

PRELIMINARY  
UNEDITED  
TRANSCRIPT

HOUSE OF ASSEMBLY  
FOR THE PERIOD:  
10:00 a.m. - 1:00 p.m.  
MONDAY, JUNE 13, 1977

The House met at 10:00 A.M.

Mr. Speaker in the Chair.

MR. SPEAKER: Order, please!

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MR. F. WHITE: Mr. Speaker, before we get down to the regular Orders of the Day, I would like for the House to take note of something that is rather significant, in my opinion. Over the weekend in Montreal, Elmer Harris, the News Director of VOXM in St. John's, was elected President of the RTNDA, which is the Radio Television News Directors Association of Canada. It is one of the biggest news organizations in Canada, and, if my memory serves me correctly, Mr. Harris is the first Newfoundlander to be elected President of that very large association which I was once a member of myself. So I think, Mr. Speaker, we should take note of that and maybe if, you know, the House can draft a suitable resolution to send along to him. At the same time, Mr. Speaker, a couple of other things coming out of that particular meeting we should take note of: Mr. Bob Ross, the News Director of CBC in St. John's, was elected the Atlantic Regional representation for the RTNDA, and Mr. Harris, in his new role as President of the RTNDA, will also sit as a director of the International Radio Television News Directors Association and will be attending international meetings of news directors all over the world. And also, of course, VOXM, or its Clarenville branch, CKVO, got special recognition and won an outstanding journalism award over the weekend for its activity with respect to the petition presented in the House for a new hospital at Clarenville.

So., Mr. Speaker, I just wanted to bring the House up to date on that.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: The hon. Minister of Justice.

MR. HICKMAN: Mr. Speaker, speaking on behalf of hon. members on this side of the House we most assuredly join with the hon. gentleman from Lewisporte (Mr. White) in congratulating Mr. Elmer Harris who is not only an outstanding newsman, but a man who exemplifies, in my

Mr. Hickman:

opinion, all the best in the ethics of a very noble profession. I can think of no more ethical newsman in this Province than Elmer Harris. And it is nice for all of us to see that our views of Elmer Harris have been confirmed and ratified by his peers throughout Canada, which is the sort of honour that deserving people receive and cherish.

We also extend to Bob Ross our congratulations, again to a newsman who has earned, deservedly so, the affection of hon. gentlemen in this House. And VPCM, which is a station that gives excellent coverage of the proceedings of this House - fair, unbiased, and non-partisan - the award that they have won this year adds to their achievements and awards they have so deservedly won over the years, and we commend them for it, and wish them all kinds of luck in the future.

NOTICES OF MOTIONS

MR. SPEAKER: The hon. member for Naskaupi.

MR. J. GOUDIE: Mr. Speaker, I wish to move a motion asking for the unanimous support of this hon. House that the Premier or his designated representative, the Minister of Transportation and Communications, make immediate representation to the Federal Government, specifically the Hon. Otto Lang, the Minister of Transportation, that a state of emergency exists in this Province because of non payment by CN for goods lost following the sinking of the motor vessel William Carson on Friday, June 3, 1977.

I ask leave, Mr. Speaker, for -

MR. HICKMAN: You give notice.

MR. GOUDIE: I was asking that this - or about to ask if this motion not be debated, and I am requesting permission to offer a few explanatory comments.

MR. SPEAKER: The hon. Leader of the Opposition.

MR. ROBERTS: From our point of view, Sir, this is an irregular proceeding, but obviously an important one. I was just talking with my colleagues, and we are quite prepared to allow notice to be waived,

Mr. Roberts: Normally it would require twenty-four hours notice, and since the hon. gentleman is not a member of the government it must stand as a Private Members' motion, although the government can call it. But, Sir, we are not prepared to allow it to go through without debate, particularly if the hon. gentleman - I do not know if he knows what he is asking, what he is asking, in effect, when he says he wants to make a few explanatory notes; he would like to debate it and nobody else to. We are quite prepared to have it go ahead this morning even though we have not been consulted on it, even though we have not been given any advanced notice at all we are quite prepared to, but, Sir, my friend from Lewisporte (Mr. White) is every bit as concerned as the gentleman from Naskaupi (Mr. Goudie), and others of us would like to say a word or two, the gentleman from Eagle River (Mr. Strachan). So if the government wish to debate the matter today we are quite prepared to do it, and give our consent to waiving the requirement of notice, but certainly not to allow it to go through without debate now or any other time, Sir.

MR. SPEAKER: The hon. member may give notice of it. He has no notice on the Order Paper. He may give notice of the motion, any hon. member may do that.

The other matter is indeed to have it called today because notice would only have been given today or leave to have it voted without debate, those are distinct matters.

MR. GOUDIE: Mr. Speaker, I certainly would welcome debate. The only reason I made that suggestion, if I could just offer to explain, was that I consider this to be a fairly urgent matter, and would like to have seen it -

AN HON. MEMBER: We will debate it then.

