



PROVINCE OF NEWFOUNDLAND AND LABRADOR

HOUSE OF ASSEMBLY

Volume 1

Number 48

4th. Session

34th. General Assembly

VERBATIM REPORT

TUESDAY, APRIL 28, 1970

SPEAKER: THE HONOURABLE GEORGE W. CLARKE

The House met at 3:00 P.M.

MR. Speaker in the Chair;

Mr. Speaker left the Chair. His Honour the Lieutenant-Governor in the Chair.

MR. SPEAKER: May it please Your Honour, the General Assembly of the Province has at its Present Session passed certain Bills, to which, in the name and on behalf of the General Assembly, I respectfully request Your Honour's Assent.

Whereupon the Clerk read the following Bills:

A Bill "An Act To Amend The Nomenclature Board Act, 1959".

A Bill "An Act Further To Amend The Fire Prevention Act, 1954".

A Bill "An Act To Amend The Prisons Act, 1969".

A Bill "An Act Further To Amend The Social Assistance Act, 1962".

A Bill "An Act Further To Amend The Welfare of Children Act".

A Bill "An Act Respecting The Payment Of Bounties On the Construction Of Fishing Ships".

A Bill "An Act Respecting The Marketing Of Salt Fish".

A Bill "An Act Respecting Private Investigators And Security Guards".

A Bill "An Act Further To Amend The Expropriation Act, 1964".

HIS HON. THE LIEUTENANT-GOVERNOR: "In Her Majesty's Name, I assent to these Bills".

His Honour the Lieutenant-Governor left the Chamber.

Mr. Speaker in the Chair.

PRESENTING PETITIONS

HON. J. R. SMALLWOOD: (PREMIER) Before Your Honour call any of the Order Paper, I should like to inform the House that the Government have today appointed a special Appeal Board whose duty will be to hear and consider appeals made to them by Civil Servants in respect of the New Re-Classification Program introduced by the Government, and the matters that arise automatically therefrom. These appeals to the Appeal Board may be made by individual civil servants acting individually and separately or by groups of civil servants, large or small, or by a duly constituted authorities representatives of any one or more civil servants. In short the appeal may be made by any one of the 10,000 or 12,000

MR. SMALLWOOD: civil servants or other receiving their pay from the Treasury of this Province. And the appeals may be made individually, personally and separately or by any two or more civil servants acting together, in any group large or small, and they may be made in person or they may be made through their representative.

The Board was appointed today and they will assemble as rapidly as they can and be available to all civil servants collectively or individually, as I say, to hear any appeals or grievances that civil servants have or think they have, and to consider these grievances.

The members of the Board are as follows:

Professor Hugh Whelan, of Memorial University is Chairman. Professor Whelan has done this kind of work before. But he has done it for the Government of Canada.

Mr. George W. D. Allen, former Auditor General of Newfoundland.

Mr. Essau Thoms, former President of the Newfoundland Federation of Labour.

Miss Mae Bartlett, a former Civil Servant.

and The Hon. Reginald Sparkes, former Speaker of the House of Assembly.

The Appeal Board will sit in St. John's and other places in the Province as the need may arise. They will proceed to such places presumably as Gander, Grand Falls, Corner Brook, Grand Bank, or somewhere on the Burin Peninsula, Labrador, or anywhere else that it may be meet and expedient for them to do, to serve the convenience of the public servants who may wish to appear before them.

Mr. Speaker, the Government were anxious that there should be on the Board of Appeal someone or other who would be chosen and recommended by the Civil Service. And by non-Civil Servants but persons whose salaries come from the Treasury of this Province. The Government were confronted by the fact that these employees are represented by at least four and possibly five different organizations. We certainly did not have any desire or intention to have all four or possibly five of those organizations represented on the Appeal Board. And if it had been feasible to do so, we would have required that the persons recommended by them, should be persons outside of the Civil

MR. SMALLWOOD: Service and outside of the activities within which the salaries are paid by the Treasury of this Province.

We, therefore, look out for some prominent and reputable Labour Leader, Trade Union Leader, and approach him ourselves, and appointed him in the belief that he together with the other four would truly constitute an independent Board of able men and women, and a Board whose integrity would not be called into question.

So, Sir, I have great pleasure in making this announcement today.

MR. JOHN CROSBIE: Mr. Speaker, I would like to ask for an explanation in connection with that particular

MR. CROSBIE: an explanation in connection with that question. The appeal Board the Premier announced seems to be a very good Board. Could the Premier tell the House whether the decisions of this Appeal Board are to be binding on the Government and on both sides, or are they just to recommend what should be done. Will their decision be binding?

MR. SMALLWOOD: Their decisions will not be binding on the Government. And I doubt they would be binding on anyone else. Their purpose is to hear complaints, to hear grievances. To study the grievances and to come to conclusions about them, and to make recommendations or reports, with recommendations or without recommendations to the Government. I may say Mr. Speaker, that it is not, it is most positively not, and I repeat that, it is not intended that the appeal Board shall have any rights whatsoever to fix salaries. There is no suggestions in our minds that the Appeal Board shall have any right other than to hear grievances, complaints from Civil Servants, as I say individually or collectively, in any way that the Civil Servants desire to make the complaints. To hear these complaints and to analyse them and to report on them to the Government and to make recommendations where they feel they ought to make recommendations. But this enquiry that they will make, and the reports and recommendations they will make will not have to do with scales of pay. They are not a pay scale board, they are an appeal board, to hear complaints of Civil Servants who think, rightly or wrongly, who think that they have been wrongly classified, unjustly classified, inconsistently classified, or in any other way treated unjustly, or unfairly, or inaccurately with regard to their system of classifications we have as the House is aware - just introduced a system of classifying every job, not every person, but every job in the Province. Every job that is paid for by the public treasury. Every job is classified and the pay scale is tied in to the classification. The pay is what the classification requires. Therefore, every individual person, every man or every woman who is given a classification and the corresponding pay scale that goes with the classification, may have a legitimate basis, a legitimate reason for grievance or complaint or dissatisfaction with regard to the

classification, or some other aspect of the system other than the question of salary scale. The size, the amount of the salary scale is not for the Appeal Board. That is for direct communication between the employees on the one hand, and the Government on the other.

MR. CROSBIE: Would their decision on classification be binding, or any of their decisions?

MR. SMALLWOOD: No, no decision of the - first of all, the only decisions that the Appeal Board will make is a decision among themselves that in their opinion, they have decided that there is an injustice, that there is unfair play. That there is inconsistency. They could come to such a conclusion, and they would state that conclusion to the Government, and they would give a recommendation to the Government. Their conclusion and their recommendation would most positively not be binding on the Government. The Government must have the final say, being the Government. They being the Government. On the other hand, having said that, it is perfectly obvious, or it ought to be perfectly obvious that a Government that has confidence in a Board of its own choosing and its own appointing, and this Board has been chosen by the Government and is appointed by the Government, the Board therefore, is one in whose integrity and in whose intelligence - the Government have great confidence. And when such a Board as that in a leisurely fashion, taking its time, doing a thorough-going job, examine the complaint of any Civil Servant, or group of Civil Servants, and comes to a conclusion, and forwards that conclusion to the Government, with or without a recommendation, the Government clearly and obviously will pay the most careful to the report, the findings, the conclusion and any recommendation that the Appeal Board will make. We begin as we do by our selecting the Appeal Board. And if we begin as we do indeed with confidence in the integrity and the intelligence of that Board, then the findings and recommendations of that Board to the Government, will receive the most respectful and meticulous consideration by the Government. In other words, the Appeal Board will be a screen between Civil Servants and Government. A screen, a sympathetic and intelligent screen, hearing

any and every complaint. And they being that and saving the Government the endless, the interminable time and effort of the Government and the Cabinet, sitting down and hearing each individual complaint, the Board doing that the Government can do little less, little less than to give the most careful and respectful attention to the conclusions of such a Board as that.

Mr. Speaker, the House today is visited some eighty Grade VIII students of the Clarenville Junior High School. Eighty of them in three different classes of Grade VIII, in charge of Mr. Little and Mr. Peach, and they are paying their first visit to the House of Assembly in this present Session. I want to say to them, that I do not know if anyone would be more welcome in this Chamber than these young Newfoundlanders from Clarenville. I do not know anyone that we would be more happy to see here today than those eighty young Newfoundlanders, who in five or eight or ten years from now may be sitting here at these desks and running the Province and if they are not running the Province from this Chamber they will most assuredly be running the Province from other desks and other offices and other buildings. Because eight or ten years from now, these eighty young men and women, together with thousands of other young men and women around the Province, will be running Newfoundland. And so they are most cordially welcome here today to cast an eye over the people's representatives, the people who have been elected by all the population of the Province to come and represent them in this Chamber. We hope that they will be able to stay a fair length of time, hear some of the debate, be puzzled as they are sure to be, by the way the House conducts its business, puzzled by that because it may appear to be a little mysterious to them. But they will remember that the way we run the affairs of this House is exactly as laid down hundreds of years ago in the Mother of Parliament in the United Kingdom in London in Westminster, that we are but pale shadows, pale imitations. Sometimes not altogether pale imitations of the great basis British parliamentary assistants, and so what appears

at first sight to be a puzzling and mysterious way of doing things, turns out if it is viewed long enough, turns out to be a very practical and successful way of conducting the affairs of an elected body. And in all events people all over the world have copied the British system in whole or in part, and we are very proud of it. And we are very proud of the great traditions that we have built up. Now our young people tend to be a little bit impatient with tradition

traditions and sometimes a bit contemptuous as well, but as they get over the defect, as Pitt said, great Pitt at twenty-one years of age was Prime Minister of England. Just think of that - a lad twenty-one, Prime Minister of the great nation of all mankind at the time that he was Prime Minister. When he was Prime Minister at twenty-one, somebody across the floor taunted him and said: "he is just a youngster or he is just a boy or he is just a child." The Prime Minister Pitt said, "yes", he said, "Mr. Speaker, I have this complaint that I am very young. This is a disease that I have that I am very young, but he said that this a disease that will be cured by time and cured very quickly." The time would pass and he would not be that young and so that disease would be cured very quickly." But he said, "the hon. gentleman", and he pointed across the floor at the member of the House of Commons who had accused him of the crime of being young. He said, "yes, I will get over this illness, this sickness, this complaint." But the hon. gentleman, he said, will never get over his sick head. He will never get over his stupidity. He will always. He will live and die a stupid man, "but you can get over youth, but it is hard to get over stupidity." Somebody said one time that God can forgive any sin, except the sin of stupidity. So do not mind being young, it is a glorious complaint and it is the complaint you will not have too long. It will pass. It will go and no one will be able to point that finger at you.

Now have I not given the Leader of the Opposition enough scope now to get up and make an eloquent speech. I want to throw a challenge across at him. You read the papers and you listen to the radio and the gentlemen in the press gallery will report, every day they report that the Opposition hurls a charge at the Government or the Government hurls a charge. They are always hurling things. I am going to hurl a challenge at the Leader of the Opposition. The challenge I am hurling at him is this: get up, if he dares to do it. If he has the nerve to do it, get up and contradict me, when I say that these are marvellous young Newfoundlanders, bright, intelligent, getting to be well educated, patriotic and the future hope of Newfoundland. I dare the Leader of the Opposition to contradict me. I know he cannot. I

know he has got to get up and agree with me. This is once every day, when the Leader of the Opposition whether he likes it or not has got to get up and agree with the Premier. I challenge him to do it now.

MR. ANTHONY J. MURPHY (Leader of the Opposition): Thanks for the invitation. Mr. Speaker, I, too, would like to join with the hon. the Premier in welcoming these young people from Clarenville. I am sure that it is somewhat of a thrill for them to be here in this House, and particularly on this day, when they saw what too many of our school pupils do not see, the actual signing of a Bill by the Queen's representative. As the Premier said, this comes down from Parliament, the Mother of Parliaments, and I perhaps would visualize the Bill being signed by Her Majesty the Queen in Parliament, in London, and I think today, we have the same thing re-enacted by the Queen's most loyal representative, the Lieutenant-Governor of Newfoundland, and I am sure that it is something that not too many school children coming in do not see. It does not happen every day, but only at certain times, and with reference to Bills, we discuss them here in the House, and we give them first, second and third reading, but they do not become law, until the Governor has signed the Bills on behalf of Her Majesty the Queen .

I am very pleased, Mr. Speaker, to join with the hon. Premier. There was someone who passed a remark, when the Premier was speaking about stupidity, but I will not repeat that. I am too much of a gentleman. I could pass some kind of a slur on that, but being the gentleman I am, I will not refer to some people who took many years, perhaps, to try to get over it. I will just say how happy I am to join with the hon. Premier and the rest of the House to welcome these eighty school children from Clarenville and their teachers and I just hope that the weather stays fine, and they will have just as nice a ride going back to Clarenville as they did coming in today.

MR. JOHN CROSBIE: Mr. Speaker, we would like to associate ourselves with the welcome to these eighty students from Clarenville. They come from the area of Random Sound, and you hear quite a bit of random sound in this House,

from time to time, Mr. Speaker, and never from this side, of course, but I hope that they will enjoy today's sitting and they are certainly welcome. They have come a long way, and I hope that there will be something interesting for them to observe before the afternoon is gone. If they had come tomorrow, they would have seen Private Members' Day being squeezed down to an hour and five minutes. Perhaps there will be another group come in tomorrow. Private Members' Day is usually the shortest day of the year. It is a summer day of the week - Private Members' Day.

But, Mr. Speaker, we would like to welcome Mr. Little and Mr. Peach and we hope that they are entertained and learn something while they are here this afternoon.

MR. R. BARBOUR: Mr. Speaker, on behalf of the hon. member for Trinity North, who is not able to be present with us this afternoon and because my district of Bonavista South only separates me, twenty minutes drive from districts to Clarenville and because every time, I visit my district, I talk to many of the students, while at Clarenville. I would, therefore, like to concur with the Premier and the other two gentleman on the opposite side, who have spoken and say, welcome on behalf of your hon. member, the hon. C. Max Lane who is sick and cannot be here. I, myself, would like to add my few words of welcome to you the students of Clarenville and to you the teachers who accompany them and I hope, I hope that before you leave this afternoon, you will be more the wiser for your visit and get an idea how the House operates.

PRESENTING PETITIONS

MR. THOMAS HICKEY: Mr. Speaker, I would like to present a petition on behalf of some eighty-six voters of Middle Cove in the district of St. John's East (Extern). The prayer of their petition, Sir, is that the road leading from Torbay Road to Middle Cove beach be upgraded and paved.

Mr. Speaker, in supporting this petition on behalf of these people, I would like to point out to the House that this road is a very short one. It is approximately two and a half or three miles and it leads to a beach

which is very popular, a very popular area. It attracts a lot of people during the summer months and in fact throughout the year. The residents of this area are plagued with the dust problem and as much as people visiting that area use this road as a short cut to the beach.

Sir, it would not cost too much to improve this road and it is the prayer of those people who have signed this petition that the road be upgraded and paved during the coming year.

Sir, I ask that the petition be received and be referred to the department to which it relates.

MR. SPEAKER: It is moved and seconded that this petition be received and referred to the department to which it relates.

MR. MURPHY: Mr. Speaker, I would just like to say a short word in support of that petition, because as the hon. member from the district has pointed out, Middle Cove beach is an attraction for a great number of people, and taking into account that there is no provincial park in that area at all and if the road continues to deteriorate, I am afraid that those who are using it at the present time will be forced to go west to other parks and I am sure that ^{for} that area that the more people visit it, the more good it will do for that particular area of Middle Cove, Outer Cove, so on and so forth. So I have much pleasure in supporting the prayer of the petition of my hon. colleague.

MR. SPEAKER: Is the House ready for the question? Those in favour "aye." Contrary "nay." Carried.

PRESENTING REPORTS OF STANDING AND SELECT COMMITTEES

MR. SMALLWOOD: Mr. Speaker, I think that it is under this heading that ministers table reports. I beg leave to table "Financial Statements to December 31st., 1969 of the Newfoundland Municipal Financing Corporation."

ANSWERS TO QUESTIONS

MR. SMALLWOOD: Mr. Speaker, Question no. 451 on the Order Paper of April 17th., in the name of the Leader of the Opposition, the hon. member for St. John's Centre. The answer to the first part (has the hon. Leader not got

the question there)? Question no. 451 on the Order Paper of April 17th. The hon. gentleman ought to get some system into the keeping of his records so that he could, in his filing system - or he might even call on his staff....

MR. MURPHY: They are being recorded on the electronic system supplied by the House.

MR. SMALLWOOD: That is one way of looking at it. Is the question put in the Hansard. The answer is. The answer to the first part is: \$250,000 as shown under the heading of notes payable as per the public accounts of 31st, March, 1969 to the Bank of Nova Scotia. The answer to the second part is: that the interest payable was 6 3/4 per cent per annum .

Question no. 456 on the Order Paper of April 17th, the same date. Again in the name of the hon. Leader of the Opposition, the member for St. John's Centre. The answer is: none, no amounts have been borrowed.

Question no. 460, on the Order Paper of April 17th. This time in the name of the hon. member for Gander. The answer is: there were none.

MR. ROWE (F.W.): Mr. Speaker, I have the answer to Question no. 350 asked by the hon. member for Fortune Bay, on the Order Paper of April 10th. The question is: Have any schools boards in this Province been told to proceed with plans for new school buildings or additions to schools this year, which which will require financial assistance from the Government pending the announcement of the DREE program? If so, which boards? The answer to that is that: The Department of Education does not communicate with boards on the matter of building schools or extending or enlarging existing schools. That function is performed by

MR. ROWE (F.W.): Performed by the duly constituted bodies, constituted by the schools Act and known as the Denominational Educational Committee. Perhaps for the information of hon. members I should say that this body, or these bodies take the place of the old Denominational Educational Councils which used to perform those functions. The Government of Newfoundland does not decide where schools will be built or when they will be built or what kind of a school will be built. Nor does the Government of Newfoundland decide to enlarge schools or to modify schools in any way.

This House votes money for the building of schools. That money then, under the law must be allocated to the various churches, either individually as in the case of the Roman Catholic Church and the Pentecostal Church, or now collectively as in the case of the three other churches Anglican, United Church and Salvation Army which have integrated. Having received their share of whatever money is voted by this House, they then decide how their share of the money will be allocated.

MR. CROSBIE: Would the minister permit a supplementary question? This question refers to DREE. Would the hon. minister tell us whether or not our Government has any thing to do with DREE as to what schools are going to get money? Surely we must communicate something to Ottawa.

MR. ROWE: In the DREE announcement, the minister is not here at this time, but in any case I can answer this inasmuch as it affects the Department of Education. In the DREE announcement it was pointed out that a decision had been taken by the two contracting parties to assist education in several defined areas. These decisions were taken in consultation with the representatives of the churches.

MR. HICKMAN: A further supplementary question Mr. Speaker. The question asked whether that has been any communication between the school boards and the Department of Education on the construction of schools. Would the hon. minister simply for the purpose of clarification indicate to the House, how Government of the Province could make recommendations to the DREE officials in Ottawa to the location of schools without communication from the boards in question? In any designated area, for instance what I am getting at is, let us say the Burin Peninsula or the Avalon Peninsula, or the Eastern half of the Avalon has been

been designated as DREE areas or special areas under the DREE program. Now, how does Government get the necessary information if it is not from the school boards say, in those areas as to the location? I find it almost incredible that the school boards have no communication with the department on this.

MR. ROWE: I am very happy to answer that question Mr. Speaker.

The Department of Education has been in consultation with the Denominational Committees, not with the Boards of Education. There are a large number of Boards of Education and the department does not deal with individual boards, although boards do sometimes send in mistakenly and they ask the department to approve their decision to build a school and so on. But the department deals with the Denominational Educational Committees which are separate bodies created under the law. They are not Government bodies, and as my hon. friend knows, they no longer have any, house in this building or in the Department of Education, they are housed in the Royal Trust Building as a matter of fact.

We deal with them, they deal with us, and in our dealings with the DREE authorities both Federal and Provincial, our information, our advice will be channeled through our Department of Community and Social Development which is the department responsible for, on the Newfoundland side for the DREE program, we deal with them, and we convey to them the advice and the recommendations that we have received from the Denominational Educational Committees who in turn are on the receiving end of all the information and requests coming in from their respective Boards of Education.

The Department of Education does not deal direct with the boards on these matters, even, with regard to the DREE program in itself. We simply pass on our recommendations to DREE as we have received them from the D.E.C. Actually they have been worked out in close consultation and collaboration all through. That is all I think I can say on the matter.

ORDERS OF THE DAY:

MR. MURPHY: Mr. Speaker, before we take up Orders of the Day, I move adjournment of the House for the purpose of discussing a definite matter of urgent public importance. That matter being the salary increases for civil servants, hospital

workers, the Newfoundland Constabulary, the firemen and penitentiary wardens contained in the Budget Speech and estimates tabled in this hon. House. And the dissatisfaction publicly expressed of those affected and in particular the ultimatum of the Newfoundland Constabulary to the effect that if the salary increases requested by them are not acceded to by Friday, May 1st.1970, that is two days time, there maybe withdrawal of services by all or some of the said constabulary. I so move.

HON. J.R.SMALLWOOD (Premier): Mr. Speaker, Your Honour has a copy of the resolution and I rise to oppose it, and I rise to suggest to Your Honour that it is out of order, and that Your Honour cannot accept it. The question of course is urgency of debate, not urgency of the matter itself. The rule of the House Your Honour is I suggest, not that if a matter is urgent it should therefore be debated and everything else be dropped so that that matter can be debated, that is not the rule. The rule is that it is urgent that the matter be debated now. That the matter be debated, that is the urgency of debate not the urgency of the matter itself. If opportunity is to come to the House in the normal course to debate these same matters, then there is no present urgency of debate. That is one point Your Honour.

The other point is this, that notwithstanding anything that is reported on the radio, the Government have the policing of this city well in hand. Well - in - hand no matter what happens, so there is no urgency even of the matter let alone urgency of debate, and I suggest to Your Honour that this resolution be rejected and that it await the normal course of debate in this House.

MR. CROSBIE: Mr. Speaker, while we are on this point, we would like to support the motion made by the hon. the Leader of the Opposition. As the hon. the Premier has said, the question is urgency of debate. I submit Mr. Speaker, that the urgency of the debate is very obvious. The situation is that with reference to the Newfoundland Constabulary in particular, they are adamant that they must have some answer, some satisfaction on their request by Friday at twelve noon. Now this matter has not been discussed in the House before, and we have no control over when the House is going to discuss either the estimates

or proceed with the Budget Speech. The estimates in particular. So if this matter is going to be dealt with before Friday at twelve noon, obviously it is an urgent matter for debate.

Mr. Speaker, whether or not the policing of the city of St. John's is going to be well in hand, whether the Government thinks it is going to be well in hand no matter what the police force does, that hardly meets the case. I do not believe any of us wish to see a situation where the Newfoundland constabulary is completely on strike, whether or not troops or some other police force or volunteers can be brought in, and I submit Mr. Speaker, under the rules of the House that this is a motion that is in order, this is a motion that effects the administrative responsibility of the Government, Beauchesne, Page 89, it is a matter so pressing that the public interest will suffer if it is not given immediate attention. Beauchesne again, urgency within this rule does not apply to the matter itself, but it means urgency of debate. When the ordinary opportunity provided by the rules of the House do not permit the subject to be brought on early enough, and public interest demands that discussion take place immediately, Beauchesne

MR. CROSBIE: Page 90. So, Mr. Speaker, I submit that this is an urgent matter to be debated now, and should not be left any longer.

MR. TOM BURGESS: Mr. Speaker, I also rise in support of this point, the motion presented by the Official Leader of the Opposition. And I would like to make reference to some of the remarks of the hon. the Premier. And I say if the urgency of debating an ultimatum given by the policemen of this town is not a matter of dire urgency to discuss or debated by this House, will then I want to know what is urgent? If these people, if they are compelled to live up to the ultimatum which they have given, and if they do withdraw their services for a perfectly legitimate cause, and if this town does disrupt despite the assurances given by the hon. the Premier, that this town is well policed by the Government, and then we will debate the issue after trouble has developed. And this matter is vitally urgent in my estimation to the basic matter now before the trouble starts and develops to a point, where nobody can control it, let alone this Government. And I think the urgency is well outlined in the Rules of the House, where it is stated that a motion can be placed at anytime to ask leave to move the adjournment of the House, for the purpose of discussing a matter of urgent public importance. And if this is not of the most vital urgent public importance, well, then I do not know what is.

MR. THOMAS HICKEY: Mr. Speaker, in speaking in support of this motion, one can only concur with the remarks of my hon. colleague and our friend the Independent Liberal Group. It is rather difficult Mr. Speaker to fathom as it were the attitude of this Government on such matters of urgency. Many times Sir, we have attempted to bring matters before the House, which we deemed to be urgent. But at no time in the short number of years that I have been in this hon. House has there been a matter come before this House so urgent as the one we are debating right now. And I can only term the remarks by the Premier that this city of ours is well policed, no matter what happens, is pure arrogance, it is looking for a fight. The Government is again, putting their horns out, they are much as saying, "go ahead, strike, we will do without you, we will police the town". It is so obvious that the Government wishes a fight

MR. HICKEY: on this matter. Is this the proper atmosphere to solve a matter! such as this? Is this the kind of environment in which to sit down and negotiate, to talk business, to talk increases? Even if the Government could grant those increases, they are not even prepared to discuss them. Where else are we going to discuss it, if we are not going to do so in the people's House?

Mr. Speaker, I thought Sir, in listening to the Budget, and I heard that certain anti-Labour Legislation was going to be repealed.

MR. SPEAKER: Now I must warn the hon. members, and all hon. members because the hon. member for St. John's East Extern is straying a little, and so have other members who have all ready spoken on this. Would hon. members please remember there is not a motion before the House at the present time. There is a request, an hon. member is asking leave to make a motion. And we are now talking on a point of order, as to whether leave will be granted or whether what the Speaker's ruling will be as to whether he will give leave to the hon. member to make his motion. Now we do not want the debate on the motion, I am not referring to the hon. member of St. John's East Extern particularly, all I want to say is, there is a point of order before the Chair. I am taking these suggestions and words that the hon. members have spoken, since the matter was raised, as a sort of an attempt on their part to assist me in making a decision, as to whether this question should now be brought before the House? I will repeat, that there is a request to make a motion before the House, but no motion. And I thank the hon. members who have spoken so far for helping me and guiding me and reading the rules in connection with this, and bringing them to my attention before I state my ruling, as to whether the hon. member should be given leave to make the motion or not. Continue please.

