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COMMITTEE REPORT NO. 0 2 8 (2) TABLED ON OCT 19 1989



Northwest Territories Legislative Assembly / ᓄᓇᑦᑦᑦᑦᑦᑦ ᑕᑦᑕᑦᑦᑦᑦ  
Standing Committee on Legislation  
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## STANDING COMMITTEE ON LEGISLATION

Report on Bills Reviewed for the  
Fifth Session of the Eleventh Legislative Assembly  
October, 1989

Peter Ernerk  
Chairman





**Northwest Territories** Legislative Assembly / ᓄᓇᓕᓕᓐᓂᓐ ᓂᓄᓐᓂᓐ ᓂᓄᓐᓂᓐ  
Standing Committee on Legislation  
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**A STANDING COMMITTEE ON LEGISLATION REPORT ON THE  
ACT TO AMEND THE EDUCATION ACT**

**Introduction**

The purpose of this Bill is to amend the **Education Act** in order to provide for the closing of education body meetings from the public, and to provide eligibility conditions for teachers to become principals.

The Standing Committee on Legislation [SCOL] met to review the Bill with the Minister, Mr. Kakfwi, on September 25, 1989 in Yellowknife.

The Minister introduced the Bill by noting that the provisions for holding private meetings of education societies, boards, and committees has been proposed as an amendment to the Act due to a court decision that declared that without legislative authority, all meetings of the Hay River community education society would be open to the public.

The amendment enables all education authorities to hold private meetings where two thirds of the members agree that it is in the public interest. However no final decision on the matters discussed can be decided in private.

The second part of the amendment concerns training for principals. The Minister pointed out that in the past there has been some in-service training for principals, but there existed no coordinated or long term programs. The program that has been developed with the Ontario Institute for Studies in Education provides a formal training program for teachers who are already principals. The second cycle which began in the summer of 1989 for approximately 100 teachers is targeted to serve vice-principals and teachers, especially native teachers.

The amendment would make the Northwest Territories similar to other jurisdictions in requiring a certificate of eligibility as a principal. All principals in schools of more than 100 students will be required to obtain such a certificate within three years time, pending the possibility of an extension under certain circumstances.

A SCOL member questioned the Minister as to whether there are safeguards for a teacher in the Act concerning the permanence of the certificate. The Minister replied that once a certificate has been awarded and issued it cannot be revoked.

A member asked if all principals from other jurisdictions, if hired to be principals in the Northwest Territories, would be required to take this course. The Minister replied that they would have to take the course.

A member of the SCOL asked if these provisions would apply to schools with less than 100 students. The Minister stated that the course was intended for those principals who are employed on a full time basis; however principals of schools with less than 100 students can apply to take the course and they may be considered.

A member asked the Minister if the regulations concerning qualifications for the certification of principals had been determined. The Minister responded by stating that the drafting of regulations has just started.

### Clause by Clause

Sections 15, 21, 22, 34, 38, 53, have been amended by the Department of Education. These changes have been proposed primarily due to a controversy over public access to information in Hay River. The Department of Education has proposed added provisions to the Act that a community education committee, community education society, Board of Education, Divisional Board of Education, Board of Secondary Education and a community education society may hold meetings that are closed to the public.

These private meetings, [ *in camera* ], which are closed to the public, must be moved by resolution of at least two thirds of the members present. The resolutions made in private are limited: the board, council or committee "has no power, at a meeting that is closed to the public, to make a resolution, other than a resolution to revert to a public meeting".

Sections 83, 91, and 103 provide for the issuing of "Certificates of eligibility" to teachers who complete the prescribed program for training in order that they can be certified as principals.

The Government proposed to the SCOL that clause 91.2.[3], 91.3. and 91.4. in the Bill be amended allowing the principal three years to obtain the certificate [ changed from two years ].

The wording in 91.4. permitting the Minister to extend the time to complete the certificate of eligibility as a principal to a single extension "of not more than one year" has been dropped to read "a single extension".

The Deputy Minister of Education explained that there may be personal and other reasons, such as maternity leave or illness, that may prevent a three year completion of the program. In this case the Minister has the discretionary authority to extend the period of completion.

The Legislation Director for the Government explained that these provisions and others will be set out in regulations

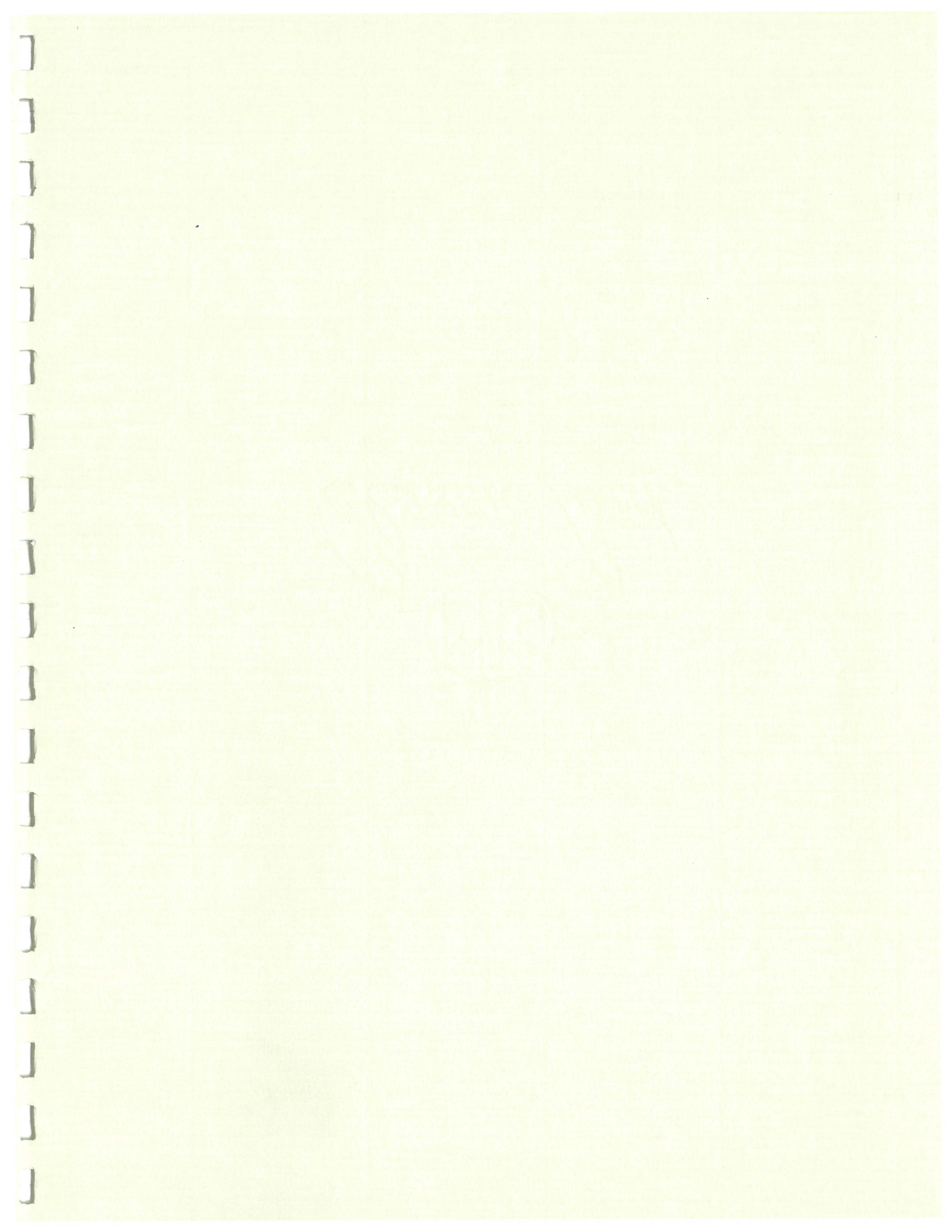
The Chairman requested that the Government provide a copy of the regulations in Norman Wells prior to the consideration of the Bill in the House.

The Minister, Mr. Kakfwi, explained that the regulations may not be completed for the Norman Wells session, however he would provide to the Committee an elaboration on a policy paper for the development of the regulations of the Bill concerning the principal provisions.

The Legislation Director also informed the SCOL that the Government will be adding a clause 21, a coming into force section for clauses 18, 19 and 20, to the Bill. Consequently, the "meeting provisions" will come onto force as soon as the Bill is assented to.

Motion [ Mr. McLaughlin ]: Move to refer the Bill an **ACT TO AMEND THE EDUCATION ACT** to the Committee of the Whole.

Members: Agreed.





**A STANDING ON COMMITTEE ON LEGISLATION REPORT ON THE  
ELEVATING DEVICES SAFETY ACT**

**Introduction:**

In many communities of the Northwest Territories elevators have been installed in office and apartment buildings. The purpose of this Bill is to provide for the safe operation, inspection, registration of design, and monitoring of the maintenance of elevators, escalators and amusement rides in the Northwest Territories.

The Bill also provides for investigatory powers for inspectors, the establishment of safety procedures, the reporting of accidents, and to establish offences, punishments, and regulation-making power.

The proposed Bill, the **Elevating Devices Safety Act**, was tabled in the Legislature of the Northwest Territories on April 10, 1989, [T.D.#87-89(1)]. The Bill was sent by the Standing Committee on Legislation in May 1989 to operators and owners of elevators in the Northwest Territories and manufacturers in Canada for review and comment.

The Minister, Mr. Kakfwi, met with the SCOL on September 25 and 28, 1989 to review the Bill.

The Minister informed the Committee that there are approximately 106 elevating devices installed in the Northwest Territories; and that the number of elevating devices is increasing by about 10 per year.

The Minister explained that since 1986 elevating devices were regulated by the NWT **Electrical Protection Act** and regulations. The requirement for a specific bill to regulate elevating devices has come about because mechanical parts of elevating devices cannot be regulated under the existing NWT **Electrical Protection Act** and regulations. Additional clauses are also included in the Bill which would provide for regular maintenance on elevators and require elevator mechanics and maintainers to be qualified and registered tradesman.

At present, elevators are inspected and regulated by the Electrical Safety and Inspections staff of the GNWT Safety Division. The proposed Bill would provide that a Chief Elevator Inspector be appointed to carry out the administration of the Act.

A member questioned the Minister as to what regulations will be enforced and whether or not a budgetary increase for new person years will be required to carry out the Act.

The Director of Legislation stated that the regulations would be uniformly the same as those that are applied in other jurisdictions, but the regulations will not be prepared until the Bill has been approved by the Legislature. The Minister stated that existing staff will enforce the proposed Act for the present.

Clause by Clause

DEFINITIONS

"amusement ride"

The Bill will require that devices, that are 'intended to entertain by the motion of the device' , such as the 'rides' that are found at amusement parks or a travelling carnival, circus or fair, will be included in the Act.

"elevating device"

An "elevating device" is defined as an 'elevator, fixed conveyance, amusement ride or a device prescribed to be an elevating device'. In most cases in the NWT the Bill will be related to the inspection and operation of elevators.

A member asked the Minister if the exemptions in the Bill will include what is generally called a "man-lift" in a mill, where a person can grab a handle and jump on or off a moving platform.

A government representative stated that these type of devices are covered under section two of the Act, but that the majority of these type of devices that are installed in mines, and including mines, are exempt from this Act. The mill area of a mine, for example, would be covered under the **Mining Safety Act.**

**ELEVATING DEVICES SAFETY ACT.....p.3.**

## APPLICATION

There are devices which are exempted from this Act, clause 2. This Act will apply to all elevating devices within the Northwest Territories other than a number of devices and pieces of equipment including: " (a) elevating devices regulated under the Mining Safety Act"; " (h) vehicle lubrication hoists or other similar mechanisms", such as found in gas stations and garages; and "(o) any class or subclass of elevating devices exempted by the regulations."

In clause 3, "Private Dwellings", a member asked if private dwellings which have elevators installed will be inspected.

The Legislation Director replied that private elevators in homes will have a first inspection at installation and certain sections of the Act, 19 through 22 [ Maintenance and Log Record keeping ] for example, will not apply in regard to private elevators in the home.

## CERTIFICATES OR LICENSES

Government owned elevators fall under the Act, section 4, including the provisions requiring inspection certificates, section 5.

A certificate to operate an elevator may be issued by the Chief Inspector, section 6, to the owner, for an elevating device that does not meet the prescribed standards but, in the opinion of the Chief Inspector, the elevating device is safe.

A member informed the Minister that to his recollection there are no certified elevator repairman in the NWT and that it would be expensive and time consuming to fly-in repairman from southern Canada.

The Legislation Director informed the SCOL that these matters would be addressed in the regulations as to what different types of practices could be carried out, for example, restarting an elevator, as compared to installing or repairing.

No person shall operate an elevating device unless a certificate for it is in force and it is operated in compliance with the conditions of the certificate, section 8. No person shall construct, install, alter, repair, maintain or test an elevating device unless licensed in accordance with the regulations as a contractor, section 11. The submission, examination or approval of drawings and specifications for amusement rides shall be carried out in accordance with the regulations, section 13.

A member asked if amusement rides, such as those that accompany fairs to some communities in the summer, would be regulated by this Act.

The Legislation Director explained that amusement rides would have their own set of regulations under the Act, and that the design requirements would be uniform with other jurisdictions. An inspection would be required for the set-up of the rides.

Under clause 14, the Legislation Director pointed out that a license is not transferable from one contractor to another.

#### SUSPENSION OR CANCELLATION

The Chief Inspector may refuse to renew, or may suspend or cancel a certificate or a licence, where the Chief Inspector considers that the training, experience, skill or level of competence of the applicant or holder of the certificate or licence is such that the certificate should not be issued, renewed or continued, section 15.

Notice of the intention to refuse or renew must be issued in writing. The notice of a hearing will give the holder of the certificate or licence an opportunity to comply, section 16.

Should a hearing not be applied for, the Chief Inspector may refuse to renew, or may suspend or cancel the licence or certificate, section 17. A person affected by a decision can appeal to the Supreme Court, section 18.

## DUTIES OF OWNERS AND OTHERS

The owner shall ensure that the elevating device is maintained by a contractor licensed under the Act, section 19. A maintenance log book is to be kept for each elevator; and the record of maintenance performed is to be recorded and to be available to an inspector, section 20 and 21.

No person shall operate an elevating device unless the maintenance log book is kept up-to-date; and no person shall operate an elevating device if it has a load in excess of the maximum capacity specified in the certificate or if there is reason to believe that it is in an unsafe condition, section 22 and 23.

A person who believes that an elevating device is not operating properly shall report the problem to the Chief Inspector, section 27.

A member of the SCOL asked if a person found an elevator was being operated in an unsafe manner, and if a report is not made to the Chief Inspector, would that person be held accountable.

The Director of Legislation stated that a person could not be held responsible if they had nothing to do with the problem and did not report it. The owner or operator of the elevator would be responsible.

The SCOL member suggested to the Government that they consider reviewing clause 27, the term, "shall report", in order to clarify to the general public that if a person does not report a problem to the Chief Inspector that person is not derelict in their duties.

## INSPECTIONS AND INVESTIGATIONS

A person who believes that an elevating device is not operating or is not being operated safely may make a request for an inspection to the Chief Inspector, section 28.

After an accident, the owner or operator of the elevator will close the elevating device and notify the Chief Inspector in accordance with the regulations. Repairs shall not be carried out until authorized to do so by an inspector, section 30.

When a fatal accident occurs involving an elevating device and a person is killed, the owner or operator of the elevating device shall immediately inform the Chief Inspector of the accident, close the elevating device and prohibit its use, section 31.

If an inspector considers that the construction, installation, alteration, repair, maintenance or operation of an elevating device is being carried out in an unsafe manner, the inspector may order the operator or owner to comply with the Act, cease work or affix a seal to the elevating device prohibiting its use, section 33.

#### APPEAL

A person affected by an order of an inspector may appeal to the Chief Inspector. The Chief Inspector shall hold a hearing on the appeal and may confirm, vary or set aside the order of an inspector, section 35. The decision of the Chief Inspector may be appealed to the Supreme Court, section 36. The decision of the Supreme Court on appeal is final and binding on all parties, section 37.

#### ADMINISTRATION

The Minister may appoint inspectors and designate an inspector as the Chief Inspector. No inspector shall have any direct or indirect interest in the manufacture, sale, installation or maintenance of elevating devices, section 38.

An inspector has the powers to inspect an elevating device, provide notices in writing, and order full disclosure on any matter respecting the design, construction, installation, alteration, repair, maintenance, inspection, the condition and operation of an elevating device, section 42.

An inspector, with the consent of the occupier, may enter a private dwelling in order to inspect an elevating device; otherwise a warrant is required, section 43 and 44.

## OFFENCES

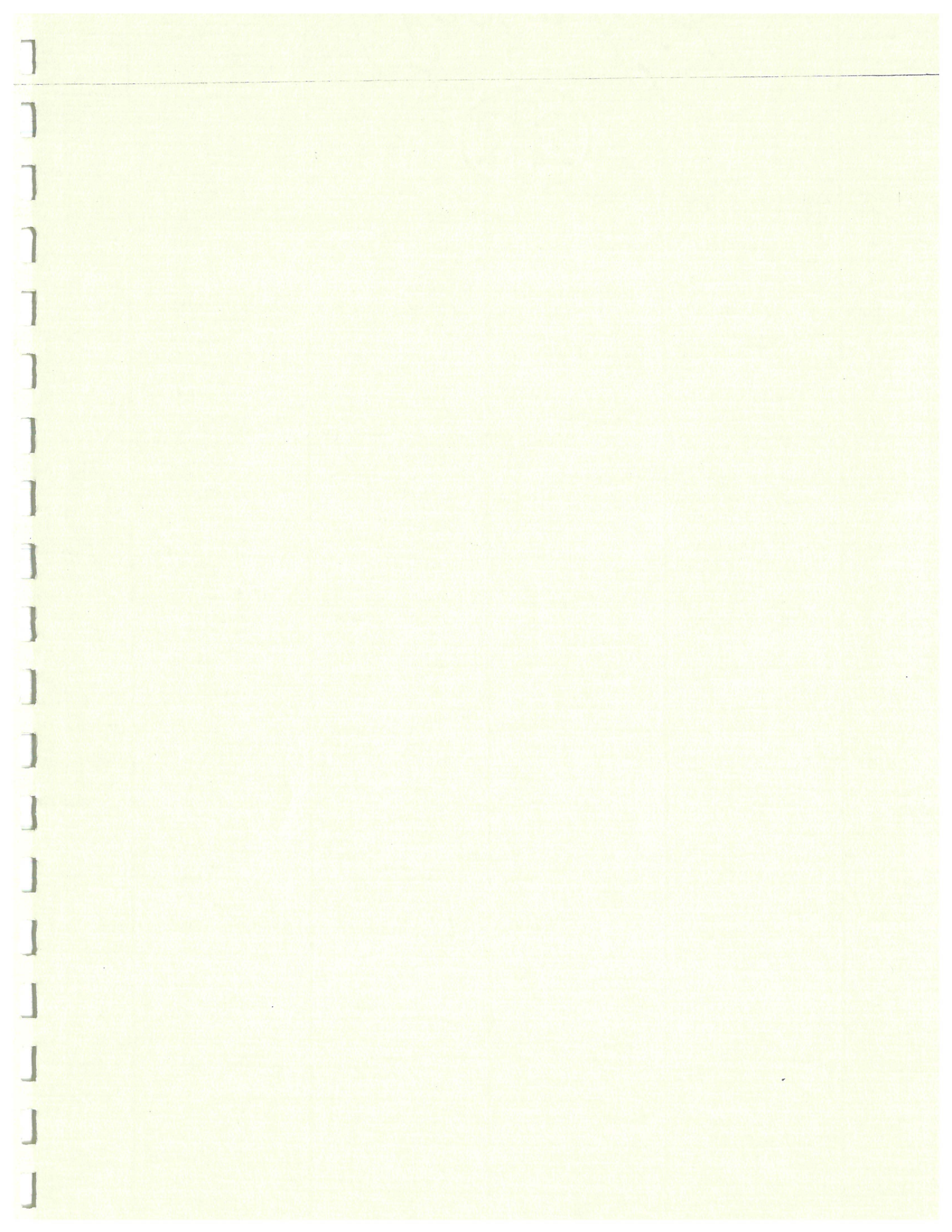
Every person who contravenes this Act or the regulations, licence, order of an inspector, decision of the Chief Inspector or knowingly makes a false statement is guilty of an offence and is liable to a fine not exceeding \$30,000 or to imprisonment for a term not exceeding one year or both, section 52.

Concerning Regulations, the Commissioner, on the recommendations of the Minister, may make regulations concerning the classes and subclasses of devices, application procedures for certificates and licenses, reporting of malfunctions and accidents, qualifications and training for inspectors and sub-contractors, prescribing fees to be paid, and amend the code of rules and standards concerning the subject matter of this Act, section 54.

A certificate of elevator inspection issued under the **NWT Electrical Protection Act**, in force at the time this Act comes into force, continues until its expiration date as though it had been issued under the Act.

Motion [ Mr. Kilabuk ]: Move to refer the Bill the **ELEVATING DEVICES SAFETY ACT** to the Committee of the Whole.

Members: Agreed.





**A STANDING COMMITTEE ON LEGISLATION REPORT ON THE  
REAL ESTATE AGENTS' LICENSING ACT**

**Introduction**

The purpose of this Bill is to regulate the real estate industry in the Northwest Territories.

In many communities when a person wishes to purchase or sell property, such as a house or business, the assistance of a real estate agent will be employed.

An owner of property, or an intending purchaser, is not required to employ a real estate agent to dispose of or acquire property. Real estate services are most often and advantageously used when an owner or intending purchaser lacks the time, knowledge, or skill to make the sale or purchase.

Real estate agents and salespersons are subject to special statutory regulation in Canada. In effect, real estate agents have a monopoly control over the real estate business.

The Bill, the **Real Estate Agents' Licensing Act**, was tabled in the Legislature of the Northwest Territories on 10 April 1989 [T.D.#88-89(1)]. The Bill was sent by the Standing Committee on Legislation in May 1989 to real estate businesses in the NWT and real estate professional support organizations throughout Canada for review and comment.

The Minister, Mr. Kakfwi, introduced the Bill before the Standing Committee on Legislation on September 28, 1989. The Minister noted that the Northwest Territories is the last jurisdiction in Canada to enact real estate legislation. The Bill sets out eligibility criteria for real estate agents and sales persons licenses including the regulation of the real estate industry in the Northwest Territory.

A member asked the Minister if Housing Association and Authorities, including the Housing Corporation, would be regulated by this Act. The Minister replied that this Bill would not apply to community housing associations and authorities. The Director of Legislation added that the NWT Housing Corporation and local associations/authorities would not be considered real estate agents.

**REAL ESTATE AGENTS' LICENSING ACT.....p.2.**

**DEFINITIONS**

The Bill defines "agent" as **"a person who, either alone or through a salesperson or official, trades on behalf of another person for or on the hope or promise of compensation, gain or reward, and includes a person who holds himself or herself out to be a real estate agent;"**

Real estate agents and their salespersons, individuals who are employed by an agent to trade, specialize in arranging sales, purchases, exchanges and leases of property for others. These services may also include assisting in the arrangements for financing transactions.