MR. ROBERTS: We have been asking questions ten days now.

MR. GOUDIE: That is fine with me.

AN HON. MEMBER: That is through the hon. gentleman and the House Leader.

MR. GOUDIE: Well, can I just finish reading the rest of the motion, Mr. Speaker?



MR. SPEAKER: I understand, if my understanding is correct, to give notice of a motion the hon. gentleman needs no leave. The matter whether it is going to be debated today, then, for that the hon. gentleman does need leave. That is about it.

MR. PECKFORD: Pretend that you are giving notice.

AN HON. MEMBER: Just go ahead and read the notice.

MR. GOUDIE: In moving this motion I would explain that a number of businesses and individuals in Labrador may be in a position -

MR. ROBERTS: Hold on now! Mr. Speaker, I do not have the least objection of the hon. gentleman speaking in explanation or in support of the motion. But, Sir, that is debate. And if he is going to give a notice of motion then, as Your Honour has just said, he does not need anything except to go ahead. This is the right place to give notice. Let him give notice. Now if the government wish to call it for debate, Sir, we would like nothing better than to debate the matter this day, and we agree it is quite urgent and we will waive the requirement of notice insofar as it is within our power. But the hon. gentleman to explain it, Sir, that is debate. He cannot do that unless we are allowed the same response.

MR. SPEAKER: The point before the Chair is quite an evident one, and the hon. gentlemen to my left would have to indicate whether they concur or not. The hon. gentleman has given notice of the motion, and in the ordinary course of events it will be on the Order Paper tomorrow. He has given notice of the motion. Now after that, what he says in addition to that, is speaking to the motion. And what hon. gentlemen to my right are saying is that they will give leave for the hon. member for Naskaupi (Mr. Goudie)

Mr. Speaker.

to speak to the motion if they as well may participate in debate. In other words, they give leave that the requirement of notice will be waived if it is to be debated today, and that means that other people may speak to it as well.

MR. GOUDIE: Mr. Speaker, I read the motion just a couple of moments ago. There is one other little part to the motion. If there is unanimous support, I think that is in order -

MR. HICKMAN: You do not need a motion, just give the notice.

MR. GOUDIE: Okay, I give notice.

MR. HICKMAN: You have to read the last part. You say, I give notice that I will move that the representative -

MR. GOUDIE: I give notice, Mr. Speaker, that I will move that the representative of the provincial government proceed to Ottawa and, accompanied with at least two businessmen from the Happy Valley - Goose Bay area, to meet with Mr. Lang and, Mr. Speaker, let the investigation continue, because I believe that this should be done to work toward an immediate settlement to this whole problem of concern.

MR. SPEAKER: The hon. Minister of Finance.

MR. DOODY: Mr. Speaker, I give notice that I will on tomorrow ask leave of the House to introduce a bill, "An Act To Amend The War Service Pensions Act, 1975."

ANSWERS TO QUESTIONS FOR WHICH NOTICE HAS BEEN GIVEN

MR. ROBERTS: You have an answer?

MR. DOODY: Yes.

MR. ROBERTS: Good! Well, let us hear it.

MR. DOODY: There is an answer to a question that the hon. member for Burin - Placentia West (Mr. Canning has been very concerned about for quite a long period of time relating to the number of people in the public service. I was holding it until he got back, but unfortunately -

ORAL QUESTIONS:

MR. SPEAKER: The hon. Leader of the Opposition.

MR. ROBERTS: Mr. Speaker, a question for the Minister of Mines and Energy. I think I could have raised it as a matter of privilege, but this surely is a better way because it gives him an opportunity to reply in the form of an answer. Friday's Daily News, Sir, had a story with reference to the government's proposed Hydro Bill. It stands as Order 26 on today's Order Paper. The minister on Friday morning rose on a point of personal privilege and in effect denied the Daily News story. This morning's Daily News comes back with another story in effect saying that what the original Friday morning's story said was correct. I am sure the minister has seen this morning's Daily News.

MR. PECKFORD: No, I have not seen it.

MR. ROBERTS: Well then, he is either late getting to work or he has been extraordinarily busy since he got in the office. But the point is, Mr. Speaker, that this morning's Daily News reaffirms, and so my question to the minister is this: Can the minister tell us whether Bill No. 98 will be brought before the House in this session, and whether that bill will require - I think this is the nub of the argument between the Daily News and the minister - whether that bill will require that Hydro's rates be set by the Public Utilities Commission or whether the Public Utilities Commission's role will be merely an advisory one? I think that is the nub of the argument as I understand it.

MR. SPEAKER: The hon. Minister of Mines and Energy.