MR. HICKEY: Mr. Speaker, it was not my intention Sir, to make a debate out of this, I was merely speaking to the point of order, I considered it as such because the motion has not been accepted up to now. I was merely stating that I was very pleased, and I am sure that every hon. member of this House and the public of Newfoundland, when they heard of the different attitude adopted by this Government towards labour.

MR. SPEAKER: Now that has nothing to do with the point of order.

MR. HICKEY: I realize that Sir, I just want to make that point.

MR. SPEAKER: I have already given the warning that, I think we have gone as far as we should. Let us stick to the point of order, that is before the Chair, and if the motion comes before the House, then every member will have his opportunity of debating the question and referring to the subject matter that is contained in the motion.

MR. HICKEY: Okay, Your Honour, I will abide by your ruling. I will just conclude by saying this, that the Government in not permitting this motion to pass, and in not permitting the House to debate this issue today, have adopted a collision course with the constabulary, and the responsibility for what happens after Friday certainly rests with this Government, and I hope they keep that in mind.

MR. CALLAHAN: Mr. Speaker, to a point of order. I think the thing to be noticed Sir from comments on the other side is that the whole distinction as between the urgency of the matter, and the urgency of the debate, even though it has been pointed out has entirely been lost. So let me say again, Sir, that it is not a question as to the urgency of the matter, there is no doubt as to the urgency of the matter. The question is as to the urgency of the debate, and I think it is fair to draw the implication from that, the implication of whether the public interest which has been mentioned will be better served in fact by debating the matter at this time. Not only as a question of urgency, it is the question of public interest. And I suggest, Mr. Speaker, that the comments we have heard, certainly from the hon. gentleman who just sat down, and the hon. gentleman who preceeded him, in each case, while supporting to steer away from or to suggest a debate would in fact steer away from and eliminate provocation. They themselves in their remarks, Mr. Speaker, have in fact suggested provocation. And this is a kind of thing

MR. HICKEY: To a point of order, Mr. Speaker.

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MR. SMALLWOOD: This is not a point of order.

MR. HICKEY: I am speaking to a point of order now, another one. I am not suggesting that the police be provoked. My point of order, Sir, is this, that the hon. members on this side are not looking for any trouble, we are trying to attempt to avoid some.

MR. SPEAKER: Will the hon. gentleman continue, please.

MR. CALLAHAN: Thank you, Mr. Speaker. What I have said, Mr. Speaker, is that the central question surely, and what urgency moves in this case is whether the public interest will be served by a debate at this time. And I suggest, to Your Honour, the remarks already made purely indicate the public interest will not be served. That there will be an inflammatory debate, that it will be prorogative.

MR. TOM BURGESS: I must say that ignorance is bliss.

MR. SPEAKER: Order, order, please... Order please.

I will hear one more person now, this is not necessary whatsoever, but I will hear one more hon. gentleman.

MR. NOEL: Mr. Speaker, but I would draw Your Honour's attention to items 38 and 39, on the Order Paper, which relate directly to the matter before the House at the present time. And under the rules I feel that, Your Honour has no alternative but not to permit this motion. There are two Bills up for second reading, the principal of both of which deal exactly with the matter which is before the House now. And I feel that the motion will not be permitted.

MR. SPEAKER: I thank all hon. members for their comments concerning

their comments concerning the question of whether the hon. member has leave to move the adjournment of the House for this matter of urgency of public importance.

Now I have given a ruling on occasions and have gone into the theory and the laws behind this question of adjournment of debate for an urgent public purpose first. (1) The Speaker has to find, if he considers the urgency of debate is important at that particular time. I know that everybody will agree with me, when I say that the matter raised is of the utmost importance. I will even go as far as to say that the urgency of debate is important as of this moment. It is the question of urgency of debate, but here is the other thing that I will say now. We did not come up, I think, on any other ruling that I have had to make before this. The question was usually settled on whether the matter was urgent debate at that particular time.

We have on the Order Paper today; the hon. member for St. John's North he quoted them. We have second reading of a Bill, "An Act Respecting The Pension Plan For The Constabulary Force Of Newfoundland." The officers and men of the St. John's Fire Department and the officers and men at the prison commonly known as Her Majesty's Penitentiary. Then we have another Bill up for second reading. Second reading of a Bill, "An Act Respecting The Organization Operation, Functions, Powers, Duties, Rights And Privileges Of The Constabulary Force Of Newfoundland." There are two Bills on the Order Paper, which are now up for second reading and on which each one deals: the question of salary and other rights and duties will be debated in full which will be completely relevant to this motion that we have before us today. Other than the fact that this one starts off with saying that it includes: civil servants hospital workers and then it goes on; particularly, as has been stressed, the constabulary, firemen and the wardens at the penitentiary.

Now we have these two items. They are laid down on the Order Paper for second reading. They have been read a first time and if you will go back to our own rules to page (15) you will see to begin with, number (2) which could

be one of the things, whereby the motion or this motion or the request of the motion would not be in order. Not more than one matter can be discussed on the same motion. Now I know that that is stretching it a little bit, because it is salaries and other duties in the same motion, but not more than one matter can be discussed in the same motion.

Now if you go down to part no. (4) the motion must not anticipate a matter which has previously been appointed for consideration by the House or with reference to it, a notice of motion has been previously given and not withdrawn. Now these two matters, all the matters contained in this leave to prevent this motion, I suggest, are contained in items 38,39 on the Order Paper. They have already been read a first time and if we are making full...

MR. SMALLWOOD: In the Budget, Ways and Means and the Estimates.

MR. SPEAKER: I am coming to that. We have these two Bills, no 38 and 39, which will permit full debate. Now the Chair has not to decide when these items are to be discussed. They are on the Order Paper and they will be brought down, I presume, at the earliest possible time. Secondly: if we gave leave for this motion, you can have a postponement and that can go on for days and days, but it is not my business to say when these two particular motions - that is up to the House to say, when 38 and 39, when items 38 and 39 will come on for discussion. Also we have the Budget debate which gives the widest range of possible debate. It is on the Order Paper now. I presume that the Budget debate will go on this afternoon or debate or on Thursday. So we have all these opportunities, therefore, I say to suspend or adjourn all other business of the House. I have no course left open to me other than to say that we must use these other alternatives and I cannot except the motion.

MR. MURPHY: Mr. Speaker, it is with the greatest respect that I accept your ruling, but I feel that in my opinion I think the matter is very, very urgent. We have only forty-eight hours to decide something that might bring something to a crisis and I appeal the ruling, Sir, with the greatest respect.

MR. SPEAKER: I trust that all hon. members heard the reasons why. I have

no alternative, under the rules, except to deny the hon. member the right.

MR. HICKEY: Mr. Speaker, would the...

MR. SPEAKER: We cannot go any further than that.

MR. HICKEY: I just want to ask a question, Sir. I want to ask the hon. President of the Council, if he would give some assurance that one of those matters will be brought up this afternoon so that the matter can be debated. Surely, this is not unreasonable.

MR. SPEAKER: The motion before the Chair is now that the Speaker's ruling be sustained. This is the manner in which the motion is supposed to be put. I now have to put the motion without debate that the Speaker's ruling be sustained. Is the House ready for the question? All those in favour say "aye." Contrary "nay." Divide. Call in the members.

All those in favour of the motion please rise: The hon. the Premier, the hon. the President of the Council, the hon. Minister of Labour, the hon. Minister of Highways, the hon. Minister of Municipal Affairs, Mr. Smallwood, the hon. Minister of Labrador Affairs, Mr. Hodder, Captain Strickland, the hon. Minister of Education, the hon. Minister of Public Works, the hon. Minister of Mines, Agriculture and Resources, the hon. Minister of Provincial Affairs, the hon. Minister of Public Welfare, Mr. Canning, the hon. Mr. Hill, Dr. McGrath, Mr. Saunders and Mr. Mahoney.

All those against the motion please rise: The hon. Leader of the Opposition Mr. Hickey, Mr. Hickman, Mr. Crosbie, Mr. Abbott, Mr. Myrden and Mr. Burgess.

Motion carried.

MR. MURPHY: Mr. Speaker, before you go to the Orders of the Day again, I wonder would the hon. Minister of Justice on tomorrow, if we waive Private Members' Day, that we could discuss the estimates of the Justice Department. Would that be possible?

ORDERS OF THE DAY

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MR. CROSBIE: Mr. Speaker, before Orders of the Day, I would like to ask the hon. Minister of Justice, whether he would inform the House whether or not the Chief of Police, Mr. Pittman has tendered his resignation and asked for his pension? Also what is the date of his offer of resignation or letter of resignation?

Motion, second reading of a Bill, "An Act To Provide For The Appointment Of A Parliamentary Commissioner To Investigate Administrative Decisions And Acts Of Officials Of The Government Of The Province And Its Agencies And To Define The Parliamentary Commissioner's Powers, Duties, and Functions." (Bill no. 8). There was an adjourned debate on this.

MR. HICKMAN: Mr. Speaker, during the session of last evening most of the deficiencies, for want of a better word, in the Act that is presently before this House, presently being debated, has been referred to by hon. members who participated in the debate. Now there is a great danger, Mr. Speaker, that if the general public get the impression that this is not a workable piece of legislation, that no good purpose can be served by the appointment of an Ombudsman that then his function and his office and the whole intent of this Bill will be killed before it ever comes to fruition.

The simple fact is, Mr. Speaker, that whilst an Ombudsman is not designed to suddenly take over and run the Government of the Province, as desirable as that might be, the fact is that he is the watchdog for the man in the street to see to it that not only civil servants but the Government generally through the Deputy Ministers all the way down through the servants of the Crown fairly and justly administer the laws that have been passed by this House. It is not an answer to simply say that this House is paramount when it comes to passing laws, we know that, nor does it, in my opinion, answer or fill the Bill to simply say that the power of the purse shall never be taken away or reduced or affected in any way in so far as the House is concerned.

Well, Mr. Speaker, we should not bury our heads in the sand when it comes to relying on Parliamentary practice and Parliamentary procedures and philosophies of Government. The truth is that the Ombudsman as we now know him and the whole concept of the Ombudsman originated in a jurisdiction or jurisdictions where the British Parliamentary system of Government was not followed, it was the same finesse and the same degree of worship of procedure that we find at Westminster.

True it is that this is a Scandinavian concept which has been adopted in certain of the common law jurisdictions, certain parts of the British Commonwealth of Nations. But, Mr. Speaker, I do suggest that if anyone had seriously purposed to this hon. House even ten or fifteen years ago that there should be appointed a protector of the public, a watchdog to protect those who elect hon. members to this House then we would have been told that this idea was so revolutionary in its concept, so contrary to the Parliamentary traditions of Westminster that anyone who would bring this before this House must have rocks

MR. HICKMAN:

in his head. But the simple fact is, Mr. Speaker, that the philosophy of Government, the attitude of the populace towards the paramountcy of Parliament is changing. We have been told, and you can cover the floors of this House with text books by learned authors on the power of the purse of Parliament, the Parliament and no-one else shall decide how, when and where the peoples taxes, the peoples monies will be paid.

Mr. Speaker, maybe this was a principle that had to be fought for very bitterly two or three or four centuries ago. But, Mr. Speaker, we would be on a real collision course, we would be heading for silly unnecessary disaster if we decided and if we thought that that principle will continue forever in a day. Because, Mr. Speaker, in Parliaments already, in Canada, in the House of Parliament of Canada itself and in one or two maybe more Provincial Legislatures, Provincial Houses of Assembly, there has been some restriction imposed on the power of the purse. Some collective bargaining rights has been given to public servants and this is an infringement, Mr. Speaker, of the control of the purse by the elected members to Parliament. But it has been done, it was done and has been done by these jurisdictions because times are changing, peoples concept of Government is changing, people are beginning to say that just because a person is a public servant that he should not be deprived of all his rights and that he should not simply be there at the will and wishes of the elected representatives of the people.

And, Mr. Speaker, if we feel or if we believe, indeed there has been an indication in the Budget speech that some sort of recognition will now be given, if we believe that these changes must come and if we believe that no longer can we sit or stand within these hallowed walls and say you cannot discuss this other than within this House, that you Newfoundlanders or you public servants or you as an individual who has suffered at the hands of a Government that is too rigid in its thinking or a civil servant who is too rigid in the imposition or interpretation of a particular law then, Mr. Speaker, we are out of tune with the times. Because we have to recognize, we have to recognize the right of collective bargaining of public servants, we have to recognize that people as Governments grow in size, as the social concept of

MR. HICKMAN:

Government develops and as the areas of jurisdiction and involvement of Governments expand that the likelihood of the individual citizen, the unorganized citizen, the man or woman who is not a member of a trade union, the man or woman who is not a member of any society or organization was simply going about his or her business all on her own or their own, we have to recognize that the possibilities of their being trampled on, the possibilities of their being discriminated against, continue to exist and grow day by day.

Mr. Speaker, as I understand this Bill, as I understand the concept of the Ombudsman as put forward by my friend, the hon. the President of the Treasury Board, that this is what this Bill is all about. It is not designed to come in and say, "we do not like a particular piece of legislation or the Ombudsman that was passed by the House of Assembly three years ago therefore I am going to reveal it." But what it does say is that a law having been passed by this House if not properly administered, if administered in a discriminatory manner no matter by whom, then the Ombudsman exerts his powers, and he has a very great power, Mr. Speaker. He has the power of publicity, he has the power to go into a department of Government and say, "I have a complaint, it does not appear to be a frivolous complaint, it appears to have some cause of action and I now demand to see of you the reports, the files and hear the reason for the decision that you make."

If the Ombudsman comes to the conclusion that there has been an error made in the administration of Government he then recommends the cure and recommends the rectification of this error. You can say and if you want to again fall back on the rules of Westminster and the paramountcy of Parliament you can say, so what. The simple fact is, Mr. Speaker, that having these findings, having made his recommendations, he then has the right to publicize these and there is no Government alive that can stand the glare of adverse publicity created by an independent, impartial arbiter.

Mr. Speaker, as hon. members are aware, from the first session of this Legislature three years ago a select committee consisting of the hon. Minister of Supply as Chairman, the hon. the Minister of Provincial Affairs, the hon. the Member for Burgeo La Poile, the hon. the Member for St. John's North, the

MR. HICKMAN:

hon. member for St. John's East Extern, the hon. the Minister of Health and myself were constituted as a select committee to inquire into and to recommend to this hon. House whether or not legislation should be passed to provide for an appointment of an Ombudsman.

Mr. Speaker, this report of the select committee which was a combination of a great deal of work was tabled in this hon. House at the last session. Mr. Speaker, I think I am obliged to draw to the attention of this House that some of these recommendations of the select committee, and I might add that the tabling of the report of the select committee as I thought met with the unanimous approbation of hon. members, that some of the recommendations had not been followed.

MR. HICKMAN: Mr. Speaker, I draw Your Honour's attention to the recommendation under the title of "Removal or Suspension from Office," contained on Page 6 of the report of the Select Committee. And it reads as follows: "The ombudsman could at any time be removed or suspended from his office by the Lieutenant-Governor-in-Council on the recommendations of two-thirds of the House of Assembly for disability, neglect of duty, misconduct or bankruptcy." Mr. Speaker, if you will draw your attention to Section 7 of the proposed Bill, that two-thirds majority of the House of Assembly is not contained therein. The Bill now reads, that on the recommendation of the members of the House of Assembly the Lieutenant-Governor-in-Council may at any time, suspend or remove the commissioner from his office for disability, neglect of duty, misconduct or bankruptcy.

Now Mr. Speaker, that is a departure and a significant departure from the usual rules, the usual legislation dealing with servants of the House. All legislators have been very careful, very cautious and very proud of the fact, that when you have servants of the House, they cannot be removed except by a two-thirds majority of the House. This imposes on Government bringing before the House, the obligation to have good and sufficient reason, good and sufficient ground for the removal of a servant of the House other than the Government is displeased with one or two or three decisions that have been made by such servants.

Mr. Speaker, it has been indicated by the leader of the Government, that Government will be very susceptible to amendment to this legislation when we go into Committee, provided it does not take away the policy of Parliament. Mr. Speaker, an amendment to truly make this gentleman who will be appointed a servant of the House does not infringe on that principle. But what it does do is that it conveys to the public and it is absolutely essential that this is going to work. That the public get a clear unambiguous understanding that they are going to be dealt with, that their complaint will be heard by a completely fearless, unbiased man, not susceptible to political influence, not susceptible to political appointment, and not susceptible to the wishes of an over-bearing Government.

Because just as much as we treasure other things in this hon. House, certain other controls that we have over the Government today. This one is equally important. This right to have this man appointed by this House, and this right that he can feel secure, secure in the knowledge that will take at least two-thirds of hon. members to dismiss him. He does not have that, I suspect Mr. Speaker, that his functioning and his independence will not be the same as if that provision was contained in the Legislature. Mr. Speaker, there must be some reason for it in other Bills where we have service to the House. This was not suddenly concocted by a beneficent Government. It has been in legislation and it has been in practice in Houses for generations, where a servant to the House is to be appointed, he cannot be dismissed except by two-thirds majority. So I would ask the hon. minister who I believe, shares my views, that this type of legislation must come in now, that we must convey to the public the absolute unqualified independence of this servant of the House. He is not a servant of Government. Now Mr. Speaker, one very relevant historical fact. To my knowledge, and I would stand subject to correction by the hon. the minister - is he shakes his head, I will know I am wrong, if he does not I will think I am right.

To my knowledge, no former member of a Parliament or a House of Assembly, no former politician has ever been appointed to the position of ombudsman or commissioner.

MR. MURPHY: There could be an exception in this case.

MR. HICKMAN: Well if there is an exception, again you would destroy the thing before it even started to function. Now I do not for the life of me believe a man who serves in public life should be discriminated against or handicapped because of the fact that he has spent many years serving the people of this Province, or serving Canada or serving any other area. That is not the same issue as the one which is before us with respect to this particular piece of legislation. You cannot use the same rationale

that was used here quite recently in another debate regarding another appointment. You cannot use the same rationale that was used here in another debate concerning the appointment of the judiciary, because these men immediately move out of the House. They are in effect above the control of the House, indeed the judiciary needed two-thirds vote of the House of Commons and Senate, so that - in this case why it would be absolutely inconceivable to appoint a member, or a former member of this House, is that he the servant of the House, and again not only must justice be done but it must appear to be done.

Now Mr. Speaker, one of the hon. members may be more than one who referred to this, who spoke in this debate, referred to the fact that when this House is not in Session, the Lieutenant-Governor-in-Council, which is the Cabinet, may remove the ombudsman from office for cause. Now Mr. Speaker, if I direct your attention to the appendices contained in the report of the Select Committee, and in particular, the latest piece of legislation that has been passed I think in Canada, or one of the latest anyway, and that is the New Brunswick Act, which was passed on May 19, 1967. There may have been one later in Quebec, but in any event, it is of recent vintage, it was referred to by the hon. minister in introducing this Bill.

Mr. Speaker, in New Brunswick it is provided that when the Legislative Assembly is not in Session, a judge of the Supreme Court of New Brunswick, may suspend the ombudsman from his office for cause or incapacity, due to illness, or any other cause upon an application from the Lieutenant-Governor-in-Council. This again Mr. Speaker, goes to the very guts of this type of legislation - goes to the real principle behind the creation of an ombudsman. It takes away from the Lieutenant-Governor-in-Council, any right of control over this appointee. Sure and true it is that if this House is not in Session, and if for some very notorious reason, it becomes obvious to everyone that the ombudsman has to be removed. He may be incapacitated, and that is the one that most frequently comes to mind. And he may become incapacitated to the extent that he is not capable of furnishing a valid resignation, and that is a problem that often has to

faced in respect of people whose appointments are from the Houses of Parliament. Yet, to make it abundantly clear to the public whom he must serve, he still has the right to have his case, his dismissal adjudicated on by a judge of the Supreme Court. And could be

What could be so wrong? It would be no taking away of any of the right to the House. If when the House is not in session the Lieutenant Governor came to the conclusion that the ombudsman must go what would be so wrong for the Lieutenant Governor in Council to have to make the request of the Judge of the Supreme Court of Newfoundland who would conduct the necessary enquiry and who would give to the public through his findings an assurance of complete impartiality.

Mr. Speaker, again that is not an amendment that goes to the great principle of parliament, parliamentary superiority or supremacy. And I would hope that when this Bill goes before committee that this House will see fit to accept these amendments as recommended by the Select Committee of this Hon. House.

Now Mr. Speaker, there is another provision in that Bill which I must confess strikes me as being one of petty provincialism. The patriotic thing to do is to take up the Bill and rave "Hurrah, we are keeping our dollars at home." But if I direct your attention Mr. Speaker to Section 5 (2) it says a person shall not be appointed as Commissioner unless he has resided in the Province for at least ten years prior to the date of his appointment. Now Mr. Speaker, under the normal course of events it is most likely that any legislature will appoint a Newfoundlander because of his familiarity with our needs and our practice of doing government, doing business in government or through government, or governments practice of carrying out its responsibilities.

Mr. Speaker, I think we can attach some significance to the fact that in the other Bills that are attached to the report of the Select Committee this provision will not be found. Indeed where do you draw the line? It is my recollection for instance in New Brunswick where Dr. Ross Flemington, a former president of Mount Allison University was appointed as ombudsman that he had in fact following his retirement from that great university moved to Ottawa where he was a permanent employee on the permanent staff of the Canada Council, and had been for

two or three or similar body operating under federal jurisdiction. Now, he would not have qualified in New Brunswick if that provision was in the Act, because he had not been residing there for the ten years prior to the date of his appointment. We may very well have, for instance, again let me take the case of Alberta where I believe a retired commissioner who was also a lawyer by profession from the R.C.M.P. was appointed to that position and his work in that jurisdiction and in that province has been highly commended. Does that mean for instance that a native born Newfoundlander who served in that force and we have several who served as high ranking officers in the Newfoundland Ranger Force in particular. And who are now even holding higher ranks in various parts of Canada, but who have not lived in Newfoundland for the past fifteen years. Does that mean that they are being disbarred from that type of individual from holding office. Does it mean, it does mean, it is not a question of does it mean, all you have to do is read the legislation, what happens we have many outstanding Newfoundlanders who hold high academic positions in universities throughout Canada and outside Canada. We have a great number. They are Newfoundlanders they know the Newfoundland way of life, they have an appreciation of our problems but through no fault of their own their profession or their avocation has called them beyond our shores.

Are they to be barred or alternatively what happens if we cannot find the type of free independent and as suggested in the report of the Select Committee, a person with some legal training. If we cannot find them in Newfoundland, or if the person that we would like to get is not willing to take the job, do we have to settle for someone second best when we know that if we follow the practice that has been followed by the other Canadian Provinces where they advertise throughout the land, why this restriction? There is no restriction on the President of Memorial University or the Vice-President of Memorial University. - There is no restriction on the Directors of Education throughout our educational districts. They can go anywhere. There is no restriction on almost any appointment I can think of, but yet

for some reason this silly little section that does not do us justice as Canadians. It sort of indicates to me that somewhere on the Government side of the House there must be some reluctant Canadians. Because if you are going to start thinking as petty provincialists, petty parochialism, on every issue and every piece of legislation comes before the House then do not let us hear flowing speeches about this great Confederacy and glowing speeches about how proud we are to be Canadians.

Obviously, Mr. Speaker, and this may be, I do not want to do the hon. the minister who introduced this Bill an injustice because again I believe that he shares my views to a very great extent on that. This might simply be a draftsman's thought.

MR. ROWE: Would the hon. gentleman permit a comment? Surely the intention of that it seems to me reading it, that is that the person appointed to this particularly difficult post would be somebody who had long experience and understanding of Newfoundland and Newfoundland people I am sure there would not be any other point behind even that, and that in itself, perhaps this is not the way to do it but I still think that is the desirable thing to do.

MR. HICKMAN: Mr. Speaker, this is the point that I thought I have been trying to make. My concern is about the restriction. I think that the restriction is most unfortunate. I believe that any House of Assembly in its wisdom will if at all possible appoint someone who has been living in the Province of Newfoundland. But I do not like the restriction that excludes native sons because they have simply been called upon for some reason or other to depart our shores for a few years. I do not like a restriction that compels the House of Assembly to take a second best if someone can be found elsewhere.

MR. COLLINS: He may be only gone for a year.

MR. HICKMAN: Or he could only be gone for six months, you know, or he may be away doing post-graduate work, but he is excluded under this section, and the section is peculiar for our Bill it does not follow Ontario, Quebec,

nationalistic provincially-minded Quebec did not see fit to put it in their Act nor did Alberta. And as I say I suspect that what the draftsman or what the proposers of this legislation may have had in mind was the desirability of having this type of individual but I think it is a grievous error or it would be a grievous error and to use the wording of the Act it would be frivolous and vexatious if we allowed it to stay in, and I would hope that again the unanimous recommendation and report of the Select Committee will not be overlooked in this respect.

Now, Mr. Speaker, the hon. the member for St. John's West raised the question of the interpretation of the word "agency", which may be the key to the functioning of this piece of legislation. Agency as described and defined in the Act says it means any agency of Her Majesty or Her Majesty's Government and include the Workmen's Compensation Board. It may be argued by implication that the failure to include other boards, particularly boards from whom there is no right of appeal, I am not concerned so much about the Board of Commissioners of Public Utilities because there is now an appeal to the Supreme Court of Newfoundland. There are some other boards and there are some other Act certain professional Acts that have been passed in this House which again grant the right of an aggrieved person to appeal to the Supreme Court of Newfoundland.

But I am concerned about these boards, such boards that do not have a right of appeal. And the one that so obviously comes to mind and has been debated in this House time and time again is the Newfoundland Liquor Commission. Now there is nothing to suggest in this Act, and I do not think that anyone would be silly enough to stand in this House to say that the ombudsman shall now be given the right to hand out liquor licences. That is not the thing at all. But what the ombudsman should have the right to do is, that if, say, a license E of the Newfoundland Liquor Commission comes to the conclusion that he is being aggrieved by undue pressure or by frivolous and vexatious harassment by an over-zealous employee of that board. Or that he meets all the requirements for the obtaining of a license and that he has been unjustly discriminated against,

then I think that is a clear case for the ombudsman. There is nothing in the Act that suggests that a complainant having become before the ombudsman saying that I am being discriminated against because of where I live or the colour of my hair or my political beliefs or anything else by the Newfoundland Liquor Commission the ombudsman can then direct that commission to grant a licence . That is not the principle of the Bill

the Bill at all, but if he did find that that gentlemen of the applicant has been unjustly and vexatiously discriminated against, he does have the right to table his report in the House of Assembly, and that publicity is enough to rectify any error that might take place.