Some of the tasks that real estate agents may carry out include:

(a) the inspection and valuation of the property, or to arrange that this is done by an expert; (b) advertise the property and pay for the advertisements, for example in a newspaper or magazine, and pay for the advertisements whether the sale is successful or not; (c) draw the attention of other real estate agents to the property through the use of co-operative listing services; (d) show the property to prospective purchasers; (e) prepare written offers for consideration by the owner; assist in the arranging of financing of the transaction; receive and hold deposits of money on behalf of those involved.

In return for these services, the person, who has employed the real estate agent, usually pays a commission to the agent when the agent has fulfilled the terms of the employment agreement.

The Bill defines "real estate" as **"(a) real property, (b) leasehold property, (c) a business, with or without premises, and the fixtures, stock-in-trade, goods and chattels associated with the operation of the business, or (d) a time-sharing agreement with respect to real or leasehold property which (i) allows a person to use, occupy or possess the property for two or more periods of continuous use; and (ii) provides that at least one period of continuous use following the first period of continuous use commences in a year subsequent to the year in which the first period commences.**

The term "real estate" appears to have no technical meaning except that which is given to it by legislation which regulates the real estate business.

'Real property', subsection (a), generally means two things: physical objects which are subject to ownership such as land, buildings, fixtures, trees and services such as water lines; and, secondly, intangible rights which arise from the ownership of the property.

'Leasehold property", subsection (b), means property held under a lease or tenancy agreement which confers on the lessee the right to exclusive possession of the property for a specified time.

A 'business', subsection (c), is universally defined in several jurisdictions as meaning an undertaking carried on for the purpose of gain or profit and including, for example, a hotel, store, or tourist camp.

A 'time sharing agreement", subsection (d), can refer to a membership in an association or corporation, vacation plan, or any similar arrangement, such as a time sharing condominium at a tourist location.

The Bill defines a "salesperson" as **"an individual who is employed by an agent to trade"**.

A salesperson is employed by an agent in order to carry out real estate activities under the direction and control of the real estate agent. No person is permitted to be licensed as a real estate salesperson unless they are a real estate agent or employed by a real estate agent. In addition, no person can continue as a real estate salesperson once employment with an agent terminates.

The definition of "trade" usually means the business a person has learned and which is carried out for the purpose of earning a living. This is not the meaning of trade in the Bill. The meaning of "trade" in the Bill is defined as activity in the real estate business: **"(a) a transaction in real estate by sale, purchase, agreement for sale, exchange, option, lease, rental or otherwise; (b) an offer or attempt to list real estate for a transaction referred to in paragraph (a); or (c) an advertisement, negotiation or other act which directly or indirectly furthers a transaction, offer or attempt referred to in paragraph (a) or (b), and the verb "trade" has a corresponding meaning."**

## APPLICATION

There are "Exemptions", section 2, where the Act does not apply to trade in real estate by certain individuals, such as: a liquidator, custodian or trustee; a bank or credit union where real estate is owned by the bank, credit union or insurer; a person who disposes a substantial interest in real estate and is paid no commission with respect to the trade; or a lawyer where the trade is made as part of the activities of a legal practice. The above exemptions do not apply where an agent or salesperson is directly or indirectly involved in the trade.

## LICENCES

**No person shall trade in real estate unless the person is licensed as an agent or licensed as a salesperson of an agent. No agent shall employ a person as a salesperson unless that person is licensed as a salesperson, section 3.**

Not all persons who wish to become real estate agents can become one. There are specific requirements that must be met.

In the case of individuals, the requirements to become an agent are having attained the age of 19 years, residency in the Northwest Territories and meeting the prescribed education, training and examination qualifications.

In the case of eligibility for a licence as an agent for a corporation or partnership, registration in the Northwest Territories is required. In addition, an individual representing a corporation or partnership, must be licensed as a salesperson, have the prescribed education, training and examination qualifications required of agents and be a member of the board of directors, or a partner in the case of a partnership, or an officer, or manager. A fee and a bond in the prescribed amount is required for a licence as an agent, sections 5-8.

To be licensed as a salesperson, an individual must have attained the age of 19 years, be a resident in the Northwest Territories and meet the prescribed education, training and examination qualifications. In addition, the person must be supported by an agent who is prepared to employ the person as a real estate salesperson, section 9-10. However the Superintendent of Real Estate may issue a licence to an applicant who does not fulfil the requirements of the Act, section 11. (2).

**REAL ESTATE AGENTS' LICENSING ACT.....p.5.**

The termination of employment of a salesperson with an agent that has supported the application, terminates the licence of that salesperson, section 16.

There are provisions for the Superintendent to issue a temporary licence when a partnership changes, or when a spouse, executor, administrator or trustee of an agent has died or becomes incapacitated, or in a corporation or partnership, where a representative dies, becomes incapacitated or ceases to comply with the Act and there is no person immediately qualified to replace that representative, section 17.

### **CANCELLATION OR SUSPENSION OF LICENCE**

The Superintendent may suspend or cancel the licence of an agent or salesperson who contravenes the Act, advertises dishonestly or deceptively, offers real estate for sale or lease without the consent of the owner, fails to remove a sign offering real estate for sale within 10 days of the expiration of the listing, falsifies a contract, or is convicted of an offense under the Criminal Code (Canada) that is related to the qualifications, functions or duties of an agent or salesperson, section 18.

A real estate agent can have a licence suspended or cancelled where funds held in a trust account are less than the amount for which the agent is accountable; the agent has misappropriated funds held in trust; proper business records are not kept at the office or made available for inspection, section 19.

The Superintendent shall give written notice when intending to suspend or cancel a licence, section 21. A hearing may be applied for by an agent or salesperson, section 22. The decision of the Superintendent may be appealed to the Supreme Court, section 25.

### **FORFEITURE OF BOND**

When a judgment is obtained against an agent or salesperson and it is not satisfied within 30 days, the bond submitted by that agent is forfeited, upon the superintendent providing written notice to the surety stating that the bond is forfeited, section 27.

The superintendent may pay out the money held in trust, after two years and 60 days have expired from the date that the bond was forfeited, section 28.

**REAL ESTATE AGENTS' LICENSING ACT.....p.6.**

## INVESTIGATION

The superintendent may conduct an investigation or designate another person to conduct an investigation where it is believed an agent or salesperson has contravened the Act, committed an offence against the Criminal Code of Canada that is related to the duties of a real estate agent or salesperson, or acted as an agent or salesperson while unlicensed, section 32.

The superintendent may apply to the Supreme Court for the appointment of a receiver or trustee to hold or manage property of that agent or salesperson where a licence has been suspended or cancelled, or there is reason to believe that trust funds in an account are less than that the agent is accountable for, or if there is reason to believe that criminal proceedings are about to or have been instituted against an agent or salesperson connected with a trade. The superintendent may instruct that these funds be held, or an agent or salesperson be prevented from withdrawing them, section 37.

## APPEAL

The Supreme Court may confirm, vary or set aside a decision or order of the superintendent, section 38. The decision or order of the superintendent continues to apply pending appeal. The Supreme Court decision or order is final and binding on the parties.

## ACCOUNTS

An agent is responsible for a number of specific duties related to monies received as an agent, including: establishing trust accounts; immediately depositing all monies received in trust in relation to a real estate transaction; not mixing personal or company money with the money held in trust; and keeping records. The interest earned on trust accounts shall be the property of the purchaser, vendor or sent to the Minister for deposit to the Consolidated Revenue Fund.

An agent shall keep proper accounts which provides a description of the nature of the trade, a description of the real estate involved, the true consideration of the trade, names of the parties, amounts of deposit received and a record of disbursements, the amount of commission or other remuneration for the agent, and the name of the party paying the commission or remuneration, section 39.

**REAL ESTATE AGENTS' LICENSING ACT.....p.7.**

An agent shall keep a trust ledger with a separate record for each person on whose behalf the agent is acting and enter in that record an account of money received in trust, money held in trust, interest on money held in trust, and disbursements made from money held in trust, section 40.

An agent shall deposit all money received in trust into a bank account, ensure that the account is kept in the name of the agent and designated as a trust account, disburse monies received in accordance with the terms of the trust, and clearly mark all cheques drawn on a trust account, section 41. Money deposited shall be kept on deposit in the Northwest Territories. Interest earned from trust accounts shall be remitted to the Minister for deposit to the Consolidated Revenue Fund or the interest may be placed in a trust account for the purchaser or vendor, section 44.

An agent shall submit each year before March 31 an audit report to the superintendent, section 42. Records are to be kept for five years or for longer periods as the superintendent may request, section 43.

#### **REGULATION OF TRADING**

A "guaranteed sale agreement" is defined in the Act as an agreement in writing where an agent, or a person acting on behalf of the agent, undertakes to pay the vendor of the real estate a fixed or determinable amount of money for the real estate within a fixed or determinable period.

The agreement must be in writing. The agent is also required to maintain a separate trust account in a bank or credit union in the Territories. Not less than 5% of the total amount that may be payable under the guaranteed sale agreement shall be deposited into the trust account, section 45.

The money held in trust for the vendor shall be paid to the vendor as a part of the total amount under the guaranteed sale agreement; forfeited to the vendor, if the vendor is not paid in accordance with the agreement; or returned to the agent, where under the terms of the agreement there is no longer any money payable to the vendor under that guaranteed sale agreement, section 46.

The agent cannot claim a commission on the real estate transaction "where an agent or other person who entered into a guaranteed sale agreement with a vendor purchases the real estate of the vendor under the guaranteed sale agreement", section 47.

**REAL ESTATE AGENTS' LICENSING ACT.....p.8.**

Provisions regarding advertising of real estate transactions require that the party advertising, and the name of the agent or salesperson involved, be clearly indicated in the advertisement as the agent or salesperson, section 50.

If the agent or salesperson involved in a trade has any direct or indirect interest in the real estate, this interest must be disclosed in writing to the parties involved in the trade, section 52.

No commission or remuneration shall be paid to a salesperson of another agent in respect to a trade, section 53.

No agent or salesperson can purchase directly or indirectly any interest in real estate, unless disclosing in writing the complete details of any negotiations for its trade to the owner, section 55.

The salesperson shall only trade in real estate for the agent who the salesperson has been registered to work for. The salesperson cannot concurrently accept employment with another person; nor can the salesperson trade in real estate for another, except for the employer of the salesperson, on his own account, section 56.

The Bill prescribes the methods which shall be used for fixing the amount of commission to which a real estate agent or salesman is entitled to: "Any commission or other remuneration payable in respect of the sale or lease of real estate shall be fixed as either an agreed amount or an agreed percentage of the sale price", section 57. (2). The agent or salesperson is prohibited from accepting a commission "or other enumeration based on the difference between the price at which real estate is listed for sale and the actual sale price of the real estate", section 58.

An agreement to list real estate will be in writing and a copy shall be delivered to the owner of the real estate, or to the person entering into the agreement on behalf of the owner, as soon as possible. The agreement is void if there is more than one date on which the agreement expires; a date on which it expires is not specified; and the amount or rate of commission, or terms or conditions on which the commission is payable, is not provided, section 59. Where an agent or salesperson receives a written offer, or acceptance of an offer, a true copy of the offer or acceptance will be delivered to the other party as soon as practicable, section 60.

**REAL ESTATE AGENTS' LICENSING ACT.....p.9.**



## TRADING IN REAL ESTATE OUTSIDE THE TERRITORIES

A person shall not trade real estate outside of the Territories unless certain conditions are met: the trade takes place through an agent licensed under this Act; a prospectus is filed with the superintendent; and the superintendent has issued a certificate of acceptance in respect to that prospectus. However exceptions are allowed where the trade is an isolated one, or a trade consists only of an advertisement placed or made from outside the Territories, section 61.

For trades outside of the Territories, a copy of the prospectus is to be delivered to the prospective purchaser or tenant, and the receipt of the prospectus is to be acknowledged in writing as being received. The acknowledgment is to be retained by the vendor or agent and be available for inspection by the superintendent for not less than five years, section 62.

The prospectus submitted to the superintendent must meet prescribed requirements, such as: an affidavit of the owner as to the correctness of every matter of fact; and a copy of every plan and form of contract referred to, section 64. Where it appears to the superintendent that a person has complied with the Act and regulations, the superintendent may grant a certificate of acceptance for the prospectus. The superintendent shall not grant a certificate of acceptance if false or misleading statements are found in the prospectus, or if there appears inadequate provisions for the protection of deposits or other funds, section 66. The certificate of acceptance, if issued, can also be cancelled by the superintendent in the public interest by way of an order to cease trading. A hearing is provided for, section 67. Provisions are allowed for amended or new prospectus to be filled, section 68.

A prospectus expires one year from the date on which the superintendent grants a certificate of acceptance, section 69.

The purchaser of a trade in real estate outside of the Territories may rescind the contract by giving notice in writing to the vendor or agent within 30 days, section 63.

## ADMINISTRATION

The Minister may appoint a superintendent of real estate. The Government of the Northwest Territories, superintendent of real estate, members of the appeal board, and other persons employed in the administration of the act are not liable for loss or damage caused by anything done or not done by them in good faith in the performance of their duties or in the exercise of their powers, section 70-72.

Written notices required under the Act, must be served personally, or mailed, or sent by electronic mail. The notice is deemed to be effective 14 days after the date of mailing, section 71.

## OFFENCES

A person who contravenes sections 61, 62 or 68 of the Act or is guilty of an offence and liable on summary conviction can be fined of not more than \$5,000, or to imprisonment for a term of not more than six months, or to both. In the case of a corporation, the fine is limited to not more than \$25,000, section 73.

A person who contravenes any provision of this Act or the regulations, for which there is no specific punishment, and is found guilty is liable on summary conviction to a fine of not more than \$5,000.

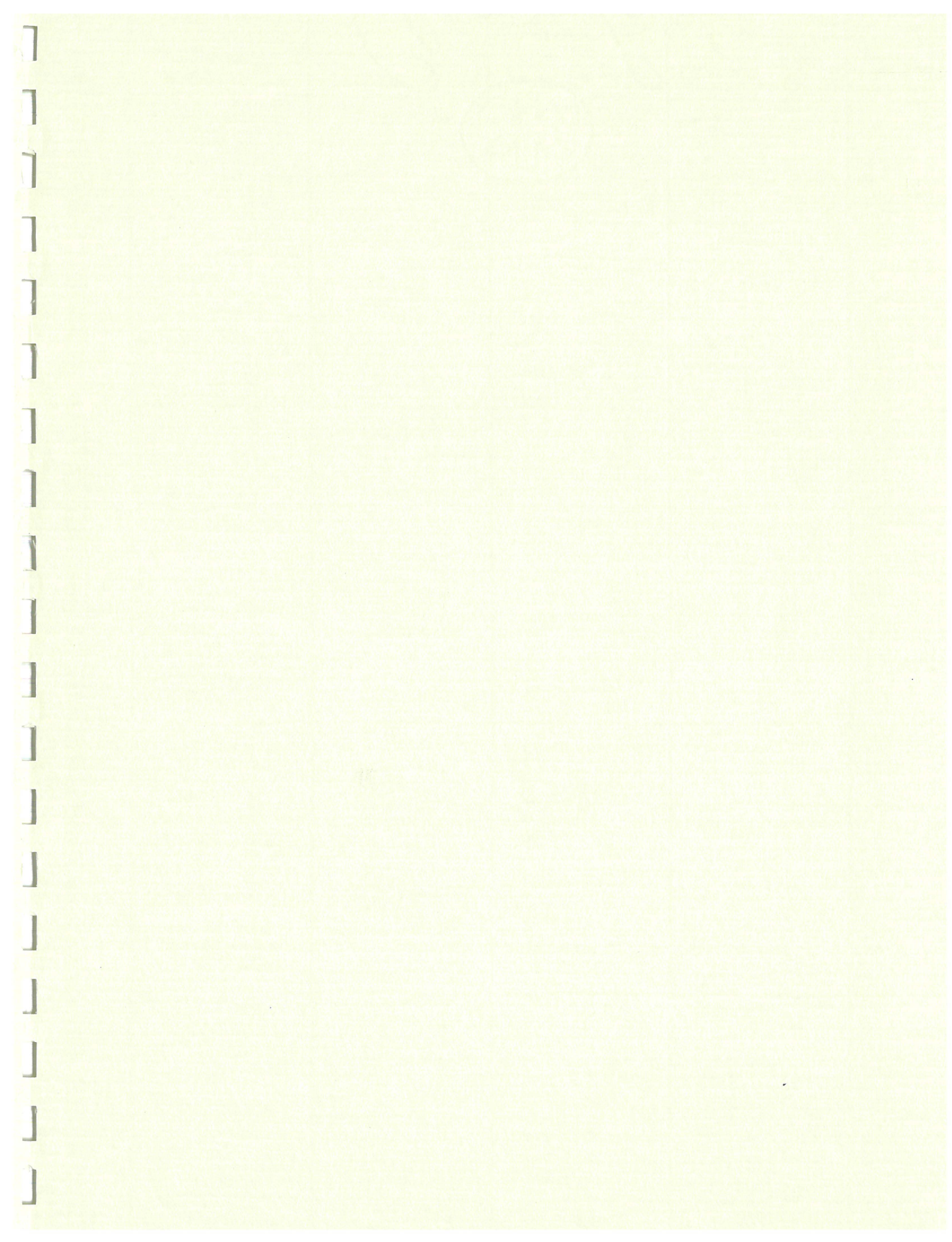
If a person is convicted of trading without a licence as an agent or salesperson, or employing a salesperson who is not licensed, that person shall return any commission or other remuneration paid by any person on whose behalf the agent or salesperson acted while unlicensed, section 74.

## REGULATIONS

The Commissioner, on the recommendation of the Minister, may make regulations concerning a number of matters, such as: prescribing fees for a licence for agents and salespersons; the education, training and examination qualifications required of agents and salespersons; the classes of persons who may be exempted from the education, training and examination qualifications required of agents and salespersons; and the information to be contained in a prospectus, section 76.

Motion [ J. Arlooktoo ]: Move to refer the Bill the **REAL ESTATE AGENTS' LICENSING ACT** to the Committee of the Whole.

Members: Agreed.



**A STANDING COMMITTEE ON LEGISLATION REPORT ON THE  
ACT TO AMEND THE INSURANCE ACT**

**Introduction**

The purpose of the Bill is to amend the **Insurance Act** to allow for the designation of compensation associations for accident, life, and sickness insurance; and to allow for the operation of reciprocal or inter-insurance exchanges in the Northwest Territories.

The Minister, Mr. Kakfwi, presented the Bill for review before the Standing Committee on Legislation on September 28, 1989 in Yellowknife.

The Minister remarked that the **Insurance Act** was amended in 1987 to require insurance companies, as a condition of licensing, to become members of any compensation association designated by the Minister. Another amendment allows the Minister to enter into agreements with designated compensation associations respecting a plan or plans to compensate policy holders or eligible claimants of insolvent insurers. One compensation association has been designated for specific classes of property and casualty insurance.

The Minister explained that on August 31, 1988 he had entered into an agreement to join a property and casualty insurance compensation plan.

The Canadian Life and Health Insurance Association is an association representing the majority of all life and health insurance companies in Canada. This association has requested an amendment to allow for the participation of the NWT in a life insurance compensation plan. This plan will provide compensation to policy holders and eligible claimants of insolvent life and health insurance companies.

## Clause by Clause

The Minister explained that clauses 2 and 4 set out the specific classes of insurance which will be covered in the life compensation plan, namely life, accident and sickness insurance together with two minor consequential amendments.

The new part of the Act permits a reciprocal insurance exchange where each member or subscriber to the exchange exchanges contracts of inter-insurance with each other.

The final section of the Bill provides that reciprocal insurance exchanges pay the premium tax that all insurance companies are required to pay: two percent of gross premiums, less dividends.

Section 31[1](1.1), "Membership in compensation association" is new and now includes classes on insurance for accident insurance, life insurance, sickness insurance or a class of insurance designated by order of the Minister.

The words preceding Section 31[1](6)(a), "Application", are repealed and 31[2](c) has a reference addition.

The heading and sections 216[1] and 216[9] are new and have changed from "Fraternal Societies" to "Reciprocal or Inter-Insurance Exchanges".

Section 237[b](i) in "Insurance Premium Tax" Definitions for insurance company is repealed and substituted with a more precise definition.

Motion [ J. Arlooktoo ]: Move to refer the Bill the **ACT TO AMEND THE INSURANCE ACT** to the Committee of the Whole.  
Members: Agreed.



**A STANDING COMMITTEE ON LEGISLATION REPORT ON THE  
ACT TO AMEND THE ARCHIVES ACT**

**Introduction**

The purpose of this Bill is to amend and repeal sections of the **Archives Act** which regulates the collection and storage of public records. These records are under the "care, custody and control" of the Territorial Archivist, the keeper of the Archives, who is appointed by the Minister responsible.

The Minister also appoints members to the Public Records Committee, which consists of the Territorial Archivist, serving as Chairperson, the Records Manager of the Government of the Northwest Territories and "such other persons as may be appointed by the Minister".

The Public Records Committee advises the Commissioner on matters related to the destruction and preservation of public records, exercises any powers conferred upon it by the Act, and performs duties required by the Act and/or regulations.

The Minister, Mr. Allooloo, presented the Bill before the Standing Committee on Legislation on September 26, 1989 in Yellowknife. He noted that the amendments proposed clarify reporting relationships and procedures, as well as delegating powers from the Commissioner to the Minister.

**Clause by Clause**

The Acting SCOL Chairman, Mr. Sibbeston, pointed out that in Clause 2[b], "government body", is amended to include "the Executive Council", after the words, "government body means the Legislative Assembly". He pointed out that the intent was to include the Executive Council to the list of government agencies and departments whose records, minutes, and other materials will be made available and be preserved for the future.

The Director of Legislation, Ms. Bentivegna, added that the Government wished to amend the Bill by deleting, in clause 2, references to "the Executive Council" so that any records of the Executive Council that dealt with policy would not be sent to the Archivist.

**ACT TO AMEND THE ARCHIVES ACT.....p.2.**

She explained that in the drafting of the Bill the Department of the Executive had not been consulted; and when the Executive became aware of the issue of cabinet secrecy, the Bill was amended and a new Bill was prepared for consideration by the Standing Committee on Legislation.

The SCOL considered the matter and made the following motion.

**Motion [ Mr. McLaughlin ]: Move that the Standing Committee on Legislation recommends to the House that references to the Executive Council, in clause 2[b] of the Bill, should remain as presented in the original draft of the Bill.**

**Members: Agreed**

**Motion Carried.**

Section 2[e], "public record" is amended by adding "or Court" after "the control of a government body". The Acting Chairman noted that court records have been added to the documents that can be preserved in the Archives.

Section 4, "Northwest Territories Archives", is revised by substituting "Minister or Archivist enters into" in place of "any agreement that the Archivist may enter into".

Section 5[2], "Transfer of public records to Archives" has been repealed, the "Commissioner" has been replaced by the "Minister", and "may by regulation" has been replaced with "may order". The Minister explained that the change allows the Public Records Committee to report to the Minister and not the Commissioner.

The destruction of any public record prior to the date of transfer to the Archivist cannot take place "unless the government body or court which held or controlled the public record consents in writing to the destruction", section 5 [2](b). The Minister explained that this is to ensure that departments maintain control over their own records.

