay rent. And the percentage of interest for security deposits could be indicated, as well as a formula for determining the interest rate and a requirement that an itemized statement be specified. Is it not important to have these items attached or included in the Bill?

Committee Consensus: These items should be ready for Committee scrutiny at the same time as the Bill is reviewed by the Committee.

The Minister replied that a Lease Form and the intent of the regulations will be provided in the next draft of the Bill for SCOL consideration.

#### 4.6 Sixth Issue: Role and Authority of the Rental Officer

The Chairman agreed that this position, if effectively established, can do a great deal of good in improving tenant and landlord relationships. But has the Government not lessened the powers by not going far enough with the authority of the Rental Officer? For example, in the case of a failure of the tenant to pay rent, where the Rental Officer is required to issue orders, how effective is the Rental Officer if the power to terminate the lease is not provided?

In addition, certain landlords have expressed a concern to limit court procedures. Yet, in the area of Early Termination in the Bill, the courts must be used; and time frames have not been introduced.

The Law Clerk added that in the Ontario Act, Commissioner orders to terminate leases for non-payment are allowed with an appeal procedure to the Courts.

The Minister replied that these powers were not included because of challenges in the jurisdictions of Ontario and British Columbia with regard to the Charter of Rights.

The Chairman responded with the observation that if the the position of the Rental Officer is ineffective, another level of bureaucracy is created without accomplishing the objective of the provision. It would appear that the risk of a challenge may be necessary.

The Chairman summarized the discussion by the SCOL members by asking the Government to take a risk of constitutional challenge by adding the authority to terminate a lease to the powers of the Rental Officer, and by giving a role to the Rental officer in the matter of early termination by a landlord.

The Minister agreed with the principles put forth by Committee members. He agreed to bring forward this recommendation, to provide authority for the Rental Officer to terminate a lease and to incorporate these powers in a revised Bill.

5.0 "PAGE-BY-PAGE" REVIEW OF THE "DRAFT" BILL OF DEC., 1986 WITH ADDED COMMENTARY ON REVISIONS/OR LACK OF REVISIONS MADE BY THE GOVERNMENT, INCLUDING OBSERVATIONS BY THE LAW REFORM COMMITTEE - REVIEWED 8 MAY 1987 BY THE SCOL.

The Chairman introduced the discussion by noting that the Committee had agreed to review the "Draft" Bill page-by-page and to concentrate on the issues and principles involved [*revisions made by the Government as a result of the December, 1986 review and included in the current Bill are described in italics*].

INTERPRETATION

The Government agreed to include the definitions of "abandonment" and "vacated" in the INTERPRETATION section. *Definitions for "vacated" and "abandonment" have been included in the Bill in sections 2(2) and 2(3) under Interpretation, page Three; Definition for "common areas" has been included; "housing co-operative association" definition has been expanded.*

With regard to the definition of "residential complex", members questioned: should it be more explicit and refer to property related to the building, such as walkways, hallways for example. The Government Lawyer responded that the definition would be made clearer with reference to land and with a specific requirement with reference to property. *The above is defined on page one in "common areas".*

*"mobile home park" definition has been shortened;*

*"prescribed" has been removed; "*

*"security deposit" has been defined as to be used exclusively for repairs or damages; "*

*"services and facilities" has been added and defined;*

*"tenancy agreement" has been re-written, appears on page three.*

*"subsidized public housing" has been added , page three;*

The phrase, "in residential complexes", section 3.[1] is to be removed. *It has been removed from "Application", section 3(1) page four; clause (f) in "Exemptions" has been revised; clause (g) has been added.*

*"Application to Governments and agents" , page five, is new and defines how the Government of the NWT and the NWT Housing Corp. are bound by the Act;*

*"Exception" , section 4(2), is new;*

*"Effective date of commencement", section 4(4), is revised;*

*"Idem" has been revised;*

Sections 7 and 8, "Covenants Interdependent" and "Covenants" are to be removed from the "Draft" Bill.

*"Covenants interdependent", section 7 remains, page six;  
"Covenants" has been removed,*

#### TENANCY AGREEMENTS

*"Tenancy Agreement", section 9(3), has been revised to include an agreement which "may be in the form of a residential tenancy agreement set out in the Schedule";*

*"Provisions of a tenancy agreement", section 10(1), page seven, now includes reference to provisions in the Schedule;*

In the "Draft" Bill section 12.(2), "Failure to deliver a copy of agreement", the Chairman inquired as to whether or not the terms were too harsh for failure to comply. The Law Clerk suggested that a compromise for not delivering a copy of the lease to the tenant, would be to have the tenant pay the rent to the Rental Officer. The Minister stated that this would be looked into. *Failure to deliver a copy of agreement", section 11(2), now includes the provision that a tenant may pay rent to the rental officer;*

*"Recovery of rent", section 11(4), is new;*

*"Additional rights and obligations", section 12(1), now includes reference to the Schedule;*

*"Reasonable obligation", section 12(2), and "House rules to be reasonable", section 12(3), have been revised;*

#### Discussion of the Security Deposit:

The Chairman inquired as to section 15, in the "Draft" Bill: should security deposit and rental fees be paid at the time of the lease agreement? The Law Clerk explained that, in legal terms, occupancy is defined at the time the agreement is signed.