MR. PECKFORD: Mr. Speaker, what I denied on Friday was the fact that the Daily News article was implying that the bill relating to the whole question of the Public Utilities Board and Hydro's relation to it as a result of such a bill was not going to be presented before the House in this session. That is what I was denying. That was not true, that a bill would be introduced

Mr. Peckford.

and had been given notice of relating to a relationship between the Public Utilities Board and Newfoundland Hydro. That bill, as the hon. Leader of the Opposition has indicated, is on the Order Paper and will be brought forward this week for debate. The question as to how the relationship is going to be, the nature of that relationship between the Public Utilities Board and Newfoundland Hydro, is one that I cannot indicate this morning, because the whole question is still being discussed by my colleagues. And until such time as that has been resolved, a number of major principles dealing with the bill, then I cannot release that information to the House at this point in time.

MR. ROBERTS: A supplementary, Mr. Speaker.

MR. SPEAKER: A supplementary.

MR. ROBERTS: As I understand it, the minister said that he could not answer the question about the relationship, how the bill would govern the relationship between Hydro and the Board because - I believe I am quoting him correctly - it was still being discussed by his colleagues, which obviously means that the government have not yet taken their decision on their policy decision and in turn means that the bill has not even been sent to the printers even though it stands on the Order Paper, and that may or may not be an irregular proceeding. My question though is this, Sir, my supplementary: Given the fact the government have not yet decided their policy, as the minister himself has just confirmed, and given the fact that this session is now in its latter days, does the minister think that the House will have adequate time and the public will have adequate time - it is now Monday, we have not yet seen the bill, we have not seen it because it has not been distributed, it has not been distributed because it has not been printed, it has not been printed because the Cabinet have not made up their mind, and we are talking of winding up the House tomorrow or Wednesday, winding up this session - does the minister think that that is adequate time for this, Sir?



MR. SPEAKER: The hon. minister.

MR. PECKFORD: Yes, Mr. Speaker, I do , and the final decision concerning the bill will be given today and hopefully we will be in a position to discuss it tomorrow.

MR. ROBERTS: Well, then you will have an argument in the House, a real argument.

MR. PECKFORD: So what is new?

MR. ROBERTS: Shoddy, shoddy, shabby railroading.

MR. SPEAKER: Order, please!

MR. PECKFORD: Lazy, lazy, Opposition.

MR. ROBERTS: Yes, ask all the judges who are investigating the crookedness.

MR. PECKFORD: Ask all the people who watch the proceedings of the House.

MR. ROBERTS: Right, ask them.

MR. WHITE: If you are all finished, I will have a word to say .

MR. HICKMAN: Go ahead.

MR. WHITE: Mr. Speaker, my question is for the Minister of Forestry and Agriculture, and I would like to have some details on the spruce budworm's spray situation. I understand that it was delayed over the weekend. I wonder if the minister could tell us what the present schedule is?

MR. SPEAKER: The hon. Minister of Forestry and Agriculture,

MR. MAYNARD: Yes, Mr. Speaker, it was delayed because of poor weather conditions. The planes are ready to go as soon as the weather is appropriate and the wind factor and all this sort of thing. They are ready to do the blocks in Western Newfoundland and in Central Newfoundland at a moment's notice, either in the morning or late in the afternoon, which is the most appropriate time.

MR. WHITE: A supplementary, Mr. Speaker.

MR. SPEAKER: A supplementary.

MR. WHITE: Mr. Speaker, my supplementary deals with the destroyed foliage of the forests throughout the Province. I wonder if the minister can tell us whether or not there has been any preliminary survey carried out to determine whether or not the trees that were infested with the spruce budworm last year have started to grow again? Because I understand that in some cases they have started to grow again.

MR. SPEAKER: The hon. minister.

MR. MAYNARD: Under normal conditions if the trees have been infested for four years in a row, then the tree is dead for all intents and purposes and it takes about three years before the sap goes out of it completely. So you have approximately three years in which to harvest it to make any useful purpose of the tree. To the best of our knowledge right now, based on the Canadian Forestry Service estimate, there are around 800,000 cords in Newfoundland that have died or reach the mortality stage as a result of the budworm.

MR. SPEAKER: The hon. member for Burgeo - Bay d'Espoir.

MR. SIMMONS: Mr. Speaker, a question for the Minister of Health who is not here - I will come back to him. A question for the Minister of Transportation and Communications. Would the minister indicate to the House whether the controversy surrounding the appointment of Mr. Pat Murphy, a relative of Charlie Power, as unit foreman or superintendent in the Renewals area, has been resolved, and if so, could he indicate how it has been done?

MR. SPEAKER: The hon. minister.

MR. MORGAN: Mr. Speaker, I am not aware of any controversy. The appointments made by the Department of Transportation and Communications are strictly in line with the regulations and procedures set down by the Public Service Commission.

MR. SIMMONS: A supplementary.

MR. SPEAKER: A supplementary.



MR. SIMMONS: Now, Mr. Speaker, I wish we could only debate this one this morning, because -

MR. DOODY: We only have three days left.