A member questioned the Government as to the process that will be initiated by the Minister to authorize the destruction of records. Will instructions be in writing and will an accounting be kept so that there will be some way of finding out what was destroyed and who destroyed it?



The Government representative reported that each Government department develops a record schedule whereby someone from records managing consults with the department, draws up a list of files that are generated from the department, and then notes what is to be done with them. Some files are destroyed after two years, some after seven years, and some are kept permanently. The record schedules would remain as permanent documents.

In section 5, "Return of public record", has been amended to include transfers from a "court"; and the provision that the Minister may establish the manner, upon requirement for the advertisement of schedules of public records to be destroyed, has been abolished.

The Public Records Committee prepares a schedule of public records ordered to be destroyed and the schedule is to be made available to the public, in accordance with regulations.

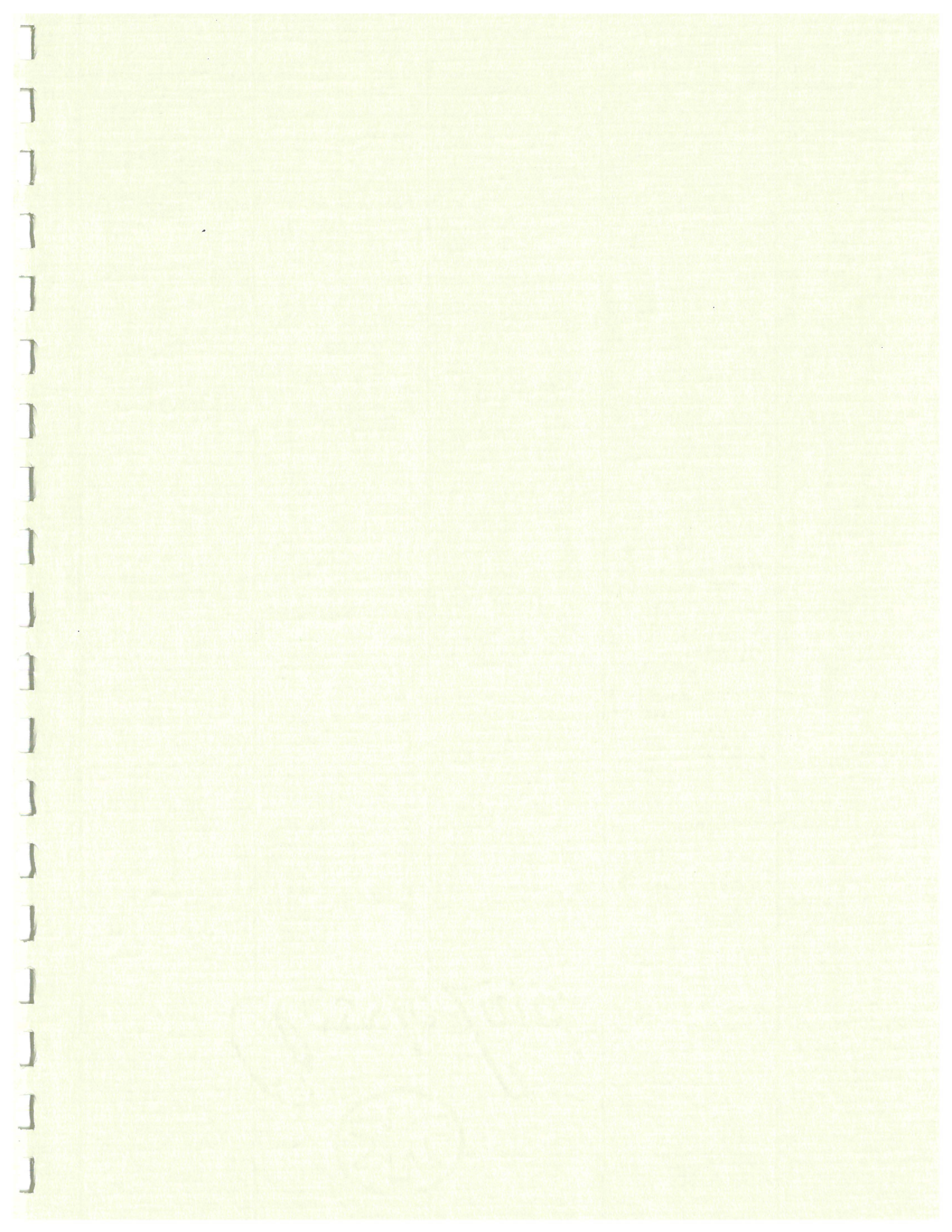
The Public Records Committee reviews objections before deciding whether the public record is to be destroyed. The Minister may, upon the recommendation of the Public Records Committee, make orders concerning the destruction and preservation of public records.

In section 11, the "Commissioner" is replaced by the "Minister".

The Commissioner continues to make regulations, section 12, but the specifics have been replaced with a more general statement of regulatory authority where the Commissioner signs and makes regulations on the recommendation of the Minister.

References to amending the **Historical Resources Act** are included in section 13.

Motion [ J. Arlooktoo ]: Move to refer the Bill the **ACT TO AMEND THE ARCHIVES ACT** to the Committee of the Whole for consideration and that Clause 2 remain as in the original draft of the Bill.  
Members: Agreed.



**A STANDING COMMITTEE ON LEGISLATION REPORT ON THE  
FOREST FIRE SUPPRESSION RESERVE FUND ACT**

**Introduction**

The transfer of responsibility for fire suppression has been made to the Government of the Northwest Territories from the Federal government.

The purpose of the Bill is to establish the Forest Fire Suppression Reserve Fund as an account of the Consolidated Revenue Fund to be used to fund Supplementary Appropriations expenditures to fight forest fires when the amount expended exceeds the amount authorized by the **Appropriation Act** for the fire suppression program. This is a new act.

The Minister, Mr. Allooloo, presented the Bill before the Standing Committee on Legislation on September 26, 1989 in Yellowknife. The Minister explained that the purpose of the Bill was to establish a forest fire reserve fund which will be a self-sustaining fund acting as a source of funding fire control during severe fire seasons when the normal appropriation is exceeded, such as in 1989 when the fire season was the worst on record.

The Minister explained that each year any budgetary surplus or deficit will be credited or charged to the fund. The Government is planning to develop regulations which will govern the rules of operation of the fund.

A member of the SCOL asked where the first five million dollars will come from to open the fund.

The Minister replied that the money will come from the surplus, if any, and that it is up to the Financial Management Board to decide which fund it will come from.

The Acting Chairman, Mr. Sibbeston, asked on behalf of several committee members as to whether or not this fund will provide for firefighting on the tundra where there are no trees.

The Minister stated that the Government has a policy to govern the expenditure of fire suppressant funds if it was determined that there was a need to fight a fire up in the tundra.

## Clause by Clause

Clause 3, the opening balance of the fund is \$5,000,000 and the maximum amount of the fund is \$15,000,000, clause 4.

A SCOL member asked how the \$15 million dollar figure had been derived at, since it was his understanding that fire suppression costs had exceeded that amount this year.

The Government representative, Mr. Feil, explained that the \$15,000,000 figure was a relatively arbitrary amount that was chosen; and that it was a supplementary amount to the annual appropriation. The Department of Renewable Resources has between eight and nine million dollars budgeted this year for fire suppression, the reserve fund comes into use only when that amount has been exceeded. The reserve fund is a buffer over and above the budget.

The acting Chairman asked where will this reserve fund will come from if there are several years when the Department exceeds its budget.

The Government representative noted several factors: that the Department did not have a great deal of experience in this area; that they have exceeded the normal appropriation for this year; and that the GNWT may have some recourse to the Federal Government through the transfer agreement. He added that if the Government's experience continues to be that they never have a year that accumulates a surplus, then there will be no surplus to put into the fund.

The Minister added that last year the department showed a surplus in the program of \$2,000,000. This year the cost will be \$16,000,000. According to the transfer agreement with the Federal Government, they will assist the Department to ease the overburden. This will be the last year of the agreement.

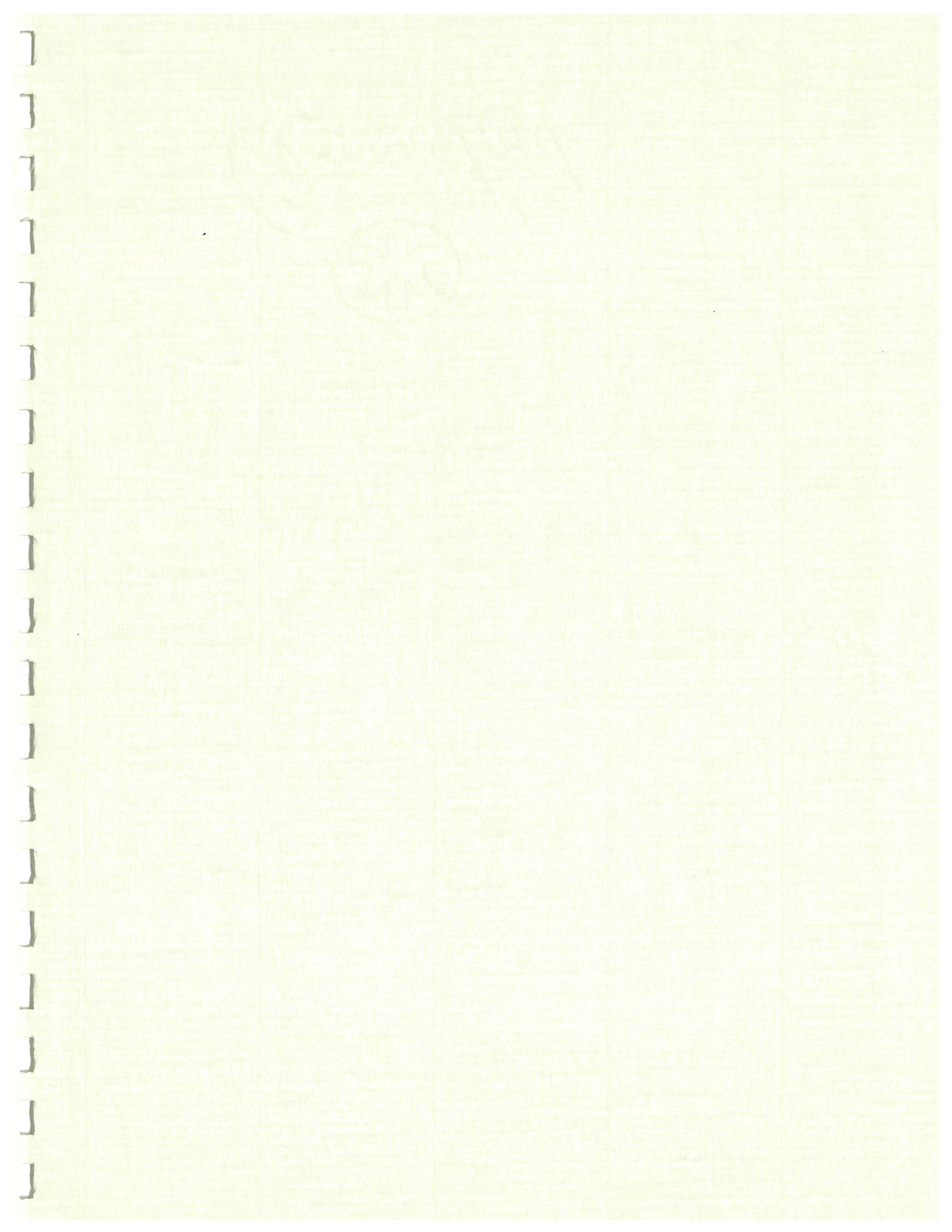
Clause 8, specifies that upon the recommendation of the Minister, the Commissioner may make regulations prescribing the classes of expenditures that may be incurred under the Fire Suppression program.

Motion [ Mr. Sibbeston ]: Bill as a Whole.

Members: Agreed.

Motion [ Mr. McLaughlin ]: Move that due to financial implications that the Bill the **FOREST FIRE SUPPRESSION RESERVE FUND ACT** be referred to the Standing Committee on Finance for consideration.

Members: Agreed.



**A STANDING COMMITTEE ON LEGISLATION REPORT ON THE  
DENTAL PROFESSION ACT**

**Introduction**

The purpose of this Bill is to regulate the practice of dentistry in the Northwest Territories; to establish a Registration Committee; to provide for qualifications for registration and licensing under the Act; to provide for a Review Officer, a Board of Inquiry and appointments to the Board; to establish offences and penalties; and to provide for regulatory powers.

The Minister, Ms. Cournoyea, appeared before the Standing Committee on September 26, 1989. She noted that the existing Act has proven to be outdated and no longer addresses the needs of the Northwest Territories. Three years ago the NWT Dental Association requested that the Act be updated to better safeguard the public, to provide for more Association input, and to address deficiencies in the present Act. A committee representing the Dental profession, Health Board, and the Department of Justice have reviewed the current Act and have prepared a number of recommendations reflected in the proposed Bill.

The current **Dental Professional Act** regulates various dental auxiliary personnel. Regulation of these people will continue under the existing Act which will be renamed the **Dental Auxiliary Act**. Only dentists will be regulated under the proposed **Dental Professional Act**.

The Minister continued and explained that due to continuing difficulties in recruiting fully qualified dentists to many parts of the NWT, the one-time three year period temporary permit registration for dentists who have passed the National Dental Examination or its equivalent will continue. The NWT will continue to be the only jurisdiction in Canada to allow dentists to practice who do not possess the National Dental Examining Board of Canada certificate or its equivalent.

A member asked if foreign trained dentists could practice in the NWT. The Legislation Director explained that under the proposed Act they might be eligible under certain conditions of sponsorship by a resident dentist to practice for a period of three years and to later pass examination before becoming eligible to practice dentistry under part one of the Act.

## Clause by Clause

A member asked in clause 2[1] "Licence to practice" as to whether or not a person who does not have Canadian qualifications must practice as part of a company and can someone who is not a licensed dentist be permitted to work under the supervision of a dentist. The Legislation Director explained that it was not a requirement to set-up a corporation, but that the Bill allows dentists to set-up a corporation in order to take advantage of that administrative structure for business purposes. All dentists in a professional corporation must be licensed.

In clause 5, "a person may apply to the Registration Committee to be registered in Part One or Part Two of the Dental Register". a member asked as to what is meant by "registers".

The Government representative explained that there are two registers with various categories that define the qualifications necessary for a dentist, orthodontist, and a foreign trained dentist, for example. To be registered as a specialist in part two, you must qualify for registration in part one or be a general dentist. This allows the Government to control and keep track the numbers and types of qualified dentists allowed to practice. Residency in the NWT is not a requirement for registration.

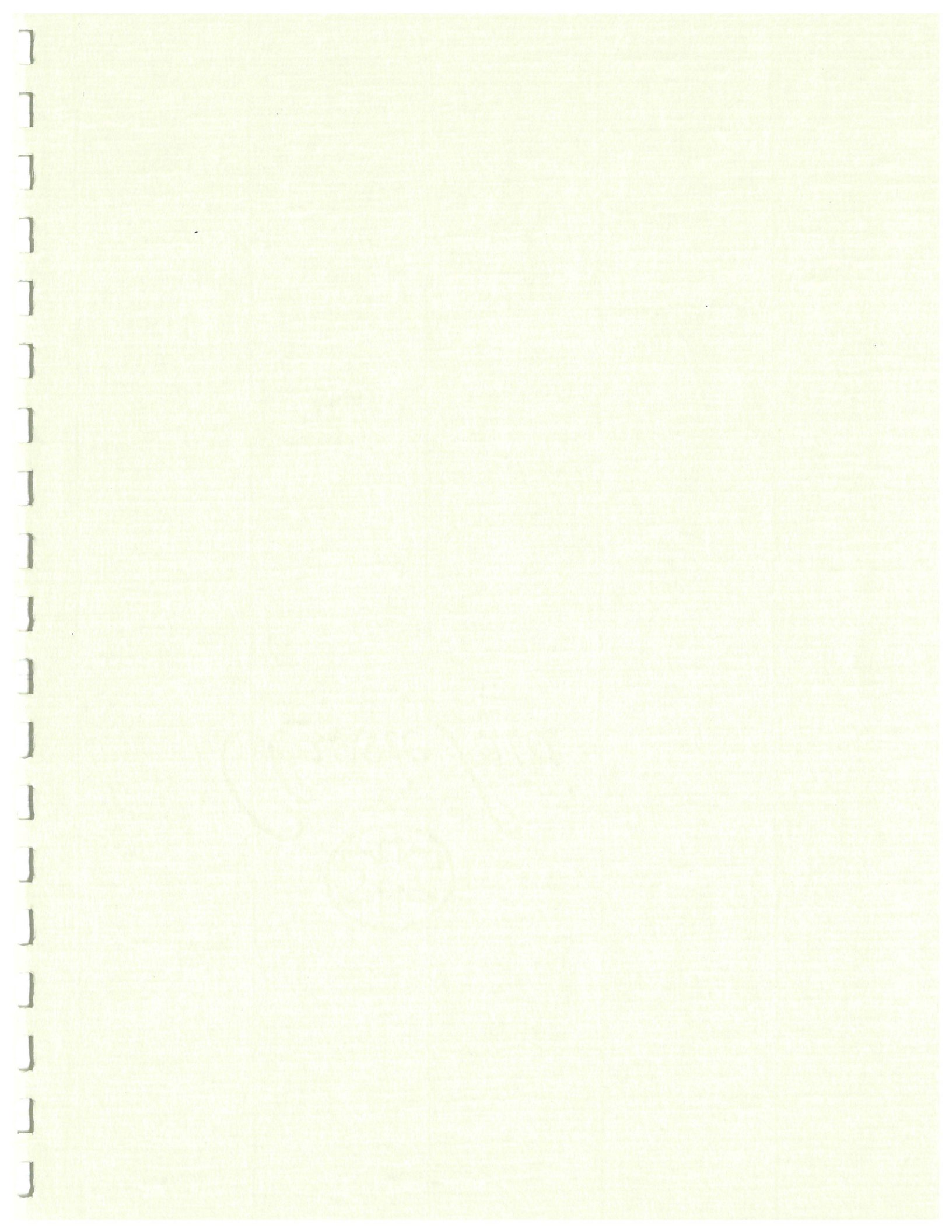
A member asked if the Review Officer, clause 42[1], for looking into disciplinary matters was a dentist and similarly was the majority who sat on the Board of Inquiry [clause 57] also made up of dentists.

The Legislation Director stated that this was the case because professionals were needed to determine the facts in the matter under review. In the professional regulated acts there is criteria set-up to deal with discipline in order to allow that licenses to practice can be revoked. There is also an appeal mechanism from the Board of Inquiry to protect a dentist and to protect the public.

A member of the Committee [ Mr. Gargan ] notified the Minister that he had serious concerns which he may bring up in the House over what could be perceived by the public as a different level of justice in the Bill for professional people, in that the Review Officer and the majority of the Board of Inquiry are composed of professionals judging their own colleagues.

Motion [ Mr. Kilabuk ]: Moved to refer the Bill the **DENTAL PROFESSION ACT** to the Committee of the Whole for consideration.

Members: Agreed.





**A STANDING COMMITTEE ON LEGISLATION REPORT ON THE  
ACT TO AMEND THE NURSING PROFESSION ACT**

**Introduction**

The purpose of this Bill is to extend the period of time that a person can work as a nurse under a temporary certificate of exemption from six months to two years.

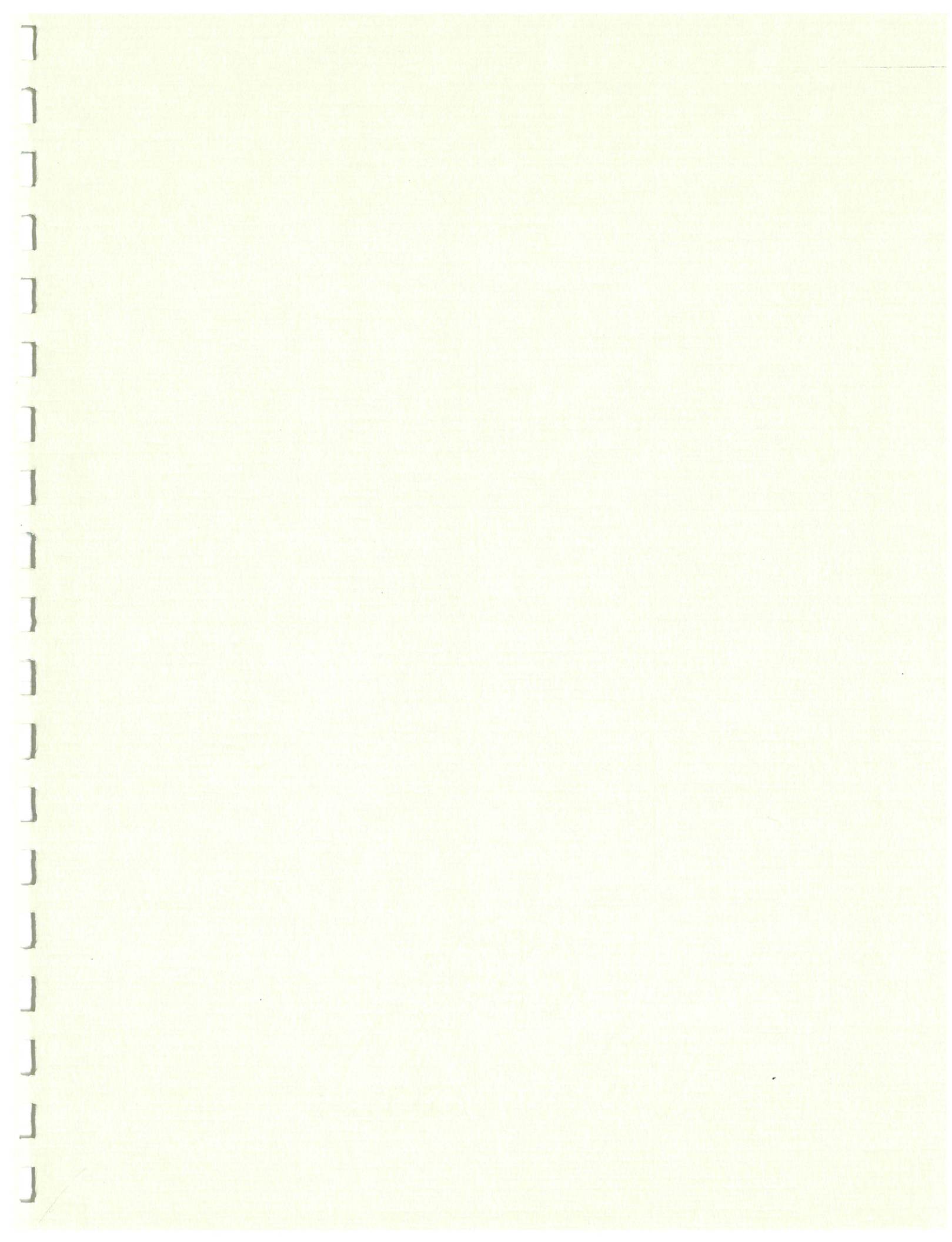
The Minister, Ms. Cournoyea, presented the Bill to the Standing Committee on Legislation on September 26, 1989 in Yellowknife. She explained that this is a minor amendment which will permit a temporary registration to be issued to a graduate nurse for a period of up to 24 months. She noted that there is a severe shortage of nurses in the NWT and in Canada. A number of nurses are being recruited from the United Kingdom and that a period of 18 to 24 months is required for their orientation to Canada and their writing and passing the Canadian Nursing Examination. Consequently, this amendment is urgently required.