Mr. Speaker, why I think we should have another look at the interpretation of "agency" as defined in this Act. As I read the New Brunswick Act, I think, it is the Alberta Act that "agency" does not have the same restricted definition. Both these Acts simply say: "agency, means any agency of the Government of Alberta or the Government of Newfoundland." That interpretation, that definition, in my opinion, would be sufficiently broad to encounter any of these boards, any of these commissions from which no right of appeal lies at this time. I think we may get into very serious trouble is by stating categorically that we include one board, that by including one board, defining one board, naming one board, by implication; particularly, when you get into the delicate field of interpreting the Statutes that we may be excluding the others. I do not believe that was the intent. I am sure it was not the intent of the hon. the Minister who introduced this Bill. I am sure it was not the intent of the select committee, the intent of the select committee, the intent of the minister was that any person who had to deal with any agency of Government, any agency of the Crown has the right if he or she believes that they are being unjustly treated, that the law is being interpreted incorrectly against them, that there is being unjust discrimination, that that person has the right to call on the ombudsman.

Now, Mr. Speaker, it would not be an answer to simply say well this would mean that the ombudsman or that public servants will have the life pestered out of them daily by the ombudsman coming around, like with his magnifying glass looking over the shoulder of every public servant to investigate every little complaint, because the ombudsman himself has a certain amount of discretion. He has the right to decide whether or not, in his opinion, the

complaint is frivolous. He has the right after he has started his investigation or received an explanation to simply decide that there are really no grounds to this complaint. The fact is, Mr. Speaker, that we have to get across to the people of this Province that something new has been added to the process of Government. That this House is becoming very concerned over this monstrous thing called the Government of Newfoundland whose tentacles are reaching out into the way of life of every Newfoundlander. Every time we pass another piece of legislation, in this House, somewhere along the line, we are restricting hopefully for the better, but we are still restricting the liberty and freedom of the subject, and this person or persons, as the tentacles close around them, should take some reassurance from this legislation that their rights will be protected. But they will not be reassured. They will not be satisfied that this is anything more than a wordy piece of legislation. This House passed last year, the Human Rights Bill, a delightful recital. It would almost bring tears to your eyes; certainly, you would stand up and sing, "God Guard Thee Newfoundland" having listened to the recital. It was a tremendous thing. Oh! you could talk for hours and you could have seminars. My friend the hon. Minister of Provincial Affairs and I, we attended two or three seminars on this last year, the year before last; a great piece of legislation; great words; great phraseology; never been proclaimed: a great deal of it may not be the protection of the subject that Newfoundlanders think it is.

Mr. Speaker, we should not allow this Bill to be so worded that it will restrict in anyway the right or the full intent of all members of this House, because it is my understanding that everyone, but everyone should or is of the opinion and of the belief in this House that this type of legislation is long overdue, that it is legislation that has something to offer to the people of Newfoundland and let us not - I repeat let us not restrict

or take away that implication or understanding by restrictive and unnecessary measures that are not found in the other Acts that are working so well.

Now, Mr. Speaker, again and this is, as I recall, brought the hon. Premier to his feet. One of the hon. members in speaking on this Bill referred to the fact that the commissioner has to come to the Lieutenant-Governor in Council, the Cabinet for approval to power and appoint the necessary officers and other employees and to have their duties fixed and have their remuneration fixed.

Now, Mr. Speaker, when it was suggested by one hon. member that the fact that the ombudsman will have come to Cabinet to seek money to pay his staff, will immediately put him under an obligation to Cabinet. It is not done in New Brunswick. This is what I am coming to.

Mr. Speaker, if you believe in the adage that the man who pays the piper calls the tune", then there is a great deal of merit in that suggestion. Under our proposed Act, the Lieutenant-Governor in Council has to approve the salaries that are to be paid for the staff who are to be employed by the ombudsman. The New Brunswick Act, Section (81) simply says that the ombudsman may appoint such assistants and employees as he deems necessary for the efficient carrying out of his functions under this Act. No restriction. The only other restriction is that he has to take an oath. That is not stupid at all. It is very obvious. The rational behind it, obviously must be clear to hon. members. This ombudsman has to be so completely and absolutely independent, if his independence interfered in anyway, then do not have him. You are wasting your time. I am sure that we do not give that authority to the Chief Justice of Canada. We do not give authority to the Chief Justice of Canada to decide on the number of judges who will constitute the supreme court of Canada, but they are not his staff. They are not his assistants. They are equals, except the Chief - the only difference

between the Chief Justice and the puisne judges is the very small difference in salary, but he has no jurisdictional right over them. He has no right of discipline or higher authority.

But again that analogy, Mr. Speaker, is not sound for this reason; that under the Judges' Act, that once a judge is appointed, he can do what the hon, the Premier did to the Opposition, to Parliament. He can turn his back on it. He can only be

MR. HICKMAN: may be removed cause, and it has only been done once since 1867, only once, by a two-thirds majority of the House of Commons and the Senate. He has the freedom of independence that goes with the separation of the powers of Parliament and the separation of the judicial powers.

But this gentleman is a different type of person, a different office entirely. He is to be a servant of this House, and there is the distinction. And there Mr. Speaker, is why it is so important, and why I suggested in these other provincial Acts, you will not find the same restriction on - the amount of assistance and money to be spent by the ombudsman, because if the ombudsman, and remember the ombudsman has to be in a position where he can walk in to the Hon. the Minister of Welfare and say, "you have discriminated against John Jones of Bell Island, and here is the evidence, and here is how I recommend that you cure it." And the hon. minister knows that if he does not take the necessary action to rectify that error, that come the next Session of the House, lay it on the Table of this House, hopefully will be the report and the recommendation of the ombudsman and the failure of the hon. the minister or his deputy minister, or his senior Civil Servants or senior officials to carry out.

Now you cannot put the ombudsman in a position where he knows that he has to go to these very people, and say "will you give me a few more bucks so that I can get adequate staff."

MR. NEARY: Did the hon. member might recall this afternoon, His Honour signed a Bill, an amendment to the Social Assistance Act, setting up an Appeals Board in the Department of Social Service and Rehabilitation.

MR. HICKMAN: You are still not going to escape.

MR. NEARY: But the ombudsman would have to deal with the Appeals Board, not with the minister.

MR. HICKMAN: Oh no, you better read the Act. You are still going to be caught. I do not want to use the phraseology of my hon. friend from Humber, West - St. John's West. I do not want to get into the jugular debate, but the ombudsman can go after -

MR. CROSBIE: There would be a hum on the Humber.

MR. HICKMAN: No question about that. But he must first await the exhaustion by the complainant of all rights -

MR. NEARY: There will be an Appeals Board -

MR. HICKMAN: But if that complainant appeals to your Appeals Board and is dissatisfied with the decision of the Appeals Board, and the time for any further redress under that Act has expired as I understand it from reading this Act, and from my hon. friend's remarks introducing it, then he can come after you.

MR. NEARY: Oh, well that is fair ball.

MR. HICKMAN: But what I am saying is not fair ball, is for the ombudsman to have to come to you the next day, or the next week knowing he is going to have to go to the hon. minister and his colleagues and say, "will you give me enough money to hire a secretary," or "I have become over-loaded or over-burdened and I need another investigator -

MR. NEARY: Or if he needs a food order, I will be glad to accommodate him.

MR. HICKMAN: This again is where I believe, is a departure from the true principle of ombudsmanship.

MR. CROSBIE: The ombudding process -

MR. HICKMAN: The ombudding buddy. But Mr. Speaker, I do take some encouragement from the hon. Premier's statement, that any reasonable amendment in Committee will be accepted so long as it does not fringe on the paramountcy of Parliament.

MR. CROSBIE: That should be interesting to see what happens.

MR. HICKMAN: Now Mr. Speaker, there is one point that I could not find in the other legislation, but it might be there. And I would ask the hon. minister in closing if he would refer to it. Section (93) says: "That it is not necessary for the commissioner to hold any hearing"- well that I suppose is to be in one sense, understood. Then it goes on: "No person is entitled as of right to be heard." Now in other Acts I am unable to find it. It may be in the other legislation, but I believe that the implication is that if the complainant so wishes to be heard, he has that right. In any event I am wondering if this is not a restriction that you will not find

it cannot be found in the other Acts, I do not know. That is a question that I posed to the hon. the Minister. Again, Sub-section (23) says, that subject to Section for a person who is bound by an Act to maintain a secrecy in relation to or not to disclose any matter that is not required to furnish certain supply information etc.

Now Mr. Speaker, may I again pose this problem to the hon. the minister, and it was raised here last night. That if the ombudsman is going to work, if his office is going to function other than matters that are verified or certified by the Attorney General as not being of public interest to disclose, and the Attorney General has to have that right, particularly in the field of criminal law. You cannot have the ombudsman going in and going through files of suspected criminals. That sort of thing would be an intolerable interference or invasion of privacy. But apart from that, and apart from the deliberations of the Executive Council, everything else should be made available to the ombudsman, because remember the ombudsman is under no obligation to disclose all of this in public. And I am concerned that twenty-three may enable a Civil Servant who is being asked to produce certain information, to say that if I do, this is contrary to my oath of secrecy that I took as a Civil Servant. If it is there is no point in having an ombudsman, because every Civil Servant would be duty-bound to refuse to give him anything. He would be duty-bound to refuse to talk to him. And I am wondering if that Section has any place in this particular piece of legislation, bearing in mind the practice of requiring public servants upon being hired to take this oath of secrecy. It is not a legal training, but what I am concerned about is I have seen too many pieces of legislation with good principles, great principles, designed to protect the liberty of the subject being shot down the first time someone tries to take advantage of us. Or alternatively which is even worse, and which is far more reprehensible, where a Government then hides behind this piece of legislation and says, aha you better read the Act. Never mind what we said in the House of Assembly when we introduced it. Never mind

all the great speeches you heard about it. Find it in the Act, and if you cannot find it, go home. Mr. Speaker, I would hope that in this case, insofar as this Act is concerned, if we genuinely want it to work, and I make these remarks on the assumption that the unanimity expressed, the enthusiasm expressed by hon. members to this report is to be believed - if it is to be believed and accepted, then everyone in this House wants an unfettered, unbiased, independent, confident ombudsman. And these points that I raised are points I would hope, that this hon. House will see fit to discuss and decide whether or not they infringe at all on that great principle contained in this Bill. One other thing Mr. Speaker, again Section (21) - It says that the Minister of Justice, where the Minister of Justice certified that the giving of any information or the answering of any question, or the producing of any document, papers that might involve the disclosure of the deliberation of the Executive Council that is fine. To the proceedings of the Executive Council or Committee thereof. Now Mr. Speaker, again I pose this as a question to the hon. the Minister. Many of our public servants and many people and organizations in their dealings with Government, have their rights contained in minutes of Council, that the appointment set forth their duties, their salaries, their terms of reference, the type of contract quite often is to be entered into - a minute of Council is passed authorizing the hon. the Minister of Welfare to enter into a contract for the erection of a new home for the aged in Grand Bank. That is not likely to happen, or a school in Northwest River.

Well Mr. Speaker, that type of information I would hope, and I presume, is not excluded from being made public under this particular section (21) because I do not think

MR. HICKMAN: the intent is nothing should come into the hands of the commission which would involve a disclosure of the deliberation of Executive Council Theory. And I believe that 21(a) covers that.

Now, Mr. Speaker, just one more thing, and that is, or two, and this one is an interpretation one, and nothing at all to do with the principal of the Bill, 35(a) says that this Act does not apply to judges and functions of any courts of the Province. I believe the word, "magistrate", should go in after judges, under our Magistrate's Act, and not treated as judges, but that is only a very minor detail.

But, Mr. Speaker, may I direct your attention to 23(4). And that where the provision is, a commissioner in his discretion after considering the comments made by or on behalf of a department or agency may send a copy of the report and recommendation to the Lieutenant-Governor in Council, and may thereafter, make such reports to the Legislature on the matter, if he thinks fit.

Now, Mr. Speaker, I believe that , that may, should be shall. I believe that in the event that a commissioner has made a recommendation to a minister, or to an official of Government, and that recommendation has not been implemented, and the explanation for refusing to implement it is not acceptable to the commissioner. The explanation may come back and it maybe totally accepted this is the last you will hear of it. But if that is not so, then I think it should be taken out of the discretion of the ombudsman and he should then be obliged to table this in the House. Because again, this is where you get back to the independent of the man who is going to hold this office. If he has no choice, but to table his report in the event on a refusal to implement, then he has no worry about any disciplinary action, any restriction, any discrimination which maybe imposed on him.

Mr. Speaker, I would commend to the hon. minister who introduced this Bill the idea that in that particular section, it should be made mandatory where there has been no action taken to implement the report and recommendations of the ombudsman.

MR. HICKMAN: Well, Mr. Speaker, may I say in closing that if the ombudsman truly becomes a servant of this House. If he has all the rights and all the protection of other servants who are appointed directly by this House. If he knows that he cannot be removed, except for cause by this House, and if he knows that in the event of the House not being in session, he can only be removed after having his case heard by a judge of the Supreme Court. And if he knows that he does not have to come on his knees and beg of Government for funds in order to properly function, then we will have a truly independent ombudsman. If we do not meet these requirements now, there is no point in the crusader for this piece of legislation ever going out to the people of Newfoundland and saying, "I brought in the Ombudsman Act. I protected your interest". They will say, "what interest did you protect?" He is no different from anyone else. He has got to go to Government, he is no different from any public servant. And he will be destroyed before he starts. On the other hand, we get the message across to our people, that here is a truly competent well-trained, fair individual, who could not care less as to what Government thinks about him, whose only devotion is apt to act impartially and to protect the individual, to protect the unorganized, to protect the disorganized. Then we would have passed today a piece of legislation that is worthy of his name. Because, Mr. Speaker, certain great principal of parliament we practice, and parliamentary rights are going to have to be watered down. The function of Parliament no longer is that of a club where a group of members sit around on each side or a nice little debating society, there is a difference between this House, Mr. Speaker and the M.C.L.I. There is a difference between this House and other debating clubs, because the emphasis as the business of Government grows, the emphasis is shifting more and more from debate to administrative practices. People cannot sit around for months while we leisurely debate in this House. Government has to get on, the House has to get on with the administrative responsibility that are forced on us. And as these administrative responsibilities grow, and as the administrative practices become more entangled, and more embracive, the little man is more likely to get caught up in bureauacy, more likely to find himself in a position

MR. HICKMAN: where he can be discriminated against at the bottom of the ladder, and no way to get to the top to have this rectified. And that is why, Mr. Speaker, I for one say that we must be prepared as parliamentarians to accept the fact, there is going to be certain changes, there is going to be certain changes in the powers of Parliament. That society no longer is prepared to sit back and watch us leisurely debate estimates. That society is no longer going to be prepared to sit back and wait for us to say, "well, this cannot happen until next year, when we bring down the budget in the House". Society is no longer going to be prepared to sit back and allow a member of the House to look a complainant straight in the eye, and say look, "I have been elected by the people, and having been elected by the people, no one else is going to tell me how to do my job". Because, Mr. Speaker, the job now is becoming to intricate, it is having to great an effect on the way of life of our people to leave that in the hands of a man who can do untold damage between elections.

Mr. Speaker, it is with a great deal of pleasure that I support this Bill, and at the same time I do look forward in committee to see Government accept the commitment of its leader and to accept what I would believe and hope to be recommendations which will assure the independence of the man who is to be appointed thereunder, now I do not know if this Act is subject to proclamation, by the Lieutenant-Governor in Council or not, but I suspect it is, and if it is Mr. Speaker, that is a pity. Because unless this Act is proclaimed now, and becomes Law during this session of the House, then it means that the next session of the House, hon. members will simply be called upon to approve something that has already been done, and that is the appointment by the Lieutenant-Governor in Council. True, you can say under the Act, within thirty days after the House opens, has a right to fire him out. But who is going to do that? Because you are just going to do it for just cause. So I would hope, the hon. the minister again, is proof positive of intent to keep this man a servant of the House. We will urge on his colleague, that, that section, a proclamation be taken out. You cannot use the excuse that the man had to find staff before operating, because this is not retroactive legislation, he

MR. HICKMAN: will not have anything to do in the first couple of months. He cannot use the excuse that, I would hope rather that inquires have already been made, tentative inquires in light of the fact that there has been a clear indication that there would be no one voting against this legislation in the House.

And I would hope that if we anticipate that this House will be in session for the next few weeks, and I believe it will, that before the House closes, Government through the appropriate minister will be able to ask the House to appoint the ombudsman who will be truly servant of members.

MR. ANTHONY MURPHY: Mr. Speaker, I am just going to have a few words on this Bill, I enjoyed the debate. I think it is one of the finest debates we have had for a long time. I think the subject matter of the speakers was very well studied. But, as far as I am concerned, perhaps I am being a little more practical than some of these gentlemen who loved the glamorous title of ombudsman or what have you. I have been trying to figure out what this appointment would cost, it is very difficult to assess it at this time, but we have the salary set down as \$20,000. There has got to be an office set up and some help found, so I would say, that it would be in the area of \$100,000. I maybe way out one way or another. This is my feeling because I have made some inquires as to the duties and the work load that has developed where an ombudsman is operating in different provinces, and it seems to be that the thing is mushrooming all the time because, I think the hon. member told me this morning that in Alberta, if I am correct, that it is reached the stage almost where the ombudsman has replaced a member of the Legislature, that people were actually bypassing. It is not right or it is not wrong, but it is happening and this is the point I am trying to make. Is it right or wrong, but this is what is happening that people say, why go to ~~the~~ my member he has been trying to do things for me for sometime, and he cannot get any head way, so I will not go to him anymore, I will go to the ombudsman who will go direct to the department and go through the same procedure apparently that the member has done.

MR. NOLAN: You do not go to the ombudsman to find a job.

MR. MURPHY: Mr. Speaker, is there anywhere in Hansard that I mentioned finding a job?

MR. NOLAN: Inaudible.

MR. MURPHY: Be placing a member in welfare complaints, unemployment in complaints, what else do members have to do.

MR. NOLAN: Only where there is grievance, Sir.

MR. MURPHY: Well these are gr^eivances, he feels that he is being prejudice against. Some one else got an apartment in Buckmaster's, why did I not get it? Is this a gr^eivance?

MR. NOLAN: It is a matter of information we have.

MR. MURPHY: Right.

MR. NOLAN: There is no reason why a member of the House -

MR. MURPHY: The point I was trying to make is this, that we are all hept up about this tremendous appointment at this time, that is going to cost us, and these are my thoughts, of something like \$100,000. The past few days we have been debating in this House, where are we going to find money to pay certain civil servants, who we admit are just about operating on the poverty line

and still be are going to create something else now and people will say, well this is only \$100,000, how far would that go with the raises? Well according to figures obtained today, it would be one-third of what the policemen were looking for, another saving somewhere else, a few more nonappointments, and I think we will have a bit of money in the kitty or perhaps we could set up some kind of a Christmas hamper fund for some of these people who again we say, and we admit it freely are not getting the wages that they are entitled to.

Now I know there will be a great laugh at this. Why talk about \$100,000, but I think that is one of the great handicaps that we are suffering under in this Province this past few years. Anything less than a figure of six 0's behind it, is hardly worth discussing. But I think I am trying to be a little more practical, a little more down to earth on this. This appointment at this time, in my opinion, would be just as practical as building another Elizabeth Towers or having a public building on the Funk Islands; economically, speaking with the state that we are in - in our finances. I cannot see what purpose the ombudsman would serve at this time; particularly, again in view of the cost. We have forty-two members in this hon. House. We have eighteen Cabinet ministers. I think we hold our own with any province of Canada, as far as representation is concerned. I think we all try to do our best to speak with people on different grievances they may have and quite frankly, I do not see ^{where} an ombudsman is going to do any better. I do not know the exact words that the hon. minister quoted the other day, but we have had one ombudsman for the past number of years back, and I do not see any reason or any hope that that great ombudsman will be replaced by the one that is coming in; particularly, in view of some of the legislation that is being talked about here where the Lieutenant-Governor in Council has pretty well his own way with appointing or dismissing. It sounds very glamorous, Mr. Speaker, I will say that, very glamorous that Newfoundland again is one of Canada's provinces that has an ombudsman. But

practically speaking, and for reasons that I have set out, I cannot see the function of an ombudsman at this time. I cannot see...

AN HON. MEMBER: Vote again - vote again.

MR. MURPHY: I may or may not.

MR. SMALLWOOD: Well if the hon. gentleman cannot see any use in him, he has got to vote against it.

MR. MURPHY: Well I guess I will vote against it. I mean it is not the a party measure, as Premier understands. I am sure that over there..

MR. SMALLWOOD: Over here...

MR. MURPHY: Always over there the people use their own minds. They vote as they feel. They are never subjected to any discipline.

AN. HON. MEMBER: No dirt now - no dirt.

MR. MURPHY: That is not dirt. That is a statement of fact.

MR. SMALLWOOD: Without party discipline the hon. gentleman's party will stay in Opposition forever.

MR. MURPHY: Well that ...

MR. SMALLWOOD: Without party discipline, you have not got a party.

MR. MURPHY: That can be proven to.

MR. SMALLWOOD: That is the history - that is history.

MR. MURPHY: Are the hon. members finished now? Can I carry on? I only have a few words. I will not detain the House too long.

I am sure that on the other side, they welcome this great announcement to have an ombudsman. I am sure that they are all out cheering that again we have added another office on the expenditure side of the Government. I can write the name here now and put it in a sealed envelope who the ombudsman will be.

MR. SMALLWOOD: I will refuse point blank. I will not accept. I cannot be forced. I will not be coaxed under no circumstances will I accept. I rather the job I have now, than that.

MR. MURPHY: No I do not think the Premier would accept that.

MR. SMALLWOOD: That is right.

MR. NOLAN: Would you be willing to put the name in the concealed envelope, and if you are wrong, would you be willing to admit it?

MR. MURPHY: Absolutely.

MR. SMALLWOOD: We got the only penalty admitting that he was wrong. He is always doing that.

MR. MURPHY: Absolutely. The few times that I have been wrong, I have admitted it.

MR. SMALLWOOD: Sure, which is so often.

MR. MURPHY: And that is not like a litany that could occur on the other side.

MR. SMALLWOOD: What is it? "Mea Culpa - how does it go?

MR. MURPHY: But, Mr. Speaker, as I say, "Mea Culpa", Mea Culpa, Mea Maxime Culpa." That is it. The sign should be right across in block letters.

MR. SMALLWOOD: What is it in English? I am guilty. I am

MR. MURPHY: Through my fault, through my fault, through my most grievous fault.

MR. SMALLWOOD: Is that not sort of an omission of guilt?

MR. MURPHY: Yes.

MR. SMALLWOOD: Does it not really mean that: I am too blame, I am too blame

MR. MURPHY: That is right. That is right. It is the Confessor. You are confessing that the Premier is not upon - I know he is a great Methodist. I think part Anglican, part Pentecost, but I do not know, if there is any Roman Catholic ...

MR. SMALLWOOD: Oh! yes there is. Oh! yes.

MR. MURPHY: You learned catechism at Littledale, but ...

MR. SMALLWOOD: I use to skip that.

MR. MURPHY: Just the "Our Father" and "Hail Mary."

MR. SMALLWOOD: They use to let me out.

MR. NOLAN: We tried to give him a few instructions every day.

MR. MURPHY: You were one of the lucky ones.

MR. SMALLWOOD: What?

MR. MURPHY: You were one of the lucky ones.

MR. SPEAKER : I am sure that nobody is out of order.

MR. MURPHY: Mr. Speaker, if you want to make a motion, I will second it. But to get back to the ombudsman, if we may?

MR. SMALLWOOD: Chiefly, I may say, chiefly Wesleyan.

MR. MURPHY: Chiefly Wesleyan. We will hear the story some day in public.

MR. SMALLWOOD: I am the last of the Wesleyans.

MR. MURPHY: I was going to say something, but

MR. SMALLWOOD: I know two or three....

MR. MURPHY: I do not think it would go over too well with the public.

MR. SMALLWOOD: I know two or three that would dispute that, but there you are.

MR. MURPHY: But, Mr. Speaker, we are discussing Ombudsmen now, not Wesleyans.

MR. SMALLWOOD: It might be better to discuss Wesleyanism.

MR. MURPHY: Possibly it might.

MR. SMALLWOOD: It might be more interesting.

MR. MURPHY: Yes.

MR. SMALLWOOD: Any time the hon. gentleman wants to, let me know.

MR. MURPHY: Right. I will go up and see the hon. Premier's library.

MR. SMALLWOOD: Yes. Has the hon. gentlemen ever been to see my library?

MR. MURPHY: I just saw the hon. Premier's gate.

MR. SMALLWOOD: Saw what?

MR. MURPHY: The front gate. Not allowed in any further.

MR. SMALLWOOD: Why did not the hon. gentlemen...

MR. MURPHY: I have...

MR. SMALLWOOD: Why does not the hon. gentleman come up and have a meal with me and see my books?

MR. MURPHY: You might incriminate me.

MR. SMALLWOOD: What.

MR. MURPHY: The hon. Premier might incriminate me now, if I go up.

MR. SMALLWOOD: No not at all. I will not try to convert the hon. gentleman or anything like that.

MR. MURPHY: We are having great fun.

But, Mr. Speaker, there is a matter about \$100,000 I am trying to discuss here, and as you can see this is the most important point that has been brought up yet in this debate, because all the members are trying to side-track me from the fact of telling the people of Newfoundland - we are now adding another ornament that is going to cost them money. An ornament if ever there was one. It is absolutely unnecessary, an absolute squandering of the people's money; particularly, - hon. members laugh over there, and say this is a great joke and tomorrow you will hear him getting up and I believe in trade unions. I believe in union wages, everything else, everything else. They are behind everything, but when they get on that side, I do not know, the whole atmosphere seems to change. Whatever it is, I do not know. If the Premier got up on a point and said a \$100,000 - what I could do with \$100,000 for the people, spend on a little something here. This is the kind of man we want. But someone else brings it up, it is a proper joke. Now what area of this Province could not do with that \$100,000?

MR. SMALLWOOD: Look at all the worms that could be grown.

MR. MURPHY: A lot of them destroyed to.

MR. SMALLWOOD: But look how many could be grown and exported.

MR. MURPHY: Speaking of worms, you know,

MR. MURPHY:

speaking of worms, not looking at the Premier, (I did not mean it that way) but the worm industry and it has been proved, not getting away from this thing for a moment, is far more profitable than seventy-five-per-cent of the industries we have developed in this Province.