MR. SIMMONS: You have three days left. We have a lot more days left.

MR. MORGAN: (Inaudible)

MR. SIMMONS: That is a good reason, Mr. Speaker, because, one, I want to give you notice of the controversy and, two, the minister is not leveling with the House, Mr. Speaker.

SOME HON. MEMBERS: Oh, oh!

MR. SIMMONS: Mr. Speaker, I am going to ask a question when I get a chance here. Would the minister confirm whether or not the resolution to the issue was to hire two foreman, to pay both men foreman's wages in a three man unit? Would the minister confirm that that is the case?

MR. SPEAKER: The hon. minister.

MR. MORGAN: Mr. Speaker, sure I confirm it is not the case.

MR. SIMMONS: Go away with you, boy. You are lying to the House. You are misleading the House.

MR. SPEAKER: Order, please!

MR. MORGAN: Mr. Speaker, the hon. gentleman must retract that statement immediately.

MR. SPEAKER: Order, please! I must ask the hon. gentleman to withdraw.

MR. SIMMONS: He is misleading. I withdraw 'lying.'

MR. SPEAKER: Order, please. I would ask the hon. gentleman also to withdraw the allegation that the hon. minister is misleading.

MR. SIMMONS: Mr. Speaker, if it is unparliamentary, I will do so. I understood 'deliberately misleading' was unparliamentary. I did not say 'deliberate.' I would submit that misleading is parliamentary, and if it is not, of course, I will withdraw it.

MR. SPEAKER: I have always gone on the premise, and in this I am supported by May, that specific lists as such of words although helpful are not definitive. And I think as well one has to bear in mind the question of context, and there can be obviously very semantic hairsplitting. I think the question of context is important as well.

MR. SPEAKER: So I would ask the hon. gentleman to withdraw the term and then we can proceed.

MR. SIMMONS: I withdraw the term 'misleading', Mr. Speaker,  
On the supplementary, I wonder would the minister indicate whether it is indeed true that both Mr. Murphy and the man who was elbowed out of the job because of his political affiliation are both being paid superintendent's wages now? And that has indeed been the resolution to the rather thorny problem the minister created by trying to make political appointments.

MR. SPEAKER: The hon. minister.

MR. MORGAN: Mr. Speaker, I earlier indicated the answer is "No."

MR. SIMMONS: The answer is "Yes!"

MR. MORGAN: Mr. Speaker, the answer is "No" and I take strong exception to be called a liar.

MR. SPEAKER: Order, please! The term has been withdrawn so it cannot be debated now.

MR. MORGAN: Mr. Speaker, the appointments in the area referred to by the hon. gentleman from Burgeo-Bay<sup>d</sup> 'Espoir are the same as the appointments throughout the Province. They are made strictly in co-ordination, strictly in guidance by the regulations set down by the Public Service Commission.

MR. ROBERTS: Mr. Speaker, a supplementary.

MR. SPEAKER: A supplementary.

MR. ROBERTS: Because the minister, Sir, is - well, he is not saying what in my view he ought to say. Can the minister tell us when he will be answering the letter I wrote to him on May 7th? In that letter I asked for some further information, including pointing out the fact that the man appointed to the position in Renew, the Renew unit, was the second man recommended by the Civil Service Commission, not the first, and asked how the minister squared this with Section 12 of the Newfoundland Public Service

MR. ROBERTS: Commission Act which specifically requires that no appointments shall be made except on the recommendation of the Commission. And the man appointed was not recommended by the Commission. He was recommended by the minister and by Mr. Charlie Power and by nobody else.

MR. SPEAKER: The hon. minister.

MR. MORGAN: Mr. Speaker, to answer that question I think it is important to clarify the misunderstanding, or the inability to understand the procedures and regulations of the Public Service Commission by the hon. Leader of the Opposition. The fact is that the appointments are made by any department of government upon receiving the recommendations of the Public Service Commission.

MR. SIMMONS: And the local Tory candidate.

MR. MORGAN: And the Public Service Commission upon recommendations from the Department of Transportation and Communications - there has never been an appointment made in any permanent position except if they were in accordance with the recommendations made by the Public Service Commission. So the hon. Leader of the Opposition is apparently failing to understand the rules and regulations of that Commission.

MR. SIMMONS: A supplementary.

MR. SPEAKER: A supplementary.

MR. SIMMONS: Mr. Speaker, is the minister aware that at least a couple of months before Mr. Murphy even applied for this job that the Tory candidate, Mr. Charlie Power, promised the job in the presence of at least ten or twelve people and assured him he would get it because of his good relationship with the minister?

MR. MORGAN: No, Mr. Speaker.

MR. ROBERTS: Mr. Speaker, a further supplementary.

MR. SPEAKER: A further supplementary.