**Clause by Clause**

Section 13[3], REGISTRATION, exemption, is proposed to now read "a temporary certificate of exemption is valid for *two years* only and may not be renewed."

Motion [ Mr. Kilabuk ]: Moved to refer the Bill an **ACT TO AMEND THE NURSING PROFESSION ACT** to the Committee of the Whole for consideration.

Members: Agreed.



**A STANDING COMMITTEE ON LEGISLATION REPORT ON THE  
ACT TO AMEND THE MENTAL HEALTH ACT**

**Introduction**

The purpose of this Bill is to amend the **Mental Health Act** which was proclaimed in force on 1 January 1988.

The proposals will provide for amendments concerning the following: consent for admissions of voluntary patients; emergency treatment, to allow for transfer to a hospital outside of the Northwest Territories at any time during the detention of a patient; and to increase the time for an application for extension of detention of an involuntary patient.

The Minister, Ms. Cournoyea, presented the Bill before the Standing Committee on Legislation on September 26, 1989. The Minister explained that the Act is complicated and that health professionals and the courts have had an opportunity to apply the existing **Mental Health Act** and a number of concerns have been raised which require attention.

The amendments will serve the purpose of better safeguarding the security and care of patients, relieve the concerns of families, and establish more realistic obligations for both health and court officials.

A member raised the question as to the role of the Commissioner in the Act, for example for application of a certificate of transfer of a patient. The Minister explained that under the Federal **Northwest Territories Act** this procedure is required for the transfer of a patient outside of the Northwest Territories.

A member requested that the Government research the matter of the powers of the Commissioner in this area and determine whether or not the powers are exclusive or whether these powers can be given to a Minister. The Acting Chairman [ Mr. McLaughlin ] advised the Minister to take an undertaking to report back on this matter.

Clause by Clause

Section 7, "Voluntary admission", is repealed and substituted with a provision that does not require the written consent of the person being admitted.

Section 14, "Examination", is repealed and substituted with a provision that does not require a valid consent form.

Section 15[b,c], "Involuntary admission pursuant to psychiatric assessment", is repealed and substituted with provisions that do not require consent from the person being admitted.

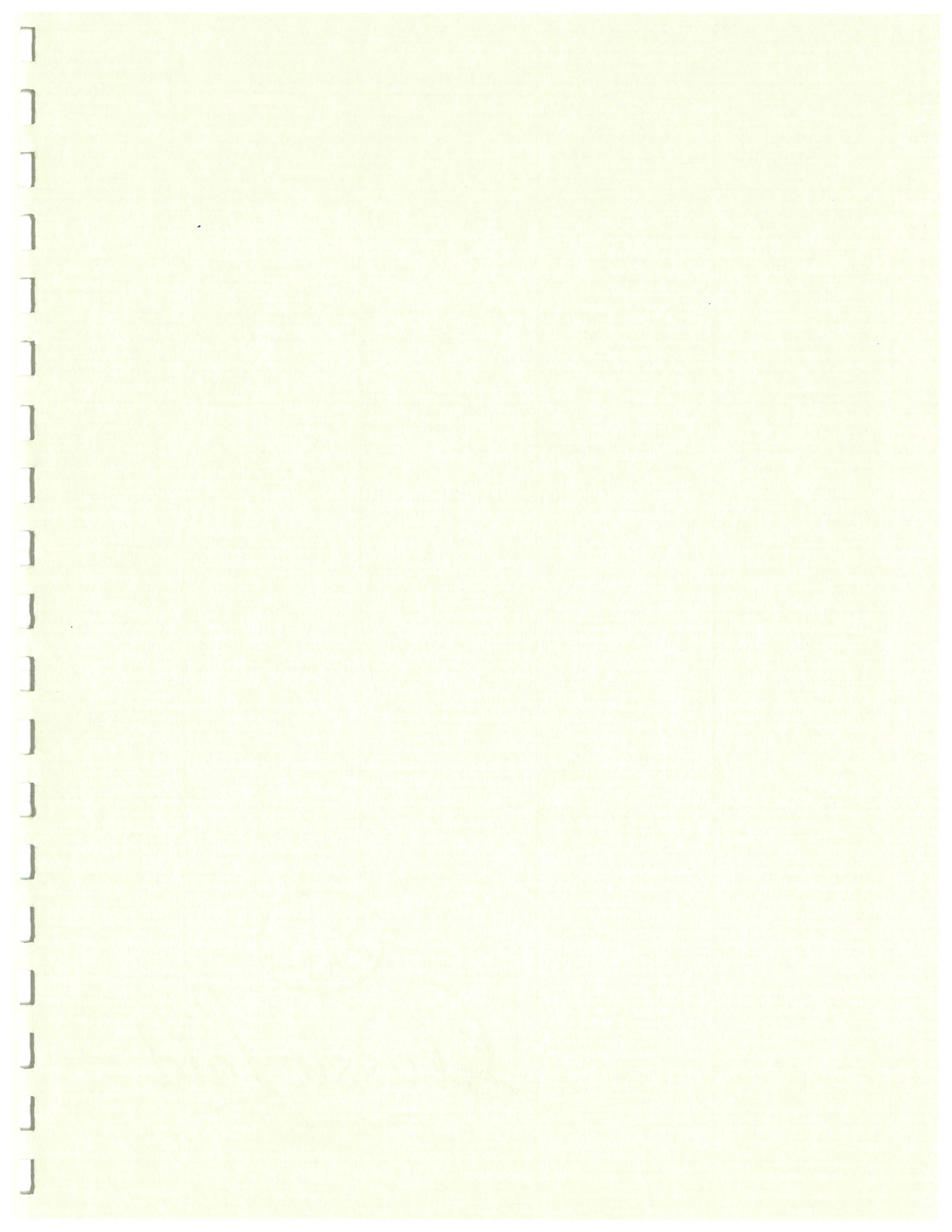
Section 19[1] is new and allows for the transfer of a patient to a hospital outside of the Northwest Territories.

Section 20[1] is repealed and substituted with provisions that a "Certificate of Transfer" application from a medical practitioner to the Commissioner is allowed.

Section 24[1,2] is amended and repealed to allow a 72 hour time period.

Section 44[1][c] is repealed and substituted with the wording change, "has been applied for", replacing "has been obtained".

Motion [ M. Kilabuk ]: Move to refer the Bill the **ACT TO AMEND THE MENTAL HEALTH ACT** to the Committee of the Whole for consideration.  
Members: Agreed.



**A STANDING COMMITTEE ON LEGISLATION REPORT ON THE  
ACT TO AMEND THE NORTHWEST TERRITORIES  
POWER CORPORATION ACT**

**Introduction**

The purpose of this Bill is to amend the **Northwest Territories Power Corporation Act**.

The Standing Committee on Legislation last reviewed the Act the **Northwest Territories Energy Corporation Act [Power Corporation]** in 1988. The Bill was also reviewed with the Standing Committee on Finance. At that Joint Committee meeting the Minister, Ms. Cournoyea, informed the members that there would be no power rate increases until October 1, 1989, the date upon which the NWT Power Corporation will become subject to public utility regulation under the **Public Utilities Act**.

The Minister also informed the SCOL, at that time, that the Government would bring forward proposed changes to the **NWT Power Corporation Act** in the Fall session of 1989.

These changes were introduced by the Minister, Ms. Cournoyea, before the Standing Committee on Legislation on September 26, 1989 in Yellowknife.

The Minister explained that the **Act to Amend the Power Corporation Act** was required because the amended **Public Utilities Act** was passed by the Legislature this Spring ensuring that the Power Corporation will be regulated under the **Public Utilities Act** beginning October 1, 1989.

She explained that the most important matter that remains for the Government is the establishment of the rate structure, the allocation of the cost of service to rate zones and classes of customers. She announced that the Power Corporation has made application to the Public Utilities Board for permission to increase the customer rate across the board by 4.8%, effective November 1, 1989.

The second proposal is a change to permit the Power Corporation to pay fuel taxes and grants in lieu of property taxes. Amendments are also proposed regarding financial matters of the Power Corporation in relation to the **Financial Administration Act**.

**Act to Amend the Power Corporation Act.....p.2.**

Clause by Clause

Clause 2, the definition of "energy", now includes paragraph "[d] any prescribed matter".

The Legislation Director, Ms. Bentivegna, explained that "any prescribed matter" means that it will be defined in regulations.

The definition of "plant", now includes "or for the distribution, delivery or supply of water and sewerage services".

The Legislation Director noted that there was an omission in the Act that overlooked the fact that there was nothing referring to the plant that would provide for the distribution, supply, and delivery of water and sewage services.

The definition of "rate structure" has been amended to exclude the term, "establishment of".

Clause 2.3 is new and states that this Act is paramount, or in supreme authority over any other Act should a conflict in legislation occur.

The Legislation Director explained that this section was put in to provide a measure of certitude, in that should there be a conflict between the terms of this Act and any other Act, the **Power Corporation Act** would prevail.

The Acting Chairman, Mr. McLaughlin, explained that he had reservations concerning this provision because other departments may come forward with legislation saying that a certain Act shall be in supreme authority over this Act, then what would take precedence.

The Legislation Director explained that a conflict with the **Power Corporation Act** and the **Public Utilities Act** for example would be open to interpretation. This section does not allow the Power Corporation to do what it wishes. It is limited to what is in the **Power Corporation Act** and not the powers of a general nature.

Clause 4, "Objects of Corporation" has an additional section added which broadens the mandate of the Power Corporation to read: "[c] to ensure a continuous supply of energy adequate for the needs and future development of the Territories; and [d] to undertake any other activity authorized by the Executive Council."

The Legislation Director explained that these changes were made to provide that the Power Corporation could undertake programs to conserve energy and to set-up subsidiaries to carry out other activities, such as computer services, which may be of benefit to the Power Corporation.

Clause 10, "Appointment of chief executive officer" is new and provides that the chief executive officer of the Power Corporation may be the chairperson or the president.

Financial related amendments to the Act include clauses 12 through 34. The Standing Committee reviewed several of the amendments with the Government and made a motion to defer the review of the financial aspects of the Bill to the Legislative session in Norman Wells, October, 1989 [ see the conclusion of this report for the motion ].

Clause 12 is amended and allows the Corporation to make an indemnity, or compensation, of over \$500,000 on behalf of a person.

Clause 15 is amended by repealing section [1] and substituting wording which will clarify the return on equity which the Power Corporation will be entitled to.

Committee members questioned the intent and purpose behind this section. The Deputy Minister stated that the department would provide the Committee with the independent legal council report which advised the Government and resulted in these proposals.

Clause 19.1 is repealed and wording substituted which sets the limit on borrowing of the Power Corporation, 19[1](1).

Clause 21 is amended to allow for the Government of the NWT to provide loans or invest in the Power Corporation.

**Act to Amend the Power Corporation Act.....p.4.**



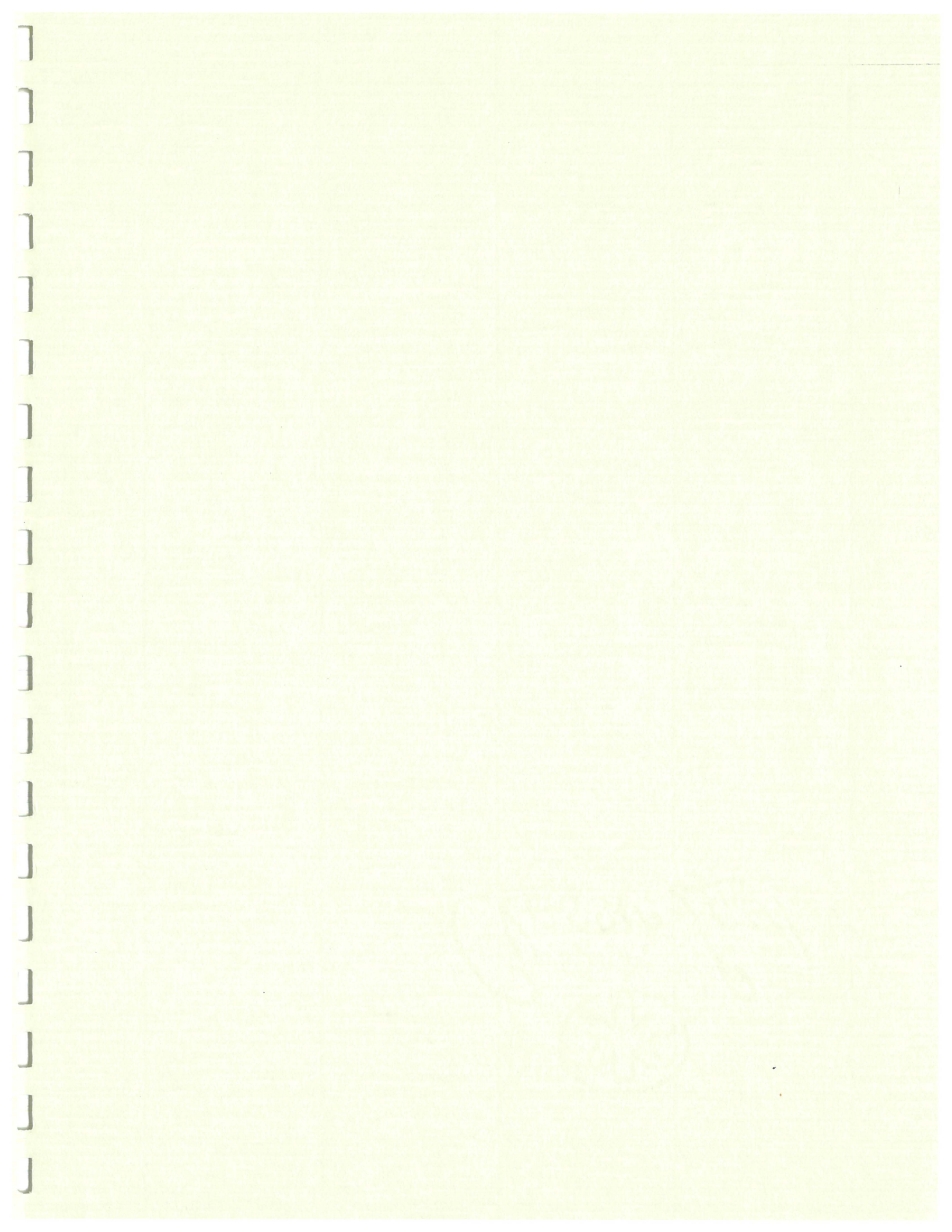
Clause 26[1](1) allows the Power Corporation to write-off assets that do not exceed \$100,000 and debts that do not exceed \$20,000. These amounts may be exceeded with the approval of the Financial Management Board.

Clause 32, now reads that the property of Power Corporation is exempt from taxation. Section 32 is amended to read that "The Corporation shall pay a grant in an amount equal to the property taxes on assessed lands and improvements of the Corporation to a municipal taxing authority or to the Government of the Northwest Territories, if the land and improvements are in a general taxation area, under the **Property Assessment and Taxation Area.**"

Consequential amendments to various local government acts follow at the end of the Bill.

Motion [ Mr. Sibbeston ]: Move that clauses 1-11 of the **Act to Amend the Power Corporation Act** be approved for consideration by the Committee of the Whole; and that clauses 12-34 be forwarded to the Standing Committee on Finance for review at the Legislative session in Norman Wells.

Members: Agreed.



**A STANDING COMMITTEE ON LEGISLATION REPORT ON THE  
ACT TO AMEND THE LIQUOR ACT**

**Introduction**

The purpose of this Bill is to amend the **Liquor Act** by including a new section, clause 46.3 which would allow for a municipality or settlement to request that the Minister declare a prohibited area for the consumption, possession, purchase, sale or transport of liquor during the time of a special occasion, for a period of not more than 10 days.

Those found guilty of an offence under this order can be fined up to \$500 or imprisoned for a term not exceeding 30 days or both.

The Minister responsible was unavailable and the Bill was introduced to the Standing Committee on Legislation by Mr. Ballantyne, the Minister of Justice, on September 27, 1989.

The Minister pointed out that he had declared Fort Simpson a prohibited area for the consumption, possession, purchase, sale or transport of liquor during the time of the visit of the Pope. There was some concern raised at that time as to the powers of the Government in this area under the **Liquor Act**. Consequently, the Government has brought forward this amendment to insure that if there is a special event, and there is a request from the community council to have prohibition put into effect for a period of up to ten days, then that power will be in the **Liquor Act**.

A member raised the question as to who would undertake the enforcement of this provision of the Act.

The Minister stated that enforcement would be the responsibility of the RCMP.

Another member asked if the Minister would be willing to expand the provision so that Band Councils in certain instances could request prohibition.

The Minister agreed to take this question under review and to discuss the matter with the Minister responsible, Mr. Butters.

In reference to the **Liquor Act**, a member proposed the following motion for consideration by the Government.

Motion [ Mr. Gargan ]: That the Minister review sections 46[2][a][b][c][d] and [3] of the **Liquor Act** and consider whether or not a plebiscite can be held to restrict liquor hours and establish a liquor business in a community.

Members: Agreed.

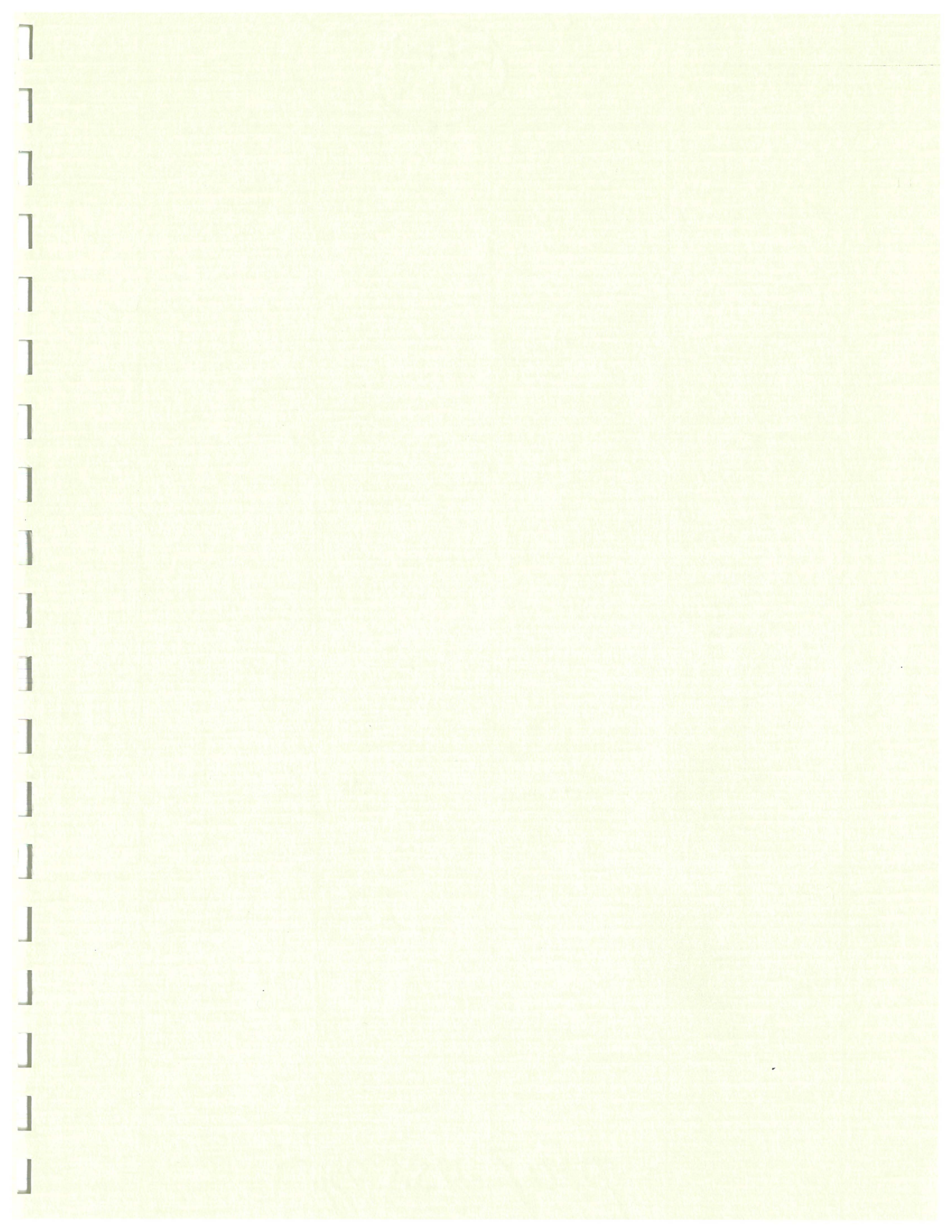
### **Clause by Clause**

The Chairman asked the Minister what was meant in the Bill by a "special occasion". Did the Government have a definition. In addition, could the rights of a licensed establishment owner be infringed by this proposed amendment.

The Minister replied that there was no definition of "special occasion" as the variety could be considerable. The discretion remained with the Minister and the community to decide if an occasion warrants this prohibition. Concerning the right of someone to carry out business, the Minister insisted that since this amendment would be called into force on few occasions, and that since it required community consensus, there should not be a problem.

Motion [ Mr. Kilabuk ]: Move to refer the Bill an **ACT TO AMEND THE LIQUOR ACT** to the Committee of the Whole for consideration.

Members: Agreed.



**A STANDING COMMITTEE ON LEGISLATION REPORT ON THE  
ACT TO AMEND THE BUSINESS LOANS AND GUARANTEES ACT**

**Introduction**

The purpose of this Bill is to amend the **Business Loans and Guarantees Act**.

This Act provides for the establishing of Territorial Business Loans Boards made up of the Department Head as the Chairperson and consisting of appointed members, who serve for a term not to exceed two years.

The Act allows for six regional business loans boards, each consisting of a chairperson and three other members. The chairperson is appointed by the Minister. This person must be a member of the public service and live in the region.

Loans are provided to business enterprises who would not likely be able to receive a loan from a financial institution "on reasonable terms and conditions".

The Minister, Mr. Wray, presented the Bill to the Standing Committee on Legislation on September 28, 1989. He explained that the Department of Economic Development and Tourism is seeking to revise SCHEDULE "B", the Maximum Aggregate of Principal Amounts Outstanding in Respect of All Loans and Guarantees" from \$16,000,000 to \$20,000,000.

He explained that loans and guarantees are made to finance the purchase, installation, renovation, improvement of equipment, inventory or premises used in the course of operating a business. In addition loans and guarantees may be made to provide working capital for the acquisition of current assets and a security in lieu of bonding for specified construction projects.

The capital of the Business Loan Fund has not kept pace with the issuance of new loans. Interest from the fund is not retained in the fund but paid into the general revenue account of the Government of the NWT.

A member asked the Minister who is eligible for loans from this fund.

The Minister replied that all residents of the NWT, subject to the criteria, can apply to this loan fund.

The Chairman asked if the Minister could indicate the number of loans that are in default, late-payment and non-payment.

The Minister explained that approximately 15% of the loans are in default. Some loans are in the process of writing-off; some have been sent to credit and collections; some are being rescheduled. Since there are a large number of loans outstanding, the Committee will be provided with this information.