MR. SMALLWOOD: It must be pretty profitable.

MR. MURPHY: It would astound the millions of worms that are sold in this Province today at one cent each and the returns compared to the different industries we have seen.

MR. SMALLWOOD: Yes, for instance the fisheries.

MR. MURPHY: The fisheries is not an industry as far as the Government is concerned.

MR. SMALLWOOD: Take for instance forestry.

MR. MURPHY: No, that is only a by-pass.

MR. SMALLWOOD: All we put in the fisheries is \$30. million.

MR. MURPHY: Right. That is all, \$30. million over twenty years, that is \$1.5 million a year.

MR. SMALLWOOD: That is right.

MR. MURPHY: This is from the Premier now. He has been saying that over the past twenty years, now we have it established.

MR. ROWE: But you told us we have not done enough for it.

MR. MURPHY: That is right and that proves it. \$30. million over twenty-one years.

MR. NEARY: Well we will go in for worms.

MR. MURPHY: Yes, it would be far more profitable than some of the ventures we have taken on. You would not need \$155. million guaranteed for to supply a few pickaxes.

MR. NEARY: We would soon reduce the unemployment.

MR. MURPHY: We certainly hope so, please God and we say it quite fervently. But here is another \$100,000 now, Mr. Speaker, that we are going to throw away to some distinguished gentleman, and I am sure he will be distinguished, and he will be chosen by the great Ombudsman himself, I know that, he will be kept in office or thrown out according to the Legislation. So we will dig down again for next year to fork out another few cents in taxes. It has been said that

MR. MURPHY:

certain things cannot be done without raising taxes, certain salaries cannot be paid.

Mr. Speaker, I say that is an absolute fallacy if the Government of this Province decided to take measures such as one they are taking now, and not take this measure but take measures to abolish some of the ornamental officers we have in this Province we would have a few million dollars we could talk to and I think everybody in this House will agree with me on this.

So, Mr. Speaker, I personally at this time cannot see any virtue or any need, in view of our economic conditions and so many people looking for a few dollars to add to their incomes, I personally cannot favour the appointment of an Ombudsman at this time.

MR. BURGESS: Mr. Speaker, personally I cannot agree with the hon. gentleman who just sat down.

MR MURPHY: Cannot?

MR BURGESS: Cannot. In everything else, yes.

AN HON. MEMBER: No coalition.

MR BURGESS: If you say you want to get the dope on things, get it from the dope. In any distance to travel, you have to take the first step, and despite the legal drawbacks, some of the minor legal drawbacks, as pointed out by my legal friends here, to this Act, I think that the intention of the Act itself and the over-all principal of it is most certainly one of the finest Bills that has ever come before this House. I think that practically all of the credits for this Bill do belong to the hon. minister who presented it and that is the hon. Minister of Supply.

In his remarks yesterday the Premier made a mistake, I think he may have corrected it. He said that the hon. Minister of Supply had been discussing this thing for almost a year. Well I remember the hon. minister discussing this in 1966 just after the last provincial election and I have since learned that he used to speak about the necessity of an Ombudsman even when he was working in the broadcasting field. There is no doubt in my mind that it is due to his efforts that this Bill is before the House and I think he is to be sincerely congratulated on it.

MR. BURGESS:

The value of an Ombudsman to this Province; I think it will take a period of time before the value can really be properly assessed by the people because there has to be some court of appeal, Mr. Speaker, above the normal members who are elected to this House, against the bureaucratic system with all its drawbacks. It is very unfortunate that within the Act, as pointed out by every other speaker on this side of the House anyway, the political ramifications being that he is appointed, by the House of Assembly or by the majority of the members of this House of Assembly, but I am afraid it is impossible to avoid political ramifications no matter what kind of a position you create, it has to be created by the elected representatives. The political ramifications of that in itself are, well they are just ramifications. You cannot separate the position from politics, much as we would like to see it. But psychologically he will have, always in his subconscious mind he will be wondering, if he makes a right or a wrong decision, what the ramifications will be, as far as the people who are capable of putting him out of the House are. And he would have to be an exceptional individual if he tackled all of the problems which he is bound to be presented with in a fearless fashion without even thinking of repercussions or any repercussions that would be likely to occur from any one decision.

Now the point was brought up was really made quite clear by the hon. the Premier yesterday when he said that this Ombudsman should not be in a position to overrule the elected members of this House, a right that we have fought for for hundreds of years. He used the words that even a compulsory arbitration should not be in a position to dictate how the money is spent from the Provincial Treasury and that they should hold on to the purses. Now I think that that was a rather strange statement and I hope that the Ombudsman, as such, at least his recommendations would be taken with a greater degree of sincerity than some of the recommendations of Arbitration Boards that we have seen in this Province in the last couple of years. Recommendations that they have made for groups of people, vitally essential workers in the Province and their recommendations were completely ignored and if the Ombudsman receives the same treatment well then I am afraid at some stage I would have to reverse my

MR. BURCESS:

opinion about the merits of this Bill.

Now, I would be delighted, I have heard that he will get travelling expenses, he will receive a salary of \$20,000. a year and I would sincerely hope that he has occasion to use some of those travelling expenses to travel to Labrador where it is just impossible to imagine the amount of complaints that an Ombudsman could possibly, logically settle or radify. I have, as an elected representative, or any one of us as elected representatives in this House, any decision or any statement which we make on the basis of representation from our constituents or citizens of the Province, any statement we make is always taken on the basis of what party we belong to or what political gain or measure that we are getting out of making this statement in the House.

Now this is where an Ombudsman could in effect in his dealings with the public could be much more effective than we are in that it would be considered that he does not have any axe to grind. But I would like to see an ombudsman. For instance, I have brought the problem to the House on numerous occasions, but I would like to see somebody in Labrador City or Wabush explain to me or explain to an ombudsman (because they have explained it to me often enough and I have explained it to the House often enough and I have seen no results from the complaint which I have made), I would like to see the problem of how it is that myself and any other hon. gentleman can go to the airport tomorrow morning and can both buy tickets, on Eastern Provincial Airways and I buy my ticket to Wabush and the other gentleman buys his ticket to Montreal, and we get aboard the same aircraft, and we travel to Wabush and I get off at Wabush and he goes 600 miles more, to Montreal, and I have paid eighty-six dollars for my ticket and he paid sixty-six dollars for his. Now, you know, this is

MR. BURGESS: This is a problem that I have confronted this House with. I do not see any action. I do not see any action on it. I would like to see an ombudsman being approached by the workers of Churchill Falls, or by anybody that attempts to get into Churchill Falls, when you were told before the aircraft comes in for a landing that if you are not destined for Churchill Falls, that you cannot get off the aircraft, and if you do get off the aircraft, you walk into the air terminal - and there is a big rope around the forum in the air terminal. And there is a bunch of Security Guards standing there, and they funnel you through a glass box on the side where there are four or five security men who check out your credentials and your reason for being there. It is like going into one of the Iron Curtain countries. I would like to see people approach an ombudsman on these problems. I would like to see the people in Churchill Falls approach an ombudsman on the problem of Union representation, which they are not getting, yet they are paying for.

I hope, I sincerely hope that the ombudsman has a bigger impact, or his recommendations or the problems which he does present to the authorities concerned, that there is more action taken on them, than it is from the members who bring the problems to the attention of Government. Because there ^{are} a lot, Mr. Speaker, there are a lot of moral rights. There are a lot moral rights, let alone the legal rights. The legal rights of the citizen are one thing, and God knows there are a lot of legal implications in a lot of the Acts that have come out of this House that have to be changed, but there are also moral rights that people feel that should be looked after also, and which they are getting no response from - when they do present them to their members. I would like to see the ombudsman approached by the people of my district when I go to utilize the CBE facilities in Goose Bay, and I am told that I cannot use it. Other hon. members of the Government can go and use the facilities, but no, not me. For some reason, I am told - no dice, I cannot utilize them. I would like

to see somebody go and tell the ombudsman that also. And I would like to see the ombudsman bring it to the Government, to the attention of the authorities concerned, and to get rectification of this matter - on the Bill itself Mr. Speaker, the one point that really made sense when the hon. member for Burin was talking, was the fact of the words "may" and "shall" when the commissioner, as he is called, where he should be compelled to bring some problems that he is presented with to the attention of the House of Assembly, because if he is not compelled, I am afraid that psychologically, political influence could really end up in the fact that he would not expose the problem or bring the problem into the open, and the problem, if it is a vital one as far as any individual or group of individuals are concerned, it would be submerged because the individual would be told, well it will not be allowed on the floor of the House. But I think that this is a very important facet of this Bill, that he should be entitled, or the word "shall" should be there. He "shall" make such a report to the Legislature on the matter as he thinks fit.

But as I have said in any distance, you have to take the first step and I think this is the first step in bringing about an element of justice in the elimination of a lot of fear that exists in this Province, based on the present political circumstances. And I think that the hon. minister who presented it has to be commended to a great degree for his efforts in bringing ^{it} this far.

MR. NOLAN: Mr. Speaker, there were a number of items referred to that I should make reference to at this time. One is the election or the dismissal of the ombudsman. Many people have felt that it is feasible to compare the ombudsman for example, to say the Auditor General for example. And this as you know, can be done if you check the Revenue and Audit Act, by a simple majority vote of the House of Assembly to dismiss the Auditor General. A simple majority vote of this House can dismiss the Premier, the Cabinet and the Government. And it is for this reason when we were discussing the legislation prior to presentation to this House, that the Section was drafted in this way. Again I emphasize that the Auditor General could be removed

by a simple majority. The Government could be removed by a simple majority. The question arises then, why should the ombudsman have power or need extra protection above and beyond these people that I have mentioned? I am simply saying, Mr. Speaker, that we can be removed, the Government can be removed. The Auditor General can be removed by a simple majority of the House of Assembly. Are we going to be - the Speaker can be - Your Honour you can be removed by a similar, by a majority. The ombudsman is not graded in the House. I think, Mr. Speaker, no one will deny that I am interested in this Legislation, and it is unfortunate sometimes, that there are those who feel that it is necessary to, no matter what we bring up from this side of the House, to find some reason to criticize it. For example, I think it most unfortunate, and I am not really going after this gentleman, and I do not want it to be interpreted as such. That the hon. member for St. John's West, decided to suggest that we have to have a man who is going to go after the jugular. It is an ombudsman, a man, not a vampire. We do not want a man, and I am sure the hon. member from St. John's West does not want a man who is going to come in here with the preconceived notion that my aim in life, now that I am appointed, is to get the hon. member from St. John's West. To get the Premier, to get the Government, to get someone in the Opposition, to get some Civil Servants, to get some chairman of some Corporation.

MR. SMALLWOOD: Go right for the Government's jugular.

MR. CROSBIE: If necessary, and I would not doubt it would be with this Government.

MR. NOLAN: Again I say it is unfortunate, depending on which side of the House you are sitting on, you seem to have to twist and turn things, to satisfy the position that you are in, in the House at the time. I know very well, in very heart for example, the hon. member himself is interested in the appointment of an ombudsman. That I know, and I am also sure that if he himself were in a position to appoint or to influential in appointing a man to be the ombudsman for this Province - incidentally in the legislation

I believe, it says Newfoundland I do hope when we get in Committee it will be referred to as Newfoundland and Labrador, but I am sure that he would not appoint a man who is simply going to go after the jugular as he says. I think it was an unfortunate phrase and in spite of what he says I do not think that he really meant it that way.

MR. CROSBIE: No, it was an exaggeration -

MR. SMALLWOOD: No he did not mean it.

MR. CROSBIE: What about the job? Can I apply?

MR. NOLAN: Well if we were convinced that perhaps the hon. member could be restrained and was not bent on going after someone's jugular, I see no reason why his application should not be considered.

MR. CROSBIE: What about Achilles heel?

MR. NOLAN: There is another matter on the appointment of the ombudsman which was not really - it may be misinterpreted in some way, and that is this business of being ten years resident in the Province. The Section does not say immediately prior, therefore, anyone who has lived in Newfoundland for any ten years before his appointment of course, would certainly qualify. This is something again, that I say we can go into in discussion in more detail in Committee, but I would like to take the great Canadian's visionary attitude on this, to let us go and advertise nationally, and I have copies of the add from Papers across Canada as what they did in Alberta and so on. If you feel, if the people in this House feel, Mr. Speaker, that it is necessary, and this is the way you want it, all right, that is one thing. My only interest is in the fact that I believe if we are going to have an ombudsman, if we can find a leader of the Opposition, if we can find a Premier for the Province. If we can find a Supreme Court Justice - if we can find a chief, as is the hon. member from St. John's West in the Province, why do we have to go outside? I am not sure that we must go outside the Province. But if it is decided that it is the wish of the House that we should advertize nationally, well so be it.

MR. NOLAN: Some people have mentioned that this not perfect legislation by no manner or means. But I do think it is as good as can we come with on a first try. We have worked at it fairly conscientiously. It is absolute nonsense for example for the Leader of the Opposition to say that we should not appoint an Ombudsman at this time because we need this, that, and the other thing. It is easy enough to say that, easy enough. Why do we not dispel with all the boards we have set up, appeal boards and all the rest because we do not have water and sewage systems in every section of Newfoundland. Because we do not have roads in every part of Newfoundland. If this is the type of attitude you are going to take well you know, what is the sense of talking about civil rights and what is going to happen while we, and reform.

Now it is also interesting to note that there are places where you have to pay a fee in order to have the Ombudsman hear a complaint. This happens for example in New Zealand which was the first country outside of the Denamrk, Sweden, Norway and so on to adopt the Ombudsman concept, and even today in New Zealand you have to pay one pound in order to have your case heard.

MR. WELLS: What would that be, about \$2.50?

MR. NOLAN: About \$2.50 I believe approximately Mr. Speaker.

Another point that did come up, and we did very sincerely attempt to copy the legislation that was recommended on the New Zealand legislation. There was some comment on a staff that should be available to the Ombudsman, how he should be appointed and what he should be paid, and that the Ombudsman himself should have free rein and have to refer to no one on the people appointed or the salaries paid.

Now in New Zealand Mr. Speaker, I think it is important to remember and there are some areas where we branched away and tried to improve the legislation. In New Zealand, and I would like to have you note this please, the staff must be approved by the Prime Minister, and the Minister of Finance must approve salaries and conditions of appointment. We have not gone that far. I have not heard one person stand up and say "look why did you not do this" or to compliment us for removing that from our legislation. Not one single soul and God knows I tried hard enough to make as much information available to people

who were involved in this perhaps as closely as I was, so that they have had an opportunity to take a look at some of the same facts and figures as I have. But this is a fact, this is what happens in New Zealand.

Now there are many other things of course that I could say. One is that it would be a terrible error on my part if anyone in this House, or any citizen, but particularly members of the House if they after election by the people of this Province were to say that every time they get any little grievance or inquiry, or any kind of a plea for help or aid or assistance from one of their constituents, were to simply to shuffle it off into the hands of the Ombudsman. This is not the job of the Ombudsman, and if any one attempts to use this position or this office as a catch-all they are going to make one sad mistake. Because, if we appoint the right person, and I hope to God we will, this person will not be prepared obviously. He will know his job, it will be clearly outlined, the legislation will be approved as each year goes by, and the man is more important than the office.

I am sure that the man who is appointed as the Ombudsman will from time to time bring forward recommendations and suggestions as to how his legislative authority can be improved and updated, so that he will be in a position to carry on his job even more efficiently than he may be in the first instance. This is being done by every Ombudsman in the world. Every single one. All too many people for example, will say that the need for an Ombudsman is because of the total absolute failure of Government. This is not so. They have had an Ombudsman of one form or another in Sweden for example since the fifteenth century. No one is going to tell me that the people in Sweden feel that the Government has been wrong for all of these years. Nevertheless, they are the people who contend that it is needed.

I shudder, and I am worried to death, the more I see Government grown the way it is because, more and more there is a great tendency to get out of touch with the people. I see people in this very building wandering around sometimes glassy-eyed. They do not know what department to go to, they do not know what person to see when they get there, they do not know when that person that they may interview or be interviewed by says that this is it, it is fact or fiction.

One of the recommendations I notice, that the Ombudsman T. Ross Flemington in New Brunswick, has complimented the Government of New Brunswick for, is the fact that the Government recently in New Brunswick turned out a booklet showing the various services of the Government agencies and departments. what it is, where it is, where you will find it, who to see and so on, and getting it into every home in the Province of New Brunswick. And I know that we are taking steps for example as the hon. the Premier has indicated to do just this. Believe me it is a matter of information. Many of the complaints that an Ombudsman is going to receive, there are those of us here perhaps who are going to say that it is absolute nonsense, but it is not nonsense to the poor guy who does not know where to go. Often times you will be faced with the proposition as I am sure the hon. the Leader of the Opposition may have heard from time to time, it is no good going to see the hon. member for St. John's East Extern, or the hon. member for St. John's Centre, because he is not on this side of the House and he is ineffectual and cannot get it done, so we will go to see the Premier, or go to see me for example.

You know this is not right. I believe that the hon. member for St. John's East Extern, who served on the Select Committee has just as much interest as anyone in this House in seeing to it that every citizen in his district or outside gets a fair show, a good square deal and I do not think anyone is going to argue that.

MR. SMALLWOOD (J.R.): And he is not even here to hear all these compliments.

MR. NOLAN: Well, whether he is here or not, I think that the hon. member is aware of how I feel. We have had a number of discussions from time to time on this, he too was a member of the Select Committee as I indicated Mr. Speaker, and I have no doubt that he will, perhaps with some modifications approve the efforts that we are attempting to make in the House today.

As I said, more and more of the, when we set up all the corporations and the boards that we have all over the square nowadays, and they are going to get bigger, what we are doing in effect is removing more and more the knowledge that should be in the hands of the elected representatives, but it is getting so complex, so widespread, that often times if there is anything wrong and even

though the minister is obviously responsible, depending on what department it is in, you have these complaints. People are blaming for example the Government, there may be an agency for example complaining about perhaps the Minister of, the former Minister of Justice, but in fact it might have been our former Minister of Health, or it may have been somewhere down the line things were happening that he did not even know about.

I am not saying this was the hon. gentleman's fault. It was not, I am sure he did all in his power to try to find out what was going on, but there are only so many hours in the day. Just so many. He can only read so many files in a day. I do not know what the eventual answer is going to be. You are going to see in Canada I am convinced a Federal Ombudsman. Rowat for example, professor Rowat has suggested either an Ombudsman or a complaints commission for Canada on the Federal scene.

In the Province, or Provinces, you are going to see Ombudsmen in every Province in Canada of that there is no doubt. They may not be called Ombudsmen, they may be called public protectors as it is in Quebec, or it may be Parliamentary commissioners as it is here in this Province, but we are going to have to have some sort of individual like this. There is a great danger though, a very great danger that because of the popularity if you like of the Ombudsman, that it could be oversold, and that is that you are going to have Ombudsmen set up all over the square. I know in one instance now they have had an Ombudsman in some countries, in some Provinces, now they are moving them out into municipalities, and they are moving them into various other areas and as a result it may end up where the Ombudsman will not be all that is envisaged originally by the Swedes, and the people in the Scandanavian countries, and as envisaged in this Act that we have before us at this time.

Now I would not like to see frankly, a great proliferation of Ombudsmen in this Province or in Canada simply for setting up another office. That is not the way to do it, and if anything will suffer, the office will suffer and it will be a shame.

I would like to thank my hon. friend opposite very sincerely for his

kind remarks. I am not suggesting that he agreed with everything that is in the legislation, but I do believe in the sincerity of his remarks and I thank him for it. I would like to say that we have to be very, very careful though not to think that the Ombudman is the one who is going to solve all the problems of everyone, because that is not going to happen.

As for the matters for example that he referred to, many of which are Federal, the Ombudsman would not be able to get involved into saying what kind of fare should be charged for Air Canada for example and things like that. I do think strictly as a courtesy as he has done in New Brunswick, T. Ross Flemington a very good friend by the way of my hon. friend opposite, has from time to time made a move to send inquiries, although it is not within his jurisdiction, to people on the Federal level and he has had some success.

I believe of the work he has done, and other Ombudsmen in this field that it would bring more pressure on the Federal Government eventually to set up such an office.....

In 1955 Mr. Speaker, only three Scandinavian countries, Sweden, Finland Denmark has the ombudsman system. Then in 1962 we had two more countries Norway and New Zealand adopted the plan, then during the next five years the world wide publicity, of the idea mushroomed to such an extent that by 1967 I think, the scheme had been adopted in five other countries scattered around the world, such as Guiana, Mauritius, the United Kingdom, the Canadian Provinces of Alberta and New Brunswick. We have one now just the other day in Manitoba also in the Province of Quebec and the American state of Hawaii, incidentally also has an ombudsman. Unfortunately I believe in the United States I believe they are getting into some county ombudsman and the like and unless he is given a sort of guidance and the prestige if you like that is necessary, I am afraid that it might fall in some cases into disrepute, and this would be very very sad to my mind.

In addition Western Germany has set up an ombudsman for the Armed Forces. They do in the Scandinavian countries also incidentally have an ombudsman a civil ombudsman and they also have one for the military. In Canada of course we do not for any of the provinces because the ombudsmen handle civil matters and the forces of the Armed Forces are a national affair and as a result the provincial ombudsmen are not involved.

However it may be something that may be, may come about eventually in Canada should we go into a federal ombudsman system. The State Controller for example, in Israel has assumed the complaint handling function of an ombudsman, I do not think they call him an ombudsman but nevertheless they do have one there.

So then by the mid 1970's the essence of the ombudsman scheme has been adopted in some twelve countries and it is spreading. In addition, you cannot lose sight of the fact that the scheme has been officially proposed or has been actively discussed in many other democratic countries around the world.

There are many places where it has been investigated, including some provinces of Canada where it has been shot down completely, never reached the House of Assembly, the Legislative Assembly, never got off the ground

by the committee appointed, for the simple reason that certain people interpret it as being a great fright to the minister's concerned, the Government and so on. It is also interesting to note that in Denmark where they have had an ombudsman for a number of years not used by a tool for the Opposition either, or by the government. But this is important man has got to be free, he has got to be just as free of you Sir, as he has of me and this I am sure is the way that you in your case at least would like to see it.

We indicate in our report that the committee had met a number of times and we investigated all the proposals that I do think that the ombudsman will act as a bridge between the individual citizen and the people within the government who take administrative action which affect the individuals. On one side the ombudsman is a means by which citizens who have been subject to administrative abuses perhaps are able to present their grievances to an influential functionary who is empowered to investigate. On the other side the ombudsman serves the government by indicating areas in administration which are in need of improvement. Areas where the administrative machinery is not functioning properly.

The ombudsman must be approved by the legislature as has been pointed out. He is usually made independent of the Government, in order to insure his objective evaluation of any case that arises. This independence has been mentioned by hon. members is very important to the scheme. His effectiveness perhaps would be lost if we did not make this provision.

In all schemes complaints made come from individual citizens who have grievances and in every scheme the ombudsman may also investigate on his own initiative. Another scheme that is in operation in many areas is that the only way the ombudsman can receive a complaint is through the member of Parliament. (I think this is wrong personally) I see no reason why he could not go through a member of Parliament if he so wishes. But if he does not want to channel his complaint through any hon. member of this House I think he should have obviously open admittance to the ombudsman's office. That is what he is there for. WE have also got to provide some protection for the

ombudsman so that he will not be a hangout for every crank that wants to park on his desk all day long. This is something that is causing considerable concern in other areas, such as New Zealand, and in provinces of Canada. But it is being worked out as every year goes by it is being improved. For example, this year they have in June and I think perhaps in Canada a world conference of ombudsmen. And I have some correspondence on this. I do not know if there is much else I can say about this at this time, I do not want to prolong. We are going to go into committee on this and no doubt some changes will be made. I would like to Mr. Speaker, assure the hon. member for Burin who worked on this as he has indicated and I believe really had his heart in it was concerned about this ten year business. But I believe I mentioned during the absence of the hon. gentleman from the House and he may have missed it. Perhaps it may be worthy of mention.

That this section does not say immediately prior therefore anyone who has lived in Newfoundland and Labrador for any ten years before his appointment would certainly. But this is a matter we can go into in committee I mean I am not married to that idea make no mistake about it. I am naturally prejudice if you like, and bias toward getting a Newfoundlander appointed as an ombudsman. It is going to be a Canadian. But if it is necessary we will see exactly what the House decides. Thank you, Mr. Speaker.

MR.SPEAKER: It is moved and seconded that this Bill be now read a second time. On motion that it be referred to the committee of the whole House on tomorrow.

MR.SPEAKER: It being now 6.00 p.m. I do now leave the Chair until 8.00 p.m.



PROVINCE OF NEWFOUNDLAND AND LABRADOR

HOUSE OF ASSEMBLY

Volume 1

Number 49

4th. Session

34th. General Assembly

VERBATIM REPORT

TUESDAY, APRIL 28, 1970

SPEAKER: THE HONOURABLE GEORGE W. CLARKE

The House resumed at 8:00 p.m.

Motion, second reading of a Bill, "An Act Further To Amend The Education (Teachers' Pension) Act, 1962." (Bill no. 22).

HON. F. W. ROWE (Minister of Education): Mr. Speaker, this is another one of the Bills that I have already referred to several times, as being the minor ones. Minor, not necessarily in the sense that they are not important, but minor as compared with some of the other Education legislation that we have on the Order Paper.

The House will recall that during the past two years, we have reorganized completely the setup in Education in Newfoundland, administratively, as far as boards of Education are concerned. Prior to this reorganization, which started two years ago, almost exactly, we had something like 300 boards of Education in Newfoundland, and very few of those boards of Education were in a position to carry the personnel they required and needed, if they were going to operate efficiently and in the best interest of Education. Education in this modern age is a job that requires skill and professional help at all levels and most boards of Education did not have that professional help.

Under our new legislation, boards were permitted and indeed encouraged, not only to consolidate and integrate as they did in all cases so that now we have only thirty-seven boards: whereas, we use to have about three hundred. We have one Roman Catholic School Board, well, we have several Roman Catholic School Boards for the whole Province. We have one Pentecostal School Board and we have a number of what are all integrated school boards in the Province and all of these are permitted also to engage professional help. It is rather a coincidence that, entirely unexpectedly, Mr. Speaker, that in the Chamber this moment, in the Speaker's gallery, is one gentleman who is the superintendent with the Pentecostal board of Newfoundland, and all the boards do have such help.