MR. ROBERTS: Will the minister confirm the fact that the gentleman who was appointed to the position was the second name on

MR. ROBERTS: the list and whether or not that was the man recommended is something we can argue, but he was not the first name in order of preference on the list submitted by the Public Service Commission, but instead he was the second man.

MR. SPEAKER: The hon. minister.

MR. MORGAN: Mr. Speaker, I will reply to the question as I did approximately a month ago, that all appointments made by the Department of Transportation and Communications in any permanent position are made strictly in accordance with the regulations of the operations of the Public Service Commission. There has never been a man appointed to any permanent position in the Department of Transportation and Communications, and in my knowledge no department of government, except they are one of the recommendations made by the Public Service Commission.

MR. ROBERTS: Mr. Speaker, a further supplementary.

MR. SPEAKER: A further supplementary. And then I will recognize the hon. member for Eagle River.

MR. ROBERTS: Mr. Speaker, since the minister by refusing to confirm what I say has in fact confirmed it. And we agree it was the second man appointed not the first. Can the minister tell us whether he sought a legal opinion as to whether he has acted within Section 12 of the Public Service Commission Act?

MR. SPEAKER: The hon. minister.

MR. MORGAN: Mr. Speaker, shortly after becoming minister—about two years ago, a little less than two years ago—the appointments of officials in departments under the guidance of the Public Service Commission laws and regulations were thoroughly checked out with the Department of Justice at that time and the procedures followed by me as minister are strictly in accordance to the law.

MR. SPEAKER: Hon. member for Eagle River followed by the hon. gentleman from Stephenville.

MR. STRACHAN: Mr. Speaker, because of the seriousness of the



MR. STRACHAN: situation I would like to direct a question to the Premier. As we are aware, during the last week or so we were questioning the sinking of the William Carson and as the member for Naskaupi is bringing in a private member's motion today, I wonder if the Premier could indicate whether he is considering calling it a disaster or an economic disaster or in some way a disaster, publically, so that the people can be compensated in some form or other. And the second part of the question is that there are some people, such as Ernie Norman, people who were returning skidders to Goose Bay to work in the woods and have a tremendous investment in there. They owe a lot of money to finance companies for the financing of these skidders and they have lost everything, lost all, and it is a desperate situation. And I wonder if we could manage to try and get something more definitive and we will help them out.

MR. SPEAKER: Hon. Premier.

PREMIER MOORES: Mr. Speaker, I have already asked the people in Labrador Services and also people in the Secretariat to the Executive Council to start coming up with plans as quickly as possible to try to alleviate the situation. I am hoping to have a report from them today as to exactly what we will be able to do. In the meantime, I do not think anything could have been done any faster than the Ambrose Shea going in there to try to alleviate the new requirements because even though -

MR. WHITE: She came into Lewisporte yesterday.

PREMIER MOORES: She came into Lewisporte yesterday. So it will be - what? - two or three days before she is up there, I guess. So I think the supplies and so on will get in there, Mr. Speaker, but it is the financial hardship that is the problem. And the financial hardship, if anything or everything can be done is something that I hopefully will have for their information later on today.

MR. STRACHAN: A supplementary, Mr. Speaker.

MR. SPEAKER: A supplementary.



MR. STRACHAN: The Ambrose Shea will be leaving tomorrow but I understand that the Ambrose Shea is going to carry some produce and I understand that the suppliers who supply the Goose Bay merchants and so on obviously have not been paid and obviously are unwilling to supply any more food supplies and so on until they are paid. So I wonder what exactly the situation is there? That is fine that the Ambrose Shea is running, but it has got to carry some produce or else we are going to be in a disaster situation in Goose Bay.

MR. SPEAKER: Hon, Premier.

PREMIER MOORES: Mr. Speaker, the only thing that can be done is to work up either a bank guarantee for that, as I said the other day, using the insurance money that obviously was on the first cargo for collateral. And this is exactly the sort of thing that we are working on right now.

MR. DOODY: It was not insured.

PREMIER MOORES: Well, if it was not then the CN is responsible for it.

MR. ROBERTS: A further supplementary, Sir, because I think the Premier has just touched on the heart of the issue, as I understand it. My question was going to be was it insured and the Premier on the side said the CN was responsible. I am not sure that I understand all the legal issues involved, but my understanding is that it may not have been insured and that it may have been the risk of the consignee, the orderer, the person in Goose Bay to insure it or not. I think that, as I am told, as I understand it, Mr. Speaker, that depends on whether the accident was a result of any negligence on the part of the CNR or whether it was an act of God or some other cause. So the question really is, given the fact that that nobody certain there is insurance money in play and thus there may be nothing to pledge as collateral, the question is whether the government will help in this instance presumably by stepping in and guaranteeing bank loans or indeed making loans available out of its own funds to the purchasers,

MR. ROBERTS: to the store owners in Goose Bay, and then I suppose with a view to taking an assignment or a subrogation of the consignees rights such as they may be determined to be. But the question is urgent because I do not know whether wholesalers have cut off or not. My friend from Lewisporte (Mr. White) has been told that they have not cut off supplies, but obviously they will want to be paid and we have heard from a number of businessmen, Mr. Herb Brett and others that they do not have the money, you know, to get a second stock, particularly because this was the first ship of the year and therefore had a larger order of supplies than normally would be the case. But the insurance is in issue and that is why the government will have to come into it.