A member asked if the proposed legislation asserts that people can be asked to retroactively pay a security deposit, section 15.(4), "Draft" Bill. The Chairman pointed out that this provision is limited by section 15.(2 & 3) where the amount of the deposit is tied to the length of tenancy; and that a prudent money manager, in all probability, would not pay the remaining 50% of the security deposit until the last moment of the three month period determined from the start of the tenancy.

In section 16.[1], "Draft" Bill, a member raised the question as to what is included in the rental payment when an apartment is rented? Can a tenant be burdened with excessive "key money" (first and last month rent paid upon entering a tenancy agreement). The Minister replied that Government would consider including a clause in the Bill prohibiting this practice and the contents of the form will be clarified (see "Prohibition" below).

*"Order", section 12(5), page eight, is new;*

*"Security Deposit", section 14(1) and "Payment of security deposit", section 14(2) have been rewritten, but the intent remains the same;*

*"Subsidized public housing", section 14(3), is a new provision that "may require a security deposit that is calculated on the market-value rent of the rental premises";*

*\* Section 14(3) will be reviewed further by the Government as there are implications of the security deposit formula for subsidized public housing that may be of significance;*

*"Prohibition", section 14(5) is new; and prohibits the landlord from requiring a deposit of the first month and last month's rent or "any amount to place a prospective tenant on a waiting list";*

*"Remedy", section 14(6) is new and provides for a rental officer to intervene in disputes related to security deposits;*

The Chairman suggested that a formula for determining the interest rate for the security deposit, section 17, "Draft" Bill, could be placed in the Act. The Minister agreed. *"Interest", section 16, has been revised to include provisions on how the interest on security deposits shall be determined;*

*\* In the May SCOL review the Law Clerk suggested that a change be made to provide for a fair return on interest;*

*"Trustee Act", section 17(3)(a) is new, in part (a) and requires that security deposits be invested "as directed by the Trustee Act; section 17(3)(b) "deposit all security deposited in a trust account in a chartered bank within the Territories", is the same as in the "Draft" Bill.*

The Chairman pointed out that clause 19.[2]"Draft" Bill, should also include "for non-payment of rent", if that is the intent of the Government. The Minister agreed to make this clear. *"Repairs", section 18(2), now includes "and for any arrears of the rent".*

The Chairman inquired: could the requirement for an "itemized statement" regarding the security deposit be included in section, 19.[5] "Draft" Bill? And should it not be made clear that the parties should make all reasonable efforts to work out their differences within prescribed time limits? The Minister replied that the Government would look at provisions for this. This has been included as follows:

*"Where landlord retains the security deposit", section 18(3)(b) &(c), has been revised with the addition of "an itemized statement of account"; a ten day period to take action is continues to be required, section 18(3);*

*"Repairs", section 18(4)(a)(i) & (b)(i) also has been revised to include "an itemized statement of account"; provisions for a ten day, section 18(4)(a), and a thirty day, section 18(4)(b) period to take action continues to be required;*

*\* section 18(5) will be reviewed by the Government for clarity;*

With regard to Security Deposits a member from the eastern Arctic made the general observation that it would be very difficult for residents to afford such deposits. In addition, the provisions of the Government of the Northwest Territories to compel its employees to leave government rental accommodation after one year of residence would not be feasible, due to a shortage of private rental units. The Minister stated that the one year rental accommodation restriction applies only to communities that are designated as "market communities". The Baffin is not included.

#### ASSIGNMENT AND SUBLETTING

Concerning the provision for sub-letting, the Chairman inquired as to the relevance of section 23.[1], "Draft" Bill, for monthly tenancies, should it not be restricted to fixed term tenancies? The Minister replied that the Government would look into applying the provision to sublet to a six month or longer term tenancy. *"Right to assign or sublet", section 22(1), has been revised and now has a six month provision;*

*\*section 22(1)(b)(iii) will be revised, "he" is removed;*

A member asked if the wording in section 23.[5] "Draft" Bill, could be changed to "shall" rather than "may" concerning the consent form to assign or sublet. The Minister responded that the intent of the Government was to be flexible. However, it will be looked at and the form will be part of the Act. *Clause 11 on Assignment or Subletting has been included in the SCHEDULE: Residential Tenancy Agreement.*

*"Exception", section 23(8), has been revised to exclude subletting from public housing and housing provided by an employer to an employee as part of the employee benefit package. This provision would apply to employees of Governments and other employers who provide housing.*

#### RIGHTS AND OBLIGATIONS: Mutual Obligations

The Chairman observed that section 26.[2][e], "Draft" Bill, the right of a landlord to enter a rental premise, requires a clear definition on the right to inspect premises for repairs on a limited basis. The Minister replied that the Government would look at a periodic inspection provision.