Now, when this arrangement was made, it was understood as a gentlemen's

agreement that no teachers, who became board supervisors or board superintendents or assistant superintendents would be penalized in any way, would lose any of their rights and so this particular Bill that I am introducing here now makes sure that that position is abundantly clear. In other words, it makes absolutely sure that superintendents, assistant superintendents, supervisors employed by school boards do enjoy the same pension rights that they did enjoy as teachers and would continue to enjoy had they remained teachers.

It is also a minor amendment here, Mr. Speaker, regarding the payment of interest on the ~~rebate of premium~~ by comparison with the original legislation. You will see that the word "compound" is put in here now, which was not in the original legislation. Interest compounded at three per cent whereas the original did not say that. Although it was more or less taken for granted. However, this clears up this point as well. And so, Mr. Speaker, without more ado, I am able to move second reading for this particular Bill.

On Motion a Bill, "An Act Further To Amend The Education (Teachers' Pensions) Act, 1962," read a second time, ordered referred to a Committee of the Whole House on tomorrow.

Motion, second reading of a Bill, "An Act To Amend The Teachers' Loan Act, 1957." (Bill no. 2).

MR. ROWE (F.W.): Mr. Speaker, another one of the so called minor Bills. We had ten altogether Education Bills on the paper of which three are major Bills, and we will, I am sure, be debating them at some length, when we come to them, these three; one deals with the Newfoundland Teachers' Association the other deals with school taxation and the third, the longest, perhaps, in some ways, of course, the most comprehensive is the one that revises the Schools' Act in a multitude of ways. This particular Bill is another of which has to take cognizance of the fact that the Department of Education has been reorganized. We have two loan funds in the Department of Education. One a

Teachers' Housing Loan Board Fund and the other is the Educational Loan Fund which permits, under certain conditions, permits boards and/or teachers to borrow money.

Now to administer those funds which were set up, I think, some twelve years ago, anyway when I was previously Minister of Education, we created two boards to administer them and on those boards, were the five superintendents of Education who at that time, it will be recalled enjoyed a double status. They sat in the Department of Education. They were Civil Servants and they enjoyed all the rights of Civil Servants, and they had the obligations of Civil Servants and the responsibility, but in addition, those five superintendents represented their churches and they spoke for their churches on educational matters and they were the contact point between the contact agents, the liaison agents between the Government on the one side and the churches who we must remember, in the final analysis, are responsible for the operation of schools in Newfoundland.

These superintendents served on those boards. They are no longer in the Department of Education and consequently they cannot serve, at least, they are not on those boards, as they were. The amendment, therefore, sets out that there shall be two such loan boards and that on those loan boards, on the Housing Loan Board, there should be five members appointed by the Lieutenant-Governor in Council, and there shall be a Teachers' Educational Loan Board that is one for the loan for teachers who may wish to borrow for educational purposes and that there shall be five members on that board; three to be appointed by the Lieutenant-Governor in Council and the other two to be statutory members. One of whom shall be the Dean of the Faculty of Education at Memorial University who, as the House knows, is Dr. Hickman, Dean Hickman and the other of whom, the other one of the five, of the two statutory members on the five man board, three to be appointed by the Government,

one to be statutory and representing the University in the person of the Dean of Education. The other to be a nominee and a representative of the Newfoundland Teachers' Association and such a representative will, of course, be designated by the association and the Government will there upon appoint him and the other amendment is that: if any vacancy occurs the Government has the power to fill it.

This again is a minor, in one sense, but nevertheless a necessary, complementary piece of legislation that is made necessary in the light of the major legislation that this House passed just a year ago.

I move second reading of this Bill.

MR. MURPHY: There is only one question I would like to ask, Mr. Speaker, and that is in 1 (a), five members are appointed by the Lieutenant-Governor in Council and (b), three to be appointed by the Lieutenant-Governor in Council and the other two to be statutory, being faculty so on and so forth; what is the significance in the difference?

MR. ROWE (F.W.) I do not want to hurry it, but if no one else wishes to speak on this, I would not imagine there would be very much debated in any case.

MR. SPEAKER: If the hon. minister speaks now, he closes the debate.

MR. ROWE (F.W.): The answer to the question asked by the hon. Leader of the Opposition, lies in the nature of the board. One is a housing - it lies in the nature of the fund. One is a housing fund designed to make available money to boards who may wish to provide housing for teachers and shall we say without derogating the importance of this fund and of the board, that any five members of the community might very well serve on such a board. The other one is a professional one, where professional judgment has to come into the picture. A teacher applies for a loan, in order to go to the university of California, southern California or to the London School of Economics to do studies in some particular field. There, of course, the validity of that application and the relative importance of a number of application would have to be judged and gazed by the board and here is where professional

help and consideration would be necessary. So you have the Dean of Education who would, personally be familiar with, probably, every teacher in Newfoundland, and the other representative would be of the NTA who would see to it, I would assume, that members of the teaching profession, members of that body of the NTA did get the fair and square treatment, insofar, as the NTA were concerned, and I have no doubt that the other three members to be appointed by the Lieutenant-Governor, mostly, if not all of these will probably be professional men as well.

I would move second reading.

On Motion a Bill, "An Act To Amend The Teachers' Loan Act, 1957", read a second time, ordered referred to a Committee of the Whole House on tomorrow.

Motion, second reading of a Bill, "An Act Respecting The Liens Of Mechanics And Others." (Bill no. 15).

MR. CURTIS: Mr. Speaker, the present Liens Act, Mechanics Liens Act has been on the Statute Books since 1890. It is an eighty year old Bill, and it is an innocent..

MR. SMALLWOOD: Act, Act.

MR. CURTIS: It is an eighty year old Act. Anyway they tell the story about Lord Morris that he introduced the Bill and as you know he was a member for St. John's West, but having introduced the Bill and boasted upon it, the first case that came before the court was lost. So it was not a political Bill that he intended. We have been wanting for years to write a new Bill and we just did not know the form it should take. We did not want to be the first Province to introduce a new one. We thought it would be better, if we could have the benefit of other provinces. So recently the Province of Ontario did appoint a commission, that commission came back and reported a Bill which is substantially the same as the Bill that we are offering to the House. As you know, Mr. Speaker, the Mechanics Liens Bill is the Bill that gives mechanics and workmen, who work on property a lien for the value of their work. It also gives to the suppliers of material

a lien on the value of the material they provide, and now this Bill sets forth the terms and conditions of the lien, and it says just what they must do to establish the lien and it protects the workmen which is the whole object of the Bill.

I do think the introduction of this Bill and this passage would verify the situation. I move second reading.

MR. SPEAKER: Moved and seconded that this Bill be now read a second time. Is the House ready for the question?

On motion a Bill, " An Act Respecting The Liens Of Mechanics And Others", read a second time, ordered referred to a committee of the Whole House on tomorrow.

On motion a Bill, "An Act Further To Amend The Highways Traffic Act of 1962", (Bill No. 7) read a second time.

HON. HAROLD STARKES:(MINISTER OF HIGHWAYS) Mr. Speaker, this Bill to amend the Highway Traffic Act was made necessary because among other things the desirability of clarifying certain definitions in the Act, For instance, the word "curb" is substitute for tare. A curb is more commonly used, and it is defined as curb-weight. the actual weight of a motor vehicle, unladen but including the body of the vehicle, batteries, loose tools, spare wheels, tire, water or anti-freeze used in the cooling system and other usual equipment, plus a full supply of fuel for the purpose of propulsion.

The word "tandem" is merely to describe the difference between a properly constituted tandem axle and what is known as a dummy axle.

The old Section 44 (a) was not in the legislation of other Atlantic Provinces, and so prevented reciprocal agreements on non-registaration of commercial motor vehicles used exclusively in inter-provincial trucking.

The Bill also amends the principal Act to conform to recent amendments to the Criminal Code.

It also repeals sub-section (5) of Section 65, which required the publication of names of persons who lost their licenses following conviction under the Criminal Code.

The Amendment to Section 82 arises out of the desire of the Motor Vehicles Carriers' Board to have taxis and those commercial vehicles which are required to be certified, under the Motor Carrier Act, insured.

This Bill also increases the permissable width of vehicles from ninety - six inches to 102 inches. Also, at the present time one is required to

MR STARKES:

report any accident in excess of \$100, where damages are in excess of \$100. This is no longer a reasonable figure, and this bill would increase the amount to \$200.

Mr. Speaker, it would be necessary to make a small amendment during committee stage, in relation to the length of time a driver's license is suspended for a certain offence. This in no way affects the principal of the bill.

I move the second reading.

Motion, that this Bill be now read a Second Time:

MR CROSBIE: Mr. Speaker, we do not want too much indecent haste here. I would like to have a few comments on the Highway Traffic Act. The Mechanics Lien Act went through with great dispatch, and several other amendments, in twenty minutes.

Mr. Speaker, a quick look at this Bill is like reading double-dutch. Particularly with reference to Section 4 and 5. But I wonder if the minister would consider, I see there is something there about licences, whether the minister would consider the situation where a person can obtain a drivers licence in another Province at an age less than seventeen. I think at the fact of sixteen in Ontario, and when the person comes back to Newfoundland, which I have discovered recently are not allowed to drive the car in Newfoundland anyway, although they have a licence from another province. And apparently our Law is that they are not even eligible to get a temporary drivers permit in Newfoundland until they are aged seventeen, and it is only when you reach age seventeen are you allowed to have a learners permit which permits you to drive with another driver in the car, with a driver holding a regular driver's licence. And that seems to be a bit unnecessary, I wonder if the minister would consider that situation. I would have thought if you had another drivers licence from another province, that you should be permitted to drive in this province in any event for some particular period of time, or certainly permitted to drive, when you have someone in your motor vehicle with a regular Newfoundland driver's licence. That is something I think the minister should look into.

There is another matter that came to my attention last winter, that

MR. CROSBIE: the minister might consider, and that is there are some pretty stiff penalties under the Act for some minor infractions. Last winter, not this present winter, the one a year ago, the minister will be sorry to hear, I drove off one day in the skidoo, and a trailer on the back of the car, and had forgotten, did not realize that this little trailer had to have a licence. So I had the misfortune to drive through Holyrood and go pass the R.C.M.P. Building in Holyrood, and the R.C.M.P. pulled me over, showed no consideration for the rights of an ignorant member of the House of Assembly, and gave me a ticket for not having a licence on this trailer. I discovered to my amazement, Mr. Speaker, that I had to pay a \$50 fine. A \$50 fine, there was no discretion, the minister had no discretion that under the Highway Traffic Act, the minimum fine that could be given for a person who did not have his licence for a trailer was \$50. Now the licence for a trailer when I eventually got one came to \$10. I got the licence this year, I put the trailer away last winter, and I said, the heck with it. But the licence itself, Mr. Minister, was \$10 and the fine for not having it was \$50. And the magistrate had no discretion. So I wonder if the hon. minister would check that, it seems to be unreasonable, that you should be fine \$50 for a licence that would cost you \$10.

Now, not having had time to really approve these amendments here, I do not know if I have anything else to say on that, but those are two matters that the minister might look at when he has got a chance. Particularly some of the penalties that you can suffer which are attached to the schedule of the Act. I see there are some changes in this schedule here. Certainly I think the minister might check some of those points, which are not certainly major, but those are just two instances recently that I have come across.

MR. SPEAKER: If the hon. minister speaks now he will close the debate.

MR. STARKES: Mr. Speaker, I do not have much to add to what I already said, except perhaps to explain why a small amendment should be made here at committee stage. The old Section 222 of the Criminal Code was concerning drunk driving,

MR. STARKES: and when a magistrate convicted a person of an offense under section 222, the registrar of motor vehicles was required under the Act as it exist to suspend the licence for twelve months. The new section 222 of the Criminal Code is impair driving. And consequently when a magistrate now convicts for a breach of 222, the registrar is required under the present wording of the Act to suspend the licence for twelve months, instead of six. A need for a very minor amendment at committee stage.

Regarding the comments of the hon. the member for St. John's West we will certainly take this matter under consideration regarding the driving licence of seventeen year old from outside of Newfoundland. And, Mr. Speaker, I am deeply grieved that the hon. gentleman neglected to obtain a licence for his trailer. It seems terrible for an hon. member of this House actually hook up a trailer to his car, an unlicensed trailer and drag it around the bay, but I feel reasonably sure, Mr. Speaker, there will be no second offense. And I agree that this

MR. STARKES:

I agree that this matter should be considered as well. You must remember the Province is better off by \$50.

On motion, a Bill, "An Act Further To Amend The Highway Traffic Act, 1962", read a second time, ordered referred to a Committee of the Whole House on tomorrow.

Motion, Second Reading of a Bill, "An Act Further To Amend the Securities Act":

MR. CURTIS: Mr. Speaker, this is really a very minor Bill the object of which is to ensure that broker's auditors are experienced auditors who have been practising in Newfoundland for at least five years. The reason that this requirement is recommended is because the broker's auditor is in a peculiar position. It is he who must advise the Government as to whether or not the affairs of a company are being properly conducted. All the other Provinces have legislation of this kind and which provides instead of having any accountant, an auditor it limits the auditors to people who have as I said practised for five years. Auditors are appointed on the recommendation of the Attorney General, I believe, and they have to be Gazetted every year. This is an improvement, I believe, in the existing Legislation.

I move the Second Reading.

MR. CROSBIE: Mr. Speaker, the minister says this is certainly not a major amendment. My only question is this that the broker's auditor has to furnish proof to the registrar of his qualifications, that he meets his qualifications, and then he applies the registrar for registration. If he is recommended by the registrar it has to go to Lieutenant-Governor in Council. Now what I wonder, Mr. Speaker, is why the Lieutenant-Governor in Council, that is the Cabinet which is already busy enough, why do they have to be bothered with such a routine matter as that? If an auditor has proven his qualifications to the Registrar of Securities and he recommends them surely it is enough for the registrar to recommend them to the Minister of Justice rather than have the matter go on to the Lieutenant-Governor in Council where it maybe weeks or months, a minor matter like this for weeks certainly, it might be weeks before

MR. CROSBIE:

it comes up for the Cabinet to deal with. So I would suggest to the minister that I would think that it would be much better to amend Section 26 (4) on page 3 and delete Lieutenant-Governor in Council and put in the Minister of Justice. I do not see why it should go to the Lieutenant-Governor in Council who should not have to act on minor matters such as this. It should be the prerogative of a minister.

MR. SPEAKER: If the hon. minister speaks now, he closes the debate.

MR. CURTIS: The only reason, Mr. Speaker, is we are putting in the reference to the Lieutenant-Governor in Council because that is the law and we do not suggest changing it. This Act changes only the qualifications. The present Act requires the license be by the Lieutenant-Governor in Council and in fact when the Act was passed it was deemed of sufficient importance to put that in. I do not see any reason to change it.

On motion, a Bill, "An Act Further To Amend The Securities Act", read a second time, ordered referred to a Committee of the Whole House on tomorrow.

Motion, Second Reading of a Bill, "An Act Further To Amend The Trustee Act".

MR. CURTIS: The object of this Bill, Mr. Speaker, is a very simple one. It is to enable trustees to invest funds in mortgages that are guaranteed by the National Housing Act. As members of the House will know at the moment I believe there are only about three places in Newfoundland where trustees can invest money in mortgages. I think one is St. John's, I believe the other is Grand Falls and I think the third is Corner Brook. I think these are the only three places where mortgage investments can be picked up by trustees.

The object of this Legislation is to enable the trustees to invest money in mortgages which have been approved by the National Housing Corporation, by CMHC and consequently the changes are necessary. I do not think there is anything further in the Bill that requires any explanation.

I move the Second Reading:

MR. CROSBIE: Mr. Speaker, I do not agree with the hon. minister that these amendments are minor and I think this is worthy of some debate. Unfortunately the way things come up in the House, I have not looked at this now for a

MR. CROSBIE:

couple of weeks so I am going to take my time and just see what I was going to say when I looked at it two weeks ago. This is an Amending Trustee Act with respect to what investments a trustee can make. Now it has been the custom, that certainly was a custom in all Provinces up to four or five years ago, to be very strict as to what investments a trustee could make and he was restricted to first mortgages not over a certain percentage of value of the property in bonds guaranteed by Governments because he is a trustee acting for other people and has a heavy responsibility now. The amendments that are being brought up in this Bill here are not just to extend the National Housing Act loans. It is far wider than that, Section 2 the new Section 2, extended so a trustee can invest in preferred shares of companies and corporations that have paid dividends in the five years immediately preceeding the date of the investment. It amends the Trustee Act to allow trustees to invest in common shares of a corporation if, in each year during the seven years that ended at least a year before, they paid a dividend of not less than four per-cent of the average value.

I would suggest, Mr. Speaker, that these are far reaching amendments to the whole concept of what is a trustee investment. You take the stock market of the last several years and see the tremendous decline in value of what were considered to be first class common shares then I seriously doubt whether trustees should be allowed to invest funds in such common shares.

I have not been able to follow the papers in the last couple of days but I was told tonight that there was a very severe decline on the stock market in New York in the last two days. And here we are, we are going to permit a trustee who might be the executor of an estate, might be a Trust Company, funds in trust for somebody's children or grandchildren, to invest monies in common shares, no matter what their history was they may have paid a dividend of four per-cent over the previous seven years but that does not mean to say that the shares are going to hold in value for the next seven years.

So I would like to ask the minister why are we widening so much, this is not just a question of the National Housing Act. First you are going to allow

MR. CROSBIE:

trustees to invest in preferred shares and then in common shares, now it says subject to Section 2A they have to be shares of a corporation incorporated under the laws of Canada or of a province of Canada, listed on a stock exchange approved by order of the Lieutenant-Governor in Council or mutual fund shares and they are not to exceed thirty-five per-cent of the market value of the whole trust estate. So that is a bit of a safeguard.

But what I would like to know, Mr. Speaker, is who has requested these amendments? So I would like the minister to consider that, Mr. Speaker, because everybody had felt sure during the last fifteen years that investment in common shares was pretty well a sure thing and the market kept going up and up. Yet we have seen in the last couple of years an entire reverse of that, Mr. Speaker, and what appeared to be very safe investments that were bought last year or the year before have now turned out to decline in their paper value by as much as one hundred, two hundred per-cent. So I would like the minister to consider that.

Now the other amendment is the one about a trustee lending money on a mortgage. This would permit a trustee to lend money on mortgage security if the loan was an insured loan under the National Housing Act and he would not be chargeable with breach of trust even if he loaned in value in excess of two thirds of the value of the property mortgaged. Well if it is an insured loan I believe that means that the mortgage lender could not lose under that mortgage because CMHC insures it and if the property was foreclosed and they did not make sufficient money then he would receive payment under the insurance. Well I see no objection to that but I certainly do feel that the other amendments that I have mentioned should be reconsidered and I would ask the minister to do that and move the adjournment of the debate on this Bill.

On motion, a Bill, "An Act Further To Amend The Forest Fires Act". read a second time, ordered referred to a Committee of the Whole House on tomorrow.

Motion, Second Reading of a Bill, "An Act Further To Amend The Forest Fires Act":

MR. CALLAHAN: It is not going to have very much, Mr. Speaker, it is not a very complicated matter, Sir. It is simply a matter, really, of inserting some flexibility into the provisions governing the fighting of fires for the purpose, really, of land clearing or rights of ways for transmission lines and that kind of thing.. Up until now, the Act has left no discretion at all regardless of the conditions of weather or any other conditions applying; fire hazards or what not. The Act has left no discretion at all in terms of the distance from actual standing forest, less than which such fires or such burning might take place. So the proposal, Mr. Speaker, simply is to provide, to eliminate the restrictive provision from the Act and to provide discretion in the actual permit.

I think, as the House knows, Mr. Speaker, permits are required in order to burn brush, to burn land, to clear land or for any similar reason and it is felt that it is much more sensible and it would be a much more flexible situation if the condition were to be set out in the permit, with discretion being allowed rather than the Act ruling and discretion not being permitted. So that is the principal change, I think. To give an example, Mr. Speaker, was found this year when the Power Commission were constructing the transmission line down the northwest coast. The transmission line, actually, required the right of way only fifty feet wide, because it was a single pole line and yet the Act required interestingly enough that any brush be burned, a minimum of fifty feet from the forest, which just was not possible, and a fifty foot right of way to have fifty feet on either side of the brush being burned. So this, I think, is where the thing arose originally and I think it is a sensible thing and in future the restrictions will be placed in the permit by the responsible foresters of the department and, of course, there is always the provision that in a time of unexpectedly high fire hazard, the minister is charged with the discretion of cancelling all permits in any case.

The second change, Mr. Speaker, allows some discretion to magistrates. The House will recall that, I think, following the 1961 fires which were pretty disastrous, the worst certainly in recorded history in this Province:

in this Island. There were some pretty stiff forest fire legislation brought in and this was followed by further provisions after the fires in the later 1960's and one of the provisions was for imprisonment for a period of not less than two weeks and not exceeding two years; so that the magistrates were not given any discretion. They had to sentence under the Act, had to sentence to imprisonment with no option of a fine and this has had the result, of course, in many cases; particularly in the case of carelessness rather than actual crude deliberateness. Magistrates have been loath, and I think we appreciate the situation to put people in jail for carelessness, but there being no option, of course, very often the charges were dismissed. We are simply providing now an option whereby the sentence may either be imprisonment as it has been in the Act for not less than two weeks and not exceeding two years or a fine of not less than \$200 and not exceeding \$10,000, which will, I think, continue to stress the seriousness of either deliberate or careless acts leading to forest fires, but at the same time, allow the magistrates some common sense, discretion such as has not existed in this particular legislation up to this point.

I move second reading, Mr. Speaker.

MR. HICKMAN: Mr. Speaker, going from back to front in this Act, the section (3) that is proposed is a very good section, and I know that the hon. minister says that magistrates have from time to time been embarrassed by the fact that they have not had the necessary discretionary power that one would find in this type of legislation.

But, I have to confess that the hon. minister has not sold me on the idea of repealing subsection (3) of the present Act and substituting the proposed amendment to the Act. Under the present subsection, it is provided that: in every case, however, the materials to be burned must be piled in heaps or rows at a distance of at least fifty feet from the forest and it shall be the duty of the person so authorized to make a fire

and to remain on the spot until the fire is completely distinguished. Surely, there has to be some good and sufficient cause to bring about legislation, to repeal that type of provision that type of provision that we now have. Simply, that the Power Commission finds it to be rather restrictive that it has to remove its brush or whatever wood it has and materials to a safe place and keep it fifty feet away from the forest, in my opinion, is hardly justification for repealing this type of legislation. You will say that the minister and his officials will have discretionary power and you impose the onus on them to make sure that the materials are burned in a safe place, but is then the matter of discretion. It could very well be that the forest ranger will come to the conclusion that it should be 500 feet, considering the prevailing circumstances, but a minimum requirement of fifty feet from our forests, which are not that plentiful, our forests which are being ravaged, I think, by uncontrolled cutting and by a rather unfortunate reforestation problem or policy that, if it is a policy, do now take away some of the restrictions and a good restriction that has been imposed and I think has been working for the past few years, simply, to accommodate one crown corporation and to save a few dollars or to make it more convenient for the contractor cutting the right of way. There is hardly justification enough to risk our forests. There is hardly justification enough to pass on that discretion, unnecessarily, pass on that discretion to any official of the Department of Mines, Agriculture and Resources.

Occasionally, you will get a complaint by people who sometimes think it is restrictive or you are invading their property rights by making them be careful and keeping them fifty feet away from trees and forests, but when you think of the consequences, Mr. Speaker, inadvertence, not deliberate acts on the part of the people carrying out this, but mere inadvertence and the seriousness of what might follow. It is my opinion that the minister would be well advised to tell the Power Commission

that they are going to have to drag their materials to a spot - I cannot think of too many places along the Power Commission's right of way where it would take too much effort to find a place that is fifty feet removed from forests in order to do the burning.

Mr. Speaker, as I say, the last Section (3) giving discretion to magistrates and putting that type of offense in the proper category where a deliberate act - I hope we never reach the position where there will be any condoning or any leniency shown to any person who deliberately and with malice aforethought sets fire to our forests or sets a fire which subsequently causes the destruction of our forests, but the other problem that where there has been genuine inadvertence or mistake or negligence through a minor degree, obviously, does not put that person into the class of a wilful and wantful criminal and now the magistrate has to choices. I am sure that the minister would agree that the message should not get abroad that the same firmness and the same penalties would not be imposed in the event of deliberate malicious destruction of forests. Number (2), Mr. Speaker, I would think that the present section or the section that is now proposed is not an adequate substitute and does not provide or ensure the adequate protection for our forests that we so desperately need.

Mr. Speaker we agree with the hon. member who just spoke.

MR. CALLAHAN: Mr. Speaker, two things the hon. member for Burin referred to that perhaps I should mention. In the first instance he mentioned uncontrolled cutting and he also mentioned what he called the unfortunate reforestation policy and I would tell the hon. gentleman that certainly in the second and probably in the first case what he said conveys a pretty desperate lack of information, lack of knowledge. I will tell the hon. gentleman this that in terms certainly of the reforestation policy, if it is a policy, I think those were his words. That the natural regeneration rate in our forests particularly with fir, not so particularly, but nonetheless with spruce obviates the need really for the reforestation policy as such. What we do have to do I think, Sir, is to use lands, barren lands on which there is no merchantable timber growing and perhaps spend quite a bit of money in this, and this is what it boils down to, on actual thinning and doing other kinds of work that will ensure better quality of merchantable forest, but let the House know that there are areas in this Province where the standing forest is ready now for the third cut, the third cut. Meaning that there has already been two on the West Coast, Mr. Speaker.

One can go in the Upper Humber Valley area, one can go in the Lomond area, one can go in certain parts of Central Newfoundland where good firm young growth is in fact coming up where there have already been cuts in the past possibly not necessarily for, entirely for pulpwood for the paper mills but for saw logging and what-not and there are areas where we have extremely good growth. The difficulty is that it is not as well controlled as it would be if the reforestation were actually done under a deliberate or very expensive programme. This is one of the things that is concerning us very much and I might say that for the past number of months we have had a special forester hired especially because of his experience in this field whose principle job is research and the gathering of information and the laying of plans for this kind of programme for the future.