MR. SPEAKER: The hon. Premier.

PREMIER MOORES: Mr. Speaker, I agree with what the Leader of the Opposition says and if there is insurance well, fine, that is well and good. If there is not, obviously we are going to have to do something about it and we are going to have to do something about it fairly quickly. It is not an easy one to sort of.

MR. ROBERTS: I agree. It could end up costing the government some money too.

PREMIER MOORES: It could end up very well costing us some money, but the thing that it could end up, I would think, first of all doing is costing us some guarantees, which I hope will -

MR. ROBERTS: Well, the guarantees tend to be cash quickly.

PREMIER MOORES: From somebody, yes.

MR. SPEAKER: The hon. member for Stephenville.

MR. MCNEIL: Mr. Speaker, a question to the Minister of Finance. Now that the Minister of Finance has received the Advisory Board's Wood Report, could the minister indicate if he will be now tabling that report in the House?

MR. DOODY: Mr. Speaker, the Minister of Finance has not received the final report of the forestry subcommittee. There are some draft reports, which I tried to impress on the hon. member a few days ago, which have been submitted to that particular group. As a

MR. DOODY: matter of fact, I think they are meeting in St. John's today, the forestry section of the advisory group. And when they have examined and recommended or otherwise the Forestry Subcommittee Task Force Report, they will be forwarding it to the advisory board, who in turn will be showing it and giving it to government. When government receives it we will certainly table it, you know, there is no question about that. But as of this moment there is no official document in its final form, several drafts have been examined, looked at, and are in circulation and I have no doubt the hon. member for Stephenville (Mr. McNeil) has them.

When the final document is prepared I have no doubt he will have that too before it is tabled. But it will undoubtedly be tabled as soon as it is available.

MR. SPEAKER: The hon. Leader of the Opposition.

MR. ROBERTS: A question for the Minister of Transportation, and I hope he is a little more forthcoming on this than he was on the Southern Shore issue. It goes back to a commitment made on behalf of the government two years ago by the member for St. Barbe (Mr. Maynard), the present Minister of Forestry and Agriculture, at a meeting in Hawkes Bay to a group of truckers at which the minister, I am told, the Minister of Forestry, I am told, told the truckers that the highways contracts awarded under DPEE programme would be changed to require the hiring of local trucks. Nothing was done last year and nothing has been done this year, and so my question to the Minister of Transportation, Sir, is is this commitment going to be honoured?

MR. SPEAKER: The hon. Minister of Transportation and Communications.

MR. MORGAN: Mr. Speaker, first of all my colleague tells me that there was not a statement made of that nature. What he did say at that meeting two years ago was to the effect that he would have the Department of Transportation and Communications investigate the possibility of having this done. This was done because shortly after

MR. MORGAN: I became minister it was investigated then, I know, by myself and the situation is that it is working out quite well in co-ordination between Transportation and Communications and the contractors without having it in the contract as a binding matter between the department and the contractor concerned -

MR. ROBERTS: Does the minister believe that?

MR. MORGAN: - that it is working out quite well except in cases where the contractor has his own equipment.

MR. ROBERTS: Which are all the contractors down North.

MR. MORGAN: Mr. Speaker, if I could answer the question.

MR. ROBERTS: Yes. But answer it, not this line of nonsense.

MR. MORGAN: Well, stop your nig-nagging over there!

MR. ROBERTS: Answer it! Answer it!

MR. MURPHY: Sit down.

MR. ROBERTS: Yes, sit down.

MR. MORGAN: He does not want the information.

MR. MURPHY: He does not want the -

MR. ROBERTS: I want information, not this line of nonsense.

MR. MORGAN: Mr. Speaker, except in cases where the contractor has his own equipment, and when we are dealing with the federal government under DPPE contracts we cannot legally stipulate to a contractor he must leave his own equipment lying idle and hire on the private contractors. If he has his own equipment he must put it in use and that is what is happening on the Northern Peninsula. Most of the companies involved there are larger companies and they have their own trucks.

MR. MAYNARD: But they have to hire local -

MR. MORGAN: And we cannot stipulate to them to first of all hire the local truckers first. They must utilize their own equipment first and then secondly - and they are doing this - then they hire the private truckers in the local areas.

MR. ROBERTS: - are the only ones hiring any.

The commitment will not be kept, that is what it boils down to.



SOME HON. MEMBERS: Oh, oh!