*"Landlord's right to enter", section 26(2), a judge or territorial judge has been removed from the Bill and replaced with the rental officer; inspection every six months of rental premises is allowed, section 26(2)(e);*

*"Entry without notice", section 27(1) has been revised for clarity;*

*"Entry without permission", section 27(2) and 27(3), "Where tenant present", are new and clarify the Landlord's right to enter;*

*"Entry by political canvassers", section 29, has been revised : school board has been replaced by "local education authority";*

#### RIGHTS AND OBLIGATIONS: Landlord's Obligations

The Chairman note that in section 30, Landlord Obligations, "Draft" Bill, that a time frame for correcting obligations that are breached should be provided and that the Rental Officer should be allowed to terminate a tenancy? The Minister stated that the Government would look into these provisions.

*"Remedies", section 30(4)(e), specifies that the rental officer may make an order to terminate the tenancy on a date specified";*

*\*section 30(5), "prompt" to be replaced by "reasonable";*

*"Delay", section 30(6), specifies that a landlord shall make remedies within ten days;*

The Chairman questioned as to the whether or not there should be a provision in section 31.[1], "Draft Bill", that rent should not be paid to a Rental Officer unless the tenant is ordered to do so? And when the fuel or power services are cut off because the landlord did not pay the bills, should the Rental Officer be informed? The Minister promised to look into these matters and would add provisions as they appeared to make sense.



*"Tenant to repair", section 31(1), is a new section.*  
*"Remedies", section 31(2), appears to be a revision of section 40(3), "Draft" Bill;*  
*"Payment of rent to rental officer", section 32(1), has been revised;*  
*Sections 33(1),(2) and (3) have been revised and rewritten for clarity;*  
*"Notice to rental officer", section 33(4), is new;*  
*"Remedies", section 34(2)(d), is a new section allowing the rental officer to terminate the tenancy;*  
*"Notice of legal name of landlord", section 36(1)(a)(b), has been revised and rewritten;*  
*"Posting of directory", section 38(2), is new and indicates where the Tenant Directory, in section 38(1), should be placed;*  
*"Remedies", section 39(2)(d) has been revised, terminating the tenancy (e) is new;*

#### RIGHTS AND OBLIGATIONS: Tenant's Obligations

Under the Tenant Obligations section 39.[2,3&4], "Draft" Bill, the Chairman noted that a late payment penalty could be a part of the Act and that the "Remedies" provision should have a time frame included, as well as a requirement for the tenant to give up vacant possession. In determining the amount of rent owing, the expenses incurred by the tenant to correct deficiencies should be approved first by the Rental Officer. The Chairman also noted that the power to terminate a lease should be allowed for the Rental Officer as a remedy when a tenant has been found to have breached obligations, section 40.[3] and 41.[3] "Draft" Bill.

*"Late payment", section 41(2), has been revised to "is liable to a penalty" rather than the previous: is liable to the penalty prescribed for each month that the penalty is late;*  
*"Penalty calculation", section 41(3), is new and specifies how the penalty will be calculated; \* the Government will review a reasonable application of an interest rate;*  
*"Remedies", section 41(4)(a) and (c) are new and specifies that an order by a rental officer can be made to require that rent and penalties be paid; the tenancy can also be terminated and the tenant ordered to vacate the rental premises;*  
*"Remedies", section 43(3)(d), concerning disturbances, is also new and provides for termination;*  
*"Remedies", section 45(4)(e), concerning overcrowding, is also new and provides for termination;*  
*"Remedies", section 46(2)(c), concerning criminal activities, is also new and provides for termination;*

## RENT INCREASES

A member asked for an explanation to section 47 ["Draft" Bill], Rent Increases: would the rent increase be tied to the premise or the tenant? The Minister replied that the rent increase would be tied to the premise.

If a family was large and had many children, the member continued, could the tenant negotiate a rental fee with the landlord? Should the rent be restricted to the premise or can the size of the family be considered? Also if a landlord is a "poor landlord" would he undertake renovations, if limited to a yearly increase? The Minister observed that an unscrupulous landlord could force a high rent increase upon tenants. He stated that he would look into the concerns raised by the member.

Another member added that the present level of rent for social housing programs is based on a superficial amount. It is a subsidized social program. If rents were based on the open market, rents would be reasonable. However, in Yellowknife there is a lack of competition. There is no choice to go shopping around for.