I might say further we have done a lot of study not only in North

America but in Europe and it is my hope, Mr. Speaker, if plans turn out towards perhaps the end of May or early June. Then we will have a group comprising, both this Government and the Government of Canada and the forest industry generally in this Province both the existing companies and operating companies and those that will be operating soon who will spend some time in Europe looking at some of the more typical afforestation as opposed to reforestation programmes that are underway. I am thinking particularly of the Irish experience on peat lands which are very similar to ours but ours in fact may be better and we may be in a more advantageous position because we do not have the drainage problems that they have. That is afforestation, Mr. Speaker, and all the research and testing that has been done up to this time indicates that far from what generally is believed and I must say I used to have this belief and I know very many people who do that to clear-cut for example, to go in and cut all the trees out is the worse possible thing to do. The foresters tell me, Sir, that it is in fact the best possible thing to do and the most economic thing to do and the thing that will ensure uniform stands of timber in the future, because the answer if not clear cutting is to high grade, is to take out the best trees and leave the poor trees and the small trees and you get then a stand that is not uniform, when it does regrow you get an uneconomic situation and you get a poor situation in terms of forest economy generally. Meaning not only from the point of view of commercial use but in terms of the condition and the quality of the forest stand.

The other thing is that well very many people are concerned about the use of mechanical equipment in harvesting, forests, and again researchers tell me, Mr. Speaker, and there is much advice on this subject that in fact where you have a forest with a lot of overburden the best thing that can happen to it is that mechanical equipment goes in and actually turns over the soil and stirs up the soil and mixes the mineral soil with the peat soil or with the overburden or with the compost in effect and allows the seed to get down into the earth.

MR.CROSBIE: Mr. Speaker, is the rule of relevancy being observed tonight, or not because if it is certainly the hon. minister remarks are not relevant to this amendment.

MR.SPEAKER: Frankly I have not got a copy of the Bill in front of me but if the hon. member is irrelevant will he try to come back.

MR.CALLAHAN: Thank you, Mr. Speaker, as I said these are points raised by the hon. member for Burin and I did not feel they should be left hanging in the air. Now, Mr. Speaker, the hon. gentleman referred to the fact that the Act as it stands, the section proposed to be deleted and replaced has been working, I think he said, the past two years, the past few years, I would have to tell him that it has not been working particularly well. The reason, Mr. Speaker, is not terribly unlike the reason the other amendment is necessary. Much a parallel because what has been happening is that where with the Act providing that burning had to take place no less than fifty feet from any standing forest where it was not possible to burn without actually gathering up slash and bringing it miles and miles to a point where it could be burned, the slash very often had to be left, and eventually to cause a greater hazard than a fire I think, during a safe season would have caused.

For example, a fire, a controlled fire, controlled burning in the month of March or in the month of April unless there is a lot of dead grass around and even that can be protected because there can be men and equipment provided and these things indeed are required under our permits now. A fire at a time when there is no hazard, Mr. Speaker, with men and equipment handy is not in any way a serious threat. But I think to leave slash where it is because it is neither possible to burn it nor economic actually to bring it out and therefore to leave it I think is creating a greater potential hazard than any threat that could be caused by controlled burning. So I cannot agree, Sir, that the Act has been working that well.

The second thing I would say, is that the regulations made under the Act

have at least the same force as the Act and carry the same strictures and the same penalties. And in any event as I said when I introduced the Bill, Mr. Speaker, permits granted under this Act are only granted on the basis of conditions as they exist, and may be cancelled if the hazard is high and by the same token judgment has to be used in the granting of a permit, with these provisions in the permit rather than in the Act. So far as letting the message get across that penalties for the deliberate or careless causing of forest fires so far as letting that message get across. If these will not be imposed in future I suggest, Mr. Speaker, that the Bill speaks for itself and I can only hope that the news media will in fact make the point that what we are doing is not to water down the Act it is in fact to provide that the magistrates will have discretion to impose penalties where in cases, in the past, they have not been prepared to do it because there has been no room really for judgment or discretion.

On motion Bill read a second time ordered referred to a committee of the whole House on tomorrow.

Second Reading of a Bill, "An Act Further To Amend The Alcoholic Liquors Act."

MR. SMALLWOOD: Mr. Speaker, I move the second reading of this Bill in my capacity of acting minister of Finance. I do so not because I am particularly familiar with the parts of the Bill, but only because it falls to my lot of acting minister. The Bill is a compromise. I know that a great many suggestions have been received by the Liquor Commission as to what changes ought to be made and are desirable in the present Act. These have been brought to the Government and the Government have agreed to accept some of them and incorporate them in a Bill for presentation to this House and some of them we have not incorporated in the Bill. I dare say as the years go by other changes and improvements will be incorporated. But in this

MR. SMALLWOOD: in this present Bill there are several rather important changes proposed in the law as it stands today. One change is that the Liquor Commission would be authorized if this Bill becomes law to regulate the time that the Liquor Commission's own stores may open for business without the necessity of having a set of regulations for that purpose. And then again this Bill would provide for the issue of identification cards, and, Mr. Speaker, the House will see in a moment, why there is need for identification cards. One part, one change that is proposed in the law is with regard to young men under the age of twenty-one. Now as the law reads today, no one under the age of twenty-one is permitted into a lounge or club, or tavern, or any other place in the Province where spirituous liquor or beer or wine are sold. This is all right. This is meant well, and generally speaking, it is a good provision and it ought to be continued, and it ought to be enforced. But, Sir, one of the surprising features of our modern life in recent years in Newfoundland, is the phenomenal rise in the number of bands and orchestras, combo bands I think they call them. And there must be scores and scores, if not several hundred of them in our Province today. The practice has grown up in all kinds of hotels, motels, clubs, lounges, taverns and other such public places of hiring these bands. Now, Sir, I have not noticed particularly, that most of the members of those bands are middle-aged or older people, but I have noticed that most of them were quite young. And that kind of music, the playing of that kind of music, and the hearing of that kind of music appeals I think mostly, to people who are on the very, very sunnyside of say twenty, if you want to get up into the elderly people, twenty-two or twenty-three years of age. In short, what I am trying to say is, overwhelmingly, the members of players in those bands and orchestras, are young people. And they are not permitted under the law, as the law reads today, to go into any place where beer, wine or liquor is sold. Even though they go in merely to play the music. And again and again, they have to be barred. Now if they go in they are running the risk of being arrested,

or the owners of these establishments are running the risk of having their licences taken from them because they are breaking the law by admitting these young men in those bands, and the young men are breaking the law themselves, by going in. And so the law this Bill would propose a change in the law permitting under twenty-one in these bands to enter on permission. Not just a blanket permission to go in, but authorizes the Board of Liquor Commission to give permission to such bands containing persons under the age of twenty-one to enter those places, and to play their music.

Now there is some connection between that suggestion and the other one that people may come to the Liquor Commission and obtain an identification card. The reason for that is, that under the age of twenty-one, a person is not permitted to go into a place where drinks are for sale, as they drink - they cannot go in and buy a bottle of beer or a glass of wine or anything else under the age of twenty-one. And that perhaps is as it should be. But, Sir, there are a lot of people who do not look their age. A lot of people who do not look their age. I am thinking of younger people than the hon. gentleman - he does not look his age either anymore than I do.

But there are people who look younger than their actual age, and they may be twenty-one, twenty-two, and they look like seventeen or eighteen. And it is very embarrassing for them to go into a tavern and buy a bottle of beer which is quite lawful for them to do, and the owner or tavern keeper, or the bartender says, "out you go, you are too young." And the chap may be twenty-one or twenty-two, or twenty-three, but he looks younger. So to save him that embarrassment, he can go to the Liquor Commission and get an identification card; saying that he is twenty-one, or that he is over twenty-one.

Now before he can get it, he will have to produce clear evidence to the Liquor Commission of his actual age, and if the Liquor Commission be satisfied that he is twenty-one or over, they would give him an identification card. There is another proposal, and that is that provisions applying generally, would apply also to taverns as to other licence places, and with respect to their remaining open after hours. In effect this change

would permit taverns to remain open after midnight on a Saturday night, to an hour to be prescribed by regulations made under the Act. This would apply in lounges, clubs and so on. It has very frequently happened, Mr. Speaker, that in clubs and lounges, people go there Saturday night and stay until one o'clock or two o'clock in the morning, dancing and eating, having a meal. But they are not permitted to drink, or to purchase drinks, and the place is not allowed to sell drinks after midnight, unless they have a special permit. And for this special permit they pay a fee to the Liquor Commission. And this proposed change would make that applicable equally to the taverns, as to lounges and clubs and so forth.

Then there is a very important new suggestion, Mr. Speaker, and that is one that we hope will be the means of bringing a stop to one of the most vicious, one of the most vicious and one of the most pernicious features of the beer trade, especially in our Province today. This is a proposal in this Bill that would completely outlaw attempts by brewers to induce taverns to buy their particular brands of beer.

Now, Sir, it is all but unbelievable what the brewers are now doing. The House may be interested to know that the brewers of Newfoundland, and I daresay there are other Provinces where it happens - although in most of the Provinces, it is sternly forbidden by law under the most severe possible penalties, the severest penalty being of course, the cancellation of a brewer's ~~of~~ of a brewery's licence to brew beer. But there, Provinces, I think, like Newfoundland, and Newfoundland still is - we hope that it will change. And that is this, the House would be amazed if the House could know the staggering sums of money, utterly staggering sums - many, many, many, many hundreds of thousands of dollars, that the four breweries, is it? Four or three? Well there will be four, because I understand the other one at Stephenville is about to reopen, but anyway speaking of the three that do exist, spend every year in an attempt to persuade taverns, clubs, lounges, motels, hotels and other establishments where the public go to have a drink. To persuade them to buy their particular brand of

beer. Now I do not know, Mr. Speaker, I do not know any trade in Newfoundland today, where such almost incredible sums of money are paid out to promote the sale of particular brands, and not only to promote the sale of these brands, but to promote the purchase of these brands by the retail outlet. That is to say

MR. SMALLWOOD: to say a means method used or to persuade the owners of these establishments to buy this brand of beer rather than that brand of beer. And the most extraordinary things are done. Now we have had a firm, a very famous firm, Price Water House and Company, I think the largest auditors in all the world, an extraordinary large firm who have done this kind of work for a number of governments across Canada, including the Government of Ontario. We have had that firm come to Newfoundland and make a very intense and intensive study of the whole beer business of the Province. And one of the things turned up by this inquiry is the thing to which I am now alluding namely, the spending of vast sums of money by the breweries between them, not collective, not jointly together but each one separately in competition with the other two, each of the three, trying to get a larger and ever larger share of the retail outlet trade or patronage, the staggering sums of money that are spent, and the staggering ways in which large parts of that money are expended, large parts of it. I will not go into that, if I had to I am well armed, thoroughly well informed on it, and I could say a lot, but I do not propose to do any more than say, in general, that this is going on and we are going to try and stop it. And, indeed, Sir, we have two reasons for trying to stop it. One is the obvious one, perfectly obvious reason that this is all wrong in principle, and in practice. The other reason is a more selfish one, the Government proposed to pocket the money into the Treasury that is now spend on those things. We think that, that money had much better be spent on the Treasury of this Province. That, that money be passed into the Treasury of Newfoundland and thereby to that extent and to that amount increase the revenue of the Government and some provision is already shown, not all of it, but some provision is shown in the estimates under that heading. Larger amounts will come in when certain things are finalized.

However, this would outlaw those practices, and this present Bill and we are very keen on this aspect of the Bill.

Mr. Speaker, there are other odds and ends, it is a sort of catch-all Bill, catching up a number of the requests of the Liquor Commission, not all

MR. SMALLWOOD: of them, not even half of them, but a number of them. And of course, Mr. Speaker, Government is always a little hesitant to bring forward legislation or propose amendments to legislation having to do with liquor and beer, because such legislation has at least in the past, frequently arouse passions, and strong feelings, and a lot of people in Newfoundland used to have strong feelings, I do not think their feelings are as quite as strong today, I think there is a tendency in Newfoundland today greater than ever before, a tendency to look upon the practice of drinking a bottle of beer, or a glass of wine or even something to me that is in comprehensible that anyone should do it, take rum down in their stomachs, I can understand using it in bandages or for external applications, but actually drinking rum and whiskey and gin and brandy and these hard liquors, I have never been able to bring myself to understand how people can bring themselves to do it. Now I am not talking about a glass of mild beer or a glass of mild wine, I am not talking of that, but this hard stuff, Nevertheless, I suppose I am old fashioned in that matter. I do not take any of it, I never yet since I was born never have I tasted any of these hard liquors. I do not know the taste, except once-I may say at Government House, a former Governor, I was there at a formal dinner, and before the dinner began, everybody present had a glass of something or other, and the person who passed the glasses around to the guests, not knowing my habit passed me this glass, which I thought was a glass of dinner wine, a mild wine, as my practice is, just sipped it, it did not taste like wine to me, and I just smelled it, and it did not smell like wine to me, and the late Sir Alberta Walsh was standing near me, and I said, "Sir Alberta, what is that?" and he put it up under his nose, and he said, "that is whiskey". I said, "you are joking". He said, "no, that is whiskey". And I smelt it again, and I said, "you are sure it is whiskey"? He said, " Oh, I am sure". And I tried three or four others and they smelt it, and they said, " yes, it was whiskey". So, I did once in my life since I was born sipped a tiny, you know just enough the tip of your tongue. That is the only experience I have ever had personally with the use of the whiskey.

Mr. Smallwood; But, Sir, generally throughout Newfoundland today, whether it is good or bad, generally throughout Newfoundland today opinion has changed about the propriety of taking a drink, And most people today, I think, I was going to say, I fear, but I will not say that, most people I think do now look upon taking a drink as a normal thing, not get beastly drunk, not drinking into insensibility, but taking a social and convivial drink, I think most people now in Newfoundland, either do it, or do not mind too much seeing other people do it. That being the case, Mr. Speaker, that being the case it is not quite so dangerous for a Government to bring forward in the people's House proposal for change and improvements or what is hoped will be improvement in the existing legislation. Althought, as I have said already, this is not by manner of means, as much amendment as the Liquor Commission requests. For example, I myself have come to the opinion that really there does not seem to be too much sense, in someone as for example in Gander. In Gander I know a place, I was in it once made a speech there, a place where it is a nightclub. They sell no food, they do not serve meals, and they had a beautiful orchestra and they bring singers in from the Mainland, and from the United States, and the show starts about ten thirty at night. And they have a cover charge, and the only thing you go in there for is the music, the singing, the dancing, and a drink. And the only hope they have got to make this place pay is the drinks they sell, and they open at ten thirty, the people are in there by eleven, at twelve o'clock they have to close. How can you take in enough revenue in a respectful decent place, it is quite enjoyable and where the people of Gander respect, and like and enjoy, how can they possibly make that pay? I would say, that perhaps civilized point of view would be that such a place could stay open until two o'clock just normally, but what they have to do as the law says, they must close at twelve. What they have to do in fact, is get a permit for each individual night they stay open. It maybe only one hour, to one o'clock, or maybe until two o'clock, and they pay special rates for it. Frankly, I do not see it, any more than I see the silly and stupid law we used to have, I say, we used to have, I hope that past tense is

MR. SMALLWOOD: right. There used to be a law that restuarants had to close at twelve o'clock in Newfoundland. There was a law in Newfoundland that no restaurant was allowed to be opened after midnight. And the police force used to be very keen, I think, that Chief O'Neil and Chief Hutchings, Inspector General Hutchings, Chief O'Neil and after him Chief Strange were always very keen on it, they wanted every restaurant closed down at midnight. Which is the most absurd thing in the world, we did repeal that, did we? Thank be to goodness, we did get a little sense. Now a restaurant can stay open all the year around, can it not?

Well, if you have a decent place and is conducted decently, in a civilized way, and it is not a dive, and it is not permitted to become a dive, if you have a decent place, and they serve decent food, and they have music, and they have dancing, or other entertainment of that nature, why should they be required to stop serving drinks at midnight? I do not know but it might be a good idea if the House would approve it. I would not insist, I would not push it, I would not press the matter, but if the House would approve, I do not know but it might be a practical thing not to require special permits to open until one o'clock, or two o'clock, there is a big concert on, there is a big party on, there is a big wedding on, there is some kind of a big celebration on, and you got to go and get a special permit to serve drinks after midnight, that to me is really a bit silly. And maybe we ought to eliminate, insert an amendment here, eliminating the need to get special permits or to have to pay for them. And may be I do not know

MR. SMALLWOOD (J.R.): Maybe I do not know, I am not too keen on it, I mean I do not press it, I think in common sense this would be the thing to do. Just as we removed the prohibition of the restaurants and eating places remaining open after midnight, we have removed it.

Mr. Speaker, I am not too thoroughly familiar with

MR. WILLIAM SMALLWOOD: This law dealing with restaurants is still in effect, that by law all restaurants in Newfoundland are to close at twelve O'clock. It is still in effect.

MR. SMALLWOOD (J.R.): I hope not

MR. WILLIAM SMALLWOOD: It is

MR. SMALLWOOD (J.R.): I hope Newfoundland is not quite that stupid

MR. WILLIAM SMALLWOOD: Well it is,

MR. SMALLWOOD (J.R.): Well if the hon. member will show me the legislation, I will ask my colleague the Minister of Justice to ask his people to look at it and see if that it so. If it is the law of Newfoundland today, that restaurants have to close by midnight, then it is just too foolish for words, and let us change it and change it in the present session, if the hon. member is right. But I find it hard to believe that the law of Newfoundland says that restaurants must close at midnight. If it is so,

MR. HICKMAN: Only where liquor is concerned

MR. SMALLWOOD (J.R.): Not liquor, restaurants, eating places, food, restaurants. If the law says that they have to close at twelve o'clock at night

MR. NEARY: Well some restaurants open

AN HON. MEMBER: I am sure it is not

MR. ROWE (W.N.): Some open until one, some have opened all night

MR. SMALLWOOD (J.R.): But do they have to have permits?

MR. MURPHY: If so a lot of restaurants are breaking the law

MR. SMALLWOOD (W.R.): They are breaking the law, but that is different from

MR. SMALLWOOD (J.R.): But is that the law, and if they stay open after midnight are they breaking a law? Is there a law that says they must close at midnight unless they get a special permit? There was such a law, that was the law of Newfoundland and I thought we repealed it many, many years ago. I have been under

the sort of pleasant feeling that you could go to a restaurant at 12:30 in the night, a terrible hour to be up I admit, you know, but nevertheless that at 12:30 or 12:45 you could go in a restaurant and get a meal if you were hungry. I was under that impression, maybe I am wrong. We will have it looked into and I am sure my colleague, in fact he is already looking into it I think he is looking up the laws we have passed here since Confederation. I know we intended to do it and I hope we did it.

All the lawyers are now buzzing, they are all arguing as to what is the law.

MR. CURTIS: Inaudible

MR. SMALLWOOD (J.R.): No it is not so irrelevant, to this particular Bill it may be, although it is a natural corollary of the Bill that is now before the House. I move the second reading:

Now mind you, Mr. Speaker, when we go into Committee of the Whole, if the collective wisdom of the House has suggestions to make to improve this, to strengthen it and improve it, I think our minds will be pretty open to any such suggestions, provided the main principles that are laid down in this Bill are not thereby vitiated. Incidentally I ought to say that some of the proposals here are made so as to bring our law into conformity with the criminal code of Canada. We have to go by the criminal code, matter of drunken driving, and driving while intoxicated with a reference to impaired driving. This amendment I am told is in keeping with the recent amendment to the criminal code of Canada under which the offence of driving while intoxicated has disappeared and it would appear that in place of it, there is a crime known as impaired driving.

Well we cannot have laws that contradict the criminal code of Canada, so we wish to amend our law to bring it into conformity for that purpose. There are other things and we can discuss the details of these particular sections one by one and clause by clause, and word for word when we go to the Committee of the Whole. I move second reading.

MR. HICKMAN: Mr. Speaker, as the session develops hon. members seem to be more admitted to confessing all their feausance void, some of their faults, I learned something here tonight that I had not learned before, but it now explains something

that I have been hearing for months throughout the Province. We heard tonight that the hon. the Premier is inclined to wander into the night clubs particularly in the Gander Area where they have the go-go girls.

MR. SMALLWOOD: There were no go-go girls

MR. HICKMAN: Oh yes, they have the go-go girls. Now I have been hearing that my hon. friend from St. John's West for the last six months say " Joe must go " what he was trying to say was " go - go Joe." For some reason I thought it had some political connotation, but it apparently does not at all, it was that the hon. member for St. John's West knew about the Premier's weakness for this place in Gander.

Be that as it may, Mr. Speaker, as the only member of this Hon. House who can claim the distinction of having being a past recording scribe of the Sons of Temperance, I can speak with a great deal of authority on temperance and lack of passion on this particular Bill.

Mr. Speaker, we used to have, and I know the hon. the senior member for Harbour Main remembers this, when I was a boy in Grand Bank, we used to be visited once a year by the Supreme Court on Circuit and that Court travelled by boat. Invariably after it left Burin to go around the boot to come into Fortune Bay, the tradition was that the master of the boat would report to the presiding judge with all due dignity and solemnity say "My lord, I am told this, the ship has run out of potatoes," and this would cause great consternation on the part of the presiding judge, and he would say " Well you will have to proceed to the nearest port" and the nearest port always turned out to be St. Pierre and Miquelon. So they would go into St. Pierre and pay their respects to the representatives of the Government of France and take two or three days trying to find potatoes and then discover that they already had a ship full and they did not need them anyway. They would arrive in Grand Bank very much the worse for wear, but a very sobering thought used to come over them when they got to Grand Bank. Court was always held in the temperance hall, and if you saw a presiding judge with several lawyers who had not been digging potatoes in St. Pierre, sitting under signs "Wine is a mocker, strong drink is raging." and pictures of John Barleycorn all over the wall, I think that it used to insure at least for the rest of that day that they would

probably have second thoughts about going back to St. Pierre digging potatoes.

Be that as it may, Mr. Speaker, it has about as much to do with this Bill now, as the closing of restaurants before 12:00 o'clock. But, Mr. Speaker, there is one thing I do believe that we are beginning to have a different attitude towards the "booze Bills" for want of a better word. There was a time when any one going into a liquor commission retail store sort of looked over his or her shoulder to make sure that there was no one watching and then sneaked in and had to get out a permit and

MR. MURPHY: Like the welfare offices are doing now to the

MR. HICKMAN: And then passed it out and eventually bought his bottle or two or whatever it might be. Recently the liquor commission came up with an new innovation the self-service centre over here in the Phillip Building. It is progress it is good, it has received public acceptance. A message I would like to see get through to the liquor commission is that they are retailers just the same as anyone else selling any other product in Newfoundland. True they have a monopoly on the goods they sell, and true they have a captive clientele they do have within these liquor stores very, very courteous and very hard-working, under-paid clerks and other employees. But if the liquor commission would consider in its wisdom that it is there to suit the shopping needs, the shopping requirements, and the shopping pleasure of the public, and not to find every time the rest of the stores are open, when other retailers are open, the liquor commission in its wisdom decides it should not, or it is open at hours that are most inconvenient to the public.

Three years ago, when the hon. the Minister of Education was trying to bring all Newfoundlanders home it did not quite succeed. He brought in, or recommended, maybe it was more than that, that the liquor stores be opened in the evenings during the summer. This brought on a great deal of public approval. But for some reason it stopped, and once again the liquor commission in its wisdom said "no if you want to buy it you have to suffer for it, and you will have to line up, and you will have to come at the hours, not the hours to suit the consuming public, or the purchasing public, but the hours that suit the commission."

Now, Mr. Speaker, I would recommend to the hon. the acting Minister of

Finance that the liquor commission, it be indicated to the liquor commission that in setting hours of work, that with the very courteous and hard-working staff that they have, that they take a look at the hours of opening and closing of their retail outlets.

This is a sort of a catch-all piece of legislation. What is really needed in this Province I suggest is a completely new alcoholic liquors Act. It is a big drafting problem. It is one I suggest would take a skilled legislative draftsman many months to do, but the time has come for a new liquor Act, and the time has come for new regulations - regulations that we have thousands of now, and some repeal others and you can never get them all together to find out what regulations are still in force and what ones are not. I am sure the liquor commission knows, but I am equally sure no one else does.

If we had a consolidation of the regulations, and a new liquor Act, I think that we would find that it is much more in tune with the times and philosophy of our people. I am delighted to see in the Act a recommendation that came from the magistrate's association, and that is for the appointment of Government analysis and assistant Government analysis in the various areas throughout the Province.

Mr. Speaker, whilst I do not know if there is merit in not in stopping breweries from throwing away money or whacking out money to get people to buy their products, but I do hope that consideration, I would warrant the Premier that if he is ever thinking of any further restrictions do not ever pass any legislation that might restrict the hockey games on television that are advertised by the breweries now, and which apparently result in our getting a bit more coverage than we used to. That would defeat any Government in Newfoundland, I do not think we have the jurisdiction to pass legislation to curb national advertising anyway, but on occasion in this House I have heard it suggested that we should cut out all advertising. Some hon. member made a speech here a couple of years ago that we should cut out advertising by breweries, that we should allocate the amount of beer that is to be sold by every brewery. That will not work. For some good reason beer drinkers, and I must confess I do not fall into that category, but beer drinkers have their brand of beer and you cannot change them. You.....

MR. HICKMAN: And you can advertise, you can restrict, you can say that today we sell Black Horse on Monday and Blue Star on Tuesday, India on Wednesday, but Newfoundlanders would riot if they could not get the beer anytime, anywhere, anyplace. There can never be any restriction or quota system imposed on the brands of beer to be brewed or sold in Newfoundland.

Well Mr. Speaker, the hon. the Premier has told us that a very extensive study was completed by Price Waterhouse of the practices and procedures followed by the Liquor Commission under the Act and the distribution of beer in Newfoundland. Now this report I am sure, is of interest to more than just hon. members of this House, because we might as well accept the fact that the brewing of beer and the distribution of beer is a fairly hefty business in Newfoundland. It is not just the two or three or four hundred people who are working directly in a brewery, but there must be literally hundreds of brewers agents throughout the Province, who make a living (they will never get rich out of it) and they perform a service throughout the Province.

So that if any major changes are proposed, and I do not see any in this Bill, but in the practices are presently followed. I do suggest that Government owes it to this House and to the people of the Province to table the Price Waterhouse Report, and table it in sufficient time that those whose livelihood may be affected by any major change in the distribution of beer, or any major change in the activities of breweries would be given a chance to be heard, and to be given a chance to assess what the affect adversity or otherwise would be upon them on a personal basis.

Mr. Speaker, there is one thing that is not included in this Bill, but there is reference slowly, that is relevant because it touches on the question of appeal. Now we got an indication from the hon. the Minister of Public Welfare earlier in this Session that he is a great believer in appeals from all administrative bodies. That he, and I think most hon. members subscribe to that view, that administrative bodies have great powers, not powers of life and death, but powers of dollars or no dollars in the

pockets of particular people, that these rather awesome powers must be the subject matter of appeal. We now have fortunately commendable legislation granting appeal from the Workmen's Compensation Board on matters of law. Something which incidentally first was opposed by labour and now approved by it if you read the recent submission to the Cohen Commission.