MR. WHITE: As soon as the conversation is over, continue.

MR. SIMMONS: Mr. Speaker.

MR. ROBERTS: He is talking about me not 'Roger'. You are in his good books today.

MR. MORGAN: Anyone but you.

MR. ROBERTS: Right! Right!

MR. SPEAKER: Order, please!

MR. SIMMONS: Come on over 'Jim' baby. I need you badly. I need you. I need you so I can keep an eye on you.

Mr. Speaker, the Minister of Transportation and Communications a question. A couple of years ago his administration made a definite commitment to complete the upgrading of the Witless Bay Line. That commitment was repeated in 1976 and I wonder now, Mr. Speaker, if the minister will confirm that the government will complete -

MR. ROBERTS:

MR. SIMMONS: - I am wondering whether the minister now will confirm that the government intends to complete the upgrading this year?

MR. WHITE: Before Thursday.

MR. SIMMONS: And notwithstanding the fact that poor old John Crosbie only got fifty at his meeting in Bay Bulls yesterday afternoon.

MR. WHITE: Fifty. I thought you said it was -

MR. SPEAKER: The hon. Minister of Transportation and Communications.

MR. MORGAN: Mr. Speaker, I think it is obvious that something is on the go in that area up there. I think it could be a by-election, according to the questions this morning. But the petition came in a little while ago from a great number of residents in the area requesting the upgrading of the Witless Bay Line and I can say at this time, as I said then in the House of Assembly, that every consideration will be given by this administration to doing that work.

MR. SIMONS: And will the Premier announce it tomorrow night?

MR. SPEAKER: The hon. member for Eagle River.

MR. SIMONS: They are predicting he will by the way, like he announced the trawlers in Harbour Breton.

MR. STRACHAN: A question for the Minister of Social Services. As the minister is aware, most people on salaries in the North are paid a Northern allowance percentage, a Northern allowance because of the high cost of living in the North. I wonder if the minister could state whether he is prepared to approach Ottawa and discuss the whole situation of allowing an additional or a Northern allowance on family allowance cheques, for instance, and old age pensioners who are meeting the same high cost of living yet have fixed sums given to them whereas most salary people, and in fact most everybody now, get an extremely generous Northern allowance and yet the old people and, for instance, family allowance still retains a fixed value, the same across the Province?

MR. SPEAKER: The hon. Minister of Social Services.

MR. BPETT: Mr. Speaker, as the hon. gentleman said, of course, that is a matter for the federal government. We have never considered taking that up with them. Social assistance recipients get additional fuel allowance. That is the only addition that is given in Labrador. We have never given any consideration to approaching the federal government with respect to people on Old Age Security and the family allowance which is what you are talking about, is it not, really? I can take the matter into consideration, Mr. Speaker.

MR. SPEAKER: The hon. member for Burgeo - Bay d'Espoir.

MR. SIMONS: Mr. Speaker, a question for the hon. the Premier in the absence of the Minister of Health. I wonder could the Premier inform the House whether the government or the Department



MR. SIMMONS: of Health in particular has received any representations from organizations in the Grand Falls area aimed at opening additional beds in the Grand Falls Hospital?

MR. SPEAKER: The hon. the Premier.

PREMIER MOOPES: I have no idea, Mr. Speaker.

MR. SIMMONS: A supplementary, Mr. Speaker.

MR. SPEAKER: A supplementary.

MR. SIMMONS: I wonder would the Premier take the question and undertake to get the information. And further, would the Premier indicate whether or not his administration has had any requests to meet with organizations in the Grand Falls area to resolve this issue as it effects a number of long-term patients in particular who are now in the hospital and I believe are being requested to leave in the near future due to a shortage of space.

MR. SPEAKER: The hon. Premier.

PREMIER MOOPES: I will certainly try to obtain the information for the hon. gentleman, Mr. Speaker.

MR. SPEAKER: The hon. member for Eagle River.

MR. STACHAN: Mr. Speaker, a question for the Minister of Fisheries. I understand there has been interest shown by some Japanese in the herring fishery on the Southern Labrador Coast and the Northern part, a fishery in which they would be required to freeze the round herring, especially with roe in, and that representatives have been visiting the area and so on and have been indicating their vessel may be there this Summer. Could the minister indicate whether he knows about this situation and indicate what the situation is concerning that vessel?

MR. SPEAKER: The hon. Minister of Fisheries.

MR. W. CARTER: Mr. Speaker, there has been some interest shown in the herring industry by Japanese and others in the areas mentioned by my friend. Certainly if he needs more I shall maybe be permitted

MR. W. CAPTER: to take the question as notice and provide some answers tomorrow.

MR. STRACHAN: Mr. Speaker.

MR. SPEAKER: A supplementary.

MR. STRACHAN: It is not a supplementary, a question.

MR. SPEAKER: The hon. member for Eagle River.