*"Termination", section 47(4)(a)(b) is new and provides for the tenant to choose to treat the notice of rent increase as a notice of termination;*

*"Change of tenant", section 47(5)(a)(b) has been revised : The twelve month period prohibiting a rent increase has been dropped as well as the clause: "notwithstanding a change in landlord", in "Draft" Bill section 47 (1);*

*"Exception", section 47(6), does not apply to public housing. In the "Draft" Bill this section also exempted rental premises administered by or for the Government of the NWT or its agents.*

## SECURITY OF TENURE

*"Restriction on recovery of possession", section 48(2) has been revised; as well as section 49(1); the intent appears to be similar to the previous draft;*

*"Application", section 49(2)(c) is new and exempts the rental premise which "was the only residence of the Landlord in the Territories.";*

*"Exception", section 48(3), has been revised: subsidized public housing continues to be excluded, but the exclusion of government in the previous draft has been changed to "rental premises provided by an employer to an employee as a benefit of employment;"*

## TERMINATION

*"Termination by landlord", section 51(2), is new and applies to landlords who rent one rental premise as the only residence;*

*"Termination by landlord", section 52(2), also applies to a landlord who rents his only residence,*

*"Medical certificate", section 53(2), now specifies "the health of the tenant or the spouse of a tenant";*

The Chairman asked, concerning section 52, of the "Draft" Bill, when does the 30 day period begin? And when there is a case of damages and "extraordinary damages" should the Rental Officer not have the powers to speed-up the process of termination? More precisely, what do the definitions of "extraordinary damages" and "other lawful rights" and failure to pay rent on a "persistent" basis mean? The Minister stated that the Government will make these provisions more definitive.

*"Notice of early termination by landlord", section 54(1) has been revised from thirty days in the "Draft" Bill to ten days; and section 54(1)(g) has been revised and broadened to specify "repeatedly failed", rather than failed on a persistent basis to pay rent, and to include reference to "dates specified in the tenancy agreement";*

*"Delay reduced", section 54(3), is new; it has the application "to reduce the period of notice to terminate" going to a rental officer and not a judge or territorial judge;*

*"Application to terminate", section 54(4), has been revised and the reference to judges has also been changed to rental officer;*

*"No rent or compensation", section 56(3), has been revised to include a reference to section 67,(rent due);*

*"Termination of tenancies of different types", section 57, refers to a rental officer not a judge [similar changes are found in other areas, including section 58, 59 and 62;*

*section 57(b) is new and applies to public housing;*

In discussing the authority and powers of the Rental Officer, members of the SCOL asked a number of questions, to the Minister, including as to whether or not the Rental Officer in the Bill would have similar powers of a Health Officer? Could he close facilities that do not meet health and safety standards? The Minister responded by stating that the Government can give more authority to the Rental Officer, but will it hold up to scrutiny with regard to Section 86 of the Charter of Rights? The Minister stated: We could give the Rental Officer certain powers to terminate a lease, if this is what the Committee wishes. It appears that the SCOL wants the Rental Officer to have more powers. I would be willing to give them more powers.

Another member responded that in order for the Act to be effective, the Rental Officer should have sufficient authority to carry out the Act. Once the Act is in place, any legislation has the potential for challenge. There is a role for the courts, but we should try and work outside of the courts.

A member observed that as it is presented in the "Draft" Bill, the Rental Officer powers fall short of the authority to live up to the expectations raised by the Bill. With regard to Public Housing tenants, the member urged that the government not be exempted from the Act, as these tenants form a significant number of people in the Northwest Territories and should be offered protection also.

*Rental officers in this Draft of the Bill have replaced judges in many sections. They also have the power to make an order to terminate tenancies and to vacate premises on that date, section 58(1)(d) and 59(1)(d), for example.*

*\*"Order of eviction", section 63(1), is determined by a judge, the Law Reform Committee has noted legal technical issues in this section that the Government may wish to review;*

#### Applications

*"Application to a rental officer": This section has been revised to make reference to applications to a rental officer within six months after the breach, section 68(1).*

*\*"Filing of application", section 68(2) is a revision of section 66(1) of the "Draft" Bill and may pose legal technical problems that the Government will review and consider;*

*"Extension of time", section 68(3), is new;*

#### RENTAL OFFICER: Appointment

One member suggested that in section 70 and 71 of the "Draft" Bill, for example, the Government could change the wording from "may" to "shall" in "Powers" order to provide more authority.

*"Powers", section 74, remains "may";*

*"Orders", section 74(2), states that a rental officer "shall give reasons for any order or decision he issues..."; in the previous draft, section 70, it was "may";*

#### RENTAL OFFICER: Procedure

*This section, 75 to 84, is new and specifies the procedures the rental officer will follow in order to carry out responsibilities;*

*\*section 76(2) will be modified to an order;*

RENTAL OFFICER: Enforcement of Order

*"Filing of an order", section 86, has been revised and expanded where a landlord or tenant may now file an order or decision of a rental officer with the Clerk of the Territorial Court;*

RENTAL OFFICER: Appeal

*"Notice", section 87(2), has been revised so that the notice of appeal shall be given not later than seven days; this is a change from three days in the "Draft" Bill;*

*"Appeal to Court of Appeal", section 90, is new;*

*\* section 91(1)(f) will be revised to include "should be sworn";*

*"Offences", section 91, has been rewritten in stronger and more specific language, including a maximum penalty fine for a corporation of \$25,000;*

SCHEDULE: Residential Tenancy Agreement

*This Agreement is new and was not part of the "Draft" Bill.*

*\* The Government added that a provision will be provided that requires that the document be signed before witnesses.*

Motion:

The Bill is approved and referred to the Committee of the Whole with recommended changes.