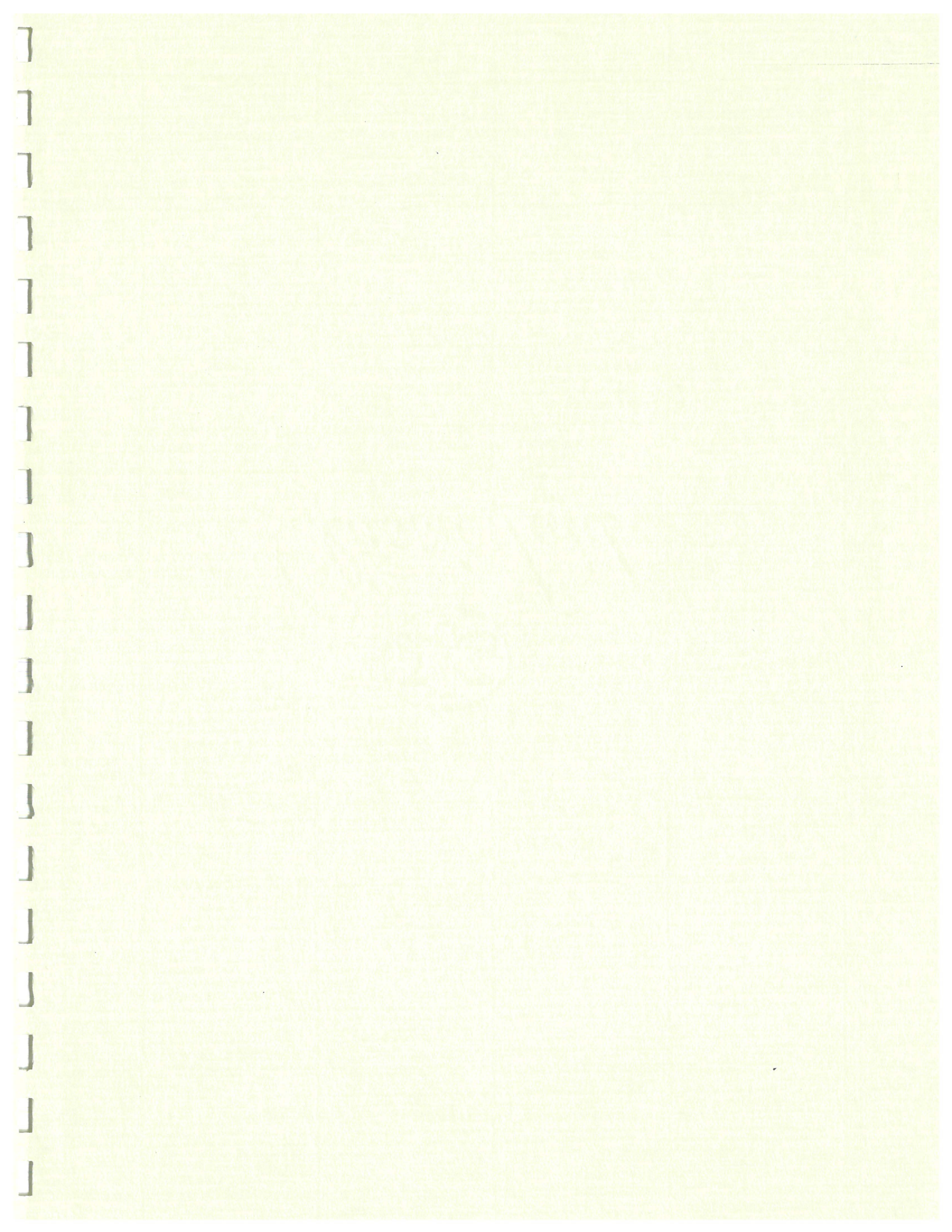
The Chairman noted that this Bill may also be reviewed by the Standing Committee on Finance during the Norman Wells session.

### **Clause by Clause**

Clause One. "1. The *Business Loans and Guarantees Act* is amended by striking out '\$16,000,000' in Schedule B and substituting '\$20,000,000'.

Motion [ Mr. Arlooktoo ]: Move to refer the Bill an **ACT TO AMEND THE BUSINESS LOANS AND GUARANTEES ACT** to the Committee of the Whole for Consideration.

Members: Agreed.





**A STANDING COMMITTEE ON LEGISLATION REPORT ON THE  
ACT TO AMEND THE CHARTER COMMUNITIES ACT**

**Introduction**

The Standing Committee on Legislation first reviewed the **Charter Communities Act** in May, 1987. It was proclaimed in force on 1 January 1988.

This is a unique piece of legislation not found in other jurisdictions. Its purpose is to allow for a charter agreement, which sets out the powers and responsibilities of a municipal government with the Government of the Northwest Territories; and which would provide for a unique form of government in a community that has both an active Band Council and Settlement Council, for example.

The Minister, Mr. Wray, presented the Bill to the Standing Committee on Legislation on September 28, 1989 in Yellowknife. The Minister explained that at present, there are no established Charter communities existing in the Northwest Territories; however a charter has been worked on for the communities of Fort Good Hope and Fort Resolution.

The purpose of the this Bill is to amend the Act in the following manner.

**Clause by Clause**

Section 11[a](1), "Contents of community charter", is new adding "fix the date for elections".

Section 33[b](1), "Rules of procedure for council", is new adding after "[b] the procedure of the council", "(b.1.) the circumstances in which the mayor or other presiding council member may vote at meetings of council or committees of council:".

Section 35[1], "Validity of resolutions and by-laws" is amended by striking out "and entitled to vote" and substituting "and voting".

Section 36, "Entitlement to vote", is repealed and substituted with wording to determine under what circumstances the leader or other presiding member shall vote; and to clarify that a majority of those council members voting is necessary in order for a resolution or by-law to pass.

Section 169[1.1], "Procedure for Forgiveness of Debts", is new and allows the council to forgive outstanding property taxes, by by-law approved by the Minister, where no special lien attaches against land for non-payment.

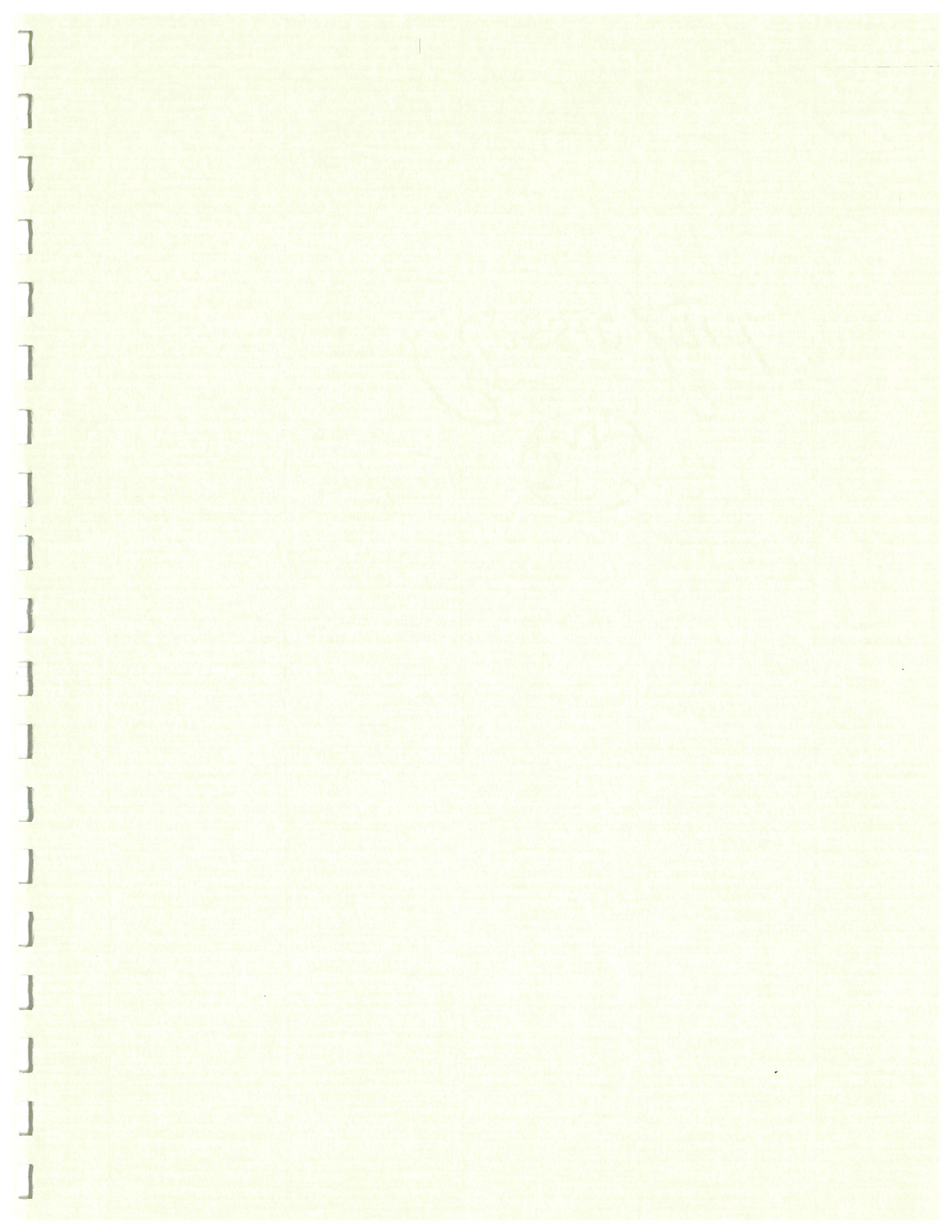
The Minister explained to the Committee that the purpose of this amendment was to allow for the write-off of tax debt.

Section 170, "Making Grants", is repealed and revised allowing for the council to make grants to persons or groups not resident in the municipality. However, the approval of the Minister must be obtained before the grants are made.

A consequential amendment is included in the Bill, which proposes to amend the **Local Authorities Elections Act**.

Motion [ Mr. Kilabuk ]: Move to refer the Bill an **ACT TO AMEND THE CHARTER COMMUNITIES ACT** to the Committee of the Whole for consideration.

Members: Agreed.



**A STANDING COMMITTEE ON LEGISLATION REPORT ON THE  
ACT TO AMEND THE CITIES, TOWNS AND VILLAGES ACT**

**Introduction**

The Standing Committee on Legislation first reviewed the **Cities, Towns and Villages Act** in May, 1987. It was proclaimed in force on 1 January 1988. The purpose of the Bill was to provide for administration procedures, powers, and duties for regulating the activities of cities, towns, and villages. This Act replaced the existing **Municipal Act** and provided for consequential amendments to other Acts.

The Minister, Mr. Wray, introduced the Bill before the Standing Committee on Legislation on September 28, 1989.

The purpose of this Bill is to allow for amendments to the **Cities, Towns and Villages Act** as follows.

**Clause by Clause**

The Director of Legislation clarified a further amendment and change in numbering to section 2 which will be included in the Bill referring to the procedural requirements for a name change of a municipal corporation.

Section 30[b.1], "Rules of procedure" is new and allows councils of a municipal corporation to determine under what circumstances the chairperson or other presiding member shall vote at meetings of council or committees of council.

Section 32[1], "Validity of resolutions and by-laws", is amended by striking out "and entitled to vote" and substituting "and voting".

Section 33, "Entitlement to vote" is repealed and 33[1] and 33[2] are substituted to clarify that a majority of those council members voting is necessary in order for a resolution or by-law to pass.

Section 165[1.1], "Procedure for Forgiveness of Debts", is new and allows the council to forgive outstanding property taxes, by by-law approved by the Minister, where no special lien attaches against land for non-payment.

Section 166, "Making Grants", is repealed and revised allowing for the council to make grants to persons or groups not resident in the municipality. However, the approval of the Minister must be obtained before the grants are made and a maximum \$5,000 in a fiscal year has been set.

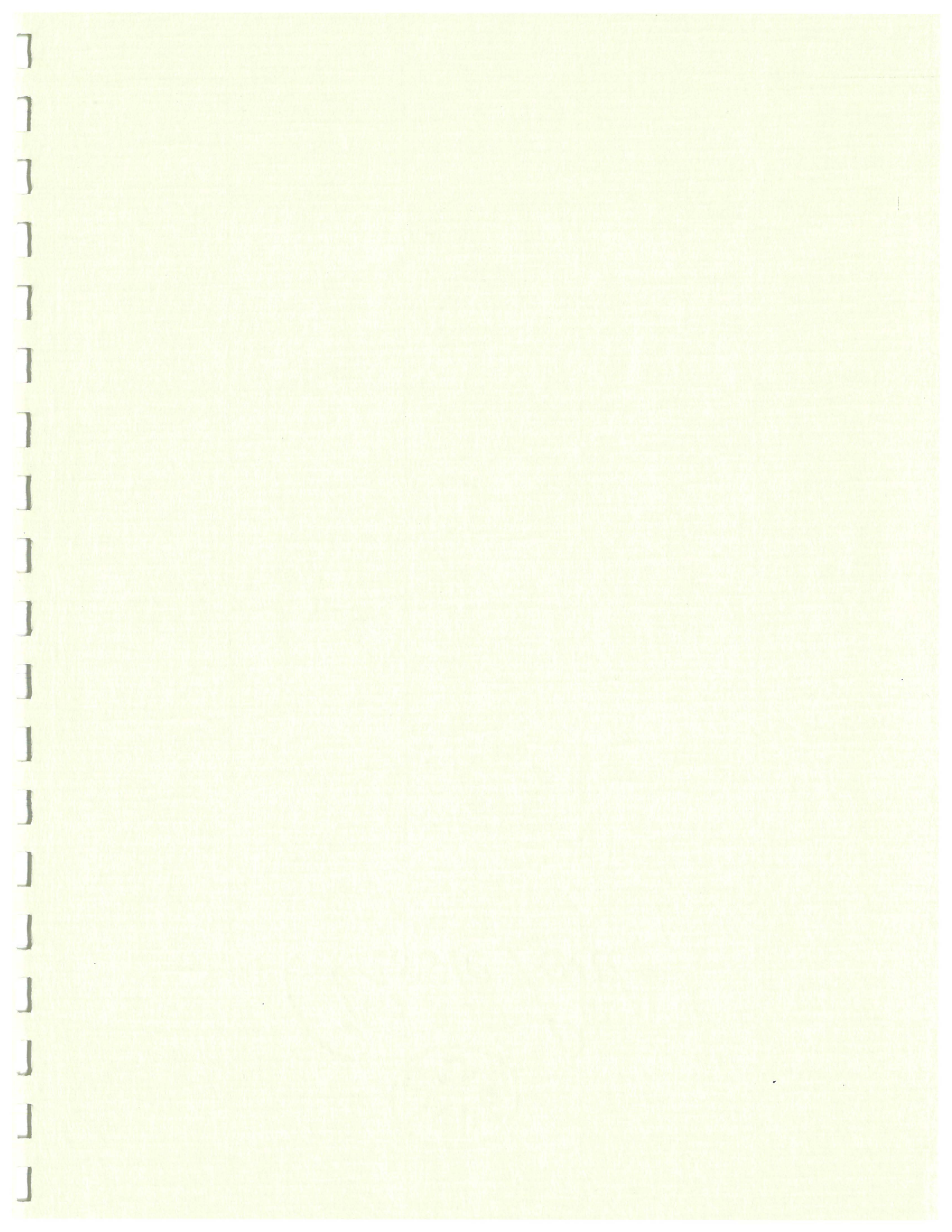
The Minister explained that this amendment was requested by the NWT Association of Municipalities; and that Ministerial prior approval is required for grants above \$5,000 to non-residents of the municipality.

Section 170 allows for making grants by a council in a fiscal year, not to exceed 2% of the total expenditures of the municipal corporation as set out in its budget.

A consequential amendment is included in the Bill, which proposes to amend the **Property Assessment and Taxation Act**.

Motion [ Mr. Gargan ]: Move to refer the Bill an **ACT TO AMEND THE CITIES, TOWNS AND VILLAGES ACT** to the Committee of the Whole for consideration.

Members: Agreed.



**A STANDING COMMITTEE ON LEGISLATION REPORT ON THE  
ACT TO AMEND THE HAMLETS ACT**

**Introduction**

The Standing Committee on Legislation reviewed the **Hamlets Act** in May, 1987 when the Bill was first introduced as a replacement of the existing **Municipal Act**. The **Hamlets Act** was proclaimed in force on 1 January 1988.

The purpose of the proposed amendments is to provide for the council to determine the circumstances in which the mayor or other presiding member shall vote; to allow the council to forgive outstanding property taxes, where no special lien attaches against land for non-payment; and to allow the council to make grants to persons or groups not resident in the municipality.

The Minister, Mr. Wray, presented the Bill before the Standing Committee on Legislation on September 28, 1989 in Yellowknife.

**Clause by clause**

The Minister noted the addition of a new clause 2 referring to procedural requirements for the name change of a community.

Section 30[b](1), "Rules of procedure for council", is new and provides for the council to make rules, by by-law, concerning "the circumstances in which the mayor or other presiding council member may vote at meetings of council or committees of council".

Section 32[1], "Validity of resolutions and by-laws", is amended by dropping the phrase "and entitled to vote" and replacing it with "and voting".

Section 33, "Entitlement to vote", is repealed and substituted with "Subject to subsection (2), every council member has one vote at a meeting of council or a committee of council. (2) The right of the mayor or other presiding council member to vote is subject to the rules passed under paragraph 30[b.1]."

Section 165[1.1], "Procedure for Forgiveness of Debts", is new and allows the council to forgive outstanding property taxes where no special lien attaches against land for non-payment.

Section 166[1]. "Making Grants", is repealed and revised allowing for the council to make grants to persons or groups not resident in the municipality. However, the approval of the Minister must be obtained before the grants are made.

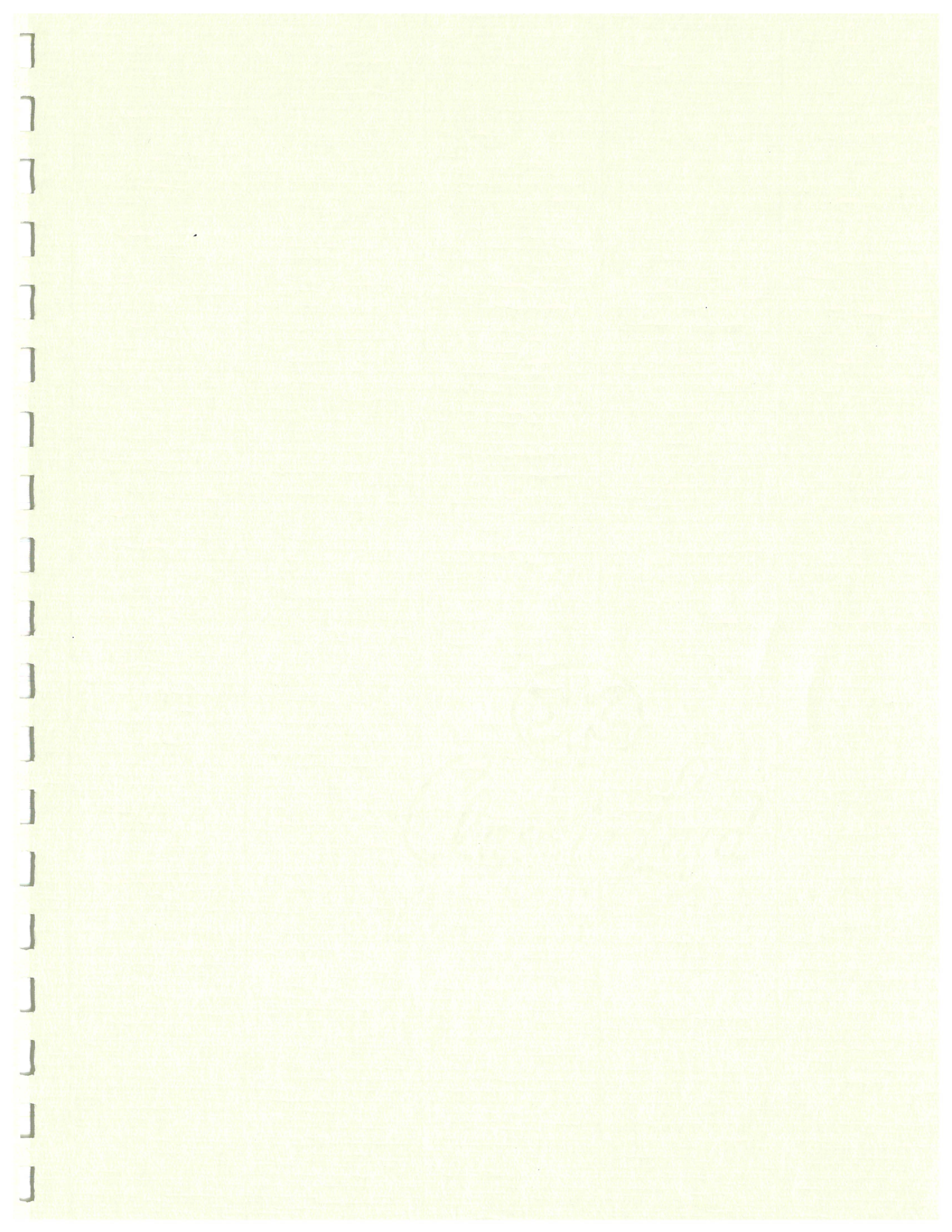
The Minister pointed out that a Hamlet must receive prior approval for grants from the Minister because 100% of the funding comes from the Government of the NWT.

The Law Clerk noted that there may be some confusion in this section because one could interpret the section as meaning that any grant given under subsection (1) must be approved by the Minister.

The Government noted that they will review this section for clarity of intent and may make a further amendment.

Motion [ Mr. Kilabuk ]: Move to refer the Bill an **ACT TO AMEND THE HAMLETS ACT** to the Committee of the Whole for consideration.  
Members: Agreed.





**A STANDING COMMITTEE ON LEGISLATION REPORT ON THE  
ACT TO AMEND THE SETTLEMENTS ACT**

**Introduction**

The Standing Committee on Legislation first reviewed the **Settlements Act** in May, 1987. It was proclaimed in force on 1 January 1988. The purpose of the Bill was to establish settlements and to provide for their administration, powers, and duties.

The Minister, Mr. Wray, presented the Bill, an **Act to Amend the Settlements Act**, before the Standing Committee on legislation on September 28, 1989. The purpose of the Bill is to allow for amendments to the **Settlements Act** as follows.

**Clause by Clause**

The Legislation Director noted that there is an additional amendment for the procedures allowing a community name change, reading: "Where the Minister considers it to be in the public interest the Minister, upon the recommendation of the Executive Council, may by order change the name of the settlement and provide for such transitional matters as may be necessary."

Section 6[2],(e.1.), "Contents of order of Settlement Corporations" is new and allows the Minister, in the order establishing the settlement corporation, to establish the dates for settlement council elections.

Section 30[b.1], "Rules of procedure for council" is new and allows settlement councils to determine under what circumstances the chairperson or other presiding member shall vote.

Section 32[1], "Validity of resolutions", is amended by striking out "and entitled to vote" and substituting "and voting".