We have appeals from the Board of Commissioners of Public Utilities. We have appeals from Social Assistance. We have appeals under the Motor Carrier Act. We have dozens of appeals, but we do not have any right of appeal from a decision of the Newfoundland Liquor Commission. I think if we have any respect for this Commission, if we want to preserve its complete and absolute independence. If we want to preserve the complete and absolute integrity of the gentlemen who make up that Commission. One way to do it is to give the right of appeal from any discriminatory or supposedly discriminatory decision which may be made again.

Now Mr. Speaker, we have heard of complaints, dozens of complaints of people who come in, of service clubs - I know several cases where service clubs have made application for a private licence, but for some reason or other they have been turned down. And the regrettable thing is they never get the reason. They are never given the reason. They never told "we have sufficient outlets in your area now, or a large majority of people living in the town where your club operates, object to it." They would if that happened, but simply nothing happened. Either their application has not been dealt with, or simply your application has been denied.

Now that type of denial from any other institution, or alternatively what is more serious, where you have the case of a licensee who is presently operating an establishment. Or where you have a tavern keeper who is making a livelihood in employing a half a dozen people within that tavern. Suddenly he or she are threatened with the close of their premises, or the revoking of their licence. And that is taking away the right that has been conferred on some Newfoundlander. And there should be, I submit the right of appeal

from a decision of the Newfoundland Liquor Commission in these cases. There is no new great fundamental principle. All I am doing is advocating the principle and the belief of the hon. the Minister of Public Welfare. He thought of it and I would hope that he participates in this debate, and I would hope that he will say I cannot support this Bill unless the right of appeal that I demand goes in there. And I am sure he will. This will eliminate any suspicion of favouritism - I have not been in politics as long as my hon. friend from St. John's West - I guess I have - he has a more suspicious mind than I have. I always listen to what I hear anyway in the House and believe everything I hear in this hon. House, but he seems to be more suspicious than I am. But the thing is that this will eliminate any suspicion of unlawful ^{trading} of licences, any suspicion of dangling licences for any particular purpose no matter what it would be. And other than that Mr. Speaker, I would ask the hon. minister in closing if he could clarify this business of identification. Surely this does not mean that everybody in Newfoundland can now go to the Liquor Commission - I would ask the hon. minister to clarify -

MR. SMALLWOOD: He does not have time. The hon. gentleman just wants to make a speech about it.

MR. HICKMAN: All right, I am going to continue to make a speech about it. I would hope that the hon. minister when he closes the debate on this Bill will clarify the position and make it abundantly clear that every Newfoundlander over twenty-one years of age may not have to apply if the Commission sees fit, to apply for an identification licence.

MR. SMALLWOOD: That should be worth a headline.

MR. HICKMAN: Identification licences insofar as minors who operate or work in bands, fine. But could you imagine a gentleman in his fifties or sixties having to go up and buy an identification card

MR. SMALLWOOD: And he is over twenty-one, certifying that he is over twenty-one - with his grey beard, could you please give me a ticket -

MR. HICKMAN: But then again Mr. Speaker, once in a while you see the

hon. the Premier hopping around and standing on the chair, turning his back on the Opposition, and saying "I am as young as a twenty-one year old," Maybe, maybe that is why we have to have identification. Maybe that is why we proof of age, I do not know. And maybe if the hon. the Minister of Rehabilitation says, that the hon. the Premier has been rejuvenated. But whatever it is, I think it would be quite wrong for the hon. the Premier to have to go and prove conclusively beyond all reasonable doubt that he has now passed the age of twenty-one years. Thank you, Mr. Speaker.

MR. SMALLWOOD: For what? Thanks for what?

MR. ABBOTT: Mr. Speaker, it is quite obvious that we are now dealing with legislation which is one of the great revenue reducing agencies which this Government has. I suppose that accounts for so many people being jovial here tonight. Maybe when we start talking about different brands and certain brews, it does make people happy. I note some of the changes in the legislation, some repealing of certain sections, certain substitutions. One I am pleased to note that where a man appears before court and is convicted of driving a motor vehicle under the influence of alcoholic liquor, the magistrate

magistrate "shall" now remove his license. Before the legislation said "may" I think. Now it says "shall." But I am surprised to note another section whereby inducements to licencees had been going on; apparently, there must be some evidence that certain licencees must have been inducing certain people to buy their brands of beer and of liquors, otherwise, this legislation would not have been amended. It is a good thing. I do not think..

MR. MURPHY: The licencees are doing it or the manufacturer to the licencee?

MR. ABBOTT: Licencees, that is out of legislation, inducements to licencees.

MR. MURPHY: To licencees.?

MR. ABBOTT: Yes to licencees. I think that is a good thing. I am surprised to note that this has been going on, and the Government is very wise in passing or in bringing forward this legislation whereby this will not go on. Then as far as the juveniles being debarred from places where alcoholic beverages are being sold. There are certain cases, as stated in the legislation, where juveniles of necessity must be present such as: musicians, and those who participate in music. That, too, I think is a good thing to make some provision whereby such people would be permitted and the law would not be violated by their presence. That is all I have to say, Mr. Speaker.

MR. NOLAN: Mr. Speaker, I rise to support this Bill, not to go on for a long speech, but we have heard from a number of people who have, at least, publicly proclaimed themselves as purists. They never have had a drink of hard liquor and so on, but the hon. the Premier mentioned,.

MR. SMALLWOOD: Soft, but that does not make me a purist.

MR. NOLAN: I do feel as one who has had the occasional belt from time to time and as one who was responsible at least to some extent for reading a newscast sponsored by a brewery for seventeen years, I have had more than a nodding association with some of the beverages concerned.

There is just one thing pointed out by my hon. colleague, the Minister

of Community and Social Development that I would like to question, and I would hope, perhaps, that the minister would be kind enough to clarify it, if not for the satisfaction of any of the other members of the House who may have the answer to this already, there is something in Clause (13) that I would certainly question and that is: subsection (3), that said Act is repealed and the following substituted: "in any case where a magistrate convicts a person of driving a motor vehicle or having the care and control of a motor vehicle while his ability to drive a motor vehicle is impaired by alcohol, the magistrate shall make an order of interdiction prohibiting the sale of the alcoholic liquor to such person until further order."

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Now it is / right to have the man's licence gone, but you to not have to crucify him. Thank you.

MR. CROSBIE: Mr. Speaker, it is quite obvious that the hon. Minister of Supply and Services is already functioning as an ombudsman, and I certainly agree with him, why go whole-hog in this matter, Take his licence first and take it a second time and third time and after perhaps a dozen times, I think you might interdict. By that time, he is probably deceased in any event.

Mr. Speaker, the amendment suggested in this Bill, I think, are by enlarge acceptable, although the definition of "motel, meaning a roadside building containing three or more rentals units", makes one wonder a bit, because a motel with three rooms is a very small motel and you could visualize a great big coqtail lounge and restaurant, night club operation, with just three rooms attached to it, which could be a bit ridiculous. However, this is perhaps what is done in other provinces, and there must be some precedence for it .

In connection with the Alcoholic Liquors Act, Mr. Speaker, and the new section 75 (a) says: "a distillery, brewery, winery or person shall not either directly or indirectly offer or give any financial material

inducements to any licensee or his agent or employee for the purpose of increasing the sale or distribution of any brand of alcoholic liquor."

Now notice, Mr. Speaker, it says: distillery, brewery, winery or person. When the hon. the Premier introduced these amendments, the only people he mentioned as being one's who are supposed to be giving such inducements were breweries. Now, I do not doubt that breweries do this or have done it, but certainly it is also a practice of distilleries or the agents of distilleries in Newfoundland, and I see no reason why breweries only, should be singled out to be ticked off about that practice. It is a practice carried on by the winery agents, the distillery agents, as well as, the breweries. I do not see why the breweries, only, should be plucked out.

Now the Premier said that is being carried on to a scandalous extent. He has not elaborated, but there is this Price Waterhouse report which the Government apparently paid \$53,708 that was the answer given in response to a question tabled in the House this session - \$53,708 and I certainly feel that the Government should table that report in the House so that the report is available to all the members of the House and the public so that they can see what Price Waterhouse did report in connection with their examination of the distribution of beer and whatever their terms of reference were.

I would like to make it clear, also, Mr. Speaker, so that it will not have to be announced first by someone who may be closing the debate that I am associated with a brewery. I do not own one or have any ownership in one, but I am associated with one. In fact I am the secretary of one of them. So not that I know much about it, because my duties are only legal. I have never been involved in the real business end of it. I do not drink beer. As a matter of fact, I can announce quite firmly that I do not drink beer. I better say why not or that my association might be

be discontinued. I have been known to have a drink of other beverages, but I definitely have no intention of drinking schnapps. I will never let a drop of schnapps cross my mouth. I do not whether that makes me very pure or not, but in any event, the breweries are singled out. Well I feel, Mr. Speaker, that the Price Waterhouse report should be made available so that we can see just what they report this practice has been costing or what they recommend, as far as the distribution of beer in the Province is concerned. I think that is only fair.

Sometime ago, I got some figures - after all we have three breweries in Newfoundland and the Premier said that we are going to have a fourth one active again soon, but we do have three. We had them before Confederation. We have them now. They are a secondary manufacturing industry in this Province, and I think a fairly important one, and I just got some figures several months ago in connection with 1969. The three breweries that are now operating, Bennett, Bavarian and Newfoundland have 280 people permanently employed. They employ fifty full time distributors and those distributors have 116 full time employees and the distributors have sixty-three trucks that they use distributing beer and the breweries have thirty-two trucks.

The contribution of the economy of the Province in 1969, they estimated at \$12 million and they report that the Newfoundland Liquor Commission - the markup on beer last year was \$6,240,000. The House should

MR. CROSBIE: The House should not forget, Mr. Speaker, that last year the Newfoundland Liquor Commission from the sale of beer received \$6,240,000, that is \$2.49 on each case of two dozen beer is a commission that goes to the Newfoundland Liquor Commission. And apparently that amounted last year to \$6,240,000. There was S.S.A. Tax collected on beer, \$1,800,000. And they paid out in salaries, wages and commissions \$2,600,000, that was what the three breweries paid out, \$2,600,000. So to the Treasury alone was \$8,040,000. And in salaries wages and commissions \$2,600,000. So, Mr. Speaker, it is certainly an important industry from the point of view of this Province. Both from the point of view of employment and wages and commissions paid in the economy, and from the returns to the Government. And the enjoyment given to so many people, The hon. Leader of the Opposition says. Well, even at that, Mr. Speaker, I believe that Newfoundland is a Province that has the lowest per capita consumption of beer of any Province. I do not have the figures, but I know that, that statement is correct. The lowest per capita for the consumption of beer in any province, is in the Province of Newfoundland. Well the reason is that beer is so expensive in Newfoundland. Beer is more expensive in Newfoundland, than it is in any other Province. It is more expensive because of the \$2.49 commission on beer, which goes to the Board of Liquor Control, now it is called the Newfoundland and Labrador Liquor Commission. So I do not think that the Brewing Industry of Newfoundland has anything to be ashamed of. Now perhaps there is some way that the Government can make several hundred thousand more, or whatever the figure is, if the recommendations of this Price Waterhouse Report are carried-out. But I feel Mr. Speaker, that at least the report should be produced so that we can examine it, and debate it, and see just what it does say. The hon. the Premier says that the Atlantic Brewing Company will be opened again. Well, we should not forget Mr. Speaker, that that Brewery was allowed to operate for over a year, without paying to the Government of Newfoundland one cent by way of commission on beer, the \$2.49 per case, two dozen beer, for the whole time that the Atlantic Brewery operated

MR. CROSBIE: was not turned over to the Government of Newfoundland by Atlantic Brewing Company Limited. They charged it to the public, they collected it from the Tavern owners and distributors, people who consumed beer, but they did not turn it over to our Government. And that matter of course was mentioned in the Auditor General's Report and presumably the select committee is going to, and the Public Accounts is going to look into why that amount was not turned over.

The hon. the Premier says, there was some misunderstanding about it. But in any event for thirteen months, that this Brewery operated that amount collected from the people of Newfoundland was not turned over to the Government. Presumably if the Brewery goes into operation again, one of the conditions would be, I suppose that this amount that is owing the Government would be paid to the Government. However, we will probably hear more about that later.

So, Mr. Speaker, that is all I want to say on that aspect of the matter. I agree with this Section 75(a). The passage of that section should stop this practice which is a wrong practice, this is an improper practice, which should not be done. And since the section forbids licencees to look for these inducements also, I think that you got the problem cured there. Because when you are in this business and there are certainly others that are not of public interest, where people are in a position to buy your product or not, or push your product or not, when they are in that position will they use the leverage to obtain certain emolument, not just in the beer business but in many others. But this section here forbids distilleries, breweries, and winery from offering any inducements, and forbids the licencees and their agents from requesting them. I am certainly a hundred percent in favour of that.

I ~~assume~~ with the new amendment, people under twenty-one will be permitted to be employed, for example, as clerks in the retail stores of the

MR. CROSBIE: Borad of Liquor Commission. I understand that they are not today, and that they be permitted to work in the breweries. I think today they are forbidden, you cannot work in a brewery I do not think until you are twenty-one.

SOME HON. MEMBER: That is wrong.

MR. CROSBIE: Well, that is wrong. Well than in a retail store it must be. But I think today you must be over twenty-one to work in one of these retail stores. And that does not appear to be very reasonable, a man putting beer out over the counter, whether he is eighteen, nineteen or twenty-one I cannot see that it makes any difference. So that is a worthwhile change. And I certainly agree with the Premier, when he mentions the hours for being open, or staying open. After all we are now advanced in the 1970's, and the people of this Province as in every other province, their modes of living and their way of life has changed, and after all if an nightclub, is an nice club obviously people are going to be out and they are going to want to have a drink up until one o'clock in the morning. And there is no reason that I can see, why they should have to stop serving it at twelve o'clock. Always remembering that the law is observed other than that.

There is one other matter that I think should be mentioned, or looked into Mr, Speaker and that is the question of the Board of Liquor Control stores around the Province that have been leased. In reply to a question tabled in the House, it was reported that some twenty buildings are being leased by the Board of Liquor Control are spaced in some twenty buildingsoor shopping centre and so on, are being leased by the Board of Liquor Control. And the Board of Liquor Control seems to be paying some very high rents for this space. For example there are several B.L.C. stores on the Burin Peninsula, where the Board is renting a whole building under a twenty year lease, and paying a yearly rental of \$7.24 per square foot.

MR. MURPHY: Who owns the buildings?

MR. CROSBIE: Well, the leases are from the Royal Trust Company. I do not know who owns the buildings. But \$7.24, Mr. Speaker, per square foot for a retail store building which is not complicated construction is a very, very

MR. CROSBIE: high rental, particularly on a twenty year basis. And a building like that should not cost more than \$20 or \$25 per square foot to build. So after the first two or three years, the person will have his money back. So one wonders why the building is not building its own buildings, or else negotiating much better rentals than the board has been negotiating.

I believe, the Prince Philip Building here, or the Royal Trust Building down on Water Street, the rentals do not approach \$7.24 per square foot.

MR. CHALKER: Seven dollars a square foot.

MR. CROSBIE: This is I think in Grand Bank and St. Lawrence. I have not got the answer here. I am not sure about the one in Marystown, but the one in Grand Bank and the one in St. Lawrence. And that seems to be very high, and also it is a twenty year lease, it might be understandable if it was a three year lease or a short period, but a twenty years at that high rental is extremely expensive. So these are just the points that I want to, well there is one other point that my hon. friend from Burin has already made and that is the matter of appeal. And I have made it a point here already four or five times this year, so I will not belabour the point Mr. Speaker. But I definitely feel that when the Government is amending this Alcoholic Liquor Act, and by the way I certainly agree with the member for Burin when he says that the whole Act should be revised and consolidated, there is definitely a need for an Appeal Board so that provisions of a Newfoundland and Labrador Liquor Commission can be appealed. And this day and age certainly Mr. Speaker, why should the Newfoundland and Labrador Liquor Commission have absolute power to decide whether you should get a licence to sell wine or beer or liquor, whether you are a beer distributor, or breweries agent or whatever, have absolute power, absolute discretion no reason at all do they have to give for refusing you one, or suspending one after you have been given a permit or taking one away. That is just not reasonable in this day and age. And I cannot understand, Mr. Speaker, why this matter was raised last year too, and on previous occasions. And the hon. leader of the Opposition raised it

MR. CROSBIE: earlier in this Session. Why the Government does not receive with an amendment that would setup some kind of an independent appeal board to which person who feel aggrieved or have not gotten licences or who have lost licences under this legislation can appeal, can go to and get an impartial hearing. A board that would have the power to order them to be given a licence or have their licences restored to them, if they found that was justified. It seems to me that is basic, that is just a basic right which people should have. Since I have spoken on that before, I will not as I say, belabour the point.

There has to be an amendment in this Bill, I think they are a step forward and I have no objection to them. I wonder who the Government analyst is? It would be interesting to know who the Government analyst is that Dr. Josephson? I do not know who the

I do not know if the Hon. the Premier when he is replying I do not know whether he knows who the government analyst is. I doubt it, but he may. This Bill gives the government analyst power to give certain certificates that liquor contains three per cent or upwards of alcohol. The Government analyst, who is the government analyst? that is all I am wondering. I have never heard of him before. Perhaps we have not got one yet and we are going to have one. So those are my comments on this Bill Mr. Speaker it does not go far enough and I raised some questions and I hope they will be answered.

MR. CALLAHAN Mr. Speaker, just a few brief comments Sir. I think I have to say in supporting the Bill that removes Mr. Speaker some of the anomalies that have grown up with the passage of time and with the change of conditions generally in the Province, and one of them particularly one situation that it recognizes and corrects is that which I think exists in this Province perhaps no where else across the country. Namely that during the tourist season, the three or four months when a lot of people are travelling and a lot of visitors are travelling in the Province and also the same three or four months when so many students are looking for work, looking for summer jobs it has not been possible until now with this legislation Mr. Speaker, for students to obtain employment if they were under twenty-one in restaurants or hotels or motels if the work required them to be in places where alcoholic beverages were being dispensed. And Mr. Speaker, that has done, worked two hardships, it has worked a hardship on students who have not been able to take those jobs and on the other hand I think on the operators of hotels and motels and restaurants that have not been able to employ those same students who are among some of the finest people we have. Young people bright and intelligent who could put on a good face, a good front in behalf of this Province at a time when we have so many people visiting the Province.

I know a number of students elsewhere who have been able to do quite handsomely during the summer's working in restaurants and hotels and motels

both on their straight earnings and on their tips and it is, I think it is time that we recognized the situation and removed the barrier to our students in this Province.

The problem of young people the rock bands who have taken over in terms of entertainment in Newfoundland in recent years Mr. Speaker, is no better illustrated than the case in Corner Brook that I know of where the drummer, in a particular combo, because of the law was required to locate himself in the basement of a hotel, underneath the dance floor and pipe his music through his speaker up into the dance floor where of course the liquor was served. Mr. Speaker, I cannot think of a situation that could be more silly than that particular situation. Because there had been, I think two convictions against young people playing in bands in night clubs in Corner Brook particularly, there may have been others elsewhere, this young man just could not take the chance so he was forced to go into the basement and somehow with earphones rigged up and with speakers and all the rest of it piped his rhythm upstairs to his compatriots the rest of the combo. It is pretty ridiculous Mr. Speaker, when you have to go to those lengths. So those respects and others the Bill recognizes I think changes in attitude and changes in situations and certain, anomalies and downright silly situations that have existed. My colleague, minister of Supply and Services made reference to section 13, the interdiction provision and I think that perhaps the Premier was overheard to indicate to him that that was a mistake. I think there may be a second mistake there Mr. Speaker, because the notes making reference to it. The note actually says that Clause 13, would amend section 76 to provide conformity with the Criminal Code of Canada. Well 13, makes no reference to the Criminal Code of Canada or really in a material way to anything I think that perhaps falls under it. Although it does obviously deal with matters which might be within the ambit of the code.

I think it is possible that section 13 as it is, is there in error and in erroneous replacement of something else. Mr. Speaker, I have pleasure

in supporting the Bill that is before the House.

MR.BURGESS: Mr. Speaker, just a few remarks on the Bill. As stated by all previous speakers the amendments are in the main acceptable. With reference to the hon. the Premier in his remarks about never tipping, perhaps he is like an old friend of mine who I knew for years and I did not know he drank until I met him sober one night.

There is just one point of clarification which I would like to have from the Premier in the statement which he made when he referred to the fact that hundreds of thousands of dollars were being given in inducements by the breweries to the bars and to the hotels as an inducement to see their type of beer, and he went on to say that he was going to see that the money that was saved by passing a law refusing, or not allowing these inducements to be made, or given, that he was going to see that this money went into the coffers of the Province. I wonder if he was referring to the ordinary taxes on the sale of these, of the inducements that were given in terms of free cases of beer. It is just a point of clarification.

On the matter of inducements the beer industry is a very competitive field and I have seen on many many occasions I have seen representatives from the various breweries come into Labrador City, or Wabush or Churchill Falls as the case may be, and they are a very high pressure group and they really go to town to promote the sale of a beer or the beer that they represent. And I am wondering with the elimination of these inducements will it affect the overall sale of beer. Perhaps not. Perhaps the, perhaps it will not affect it but I am just wondering what these people have left to work with to promote the produce which they represent. And with that in mind Sir, there is one question, I wonder if there is anybody who could answer it/^{for me} here tonight, and it is particularly relative to Churchill Falls where for, the duration of time that the tavern or the hotel has been open that on any given one evening you can only buy one brand of beer. Now possibly tonight you could go in there and you could buy, it will be all Dominion Beer that would be sold this evening. No matter if you are a fifty

drinker or a Blue Star drinker you can only buy the one brand of beer on a particular night. I think that this is totally, I have never had a satisfactory reason for this yet and but I think it is entirely wrong to, that is promotion, that is inducement or promotion of the worst possible kind when you are gasping for a beer and you can only get one kind on any particular evening. Now they do rotate, I must admit that they rotate from night to night but I still do not think that it is very fair if I am a Dominion drinker I want a Dominion. I would like somebody if somebody can give me a logical answer as to why this situation exists. I would like to know what the answer is.

MR. BURGESS: In the matter of the retail outlets, or the liquor commission there is one point which has been a sort of a problem as far as I am concerned, and particularly working in Labrador West, and it has been that for a goodly period of time Mr. Speaker, I have been approached by all of the employees on numerous occasions, and as stated by the hon. member for St. John's West, these not very highly paid employees of the liquor commission, these people who are serving behind the counters and they have a common complaint and it is this, that there is no class of accomodation, living accomodations that are available for these people or at least it is not provided for, or it is not instituted by the Government whom they work for.

Now there is quite a priority on housing in Labrador City and Wabush where these people are employed, I believe there is somewhere in the region of eight or ten people employed and there is quite a premium on housing, on accomodation. The majority of the homes have been erected there through the cooperation of the Iron Ore Company of Canada or Wabush Mines, and Central Mortgage and Housing, or the Royal Trust rather. Now I think that a great responsibility rests with this Government for whom these people are working to at least insure if they send them up to this area where housing is as such a great premium, that at least some effort should be expended by this Government on their behalf to the companies who control the towns to insure that at least some kind of accomodation, reasonably priced accomodation be erected for their convenience. At least for the senior ones. For the senior ones would be O.K., I am not suggesting every one of them be receiving a home immediately, but if there were a certain number of homes provided that the senior ones could avail of, and if there was a rotating pattern, well at least every man would be housed in a half decent home at reasonable cost.

I think that the responsibility rests with this Government to act on their behalf in making representation to the companies who control these towns in order to see that they do get at least half decent accomodations at reasonable prices.

On the matter that has been stressed by the hon. member from Burin, and the hon. member from St. John's West, I also thoroughly and whole-heartedly agree with the fact that while we are amending the liquor, the Alcoholic Liquors Act, that

there certainly should be a provision, it is not in this one, but there should be a provision to establish an appeals board. Because, when the decision is left with the Board of Liquor Control or the directors or who ever runs the Board of Liquor Control, and that they do not have to excuse themselves, or give any legitimate reasons as to why they revoke, or why they do not issue licenses to people making application for same. It puts an awful lot of control in the hands of people who possibly, essentially do not deserve it, or it puts a lot of control, and there has to be some form of appeal.

I can see this Ombudsman being particularly overworked in this field because there is a lot of appeals that should be made on the basis of revocation or the application of licenses that well have not been issued or have been revoked.

On the main Sir, it is, the amendments in the Act are acceptable particularly in relation to the operation of motor vehicles while under the influence of alcohol, I do not drink while I am driving myself, because I might hit a bump and spill some of it, but on the whole the Bill is a good one. Thank you.

MR. BARBOUR: Mr. Speaker, I am just going to have a word to say to answer the hon. member from St. John's West. He has just stated that in one of the places in Churchill I think he said, you go in one afternoon or one evening and you buy one brand of beer. The next evening you can go in and buy another brand of beer. But Sir, in my district there are six or seven clubs, night clubs where people go and you can go into either of these clubs and you can buy any kind of beer that is salable, such as Blue Star, Dominion, India and Black Horse.

Now the hon. the Premier referred to the tickets for people under age who play. I think it would be also advisable for people Sir, who go in to buy beer were under twenty-one, because I know in my own district I can prove this. In a certain night club there were three young people went into the club, they fixed themselves up to like they were twenty-one or twenty-five but they were caught by the R.C.M.P. and their parents were fined so much money, because they were under age. So if we are going to issue tickets to the

musicians who go in to play, I think we should also issue them to other people who are under twenty-one, but who can get away with it, because when you go in through the door, and you say to the man on the door, or that lady on the door, " I am twenty-one." "Well where is your birth certificate?" " Oh I left it at home." Well she does not like to turn her out, so they let her in, and what happens?

MR. BURGESS: Would the hon. member permit me for a minute?

MR. BARBOUR: Sure, certainly

MR. BURGESS: Sitting in the gallery is a very well known Newfoundland singer and I am wondering how she got away with getting into bars under twenty-one, because she is obviously under twenty-one years of age.