Moved: M. Erklou

Second: M. Arlooktoo

Carried.

## AN ACT TO AMEND THE REVOLVING FUNDS ACT

The SCOL met on May 4, 1987 to review the Bill. The Government witnesses explained that the purpose of the Bill was to establish a Petroleum Products Stabilization Fund which would be used to stabilize the prices of petroleum products in the Northwest Territories.

The Comptroller, M. Nelson, explained that at present profits from the fuel distribution system are returned to the Consolidated Fund. The intent is to direct revenues received from the POL system to the Petroleum Products Stabilization Fund in order to offset the rise and fall of prices across the Northwest Territories.

As of 1 April 1987 approximately \$2,000,000 was available for the Petroleum Products Stabilization Fund.

**Motion:**

**Chairman: Move to refer the Bill to the Committee of the Whole.**

**Moved: M. Erkloo**

**Second: M. Angottitaurug**

**Carried.**

## AN ACT RESPECTING SETTLEMENTS IN THE NORTHWEST TERRITORIES

The SCOL met on May 7, 1987 to review the Bill with the Minister for Municipal and Community Affairs, M. Wray. The Minister noted that the purpose of the Settlements Act [short title for An Act Respecting Settlements in the Northwest Territories] is to establish settlements and to provide for their administration, powers and duties. This is a new concept in that a settlement corporation is created to run a community.

The Chairman noted that a body corporate is being set-up to enter into contracts, but it does not mention in the Act what those "services" are. The Minister replied that the Government wished the arrangements to be flexible and open to negotiations.

### Definition of a Settlement

The Minister of Municipal and Community Affairs may by order, on his own initiative or at the request of any person who is at least nineteen years of age, declare an incorporated community to be a settlement and to fix its boundaries, section 3 Settlement Act. When the Minister is satisfied that the residents of a settlement desire that a settlement corporation be established to run a community, he may by order establish one. This corporation is not a municipal corporation as established in the proposed Local Government Acts concerning Cities, Towns, Villages, Hamlets or Charter Communities.

### Settlement Council

The council of the settlement corporation has limited powers. The Minister has the authority to specify the powers, duties and composition of the council, the terms of office, and the manner in which any members of the council who are not to be elected are to be chosen or appointed, section 6 Settlement Act.

The term of office of council members is not to exceed three years and the terms may be staggered with the Minister appointing up to two-thirds of the council members, if he wishes.

The settlement corporation is prohibited from passing by-laws, borrowing money, making grants and loans, forgiving debts, writing-off debts or assets or investing money, section 10-15 Settlement Act.

Like the other proposed Local Government Acts, a Settlement council can conduct its business in another language other than English. The minutes and records need not be kept in English. And, as in the other proposed Local Government Acts every council must make rules concerning procedures of council and the behaviour of council members.

*\* In section 29(2), "Restriction", the Government will omit the two references: "or by-law".*

**Motion:**

**Chairman: Moved to refer the Bill to the Committee of the Whole with one change.**

**Moved: M. Arlooktoo**

**Second: M. Angottitaurug**

**Carried.**



## AN ACT TO AMEND AND REPEAL CERTAIN ACTS HAVING REGARD TO THE CANADIAN CHARTER OF RIGHTS AND FREEDOMS

The SCOL met on May 12, 1987 to review the Bill. The Government representative, M. Bentivegna, explained that the purpose of the Bill was to provide amendments to 19 Acts in order that these Acts would comply with the Canadian Charter of Rights and Freedoms. One Act, the Legitimation Act is to be repealed.

The significant change is the abolishment of illegitimacy in the law of the NWT, because illegitimacy is discrimination based on the marital status of a person's parent.. at the time of birth. This form of discrimination has caused unnecessary hardship and is contrary to the equality rights section of the Charter of Rights and Freedoms.

The Child Welfare Act is also amended to delete the concept of illegitimacy and to provide that the mother of the child is liable for maintenance of the child pursuant to a contribution order if the child is living with the father. Presently, only the father of the child is liable for maintenance pursuant to a contribution order.

The Domestic Relations Act is amended to state that both parents have a right to guardianship of their child unless a court orders otherwise. Where the parents are not living together and have not lived together during the life of the child or ten months prior to the birth of the child, the mother is the sole guardian unless a court otherwise orders.

The Intestate Succession Act will allow all children to inherit from both their parents. Under the Wills Act the concept of illegitimacy is abolished. The various Acts respecting accountants are amended to delete any discrimination on the basis of residency. The Labour Standards Act is amended to delete the provision allowing an employer to employ a handicapped person for less than minimum wage. The Change of Name Act is amended to change a provision that discriminated on the basis of age. The Pawnbrokers and Secondhand Dealers Act is amended to change a provision that discriminated on the basis of religion.