Section 33, "Entitlement to vote" is repealed and 33[1] and 33[2] are substituted to clarify that a majority of those council members voting is necessary in order for a resolution to pass.

**Motion [ Mr. Crow ]: Move to refer the Bill an ACT TO AMEND THE SETTLEMENTS ACT to the Committee of the Whole for consideration.**

**Members: Agreed.**



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**A STANDING COMMITTEE ON LEGISLATION REPORT ON THE  
ACT TO AMEND THE MUNICIPAL EMPLOYEES BENEFITS ACT**

**Introduction**

The **Municipal Employees Benefits Act**, or otherwise known as **An Act Respecting Retirement, Death and Disability Benefits for Employees of Municipalities**, is a program administered by the Commissioner to provide a program of retirement, death and disability benefit plans for employees of municipalities. The Bill was assented to in 1975 and proclaimed into force in October 1978.

Any municipality may apply to the Commissioner to bring its employees under the program.

The Minister, Mr. Wray, introduced the Bill before the Standing Committee on Legislation on September 28, 1989, and noted that these were primarily 'housekeeping' amendments to the Act.

**Clause by Clause**

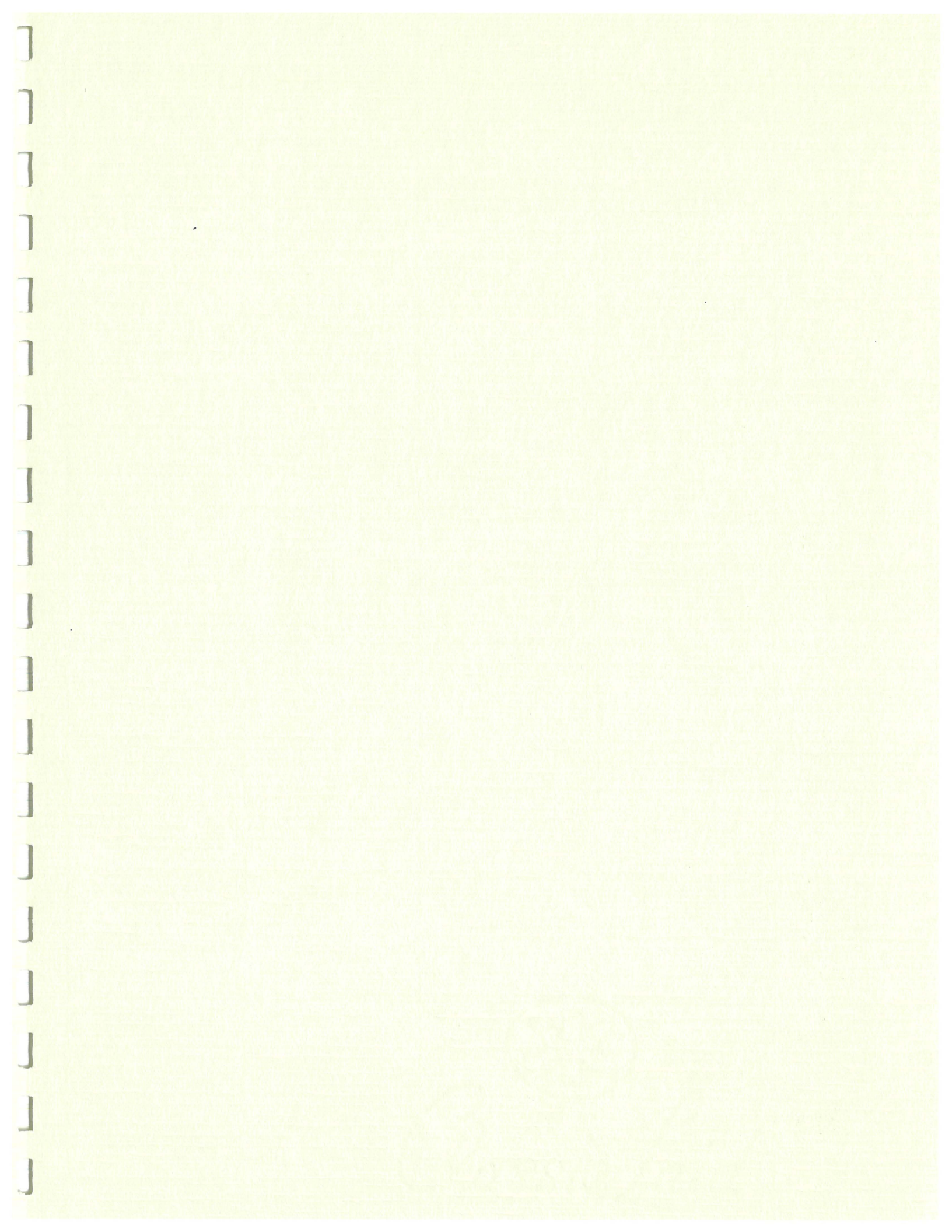
The purpose of the amendment is to add "settlement corporation" to the definition of "municipality", section 2[b], in order that its employees are eligible.

Section 9[i], which gave the Commissioner the authority to make regulations "respecting any matter in respect of which he considers regulations are necessary to remedy any deficiency in this Act", is repealed.

Section 9[1], "Retroactive regulations", is new and allows the Commissioner to make retroactive regulations for the purpose of bringing the pension plan under the Act into compliance with the **Federal Pension Benefits Standards Act, 1985**.

Motion [ Mr. Kilabuk ]: Move to refer the Bill an **ACT TO AMEND THE MUNICIPAL EMPLOYEES BENEFITS ACT** to the Committee of the Whole for consideration.

Members: Agreed.



**A STANDING COMMITTEE ON LEGISLATION REPORT ON  
THE SENIOR CITIZENS AND DISABLED PERSONS  
PROPERTY TAX RELIEF ACT**

**Introduction**

The purpose of this Bill is to provide property tax relief for senior citizens and disabled persons who own "eligible property" by providing an exemption of all or part of taxes.

This Bill will also repeal the existing **Senior Citizens Land Tax Relief Act**.

The Minister, Mr. Wray, introduced the Bill to the Standing Committee on Legislation on September 28, 1989. The Minister explained that the request to include disabled people under the Act was proposed by several members in the past. The Government in co-operation with the NWT Council for the Disabled has had a difficult time coming up with a suitable definition of disabled. A further difficulty is the lack of verifiable documentation on the number of people in the NWT who are disabled. Consequently, the Government is uncertain as to the number of people who would now be eligible for tax relief.

**Clause by Clause**

Section 1, of the proposed Act defines a "disabled person" and "eligible property".

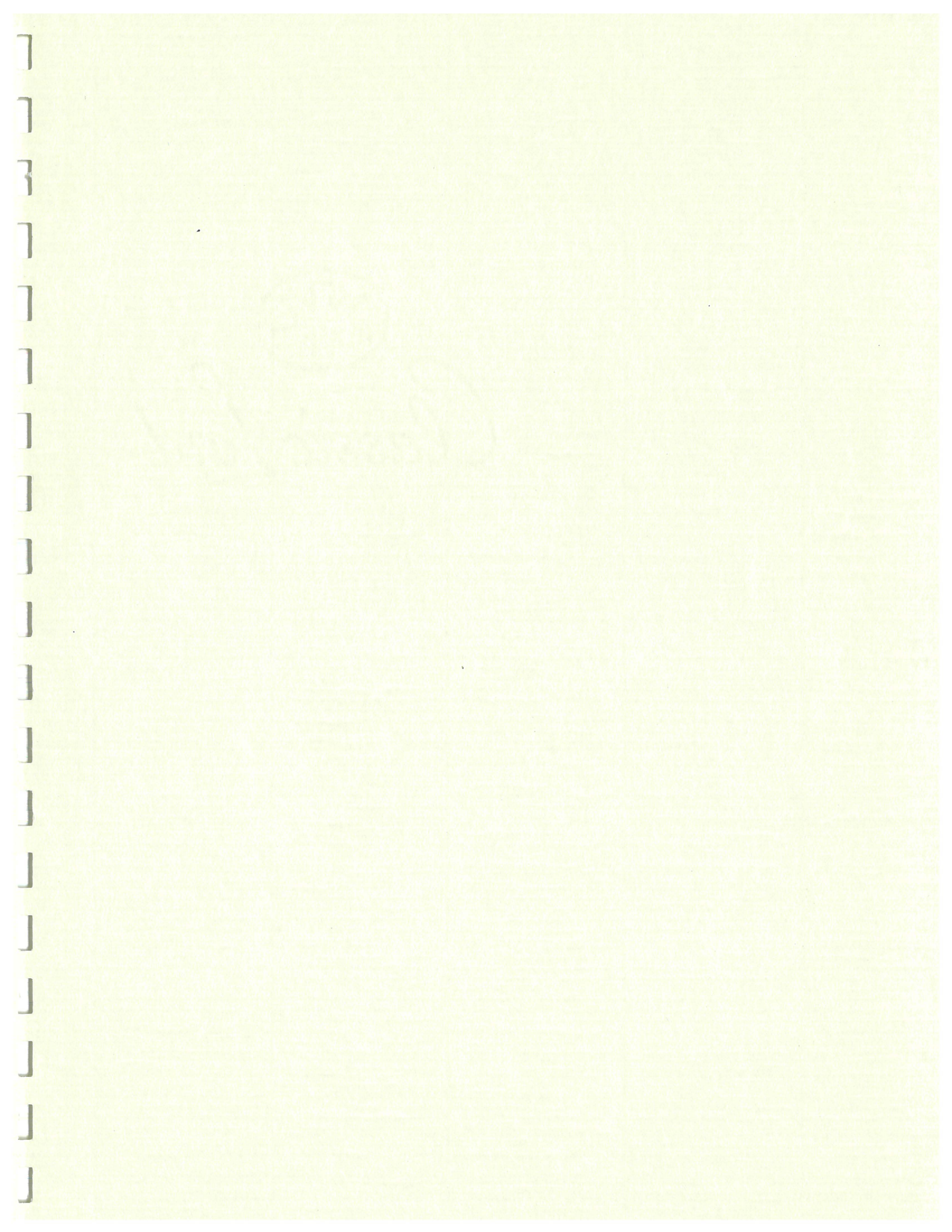
A member asked if owners of condominium units would be eligible. The Minister replied that the Government believes that owners of condominiums would be included under the Act. However, the Government will confirm this to the Committee.

The existing **Senior Citizens Land Tax Relief Act** does not provide for tax relief for a "disabled person" and the definition of "Eligible property" is not specified. The existing **Senior Citizens Land Tax Relief Act** specifies that the remission of tax is limited to, "not exceeding fifty percent of the taxes, as is specified in the By-law."

Section 4 of the proposed **Senior Citizens and Disabled Persons Property Tax Relief Act** provides that the Minister responsible for finance may exempt all or part of the taxes of a senior citizen or disabled person.

The Minister explained that in a general taxation area the government collects all of the taxes, in municipalities the local authority collects taxes. In cases of a municipality the Government will reimburse up to 50%.

Motion [ Mr. Sibbeston ]: Move to refer the Bill **THE SENIOR CITIZENS AND DISABLED PERSONS PROPERTY TAX RELIEF ACT** to the Committee of the Whole for consideration.  
Members: Agreed.





**A STANDING COMMITTEE ON LEGISLATION REPORT ON THE  
ACT TO AMEND THE MOTOR VEHICLES ACT**

**Introduction**

The purpose of this Bill is to amend the **Motor Vehicles Act** to allow for the Act to conform to the requirements of inter-jurisdictional agreements relating to the National Safety Code.

The Minister, Mr. Wray, introduced the Bill to the Standing Committee on Legislation on September 28, 1989 and explained that the amendments to the Bill apply to certain types of vehicles categorized under "NSC Vehicles". The trucking industry will be governed by a new set of safety standards which will be uniform across Canada. The proposed amendments will provide the Department of Transportation with the authority to establish and enforce the regulatory components of the National Safety Code.

A member raised the question of the cost and feasibility of bringing in these new regulations across the NWT. The Minister replied that the Government will be implementing these regulations over a four year period. Secondly, these regulations will also apply outside of the NWT. As a result all trucking firms who travel outside of the NWT will be required to comply.

**Clause by Clause**

In clause 2, "NSC Vehicle", is defined as being "a commercial vehicle or a public service vehicle that is

[a] a truck, truck tractor, or trailer, or a combination of a truck or truck tractor and one or two trailers, where the gross weight of the motor vehicle or the combination of motor vehicles exceeds 4,500 kg, and

[b] a bus, other than a bus operated by the owner exclusively for his or her personal use".

Clause 28[c], 42[c.1] and 80.1 to 80.3 are new and provide for the Registrar of Motor Vehicles to suspend, cancel, or refuse to issue a registration certificate to the owner of a "NSC Vehicle" when that vehicle has an unsatisfactory inspection record.

The operator of the vehicle is responsible for towing charges if an officer orders the vehicle to be towed to an inspection station, clause 308[3]; and officers have the authority to inspect and search the premises of an owner of the "NSC vehicle", clause 313.

Clause 351 is renumbered to 350[1] providing for regulation making powers to implement the National Safety Code.

Motion [ Mr. Arlooktoo ]: Move to refer the Bill an **ACT TO AMEND THE MOTOR VEHICLES ACT** to the Committee of the Whole for consideration.  
Members: Agreed.

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**A STANDING COMMITTEE ON LEGISLATION REPORT ON THE  
TRANSPORTATION OF DANGEROUS GOODS ACT**

**Introduction**

The purpose of the Bill is to replace the existing Northwest Territories Act, the **Transportation of Dangerous Goods Act**, assented to on November 25, 1982, with a new Act.

The proposed Bill, the **Transportation of Dangerous Goods Act**, was tabled in the Legislative Assembly on November 7, 1988 [T.D. # 63-88(2)]. Regulations that will apply to the Act have not yet been prepared.

The proposed Bill was sent on November 28, 1988 by the Standing Committee on Legislation to over twenty-five parties ranging from agencies, municipalities, and transportation companies within the Northwest Territories, Yukon and Alberta for comment and review. Responses were received from the City of Yellowknife and Northwest Territorial Airways.

The proposed Act is focussed on regulating the transportation of dangerous goods while they are on NWT highways.

Federal legislation, **THE TRANSPORTATION OF DANGEROUS GOODS ACT (CANADA)**, was proclaimed in force November 1980, but had no significant effect until comprehensive regulations took effect on July 1st, 1985.

The federal Act includes extensive regulations from the preparation for transport of dangerous goods to their delivery and unloading. The federal Act and regulations are binding on the provinces and territories, but does not directly apply to certain modes of transport, such as trucking.

Assisting the Standing Committee for this piece of legislation was Mr. David Wright of the firm of Howard, Mackie, Barristers and Solicitors of Calgary.

The **TRANSPORTATION OF DANGEROUS GOODS ACT** Bill was introduced to the Standing Committee on Legislation by the Minister of Justice, Mr. Ballantyne, in the absence of the Minister responsible, Mr. Wray, on September 27, 1989.

The Minister explained to the Committee that the newly created Department of Transportation has been given responsibility for the Bill from the Department of Renewable Resources. The proposed Act will bring the Northwest Territories up to date with legislation in the provinces and at the federal level.

The Minister also reported that the resources for enforcement of the proposed Act do not require additional expenditures for staff or equipment.

A member asked why the Bill had little to say in regard to safety provisions for the loading and unloading of trucks. The Minister explained that this was a grey area of jurisdictional authority and that more work is required in this area.

The Committee Legal Counsel advised that in British Columbia and Alberta, the term "handling" was defined in those Acts, meaning, in the case of Alberta, "loading, packing or placing, unloading, unpacking or removing or reloading, repacking or replacing dangerous goods in or from any container, packaging or vehicle, or at any facility for the purpose of, in the course of, or following transportation and includes storing dangerous goods in the course of transportation." Consequently, the movement of the vehicle down the highway and the warehousing, loading, and unloading functions are substantially broader in the Alberta legislation, for example.

Another member asked the Minister why powers to arrest were placed in the Act as they are not found in similar legislation in other jurisdictions.

The Minister explained that the department believes that because of the nature of the size and geography of the Northwest Territories these powers may be necessary.

## Clause by Clause

"dangerous goods"

The primary purpose of the proposed NWT legislation, the **Transportation of Dangerous Goods Act**, is to promote the public safety in the movement of "all dangerous goods that are transported on any highway by a vehicle". As a result of trucking accidents in Canada that have spilled dangerous chemicals, such as PCBs and other products into the environment, there has been an increasing concern over the potential dangers associated with the transportation of dangerous goods. The classification of "dangerous goods" is the key to understanding and complying with the obligations imposed by the Act.

"Dangerous goods" are defined in the proposed Act, the **Transportation of Dangerous Goods Act**, means "any product, substance or organism referred to in the prescribed classes of dangerous goods".

The Committee Legal Counsel questioned as to why the Government had not included the phrase, "included by its nature", in the definition of dangerous goods in the Bill since it is part of the standard definition in the federal, Alberta and Ontario Acts.

The regulations of the federal Act identifies over 3,000 'dangerous goods', other than explosives. The classes of dangerous goods in the Federal Act include explosives, gasses, flammable and combustible liquids, flammable solids, oxidizing substances, organic peroxides, poisonous and infectious substances, corrosives and radioactive materials.

As a result, any person involved with the shipment of 'dangerous goods' must determine, within the context of the schedule in regulations, and/or "by its nature", whether or not the goods are exempted from the requirements of the Act, or, alternatively, determine exactly which classification properly describes the dangerous goods in order to understand the legal duties imposed. When dangerous goods are transported on a vehicle on a highway, the person transporting them must be certain that the goods have been properly classified, in order that the duties imposed on the transporters by legislation have been complied with.

The Minister stated that the inclusion of the phrase, "included by its nature", would be reviewed and reported back to the Standing Committee.

**TRANSPORTATION OF DANGEROUS GOODS ACT..... ..p.4.**

"highway"

By definition in the proposed Act, a "highway" is not restricted to those roads classified as NWT highways. According to the **Motor Vehicles Act** highways mean a road, bridge or structure whether publicly or privately owned, that is used for the passage of vehicles, including areas used for parking vehicles, other than a driveway of a private dwelling. It also includes temporary ice roads and bridges.

Committee Legal Counsel pointed out a possible contradiction, in that the definition of a vehicle under the proposed Act includes all-terrain vehicles, and "any vehicle designed to travel on land, other than a device that is designed to run on rails, that is drawn, propelled or driven by any kind of power, including muscular power", including an all-terrain vehicle, section 1. However, an all-terrain vehicle is excluded from the definition of vehicle in the **Motor Vehicles Act**.

"safety mark"

Committee Legal Counsel also noted that the standard definition for "safety mark" has been deleted of the phrase "or any combination thereof following the term of abbreviation".

The Minister remarked that these comments on drafting decisions on definitions will be noted and reported upon to the Committee.

In clause 2, "Binding on Government" Committee Legal Counsel also noted that there was no binding the government of a province, or the federal government and suggested that the Legislation Division may wish to look into the aspect of a Constitutional question here.

In clause 3, "Application", it was noted that the primary purpose of the proposed NWT legislation, the **Transportation of Dangerous Goods Act**, is to promote the public safety in the movement of "all dangerous goods that are transported on a highway by a vehicle", section 3.(1). However, the Bill does allow exceptions and does not apply to any transportation of dangerous goods which are exempted by regulations or which are "under the sole direction or control of the Minister of National Defence for Canada", section 3.(2). The federal Act also provides similar exemptions.

**TRANSPORTATION OF DANGEROUS GOODS ACT..... ..p.5.**

Committee Legal Counsel noted that the City of Yellowknife, in a written response to the Standing Committee on Legislation, opposed this exception, stating that since the military has such a large presence in the Northwest Territories and in Yellowknife, and since they may be handling dangerous goods, the military should not be exempted from the application of this Act. Committee Legal Counsel pointed out that this deletion for national defence is present in all of the transportation of dangerous goods acts in other jurisdictions in Canada.

"Permits"

The Minister may appoint a Director to administer the Act. The Director may also appoint analysts and inspectors, who carry out the powers and duties prescribed by regulation, sections 5-9. All members of the RCMP are ex officio inspectors under the Act.

Committee Legal Counsel suggested that clause 6.[2] could be reworded for clarity to say "That the director may, following the issuance of a permit, impose, amend or delete terms and conditions in respect of a permit upon notice to the person holding the permit."

Committee Legal Counsel suggested that clause 7.[2] permitting "oral permits" is unusual and that if a telephone was in use a fax transferred permit may be utilized. There can also be perceived conflict with section 8.[2] which requires that a written application following an oral permit is required in 14 days. It was suggested that 7.[3] be revised to read: "An oral permit must be confirmed in writing in a form approved by the director as soon as practicable after it is issued, and the written permit issued by the director shall be deemed for all purposes to have been the permit initially issued by the director." Consequently, the director will be protected with respect to this permit and the risk will be shifted from the director to the applicant.

It was also noted by the Committee Legal Counsel that in clause 8.[3], the permit can be refundable if the application is refused. It was suggested that the Government may wish to drop this section so as not to encourage frivolous applications and to recognize the process charge for all applications.



It was also suggested by the Committee Legal Counsel that the wording of section 9, could read: "No person shall, unless expressly authorized in writing by the director, etc". The reason being to clarify that someone cannot try to infer the director's authorization when, in fact, the director was not attempting to authorize.

It was also suggested that clause 10 indicate that the director can amend the terms and conditions of a permit following its issuance.

In clause 12 it was suggested to the Government that the word "direction" be deleted and the word "requested" be inserted in its place.

The Minister advised that the Government will look into these provisions concerning the "Permits" section of the Bill.

In the "Dangerous Goods" section of the Bill, clause 13, Committee Legal Counsel noted that the definition of "highway" may be too narrow here and if "handling" and "offering for transport" were to be included in the Bill, this section could read: "No person shall handle, offer for transport or transport dangerous goods in or on a vehicle on a highway except where", etc.

The Director may issues and renew permits exempting the transportation of dangerous goods from the provisions or regulations of the Act, section 10. The Director may also impose any terms and conditions on a permit that the Director believes is necessary for the safe transportation of dangerous goods. Every permit shall be accompanied by a prescribed fee.

Northwest Territorial Airways Ltd., in responding to a request to review the Bill, commented to the Committee that the Federal Government provides these permits under the Federal Act, if required, at no cost. NWT Air noted a concern that industry may not comply with the regulations if a fee were introduced.

**TRANSPORTATION OF DANGEROUS GOODS ACT..... ..p.7.**

In clause 15, "Emergency plans", Committee Legal Counsel suggested to the Government that the wording be revised to read: "The Minister may require any person who engages or proposes to engage in the transportation of dangerous goods, to prepare an emergency plan". The current wording in the Bill would suggest that the Department would have to wait until the goods are actually being transported before a plan is required.

Also it was suggested to the Government that Committee Legal Counsel could not find in the Bill a section that expressly provided that there was an obligation to implement the emergency plan at some time. It was suggested that section 34[1][b] could include the wording, "including the implementation of any emergency plan".

In clause 17, "Enforcement", Committee Legal Counsel noted that should the Government wish to include the concept of handling or offering for transport in the Bill, provisions in this section should be included for the inspection of buildings and premises, other than dwelling homes where the packaging or unloading is to occur. Also a reference to 'container and packaging' would be included after 'load' in 17.[1][a].