MR. BARBOUR: Well I am not responsible for what she does, but Sir, I just want to say this in passing, that I go along with the amendments to this Bill, and I think it is about time that they were made. I want to say something else. Please do not blame the Board of Liquor Control Commission on Kenmount Road for saying to this beer brewer, or this agent, you must buy only one particular kind of beer. They are very cooperative inasmuch, I know, that when they grant an agent to any beer brewer in my district, well then they say to him " Now we would like for you to patronize each of the breweries in St. John's." So as far as I am concerned again, number 1, you can go into any nightclub in my district, buy any kind of beer that is salable, and you can go into any nightclub in my district and you will find the people very orderly, never is there a fight, at no time

MR. SMALLWOOD (J.R.): And they all vote Liberal

MR. BARBOUR: And they all vote Liberal. I certainly will endorse this Bill. number 36.

MR. MURPHY: Oh God! a dozen of us have to speak yet

MR. HICKEY: I will not delay the hon. Premier very long, this is going to be short and sweet. I certainly support this Bill Sir. I am a little bit disappointed however. I feel it has not gone far enough. I am thinking in terms of the tavern owners and operators. I think there is a lot to be done with regards to the issuing of licenses and certainly there is a lot to be said

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for an appeal board as my colleague the member for Burin pointed out for those who lost their licenses from time to time.

There are always a number of questions raised when a tavern owner loses a license. There are all sorts of rumors as to why he lost that license. There are all sorts of vicious rumors as to how people get licenses. Well Mr. Speaker, I am not going to repeat those rumors here in the House.

MR. ROBERTS: The hon. gentleman has learned his lesson

MR. HICKEY: I have not learned any lesson. If you push me far enough maybe I will, I am getting generous in not repeating them. Generous to the Government I might add.

What I would like to see in the Bill is some form of appeal for a tavern operator so that when he loses his license if he does, he has the right to appeal it, and has the right to a fair and just hearing. I think Mr. Speaker, this would remove a lot of the questions in the minds of the public and I think the Government would be well advised to adopt this practice. For if they are not involved, and if they are guilty of a lot of the criticism that comes their way with regards to patronage and with regards to the issuing of licenses and the taking away of licenses and what have you. If they are not involved, then there is nothing to be lost and there is a lot to be gained by having.....

MR. HICKEY:

by having such an Appeal Board. My friend from Bonavista South mentioned the issuing of tickets, or identification cards I imagine he meant, to people under twenty-one. I felt that he probably was not thinking of the fact that the people under twenty-one are not allowed in there, are not allowed to purchase liquor and therefore would not require any identification.

My friend, the hon. member for Burin, made the point of all of those or a majority of those people between twenty-one and say thirty that they would not be required to have an identification card and certainly while it is not spelled out in the Bill one would hate to see this kind of thing coming into practice.

And so, Sir, I have much pleasure in supporting the Bill and I would hope that it not, during this session, that very soon the Government would adopt the attitude that something should be done in the way of an Appeal Board so that people who lose their licenses have the right to appeal and would be assured of a fair and just hearing.

MR. MURPHY: Now, Mr. Speaker, just a few words on the Bill. Generally I have been noted for speaking out on the Alcoholic Liquors Act because I have had some experience in the business myself. I note that now we are permitting persons under the age of twenty-one to go into night clubs, taverns, whatever we have for reasons to play in a band or working there. This is a departure indeed from the old Act where it was posted up on every tavern that anyone under twenty-one not admitted. I presume the reasons are good enough but I certainly hope that the restrictions apply that these persons cannot be served liquor the same as applies to everybody generally.

With reference to another part here, Mr. Speaker, and I will just reiterate again Section 23 the original Act. I would like to see a general overhaul of this Alcoholic Liquors Act. I think it is time now for to have a brewer's association with a tavern owner's association and meet with the Liquor Commission fairly regularly to keep up to date on what is happening. I have heard talk that tourists coming and this sort of thing from different parts of the country and they must keep the places open until 3:00 o'clock or 4:00 o'clock

MR. MURPHY:

in the morning so that they can get a drink. Well that sounds all right I suppose but I would strenuously object, Mr. Speaker, to taverns as such remaining open till very late hours. Now anybody who speaks of liquor and talks of liquor or licenses must distinguish between the two. There are clubs where a man usually goes accompanied by his wife or girlfriend or both in some cases but a tavern is usually the stagg that goes there.

And I would suggest, Mr. Speaker, that if some of the tavern owners were consulted as to how late they would like to stay open either on Saturday nights or Friday night they might give you an opinion. Because, and this is not one hundred per-cent across the Board, but in many cases you will find that after 11:00 o'clock in the night getting up towards midnight and what not the type of person that is dropping into a tavern is the person that the tavern owner is going to have an awful lot of trouble with to get out. So I would suggest that we sort of temper this thing.

There is no problem now as far as night clubs or anything, you can get an extension for an hour or two hours anytime you want for a dance or a special event. But I would urge that with reference to taverns, and I do not know if there is a tavern left in St. John's or anywhere in the country. Is there one tavern left as such?

AN HON. MEMBER: Tavern meaning a pub!

MR. MURPHY: A tavern as a pub or has everyone of them now got a liquor license and all operating as clubs. Is there a down to earth tavern because as far as I know pretty well ninety-nine-per-cent of them now are clubs with liquor licenses? Is there any one that is only selling beer?

AN HON. MEMBER: The Harbour Inn I think.

MR. MURPHY: The Harbour Inn is the only one is it? Well that might be the one. But on the Act and I have brought this up many times these are the regulations covering the Alcoholic Liquors Act, look right up to date only they made a mistake, instead of putting a seven in 1970 it is 1950. 1950 that is the last regulations.

We have many clubs around town, licensed clubs, and a club license is, if I may quote from this, no liquor shall be served or sold in a club licensed

MR. MURPHY:

to sell liquor except to a member of the club or the guest of a member who has been registered in a book provided by the club for that purpose. The club is only for fraternal purposes, no money can be made by any individual. A list of the officers of the club should be submitted every year and a list of members of the club and a copy of the bylaws of the club and a financial statement covering the last fiscal period of the club.

Now we have many club licenses that are often called this club, that club or some other club in St. John's but basically they are, and I do not know if you would call it embezzlement or extortion, putting money in their pockets. They are actually breaking the regulations as established by the Board of Liquor Control. So it is time that we updated the whole Alcoholic Liquors Act and brought it in keeping with what is happening.

I believe pretty well everything else I think is, I do not see too much objection to it here, but we are getting up to date with our liquor. As I said the other day the license are becoming very plentiful around town except for this Section 23 in the Alcoholic Liquors Act which I read out before. It is a wonderful thing you do not get a license because they give you all kinds of reasons, they say they state the reasons and Section 23 says, "the Board shall not be obliged to give any reason or explanation for such refusal, suspension or cancellation," and I think this is the thing that the previous speaker referred to an Appeal Board and what you have to be to get a license I do not know. I do know but I do not know why certain other people cannot get these licenses.

So, Mr. Speaker, generally the two master - beg your pardon.

MR. NEARY: What happened to the Tory Club?

MR. MURPHY: Tory Club, down on Military Road. It went up the spout. They tried to operate within the law.

MR. NEARY: Did they have a license?

MR. MURPHY: They had a license, yes.

MR. NEARY: How on earth did they get it?

MR. MURPHY: Oh, no sweat, no sweat for the Conservative Club or the Lawyer Club or any of these to get licenses, I must say that. I feel now that if the

MR. MURPHY:

Conservatives wanted to start a club tomorrow it would only be a matter of form getting the license. But one of the Tory supporters, there is what I am worrying about, these are the poor fellows who are out on the ledge.

AN HON. MEMBER: Rod and Gun.

MR MURPHY: Rod and Gun. I will not be too hard. I will start with two names and delete one of them. I have yet to hear of a Tory who has gotten a license.

MR BARBOUR: I know one.

MR MURPHY: I would believe my hon. friend.

MR BARBOUR: I always tell the truth.

MR MURPHY: Always tell the truth. But, Mr. Speaker, in conclusion, I think pretty well everybody is in favour of this. But I think it is time, really, to have a very close look and to update these regulations here. Another great complaint you get, from all around, is the price, the different prices of beer in different areas. They tell me it goes sixty cents, fifty-five cents, forty cents in some places.

Here is Section 37 of the regulations for 1950 which is the most up todate ones I have. The prices to be charged for beer sold under licenses shall be: for beer brewed in Newfoundland .35¢ per reputed pint bottle, for beer brewed elsewhere a minimum of .45¢ per reputed pint bottle.

MR. SMALLWOOD: Is this wholesale or retail price?

MR. MURPHY: This is the retail price. Now these are the regulations and basically anybody selling beer today for more than .35¢ is breaking the law. They are committing a breach of this Alcoholic Liquors Act because the regulations I think -

MR. WELLS: Is that retail?

MR. MURPHY: Yes. The prices to be charged for beer sold under licenses -

MR. SMALLWOOD: Charged by whom, to whom?

MR. MURPHY: Sold under license -

MR. SMALLWOOD: Charged by whom, to whom?

MR. MURPHY: One minute now. Every holder of a license shall install and maintain these licenced premises, suitably furnish them and fixtures for

the convenience of the public. So I presume the holder of the license is the licensee. Then it carries on that the price to be charged for beer, sold under license (and I presume that is by the licensee, but they are brewed in Newfoundland) thirty-five cents for each pint of beer. I think it is costing them now \$4.60 a case, is it? Well we must have some very charitable and philanthropic tavern owners. But, Mr. Speaker, the point I was trying to make, to finish up, is the absolute way that this Commission is being administered, that is all. I mean here it is here in black and white, that they can only do a certain thing, and this has not been updated for twenty years, and everybody operating a tavern or a club today is a bootlegger and nothing else but because they are operating without the rules of the Liquor Commission.

So, I will not give my whole-hearted support to the bill, but I will not vote against it.

MR. SMALLWOOD: Mr. Speaker, there are two or three points I think I ought to take notice of. The hon. member for St. John's East Extern kept referring to people losing their licenses and he was referring to tavern owners, hotel, motel, club and lounge, in other words all forms of retail outlets. I am sure that is what he was referring to and he kept referring to their losing their licenses. Now how many of them lost?

I do not remember one. I cannot recall one single case of a licence being taken and the owner losing his licence. I cannot remember one, or they may lose them for a day or two days or a week or three weeks depending on the seriousness of the offense that they have committed and this happens quite frequently. We had inspectors - the inspectors are continually on the go and dropping into taverns and in addition to the regular known inspectors, there are secret inspectors that nobody knows about. The Government, the Board engages secret inspectors whose names are not known, whose identity is not known and they are continually on the go dropping into taverns to see that the law is carried out, that the regulations are carried out.

MR. MURPHY: That is one statement that we will never have to back up.

MR. SMALLWOOD: I do not know that there is any necessity of my backing up my statement. I am making a statement that in addition to the known inspectors who get very rapidly to be known, by the operators of the retail outlets, we have also, the board has also secret and unknown inspectors and when they get finally to be known, they cease to be inspectors and other unknown inspectors are found and so continually,...

MR. MURPHY: They are paid by cash, I presume, not my cheque.

MR. SMALLWOOD: Continually, they are discovering irregularities and violations of the law in the operation of these establishments and when they find these, they report to the board and the board cancels the licence of that person for a day or a week or three weeks depending on whether it is the first offense or the second or third or fourth or fifth and depending on the seriousness of the offense as to whether it was a case of allowing people to drink too much and get drunk or whether it was a case of keeping a filthy or a place that was not sufficiently clean and hygienic; whether it was because they let minors under age in and sold them drink or; whether it was for staying open during business after they were supposed to

be closed under the law, where ever the violation was, they lose their licence for a period, but I cannot recall now, and I do not say that there has not been one, but I do not recall a single case where somebody's licence was taken period and that was the end of it. I do not know of one, and yet you hear this talk bandied about, just loose talk. There it is here tonight. The hon. gentleman kept talking about men losing their licence. He does not spell it out; ^{he is} not particular about it. He is not precise or exact. I hope he is listening to me out in the Common Room, nothing particular, nothing precise and exact, just men losing their licence.

I do not know of one, and I am not saying there has not been one -but I do not know of one. The hon. member for Labrador West spoke of the practice at Churchill Falls of the hotel there or the tavern or whatever it is, serving one brand of beer tonight and another brand tomorrow night, and only that one brand in the one night and the third night a third brand and so on and rotating from one brand to the other.

Well I think I know the explanation of that. I believe that that operation is run by the Newfoundland Government. I believe that the Newfoundland Government has a monopoly of the sale of beer in Churchill Falls and we were asked to give to someone else and we did not. The someone else has lots now, all of Western Labrador. We thought that was enough for him and then he wanted Central Labrador and then he wanted Eastern Labrador, Happy Valley, and we said, "no, you should be happy to have Western Labrador." The Government set up a Government monopoly of the sale of beer in Central Labrador, Churchill Falls and every cent of profit that is made on it comes back into the coffers of the Government, and I do not know but it would be a good idea if the Government made a complete monopoly of all retail sales. I do not know. I do not say that there is that much profit in it, generally speaking, throughout the Province. There was a time, when taverns made enormous profits, but today, because of the

insistence that the taverns be maintained as decent, clean, hygienic places, no longer low-down dives, but a place where a clergyman would go in and take his wife, not necessarily to have a bottle of beer, go in and sit down at a table, while the friend, may be, drank a bottle of beer, a clergyman does not need to feel offended by a well-conducted tavern. He can discuss anything, but the whole point is that our ideal, what we have striven to do, is get the taverns brought up to a standard where they were conducted in a decent fashion. I remember, Mr. Speaker, very well in the first or second year that I was Premier, I was visited by a number of clergymen, a group of clergymen who were a little worried about the Government's policy on liquor and beer, and I said, "well, sirs, so am I." But I said, "we have to act, we cannot just talk about it. We have to make decisions. What will we do?" The alternatives it seems to us are three and only three. We do not know the fourth. First, prohibit the manufacture, the distilling the brewing, the bottling of all forms of intoxicants make it prohibited absolutely, the manufacture of it, the bottling of it, the sale of it, the consumption of it, out law it. Well, I said, "that is one way to do it; complete and absolute prohibition. The other way is, to open up the sky is the limit and let anyone who wants to make it, make it and anyone who wants to bottle it, bottle it; anyone who wants to sell it, sell it; anyone who wants to drink it, drink it; anyone who wants to traffic in it, traffic in it. There are your two extremes, complete and absolute prohibition and complete and absolute licence, complete freedom." I said, "do you advocate either one of these." They said, "no." They could not, certainly, not the second one and even the first one they thought was impractical. You could not do it, because people would drink shoe polish. They will drink shellack. They will drink Jakey's Gin. They will drink anything if they have this appalling simply, awful craving for liquor.

The people who have it, it is a disease and the only two things I know that can cure it. I do not know any medicine you can take. I do not know any chemical you can take. I do not know anything you can take. God in Heaven, if only someone would invent something that you could drink that

would stop - you would not want to drink. What a God's send that would be in this world. There are only two things I know. One is AA, Alcoholics Anonymous which is a thing, I believe, that derived from John Wesley. I am quite certain of it in fact. Frank Bookmen copied it from John Wesley; the whole idea of little groups of people who have the same weakness would get together and encourage each other by mutual encouragement that comes straight from John Wesley, straight out of John Wesley. That is one way. AA - they have done marvelous work. There is no doubt about it. They have had many wonderful cures and the other way is old fashion religion, simple as that and men who do become devoutly religious are able to throw up the habit of liquor as though they never had it in their lives. These are the only two cures that I know of.

Well that is beooming a little bit philosophical, that is not what I intended to say. But I wanted to explain what happens in Churchill Falls. The Government

MR. SMALLWOOD: The Government went into the beer business, retail, not manufacturing beer, but just selling it. Someone in Churchill Falls had to sell it, there is no doubt about that. The job would not go on with three, four, five thousand men if they could not get a bottle of beer there, there would be no job there. That is how important beer is for so many men. Well if there is to be beer there, who is to sell it? We said the Government will sell it. Once the Government started to sell it, what would we do? Would we discriminate between the breweries - which brewery we would buy from? Now we are directly in it. We have Holiday Inns managing it for us. We are not actually in the beer business, but Holiday Inns are, and we own Holiday Inns, so in that sense, in that way, Government are in that business. So we decided, Holiday Inns decided we will sell this brewery's beer tonight - tomorrow we will sell that brewery's beer, and the third night we will sell that brewery's beer, and the fourth night we will come back to the first one, and so we will rotate, we will alternate from one to the other.

Now I am wondering frankly if it might not be more appropriate now for Holiday Inn at Churchill Falls, to stop all the beer, Newfoundland beer, made in Newfoundland - to stop it all and let the customers take what they want at their own choice. If they want to drink Black Horse night after night after night, o.k. if they want to drink Blue Star and what are the others? India and whatever they are - there it is all in stock, and they call for the brand they want. And the brand that will sell most is the one that the customer's want. Now it is Holiday Inn that decide that there will be equal sales of all by putting the single brand on each night. Maybe it would be more appropriate now if we were to suggest to Holiday Inn that they just stop all the beers from all the Newfoundland breweries and let the customers decide what brand they wanted.

Now the hon. member from Bonavista North made a remark that nettled me, because it was so palpably unfair. I do not think perhaps that he meant to be unfair. But he referred to beer and liquor as one of the greatest

revenue producing agency which this Government has. And in commenting on that, I say, yes that is right, this Government has, and every Government in Canada, and every Government in the United States, and every Government in the world. I do not know a Government in the world today, that is not getting a nice slice of bread from alcoholic drink. And I ask this question? Does anybody know anything better, if there is going to be liquor, wine and beer in the first place. Does anybody know anything better to tax? Does anyone know any better source of revenue for the Government? If the Government does not take that revenue, private parties will. Private profit seeking, profit making individuals and companies will. Is it not better that the Government should get a big and an increasing slice of that money?

If the Government does not get it, somebody else will. But we are not the only Government that does it. I say that every Government in this world is doing it. Somebody talked about T.V. and radio advertising, that of course if Federal, we have no more to do with that, than has the Government of Mexico. The Government of Newfoundland have no more to do with controlling radio, television, advertising on radio, advertising on television, than the Government of Mexico has to do with controlling it here in Newfoundland, or the Government of Soviet Union, or Communist China, or the Inner Gobi Desert, have just as much to do with it as this Government or this House, has to do with advertising on T.V. or radio. But I will you something we have got something to do with. We have something to do with another kind of advertising, which is sternly prohibited in a number of provinces in Canada - In a number of provinces in Canada, you cannot go into any establishment inside the boundaries of that Province and find an ashtray in a tavern with the name of a brand of beer on it.

You cannot find a mug anywhere in that Province or a number of provinces, where any beer is advertised on the name of a mug. No premiums, no electric signs outside the door, or inside the tavern - there is not a single sign to be seen from end of that Province to the other, and there are several of those provinces, where any brands of beer are advertised, in any tavern

in any outlet. They may be advertising in the newspapers, advertising on radio, advertising on T.V. but in the actual places where the beer is sold, you have to name the beer you want. There is nothing in sight to show you or to hint or to insinuate, or to propagandize you to take this or that or the other brand of beer. I would like to see that done here in Newfoundland.

There is reference to Clause (13). My hon. friend the Minister of Mines, Agriculture and Resources discovered it as he was looking through the Bill. In Cabinet the Government decided of two clauses that were there to drop one, and leave the other in - and I think the printer cut the wrong one and left in the wrong, and I think in Committee of the Whole, if the House will be agreeable we will make that necessary correction.

There was some question from the hon. the member for St. John's West as to why I had not spoken about wineries and distilleries with regard to persuading the retail outlet to take this brand, that or the other. Well frankly, I had not heard before. Tonight is the first time I have heard that any effort is made in the retail outlets, made by wineries or distilleries to persuade the outlet to take this or that brand of wine or liquor. I have never heard of it, and it is completely news to me, and that is why I did not mention it. Then there was a suggestion that the Price Waterhouse Report should be tabled in this House. Well now, it is not going to be tabled, and for excellent reasons.

In the first place, it is a privileged document. It is a document that the Government sought to enable it to formulate a policy to present to this House, and Government's continually present matters of policy to the elected House for the elected House to pass into law if they will. And the Government has to fortify itself, it has to equip itself, so that it can enunciate the policy originate it, and then enunciate it. And that is a privileged document. And there are countless documents of that nature that Government's get written, or get people to write. They get this, that or the other person, a consultant or adviser to prepare this, that, or the other case for them. They get deputy ministers to do it.

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They frequently get assistant, or associate deputy ministers to do it, or the heads of various departments to do it. I keep the economists and statisticians of this Government so busy, they work day and night, and frequently Saturdays and Sundays, continually at it, gathering material for me and preparing papers for me. And I ask them, prepare for me a comparison of this or a comparison of that. I said, what would be the case if we were to do that? And they are continually making studies. They never stop making studies, and everyone of these studies is a privileged document

MR. SMALLWOOD: meant only for the eyes of the Minister, and no one else. And every government in the world has exactly the same practice, exactly the same. So that is one reason why we will not table the Price Waterhouse Report. And I will the House another reason, the Price Waterhouse Report is a very, very, voluminous document that discusses the most intimate, private, business commercial secrets of the Brewing Companies. The document gives the name of every brewer's agent in Newfoundland, and it says where that brewer's agent operates, and it says how many bottles of beer or cases of beer he sells, and how much money he makes. The same thing with all the distributors, we know we have a record in the Cabinet of every distributor in Newfoundland. And those who make \$20,000 a year net, and those who make the \$22,000 or \$25,000 and the \$30,000 a year net, and those that make the \$40,000 a year net. I am not talking about the breweries. I am calling about distributors who just distribute for the breweries for a commission, and make up to as much as \$40,000 a year each. And we have their names and exactly where they are operate and exactly how much they sell and exactly how much profit they make. We know that down to the last dollar.

MR. MURPHY: Why do Newfoundland not get this big money for a change?

MR. SMALLWOOD: That is our Newfoundlanders, all of these are Newfoundlanders. I am not saying whether they should get it or not. All I am saying is that information with their names, with all their business details are in that report. Does the hon. gentleman still think we should table it?

MR. MURPHY: You can get that at the Board of Liquor Control every month by the monthly report, of every agent in the country must submit what beer he sold, that is no sweat.

MR. SMALLWOOD: That is not all we have in that report. We have a tremendous amount of confidential information that was gathered for us, in our behalf gathered by the great firm of Price Waterhouse from the breweries. We know as much about the breweries business, as they do themselves, and that is because it is in that Price Waterhouse Report. And Price Waterhouse knew exactly what to look for, because they done the same thing for other governments in other provinces. And it would be highly immoral for the table to cover

MR. SMALLWOOD: that report, Sir. Highly wrong, it was completely wrong, otherwise if we were to table that we would suspect for ever by other people that we would engage, chartered accountants, to go and gather information. They would be highly suspicious of it, and they would be frightened to death that we would gather the secret and confidential information from them, and then table it in the House of Assembly. And I am quite surprized that the hon. gentleman from St. John's West should ask for it, because if he is secretary of a brewery, he must know the nature of the very confidential information that would be in this report of Price Waterhouse, and I am sure that his company would not want the Price Waterhouse Report tabled in this Chamber. I am quite sure of it.

MR. MURPHY: It is one of the businesses in the world where you can figure out almost to the dollar what a brewery can make, because you take off the taxes, there is no trouble at all.

MR. ROWE:F.W.: It is just not a matter of matter of making money is it? There are other factors.

MR. SMALLWOOD: There in factors that we never knew anything about until we received the Price Waterhouse Report, somebody mentioned it here tonight, a hint of it. I am not sure if it was the hon. gentleman, the Leader of the Opposition, or whether it was his colleague, from St. John's East Extern. But somebody mentioned it, just made a little hint of it here tonight, about how far will I go? Well, I will not. I will be fair. I will not do it. I will not say anything about it. But there was one aspect we discovered quite recently in that Price Waterhouse Report and we began to discover it the hundreds of thousands of dollars revenue this Government have lost.

MR. MURPHY: Up to about seven or eight years ago.

MR. SMALLWOOD: Up to about seven or eight months ago, they lost it, we never got it. It was there for us and we discovered, and I discovered, well I did not discover, when Price Waterhouse made their reconnaissance and survey and came to me, and reported to me, orally, and said, "Premier, we have discovered that the Government of Canada in connection with the collection of their Federal taxes, from the breweries, station and excise man

MR. SMALLWOOD: in the breweries, and you do not, and the Newfoundland do not, you are suppose to get money on every last stain of beer that is brewed, the Newfoundland Government is supposed to get. Every thimble full, and the amount of beer on which we never received a single nickle, would make your hair stand up. Because unlike the Government of Canada, we did not have an excise man stationed in the breweries in our behalf. And we lost plenty. No beer, not a thimble full of beer that is brewed anywhere in this Province, not a thimble full but belongs to the Newfoundland Government. And if they give away our beer, the beer that they give away is our beer, not a single thimble of beer is allowed to be brewed in Newfoundland, except for the Newfoundland Government. And every bottle that is brewed in the breweries belongs to the Newfoundland Government. We buy it from them, and we are their only customers. They have not got a customer in the world except the Newfoundland Government. Every brewery, every drop of beer that is brewed in Newfoundland has one customer, the Newfoundland Government. We buy it, we will tell them what we will pay for it, they do not tell us. We tell them what we will pay for it. We fix the price at which we will buy it, and we fix the price at which we will sell it to the outlet. Now we do not take physical delivery of it. We let the breweries do that in our behalf. But, when they deliver beer to any outlet, they are delivering our beer at our instruction, and they sell it at the price that we name for them, just as they sell it to us, at the price that we name. So any beer that was brewed in which we did not get our profit was wrong.

MR. MURPHY: The Board was not entitled to it until the beer was sold.

MR. SMALLWOOD: We brought every stain of beer that was brewed. However, this is all going to be remedied, so it will be all right the Crown will start getting some beer money, that we had not been getting before. And I believe that I have covered, I better have covered all the points because we have just about reached the moment of adjournment.

MR. SMALLWOOD: Mr. Speaker, in conclusion may I thank hon. members from both sides of the House for the contribution they have made in this debate tonight. I think, a lot of good useful information has come out and perhaps, all of us here now understand a bit more than we did before about one of the greatest industries in size and in volume and in value that we have in the whole Province.

MR. SPEAKER: On motion a Bill, "An Act Further To Amend The Alcoholic Liquors Act", read a second time, ordered referred to a Committee of the Whole House on tomorrow.

I now call it 11:00 o'clock. And I do leave the Chair, and this House stands adjourned until tomorrow, Wednesday at 3:00 P.M.