### Motion:

Chairman: Moved to refer the Bill to the Committee of the Whole.

Moved: M. Erklou

Second: M. Lawrence

Carried.

AN ACT RESPECTING THE CONSOLIDATION AND REVISION OF THE  
STATUTES OF THE NORTHWEST TERRITORIES

The SCOL met on 1 May 1987 to review the Bill. The Government representative from the Department of Justice explained that the purpose of the Bill is to allow a revision of the Statutes of the Northwest Territories in order to make them uniform, to correct errors, clarify intent and language and to re-organize certain Acts to make them more clear for translation into French and other languages. This work will be done by the Revision Commissioner. The Revision Commissioner will examine the statutes that have been spent and they will be removed.

The Chairman noted that the Bill will allow for the consolidation of various Acts. Certain changes, not of substance, will be done to correct errors and re-organize. The Legislative Assembly must assent to this activity. A Statute Roll will be developed for the approval of the Legislature. The Acts from 1974 to 1988 will be included in the revision.

Clause by Clause

In section 7(3)(1), "Powers", the Chairman requested the Clerk to prepare a letter expressing concern that some schedules and forms placed in Acts should be treated with caution, "it ought to be included under the Minister" and that the Revision Commissioner report those changes that have gone to the Minister.

*\*The Government agreed to include "L" in (4), "Direction of Minister".*

Motion:

Chairman: Moved to refer the Bill to the Committee of the Whole with recommendations.

Moved: M. Lawrence

Second: M. Angottitaurug

Carried.

## AN ACT TO AMEND THE TERRITORIAL PARKS ACT

The SCOL met on 1 May 1987 to review the Bill. The Government representative explained that the purpose of the Bill was to enable the Minister responsible for Economic Development and Tourism to establish Natural Environment Recreation Parks and Outdoor Recreation Parks by order, rather than with the advice and consent of the Assembly. The Chairman asked that the type of parks be described. The Government representative noted that there would now be five types: Community parks which are designated for use by residents; Wayside parks which are small and are located on the side of highways; and Historic parks which are designated archeological sites that can be located anywhere. Natural Environment Recreation parks, as well as Outdoor Recreation Parks will be much larger than the others.

### Clause by Clause

In section 5(1), "Consultation", by the Minister, the Government described "shall consult" to mean that meetings with the public and interested parties can be held but there is no obligation on the government to abide by the results of consultation. The Minister also pointed out that the Legislative Assembly is not required to consent to actions taken by the Minister with regard to establishing parks. However, there are caveats that do recognize land claim agreements when establishing parks.

### Motion:

Chairman: Move to refer the Bill to the Committee of the Whole.

Moved: M. Angottitaurug

Second: M. Lawrence

Carried.

## AN ACT RESPECTING MOTOR VEHICLES

The SCOL met on May 11 and 12, 1987 to review the Bill. The Chairman pointed out that the Committee had received the 150 page Bill four days before the review without a translation of the Bill or the Government briefing note which accompanied the presentation. This has limited the ability of the SCOL to thoroughly review the Bill as it wished.

The Minister responsible, M. Pudluk, introduced the Bill by stating that it has been three years in the making and that it will replace the existing Vehicles Act which has been amended over the years and lacks the required policy to carry out satisfactory administrative procedures. The RCMP and other groups have been consulted and the Government has included changes to enhance safety. The Minister proposed to have the Act proclaimed by January 1988 with the regulations.

The Chairman observed that due to length and complexity of the Bill, it would be impossible to thoroughly review the Bill clause by clause. The SCOL decided to follow the Briefing Note and Appendix A & B and proceed with a general review of the key issues in the Bill.

### Appendix A(i) Page 1 of 9, "Registration of Vehicles"

The question rose as to what can be done concerning the problem that people in small communities have in actually getting insurance documents in hand where there are no local insurance agents.

*\*The Minister stated that the Bill would be changed to reflect that as long as written confirmation can be obtained Motor Vehicles would recognize insurance.*

The Chairman noted that this situation could lead to abuses because there is no requirement that compels insurance companies to notify the registrar of cancellations.

*\*The Registrar stated this concern would be looked into so that safeguards could be provided to prevent fraudulent practices, such as cancelling insurance after it has been used for registration purposes.*

The Registrar, M. Collard, informed the SCOL that the Highway Transport Board will no longer regulate taxis or school buses. The Vehicles Act will regulate safety for school buses and the regulations may be upgraded somewhat. Inspections will be done under the Motor Vehicles Act.

Page 3 of 9, "24 Hour Suspension"

The Registrar explained that this provision allows an officer to counsel a person not to drive and to suspend a license for a period of 4 to 24 hours without further penalizing the driver. If the driver does violate the suspension he can be charged; also, if he insists on a breathalyzer and blows over .08.