In clause 20, "Powers of enforcement", the Committee Legal Counsel suggested that a clause [f] be included to read, "exercise any powers conferred by regulation". It was also suggested that for the sake of continuity that section 20[3] be deleted and replaced with wording to read, "In carrying out an inspection or search an inspector may" [and then include the lead in words in (3)] "and the owner or person in charge of any vehicle or place being inspected shall permit the inspector to" and then proceed [a] through [d].

In clause 21, "Use of force", Committee Legal Counsel noted the broad powers given the inspector to use force.

In clause 22, "Assistance to inspectors", Committee Legal Counsel suggested the replacement in 22.[b] of "the inspector may reasonably require" to the term "request" in order to avoid the argument that assistance is only to be given when it is considered essential.

In clause 23, "Seizure", the Committee Legal Counsel recommended to the Government the additional wording of "seize, remove, and detain" be added; and after the word "anything" to read "including any vehicle, container, packaging or dangerous goods, etc."

In clause 24, "Abandoned Goods", Committee Legal Counsel recommended that a clause could be added which provides for restitution to those persons who owned what appeared to be abandoned goods that were not actually abandoned at the time the inspector seized and destroyed them. A similar provision is in clause 16 of the Federal Act.

In clause 25, "Release from seizure", Committee Legal Counsel suggested the wording, "in relation to anything seized, the thing may be detained", in order to bring conformity to the provisions of the Bill.

Clause 27, "Order to forfeit", Committee Legal Counsel advised the insertion of the wording, after 27.[3] "entitled to it..." to include "following the final conclusion of proceedings", in order to make clear that the evidence cannot disappear prior to the proceedings having been concluded.

Clause 29, "Powers of Arrest", Inspectors have the powers of peace officers under the Criminal Code to enforce the Act. The inspector has the power to arrest a person who contravenes the Act or the regulations. Committee Legal Counsel suggested a revision of the wording in line three to "having regard to all relevant circumstances".

In clause 31, "Order of Inspection", Committee Legal Counsel noted in subsection [3] that time frames and extensions of orders could be included in this section.

In clause 33, "Director may take action", Committee Legal Counsel noted that this Good Samaritan section of the Bill could be improved with a clause similar to section 10.[5] of the Alberta Act which provides for more extensive protection. In addition, the "in good faith" provision could be more objectively stated by the term, "unless it can be shown that he did not act reasonably in the circumstances", as it appears in the Alberta Act.

In clause 34, "Duty to take action", Committee Legal Counsel suggested a revision to line one to read, "Where there occurs or there is a reasonable likelihood that there may occur a discharge of dangerous goods...". In 34[1][b] at the end of the sentence the wording could be included, "including implementation of any applicable emergency plan". The next question concerning this section was, is there an expressed provision where an inspector could direct somebody to do anything. In 34[2], to encourage conformity to subsection [3], the wording was suggested to read, "where a person fails to take any measures required under subsection[1] an inspector, or any person authorized by an inspector, may take those measures".

Committee Legal Counsel suggested to the Government that they may wish to include a section in the Bill, as in the Alberta and federal Acts, that provide for the Minister to undertake or initiate a public inquiry into the discharge, in order to determine the cause of the discharge and to make recommendations with respect to amendments to regulations or the Act, to avoid similar discharges in the future.

In clauses, 40 to 42, Committee Legal Counsel suggested that these sections could be reworded for accuracy of intent.

Committee Legal Counsel also suggested to the Government that they may wish to include provisions that are found in similar Acts in other jurisdictions concerning "disclosure of information" and a provision that the Minister bring forward an annual report so as to educate the public concerning the administration and enforcement of the Act.

#### "Offences and Punishment"

In section 52, every person who contravenes section 13 or 14 of the Act and is found guilty of an offence is liable on summary conviction to a fine and/or to imprisonment. For a first offence, a fine not exceeding \$300,000 or to imprisonment for a term not exceeding six months. For each subsequent offence, the fine will not exceed \$1,000,000 or imprisonment for a term not exceeding three years, or both. Where a corporation commits an offence under the Act or regulations, its officers, directors or agent can be held liable to the punishments, whether or not the corporation has been prosecuted or convicted, section 57.

**TRANSPORTATION OF DANGEROUS GOODS ACT .....p.10.**

In written comments received by the Standing Committee on Legislation, the City of Yellowknife supports the levy of a penalty or fine, but the City believes that " a person or company could receive a six month sentence for poisoning the environment, which is substantially less than what one could for stealing a car and joyriding. The City submits that contraventions to the proposed legislation are serious and fines should be levied which reflect this." The City proposes an amendment to the legislation "to indicate a minimum fine and to equalize the ratio between the high fines levied in relation to the minimal sentences which could be handed down."

Northwest Territorial Airways submitted to the Standing Committee on Legislation that the penalties in the proposed Act do not conform with Federal legislation concerning the transportation of dangerous goods by air or by water. As shipments are often transferred between road and air, NWT Air questions whether or not a carrier could be subject to two sets of penalties where road and air transportation are involved, for example.

In clause 54, "Limitation", Committee Legal Counsel noted that this section was a move away from uniform legislation which favoured the Director and could be arguably seen as unfair to those in the transportation business.

In clause 56, "Proof of Offence", Committee Legal Counsel also noted that this provision was also a move away from uniform legislation [section 10 of the Federal Act and section 22 of the Alberta Act] towards a strict liability offence for employers.

Under the proposed Act, clause 62, "By-Laws", with respect to highways within the municipality, a municipal corporation may, by by-law, designate the route and time of travel of vehicles transporting dangerous goods. The by-law must be published in a newspaper having a general circulation in the municipality.

Concerning the requirement for advertising, the City of Yellowknife suggested that the purpose of the advertising be clarified to determine if the intent is to seek public input or simply to advise the public of any by-law pursuant to the Act. The City asserts that the proposed legislation should specify the timing, frequency and duration of the advertising, as is done for municipal by-laws adopted pursuant to the Planning Act.

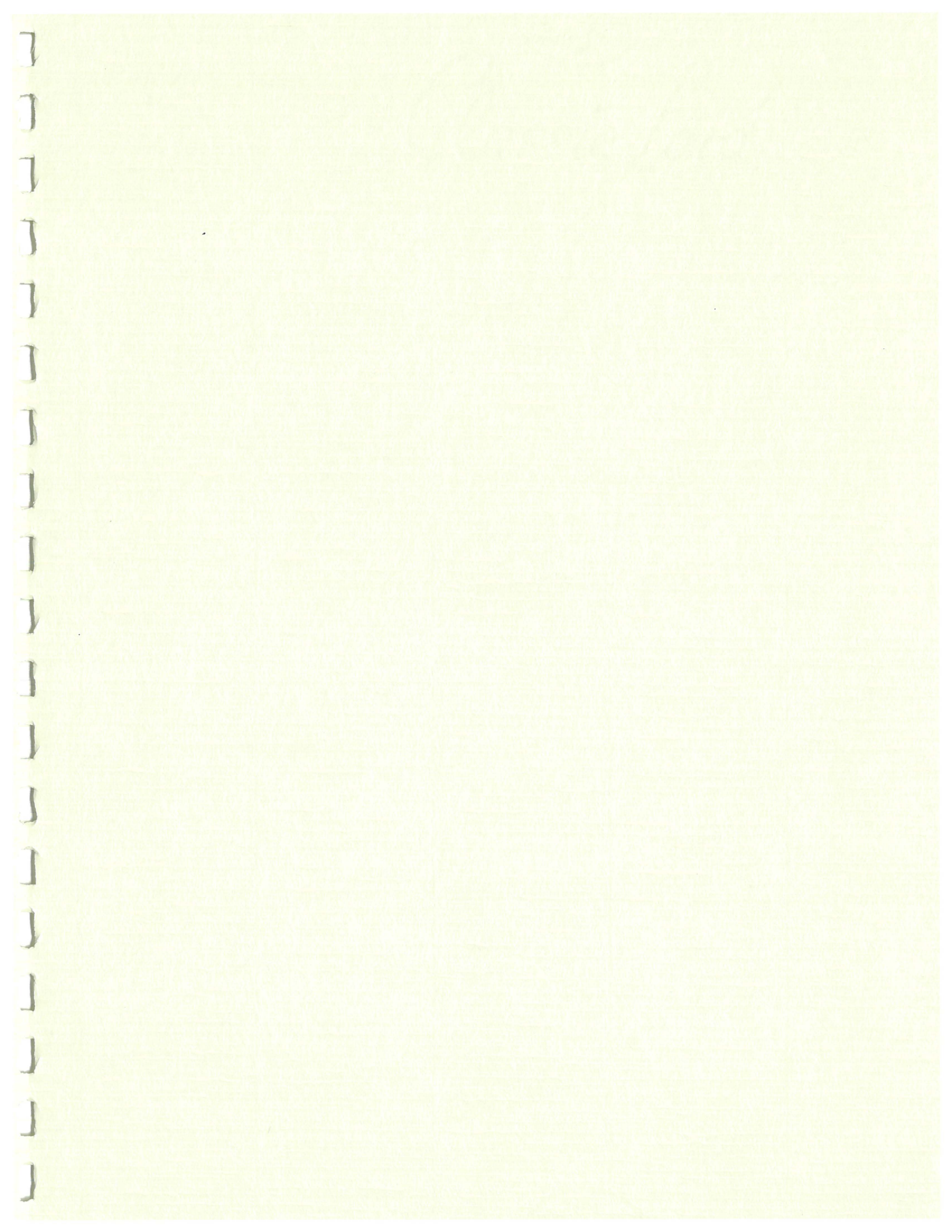
**TRANSPORTATION OF DANGEROUS GOODS ACT .....p.10.**

Clause 63, "Regulations" provides for the enactment of regulations for the definition, classification and management of dangerous goods.

Committee Legal Counsel suggested that line 63[1][a] be deleted as 63[1][c] with the addition, "and classes thereof", is acceptable for the intent.

Motion [ Mr. Gargan ]: Move to refer the Bill the to the **TRANSPORTATION OF DANGEROUS GOODS ACT** to the Committee of the Whole for consideration.

Members: Agreed.



**A STANDING COMMITTEE ON LEGISLATION REPORT ON THE  
CRIMINAL INJURIES COMPENSATION ACT**

**Introduction**

The purpose of this Bill is to replace the present **Criminal Injuries Compensation Act**. This Bill will appoint one or more criminal injuries compensation officers who will make compensation awards. The Bill will also increase the maximum amounts that may be awarded.

The **Criminal Injuries Compensation Act** was discussed at the Standing Committee on Legislation meeting in Rankin Inlet on 15 June 1988 when the Government introduced the **Victims of Crime Act**.

At that meeting, the Minister, Mr. Ballantyne, in response to a question by a SCOL member about the financial assistance given to victims of crime, replied that he was negotiating with the Federal government to raise the amount of compensation paid to victims under the **Criminal Injuries Compensation Act**.

The Minister, Mr. Ballantyne, presented the Bill, the **Criminal Injuries Compensation Act**, before the Standing Committee on Legislation on September 27, 1989. The Minister explained that this Act provides direct payment to individuals who have been injured by criminal action. It is a recognition by the Government and society that somebody has been injured, but it is not intended to take the place of other process available to victims. The amounts payable are increasing from \$15,000 to \$25,000 for lump sum payments. There is a limit of \$50,000 as the amount which will be paid out in periodic payments. There is also a review of the award after it has been in effect for five years. A new category under which awards can be granted will be for pain and suffering. The administrative procedures have also been streamlined.

A member of the Committee asked if children who are suffering from the deaths of parents through a criminal act will be included in the Bill.

The Minister stated that those children are being compensated.



Another member asked what exactly is the amount of money that would be set aside by the Government of the Northwest Territories under this cost sharing agreement and if a revolving fund should be put in place.

The Minister explained that the cost of the program on a year-to-year basis is unknown. Under the federal cost-sharing agreement, 90% of the first \$25,000 is paid by the Federal government, after \$85,000 it is 40%. The Government is trying to estimate a budget figure as best as it can, but the Government is committed to paying what has to be paid. As to setting up a revolving fund, the Minister stated that he did not see any advantage to this approach at this time, but he would look into it.

A member asked if the court system was no longer involved in determining the amount to be compensated, and the system was to administered by a claims officer, would there be any additional cost to the administration.

The Minister explained that existing resources of the Government would be adequate.

**Clause by Clause**

In clause 1, "spouse", a member pointed out that a man and wife relationships could be emphasized in this section for clarity of intent.

The Minister stated that he would look into this.

In clause 2, "claim for compensation", the Schedule of the offences that the federal government will not cost share has been changed to include injuries resulting from drunk driving convictions. The Minister pointed out that the Government of the NWT has also struck this offence and the Minister would appreciate receiving the Committee's advice in this area.

A member asked if the Bill's Schedule can be amended once the Bill is passed, without an amendment to the Assembly again.

The Minister explained that the Schedule can be taken out of the Bill and be dealt with in Regulations.

In clause 4, "Limitation period", a member asked if the Government would consider amending the Bill to read "A claim may not be made after two years from the time of the occurrence".

The Minister noted the recommendation and will take it into consideration.

In clause 5, "Investigations", the Government proposed an amendment to 5[1] which will now read, "Where a claim for compensation is filled with an officer, the officer shall investigate the claim." In subsection [2] the marginal note will be, "Award or referral" where an officer has investigated a claim the officer shall [a] determine whether compensation is to be awarded and the amount of the award in accordance with this Act; or refer the claim to the Supreme Court for hearing where the officer is of the opinion that the court should determine whether compensation is to be awarded.

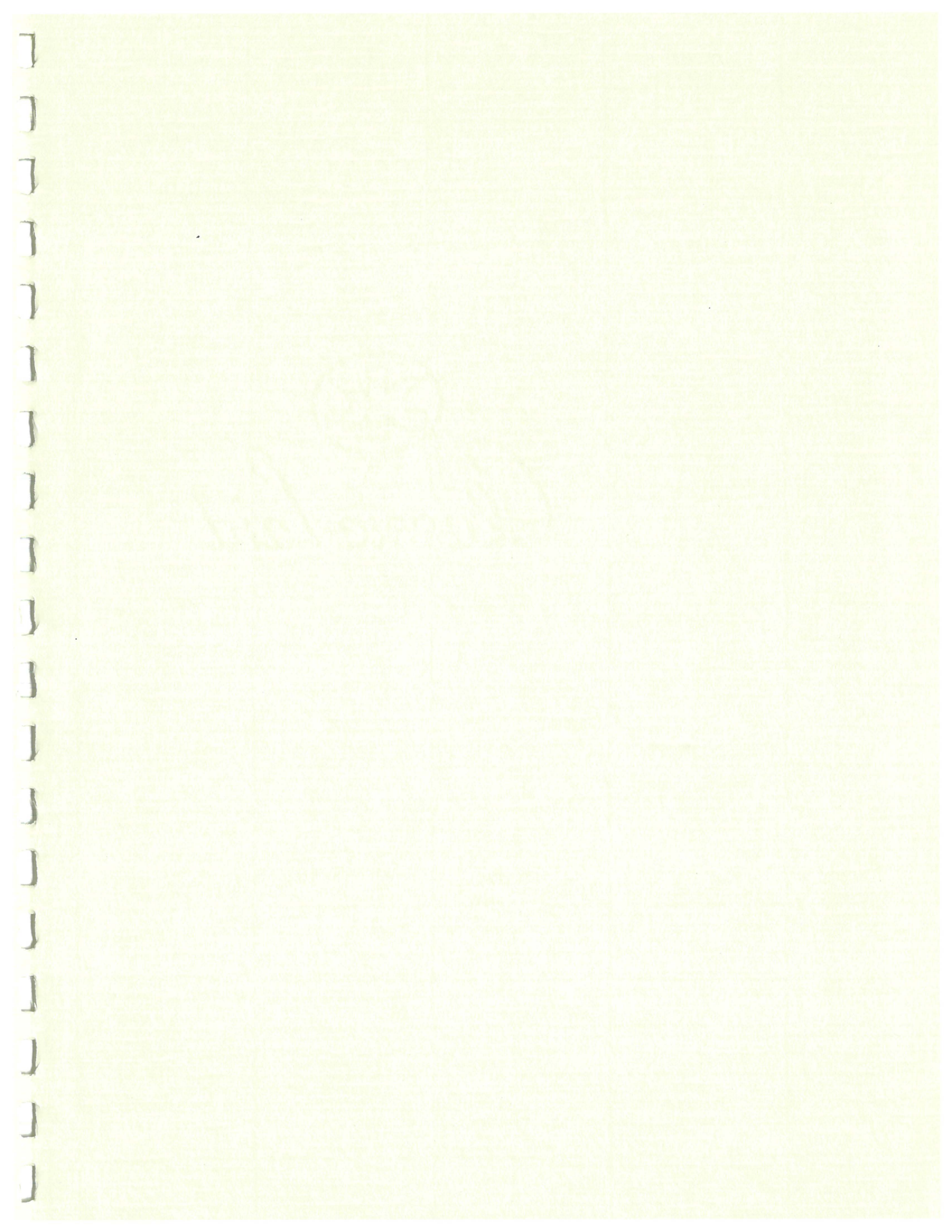
Clause 6 will be new and will read in 6.[1] "Where a claim is referred to the Supreme Court under subsection [5][2], the Supreme Court, in place of the officer, shall determine whether compensation is to be awarded and the amount of the award is in accordance with this Act." Subsection [2] marginal note will be "Decision final" and will read "The decision of the Supreme Court on a claim is final."

In clause 18, "Written and Notice of decision" the Legislation Director informed the Committee that this section would be moved and located after the Appeal section.

The Government explained that these changes, including a renumbering of the clauses, will be finalized in the Bill that will be reviewed at the Norman Wells session.

Motion [ Mr. Arlooktoo ]: Move to refer the Bill the **CRIMINAL INJURIES COMPENSATION ACT** to the Committee of the Whole for consideration, with the amendments proposed by the Government.

Members: Agreed.



**A STANDING COMMITTEE ON LEGISLATION REPORT ON THE  
ACT TO AMEND THE INTERPRETATION ACT**

**Introduction**

The purpose of this Bill is to amend the **Interpretation Act** in order to allow for appointments of public officers to be retroactive for up to 60 days; to add the definition of "Commissioner in Executive Council"; to amend the definition of "holiday" and "settlement"; and to add a definition of "municipal council".

The Minister, Mr. Ballantyne, introduced the Bill before the Standing Committee on Legislation on September 28, 1989. He pointed that the changes were minor amendments.

**Clause by Clause**

Section 16[2], "Commencement of appointments" is new and provides for the specific day of appointment of a public officer "must not be more than 60 days before the day on which the appointment is made".

Section 20[2], "Commencement of appointments" wording has been revised.

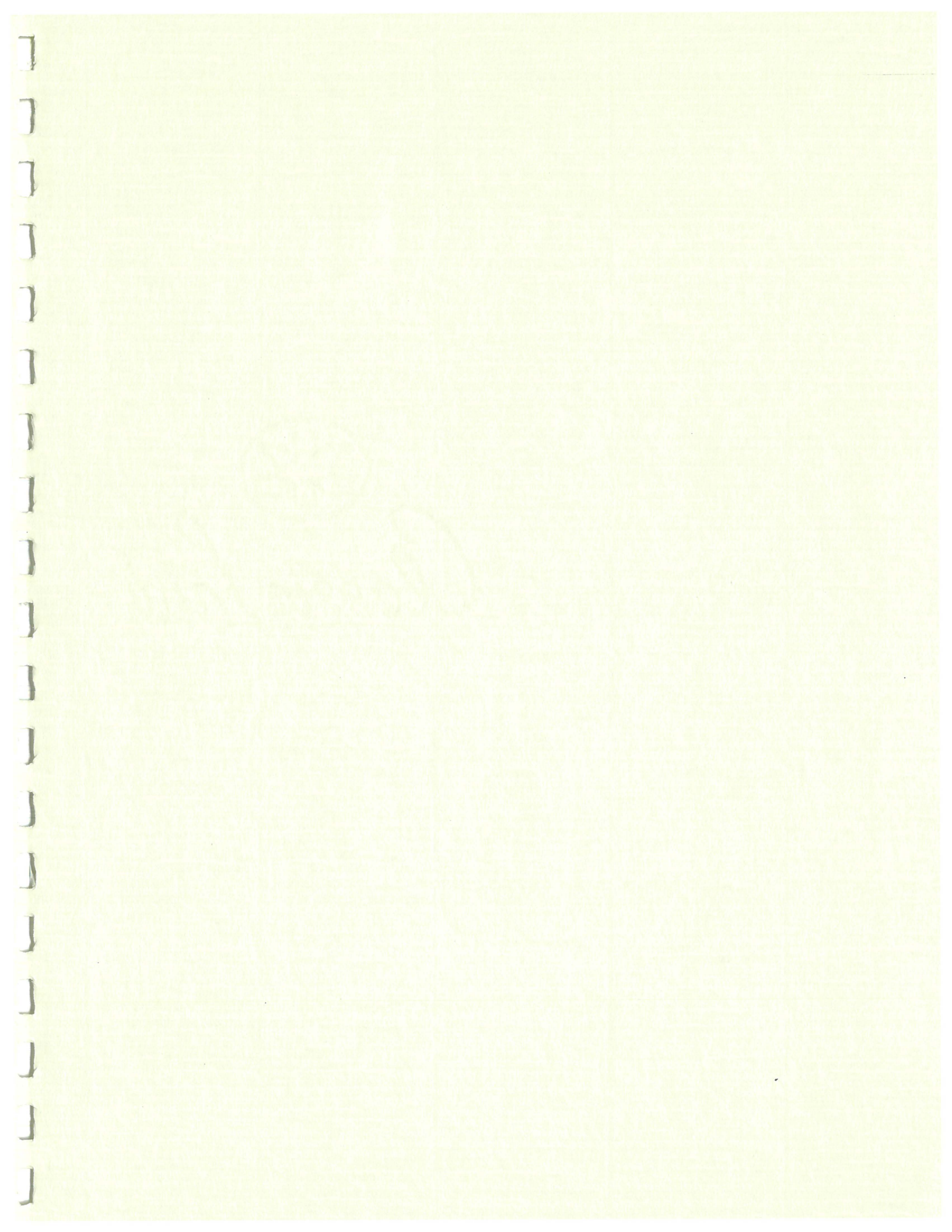
Section 21 is amended and defines the "Commissioner in Executive Council" to mean "the Commissioner acting by and with the advice and consent of the Executive Council".

Section 21[10] defines which days are considered "Holidays".

The definition of "municipal by-law" now "means a by-law made by a municipal council under the **Charter Communities Act, Cities, Towns and Villages Act, or Hamlets Act;**".

The definition of "municipal council" is new and "means the council of a municipal corporation". The definition of "settlement" now includes the term "settlement corporation".

Motion [ Mr. Arlooktoo ]: Moved to refer the Bill, the **ACT TO AMEND THE INTERPRETATION ACT** to the Committee of the Whole for consideration. Members: Agreed.



**A STANDING COMMITTEE ON LEGISLATION REPORT ON THE  
ACT TO AMEND THE JURY ACT**

**Introduction**

The purpose of this Bill is to amend the **Jury Act** by providing that the compilation of a jury list and selection of a jury panel be set out in regulations.