The Chairman asked if the suspension will be recorded. The Government thought not, although if the driver abuses the suspension, it may be recorded on the abstract.

*\*The wording in paragraph three should read.. "has not successfully withstood challenges".*

Page 5 of 9, "Seat Belt Usage"

The Government argued that the NWT jurisdiction has one of the highest rate of fatalities per person due in part to a lack of required seat belt usage. Some members argued that seat belts should only be required on highways and in some communities with steep roads leading to the sea, for example. Others argued that accidents occur in small communities at low speeds and that seat belt usage would be beneficial. The Chairman asked if the Government had considered allowing some municipalities to be exempt; perhaps, one member suggested, on a local option vote.

*\*The Minister will review the consistency of intent for the requirement of seat belt usage in communities.*

Page 5 of 9, "Equipment Requirements-Radar"

*\*A member asked the Government to indicate what jurisdictions have prohibitions against radar detection equipment in a vehicle. The Minister promised to look into this.*

Page 6 of 9, "Leaving Motor Vehicle Running"

*\*The Government will make the wording more appropriate, section 238 (B), concerning provisions to restrict the theft of motor vehicles that are left running by requiring that doors be locked - certain situations like garbage trucks in use are excluded.*

Page 6 of 9, "Riding Outside Motor Vehicle"

*\*Significant disagreement amongst members was recorded here. They could not agree to support or not support this provision. The members decided to bring up the issue in the House: that is the requirement making it illegal to ride in the back of the box of a pick-up.*

Page 6 of 9, "Rules of the Road"

The Chairman raised the issue of increasing the maximum speed of trucks on NWT Highways as outlined in the N.W.T. Motor Transport Association submission to the SCOL.

*\* The Government believes that the existing maximum speed limits for large trucks should not be raised, for safety purposes. Speed restrictions which are in section 113 of the current Vehicles Act will be going into the Highways Act the SCOL was informed.*

*\* The Government witnesses believed that it was the intention of Highways [DPW&H] to increase the speed limit for trucks from 80k to 90k- This could not be verified at the meeting.*

The Government closed its remarks on the general review of the Bill by stating that the RCMP has reviewed it extensively and that the public and the government have been protected through appeals and hearings placed in the Bill.

The Minister stated that he would take the concerns of the SCOL into consideration when submitting the Bill.

**Motion:**

**Chairman: Moved to refer the Bill to the Committee of the Whole with recommendations.**

**Moved: M. Arlooktoo**

**Second: M. Lawrence**

## AN ACT TO AMEND THE PLEBISCITE ACT

The Bill was introduced by the Clerk of the Legislative Assembly. He explained that as a result of Motions made by the House to proceed with a plebiscite to ask the question on a proposed boundary for division of the Northwest Territories, amendments were required to the Plebiscite Act to allow the rules respecting elections in the Elections Act, 1978 to apply.

### CLAUSE BY CLAUSE REVIEW OF THE ACT

Section 2.[1] is new and indicates the Act under which the plebiscite will take place, the Elections Act, 1978.

In section 4.[1] the Commissioner "may" direct that a plebiscite be held. The Chairman explained that the plebiscite requires the endorsement of the native organizations or else no plebiscite will be held. In section 4.[3] it was explained by the Chairman that a legal description of the proposed boundary is not set out, because it is not possible to do so in the brief time allowed to set the question.

In section 3.[5], the "Effect of plebiscite", the Chairman explained that the plebiscite is not binding and is more of an opinion poll because, should the three year residency be challenged in the courts, the challenge would be considered less effective if votes were cast "for the purpose of collecting information" which "are not binding". Although, the Chairman added, he had no information to date that any challenge was forthcoming.

Concerning sub-section 10.[2], the appointment of returning officers, the Clerk of the Legislative Assembly explained that a complete list of Returning Officers shall be appointed by the Commissioner. At present, all but two Officers had been confirmed. The Chairman explained "Schedule "A", by giving notice to the SCOL that he would take it upon himself to inform both Forums to write the Commissioner approving the question.

In "Schedule "B", the residency period is three years in order for a voter to be eligible to vote on the question. The Clerk explained that the rules determining who is a resident apply in this case as they would to other Territorial elections. Proxy voting is allowed and the forms will be available from the Returning Officer approximately 10 days before the vote. The Chairman noted that the date of the plebiscite is set for May 20. The Clerk added that there will be two advance polls and that eligible voters could vote as early as May 10, 1987.

Motion:

Chairman: Move to refer the Bill to the Committee of the Whole  
Members: Agreed.

## AN ACT RESPECTING VICTIMS OF CRIME

The SCOL met on May 12, 1987 to review the Bill. The Bill was introduced by the Minister of Justice, Mr. Ballantyne, who emphasized that the concept of the Bill was a new one in that there is little legal precedent in Canada for such legislation. In Manitoba, where there is a similar Act, there has been some technical difficulties. The RCMP and the Law Reform Committee of the Law Society of the Northwest Territories have also reviewed the legislation and have raised questions.