The Minister, Mr. Ballantyne, presented the Bill before the Standing Committee on Legislation on September 28, 1989. The Minister explained that the procedures which the Sheriff shall follow will be set out in regulations. The amendment will simplify the time consuming, complicated procedure which requires the clerk, sheriff, and judge to be present as names are drawn from a box to compile the jury list and select the jury panel.

A member asked if the changes would apply to civil as well as the criminal court system.

The Minister replied that it would apply to the whole selection process.

**Clause by Clause**

Section 7, "Persons Exempt from Service", is amended by removing [i] and [j] and substituting, "officers appointed to enforce municipal by-laws".

Section 9, "Jury list", is repealed and reference is made to the "lists identified in the regulations".

Section 10, "Access to voter's lists", section 11, "Certification of lists", and section 12, "Supplementary lists" and "Duty of sheriff" are repealed.

Section 13, "Selection of Jury Panel", is repealed with references now being made to a selection of a jury panel according to regulations and in Form B.

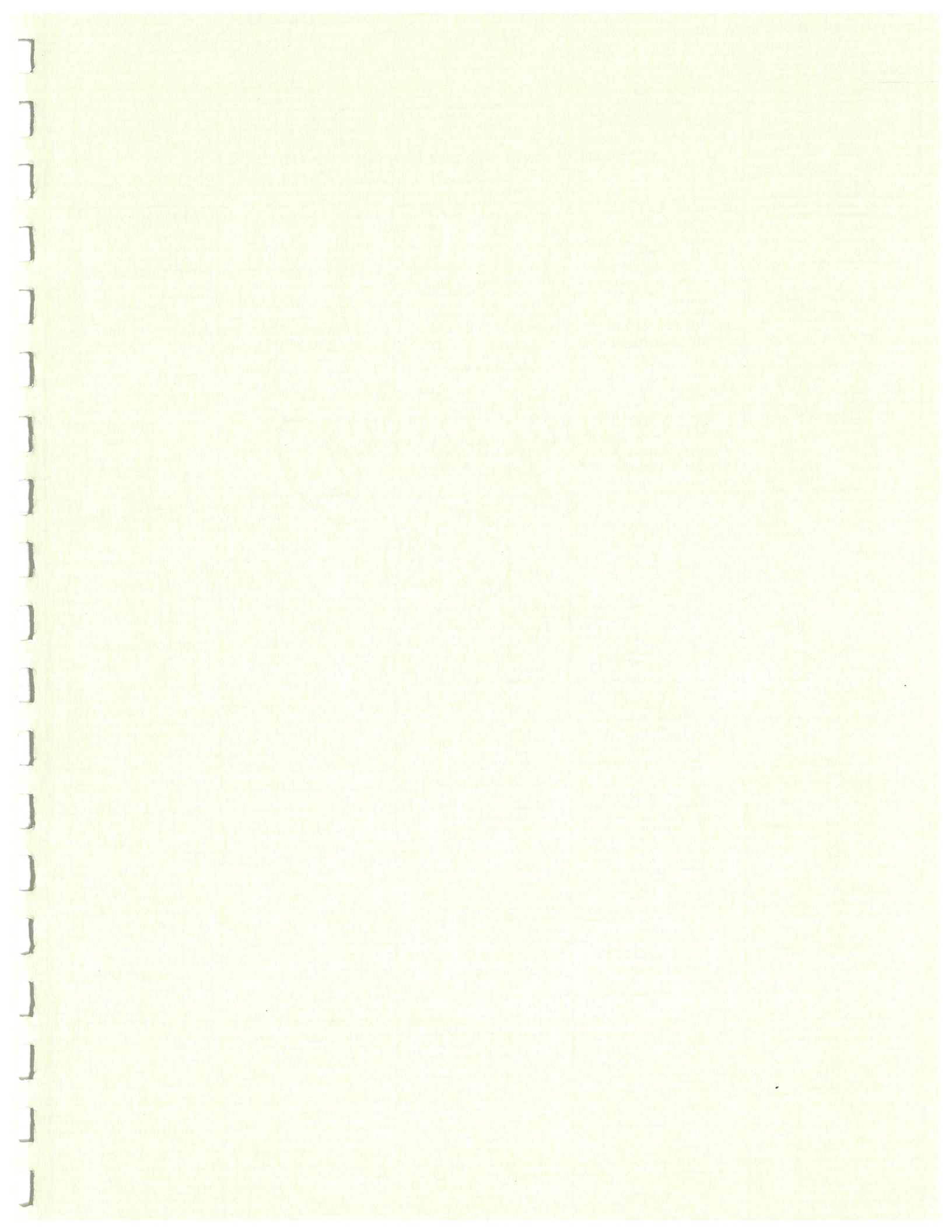
Section 15, "Summoning of jurors", has been revised to include service by certified mail.

Section 16, "Person may apply to be excused", is new and indicates the procedure for applying for an excuse to serve as a juror.

Section 35, "Procedure for compiling a jury list and selecting a jury panel" is new and provides that the Commissioner, upon recommendation of the Minister, may make regulations in this area.

Motion [ Mr. Kilabuk ]: Moved to refer the Bill, the **ACT TO AMEND THE JURY ACT** to the Committee of the Whole for consideration.

Members: Agreed.





**A STANDING COMMITTEE ON LEGISLATION REPORT ON THE  
ACT TO AMEND THE JUSTICES OF THE PEACE ACT**

**Introduction**

The Minister, Mr. Ballantyne, presented the Bill before the Standing Committee on Legislation on September 28, 1989. The purpose of the Bill, he explained, is to amend the **Justices of the Peace Act** in accordance with the "Task Force on Justices of the Peace" report.

The significant changes include amendments that the Minister wished to have the Committee's advice concerning the provision that a Justice of the Peace shall hold office until they reach the age of sixty-five years. He asked if it should be raised to 75 years of age.

A Justice of the Peace Review Council is also proposed in the Bill. It will review complaints against justices of the peace. The Chief Justice of the Territorial Court may assign specific powers and duties to a Justice of the Peace.

**Clause by Clause**

Clause 3, "Tenure of office" has been revised so that a justice of the peace, appointed after the coming into force of this Act, remains in office under certain conditions and is not restricted to holding office during pleasure for a term of three years, as it is stipulated in the existing Act. The appointment of every person appointed as a justice of the peace, before the coming into force of this Act, is revoked.

A Justice of the Peace Review Council is new and established by this Act. Complaints concerning a justice of the peace can be reviewed by the Council. The Chief Judge can reprimand, suspend or refer the complaint of the justice of the peace to the Review Council.

The Review Council has all the powers of a Board of Inquiry, and after a hearing, shall make a report to the Commissioner in Executive Council and the Chief Judge. There is no appeal from a decision of the Review Council.

Clause 3[11][2], "Discipline", "Where the Review Council recommends that the Chief Judge reprimand, suspend or otherwise discipline a justice of the peace, the Chief Judge shall comply with the recommendation."

Clause 5, "Powers and duties of justice of the peace", provides that the Chief Judge may assign specific powers and duties to a J. P.

The Minister proposed to raise the age of retirement of a Justice of the Peace to 75 years of age.

Motion [ Mr. Kilabuk ]: Moved that the mandatory retirement age of a Justice of the Peace be raised to 75 years of age.

Members: Agreed.

The Commissioner in Executive Council may establish the remuneration paid to a justice of the peace and may appoint a justice of the peace as a youth court judge under the **Young Offenders Act** and the **Young Offenders Act [Canada]**.

A member asked what is the remuneration for Justices of the Peace. The Minister replied that he will look into this and report back.

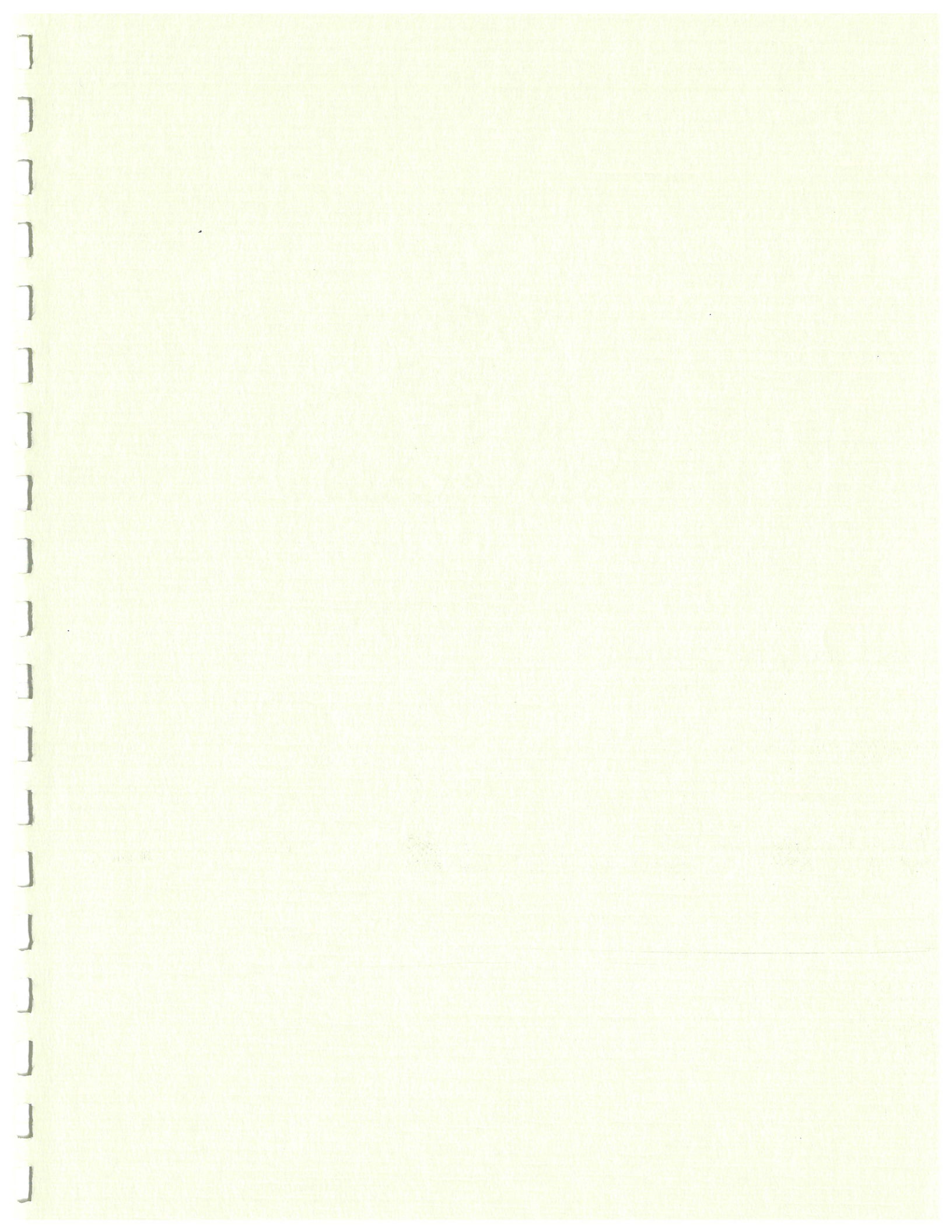
Consequential amendments made to the **Local Authorities Elections Act** allow a justice of the peace to be nominated or to stand as a candidate for a local education authority. A member asked why this did not apply to members of municipal or settlement council offices also.

The Minister explained that because communities were small in the NWT, the Government was not trying to exclude capable people. However at the municipal level many complaints are associated with violations of municipal legislation and this could prove to be a conflict.

Concerning municipal or settlement council offices, the justice of the peace shall apply for a leave of absence, without pay, from justice of the peace duties. If elected, the justice of the peace "ceases to hold office as a justice of the peace".

Motion [ Mr. Gargan ]: Moved to refer the Bill, the **Act to Amend the Justice of the Peace Act** to the Committee of the Whole for consideration, including a motion to amend the age of compulsory retirement.

Members: Agreed.



**A STANDING COMMITTEE ON LEGISLATION REPORT ON THE  
ACT TO AMEND THE LEGAL PROFESSION ACT**

**Introduction**

The **Legal Profession Act** establishes the Law Society of the Northwest Territories which governs the conduct and regulates the activities of members of the Bar.

The Minister, Mr. Ballantyne, introduced the Bill and stated that the purpose of the Bill is to amend the existing Act according to requests from the Law Society of the NWT.

**Clause by Clause**

The rules for the election of the Society Executive has been revised so that members of the executive need not be elected annually, section 4 [1](b).

Clause 16[3], "Where member becomes judge", a person appointed as a Territorial Court Judge shall be struck off the Roll.

Clause 22[4], "Restricted appearance certificate" is new and allows for a person obtaining a restricted appearance certificate to subscribe to the required oath in a superior court outside of the Territories.

Clause 24 to 34, Discipline and the Discipline Committee, has been amended to provide that the Executive may designate one or more vice-chairman; that the Chairman of the Committee may direct a member to appear before other members for advice and direction; and that the Chairman of the Committee has the necessary powers to conduct an investigation.

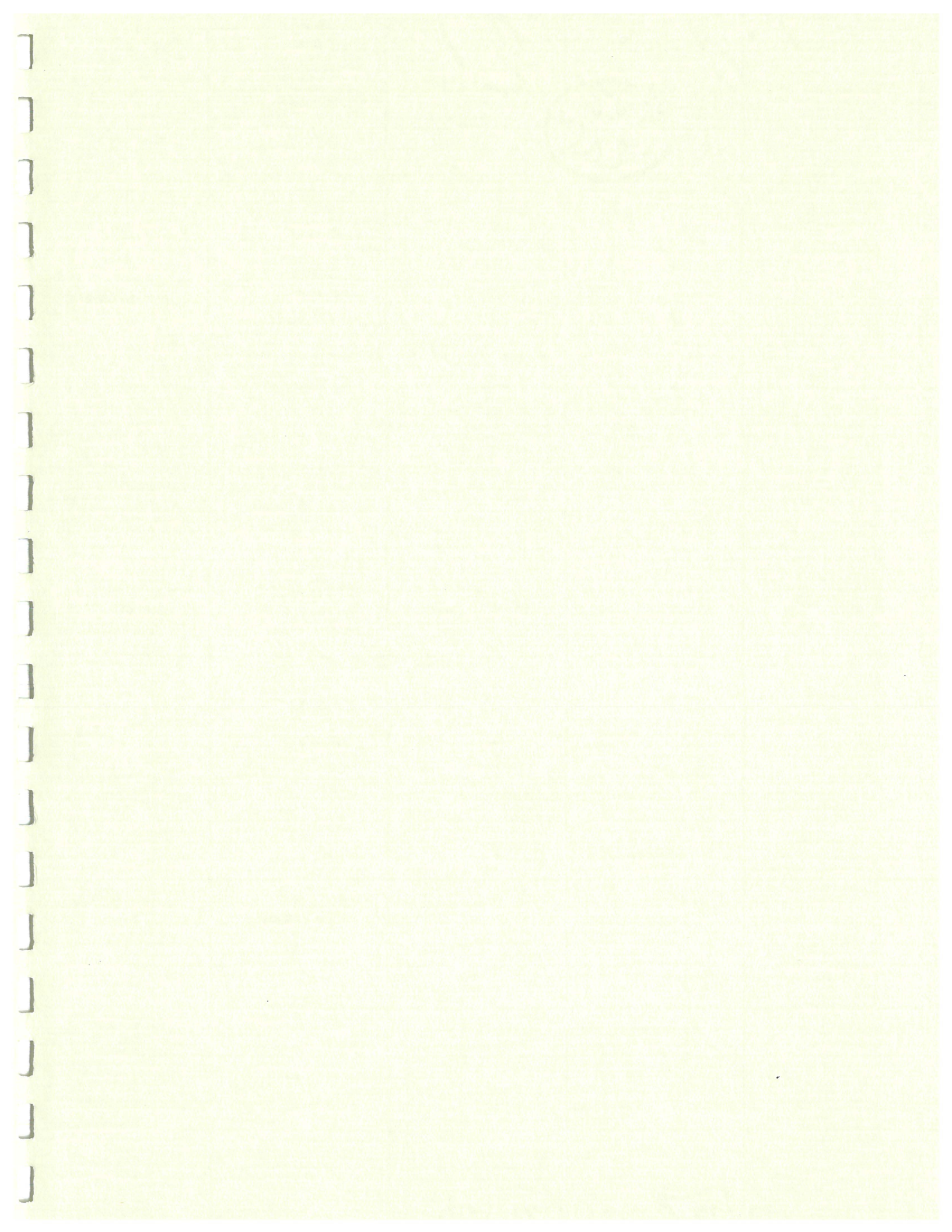
Clause 32[1], "Report of the Chairman of the Discipline Committee is new and provides that the Chairman of the Committee shall notify the Executive, the member, and the complainant of the results of the investigation.

Concerning clients trust account monies, section 49[1], this section has been amended to provide that the Executive of the Law Society may suspend a member who does not comply with the requirements of the Act related to trust accounts.

Clause 78, 'Civil attempt" has been amended to provide for contempt proceedings against a person who is in contempt of the Chairman of the Discipline Committee.

Motion [ Mr. Kilabuk ]: Moved to refer the Bill, an **ACT TO AMEND THE LEGAL PROFESSION ACT** to the Committee of the Whole for consideration..

Members: Agreed.



## A STANDING COMMITTEE ON LEGISLATION REPORT ON

### THE ADOPTION OF THE FRENCH STATUTES AND STATUTORY INSTRUMENTS ACT

#### Introduction

The purpose of this new Act is to comply with the Federal **Officials Languages Act** by providing for the adoption of the French version of all Northwest Territories statutes and statutory instruments by way of a Statute Roll and a Statutory Instruments Roll.

The Minister, Mr. Ballantyne, proceeded to introduce the Bill before the Committee on September 28, 1989 in Yellowknife.

The Chairman informed the Minister that the Committee had met and decided to defer discussion of the Bill to the Norman Wells session of the Legislative Assembly. In the interim, members agreed that the Chairman may call a meeting with the Government to discuss the Bill and related matters.

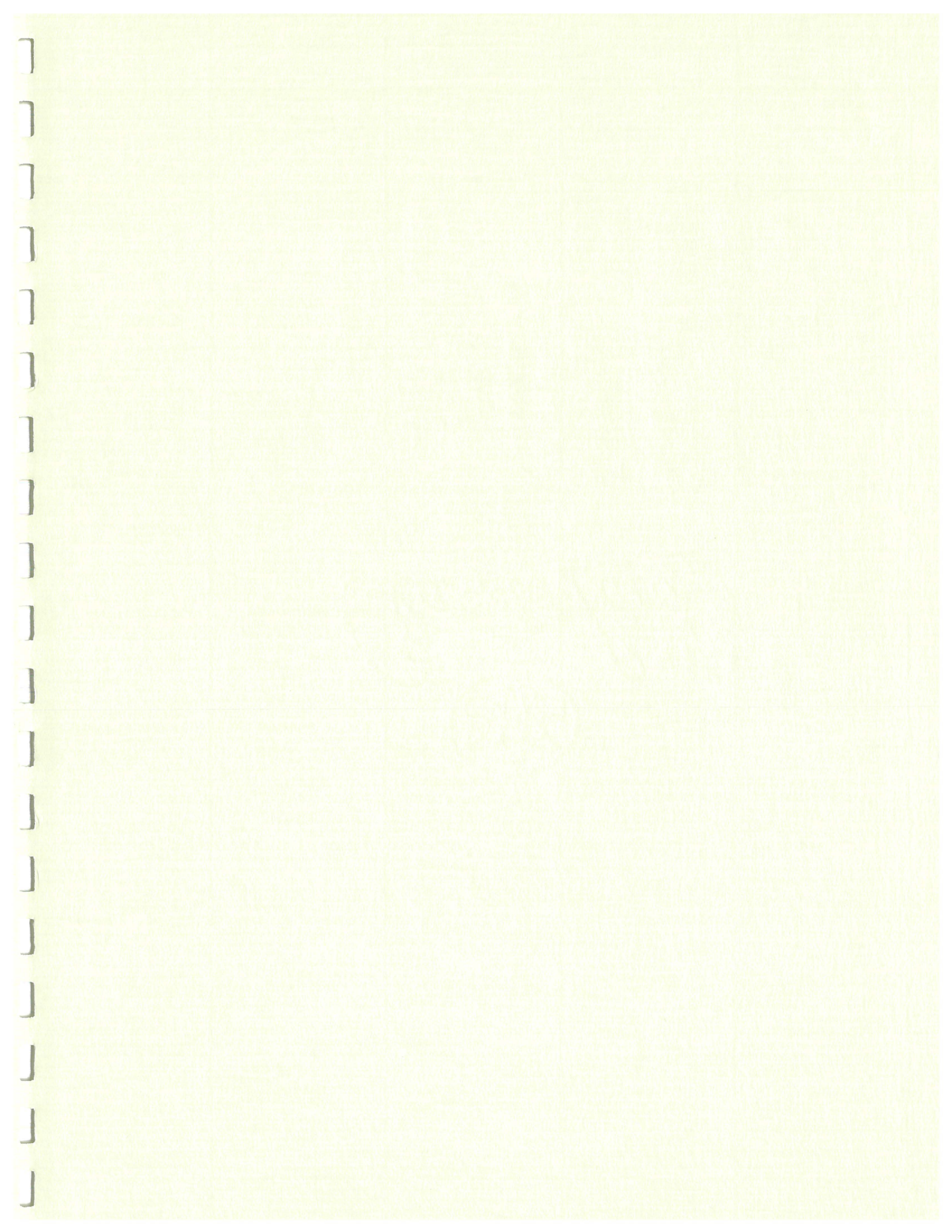
#### Significant Points in the Bill

A statutory instrument is defined in section 1 of the Bill as a rule, order, regulation or proclamation issued under the authority of the Commissioner, but does not include a court order, an order made by a public officer, or a by-law or resolution made by a local authority.

The Minister is required to prepare and print in the French language a Statute Roll of all statutes in force, all statutes enacted in 1989 and a Statutory Instruments Roll.

Clause 7 states that the English and French versions are equally authoritative.

The Act shall come into force on a day or days to be fixed by order of the Commissioner.





**A STANDING COMMITTEE ON LEGISLATION REPORT ON THE  
ACT TO AMEND THE REGULATIONS ACT**

**Introduction**

The purpose of the Bill is to amend the **Regulations Act** to allow for the consolidation or revision of all statutory instruments and to provide the Registrar of Regulations with the power to revise the statutory instruments to conform with the Acts under which the statutory instruments were enacted.

The Minister, Mr. Ballantyne, introduced the Bill before the Committee on September 28, 1989 in Yellowknife.

**Clause by Clause**

Clause 19[1](1), "Consolidation or revision of regulations", is amended by striking out "regulations" and substituting "statutory instruments", [ same as in 19[1](3), "Deposit of Printed Roll"].

Clause 19[1](2), "Powers of Registrar", is amended to provide for a more clear and precise description of powers.

Clause 19[1](3.1), "Schedules" is new and refers to Schedules A and B.

Clause 19[1](6) and (7), "Relation of regulation making authority and requirements to roll", are repealed and revised.

Motion [ Mr. McLaughlin ]: Moved to refer the Bill the **ACT TO AMEND THE REGULATIONS ACT** to the Committee of the Whole for consideration.  
Members: Agreed.