M. Bayly of the Law Society in a written response to the Bill questioned whether the declaration of principles and the form in which these sections are put is appropriate for a statute at all and particularly one which deals with matters apparently in relation to criminal law. He also questioned the Victims' Assistance Fund and whether such legislation will be deemed to be an infringement on the criminal law making power of the Parliament of Canada.

If the SCOL also has reservations on this Bill, the Minister stated, he would be willing to table it in the House, rather than proceeding with it, in order to receive feedback from the Legislative Assembly.

The Chairman stated that he had personal concerns due to apparent problems in the Bill with regard to basic principles about the nature of society. The Bill is based on an interpretation of what a society and government is which he did not believe is universally agreed to and unequivocally accepted. When a crime is committed, it is an individual violating another individual. Society is not responsible. Society makes laws to discourage this type of activity. Moral arguments can be raised that individuals should assist others, but can this be translated into a legal obligation for the whole society; that is insisting that justice demands that society compensate the victim, or ensure that he is compensated.

The Minister stated that this was a limited first attempt to provoke discussion and that he would prefer to table the Bill in the House with a discussion paper.

Chairman and members agreed.



AN ACT TO ADOPT THE CONVENTION ON THE CIVIL ASPECTS OF  
INTERNATIONAL CHILD ABDUCTION

The SCOL met on 1 May 1987 to review the Bill. The Chairman pointed out that the purpose of the Bill was to allow the Northwest Territories to participate in an international agreement with other jurisdictions to protect children who are wrongfully removed from their homes and to ensure that they are returned.

The Chairman asked if the SCOL members accepted the contents of the Bill. Members agreed.

Motion:

Chairman: Moved to refer the Bill to the Committee of the Whole.

Moved: M. Angottitaurug

Second: M. Lawrence

Carried.

## AN ACT TO AMEND THE PUBLIC SERVICE VEHICLES ACT

The SCOL met on May 7, 1987 to review the Bill. The Minister of Municipal and Community Affairs, M. Wray, introduced the Bill by explaining that the purpose of the amendment was to replace the role of the Commissioner with that of the Minister for the purpose of appointing members of the Highway Transport Board. In addition the fixed term of the appointments has now been specified to not exceed three years.

The SCOL reviewed the amendments without comment.

**Motion:**

**Chairman: Moved to refer the Bill to the Committee of the Whole.**

**Moved: M. Cournoyea**

**Second: M. Gargan**

**Agreed.**

## AN ACT TO AMEND THE PUBLIC SERVICE ACT

The SCOL met on May 11, 1987 to review the Bill. The Minister responsible, M. Pedersen, introduced the Bill by noting at the last session of the Legislative Assembly he had given an undertaking to review the Public Service Act. After reviewing recent court decisions and other legislation the Government is recommending the following: a change of tone in the Act from negative to positive; removing the requirement of forcing resignations from the Government of those seeking to run for office; and a provision to narrow the restrictions on the rights of public servants to criticize Government policy.

The Chairman commented that he had advocated these changes for sometime. He also noted that the NWT Association of Public Servants did provide a brief to the SCOL with their observations and comments.

A member asked if the amendment would restrict employees from being candidates.

The Minister replied that this Act affects only elections to the Legislative Assembly. Restricted employees of the Government will also be able to make leave applications to run for office.

The Chairman noted that this amendment, even for lower ranking employees, will require staff to get Ministerial permission to run; consequently, it is now more difficult for them to run than it is under existing legislation.

In response to a question, the Minister replied that the Minister of Personnel, and not the Minister of an employee's department would have to decide to give the employee permission.

### Clause by Clause

In section 1, the Minister noted that (B.3) was added in order to take over Forest Protection from the Federal Government.

In 33(1)(a), the reference to federal politics was questioned.

*\*The Minister will address this in the house.*

In 33(1)(d), reference to campaign on the Government premises requires clarification, specifically does this include leased premises.

*\*The Minister will give direction in the Personnel Manual [re: no wearing of campaign buttons] and "belonging" could be replaced with a more comprehensive word to accommodate, for example, leased accommodation.*

In 33(1)(f), reference to serving as an official agent, the Minister does not wish to make any substantive changes.

In "leave of absence", section 5(4), the Chairman asked will the Government review the idea of limiting restricted positions affected by the Act to as few people as possible.

*\*The Minister said this would be reviewed.*

The Chairman also requested that Ministerial discretion for "leave of absence" for lower ranking employees be dropped.

*\*The Minister agreed to look at the wording to apply Ministerial discretion to high ranking employees only.*

*\*To the question of a blanket exemption on PSA & NWTTA Presidents, the Minister seemed receptive to allowing this change.*

**Motion:**

**Chairman: Moved to refer the Bill to the Committee of the Whole with recommendations.**

**Moved: M. Lawrence**

**Second: M. Arlooktoo**

**Carried.**