MR. STRACHAN: A question for the Minister of Mines and Energy.

Almost two years ago we had published statements that the community of Williams Harbour would be given electricity amounting to \$100,000, \$150,000, these statements coming from the member for Naskaupi (Mr. Goudie) and the Premier, he was speaking on behalf of the Premier, and the community still

MR. STRACHAN: does not have electricity. This is the second year now it has been included in the budget of the department. I wonder whether he could indicate whether the community of Williams Harbour will have electricity this summer, because they are getting into the boiling of herring in the fish plant there and this is a permanent community in which they are providing their own lighting plants but still have no electricity in the district. So I wonder if the minister can indicate whether they will be getting it this year or not.

MR. PECKFORD: I cannot give a final decision on that matter right now, Mr. Speaker.

MR. STRACHAN: A supplementary, Mr. Speaker.

MR. SPEAKER: A supplementary.

MR. STRACHAN: Could the minister indicate whether it was included in the budget or whether it was dropped from the budget of the Newfoundland and Labrador Hydro? Could he indicate that?

MR. SPEAKER: The hon. minister.

MR. PECKFORD: Mr. Speaker, if I knew the answer to that one I would also have been able to give an answer to the first part of the question.

AN HON. MEMBER: Mr. Speaker -

MR. SPEAKER: The hon. member for St. George's.

I had already indicated that I would recognize her.

MRS. MacISAAC: Mr. Speaker, my question was for the Minister of Forestry and Agriculture, but I will direct it to the Premier in the absence of the minister.

I am wondering what the government is doing with respect to the purchasing and marketing agency that was referred to in the 1975 Speech from the Throne anyway to assist farmers?

MR. MAYNARD: Pardon?

MR. SPEAKER: The hon. minister of Forestry and Agriculture.

MR. MAYNARD: Excuse me, Mr. Speaker, I did not hear

MR. MAYNARD: the total question. I was walking down the -

MRS. MacISAAC: I am wondering what the government is doing with respect to the purchasing and marketing agency that was referred to in the Speech from the Throne in 1975 to assist farmers in Newfoundland.

MR. SPEAKER: The hon. minister.

MR. MAYNARD: The purchasing and marketing agency to assist farmers? Mr. Speaker, I would like to say that we are still involved in trying to sort out the marketing system for agriculture products in the Province. We have been trying to get the farmers involved, as the hon. member might be aware, through questionnaires, circulars and this sort of thing, and so far the response from farmers to any kind of a marketing set-up other than what they presently have, the ad hoc type system, does not seem to be - either it is not acceptable to them or they are not in tune as of yet with a total, overall marketing system, but we are still working on it and we are looking at various possibilities: organized marketing boards, agencies, brokers for farm products and the whole thing. But we are trying to get the farmers to first of all indicate that they want some sort of a centralized or co-ordinated marketing system and, secondly, what type of marketing system they want.

ORDERS OF THE DAY

MR. HICKMAN: Motion 5.

Motion, the hon. the Minister of Finance to introduce a bill, "An Act To Repeal The Refinery Agreement Act, 1973," (Bill No. 44), carried.

On motion, Bill No. 44, read a first time, ordered read a second time presently by leave.

MR. HICKMAN: Motion 6.

MR. SPEAKER: On this motion I should point out that the bill is numbered 105 and should be numbered, I believe, 115.

I understand that it is supposed to be Bill No. 115 - a typographical

MR. SPEAKER:

error as 105.

Motion, the hon. the Minister of Labour and Manpower to introduce a bill, "An Act To Amend The Shops Closing Act," (Bill No. 115), carried.

On motion, Bill No. 115, read a first time, ordered read a second time presently by leave.

MR. HICKMAN:

Motion 7.

Motion, the hon. the Minister of Justice to introduce a bill, "An Act Respecting The Preparation And Revision Of The Statutes And Subordinate Legislation Of The Province," (Bill No. 116), carried.

On motion, Bill No. 116, read a first time, ordered read a second time presently by leave.

MR. HICKMAN:

Motion 8.

Motion, the hon. the Minister of Fisheries to introduce a bill, "An Act To Amend The Fishing And Coastal Vessels Rebuilding And Repairs (Bounties) Act," (Bill No. 117), carried.

On motion, Bill No. 117, read a first time, ordered read a second time presently by leave.

MR. HICKMAN:

Order 25.

Motion, second reading of a bill, "An Act To Restructure The Law Society Of Newfoundland," (Bill No. 81).

MR. SPEAKER:

The hon. Minister of Justice.

MR. HICKMAN:

Mr. Speaker, I will try to summarize what is in this bill as concisely as I can. Most of the bill simply repeats what is already in the existing Law Society Act. May I say at the beginning that the Law Society of Newfoundland cannot be accused of rushing into a bill to amend or to regulate their activities. The last Law Society Act of Newfoundland was passed in the year 1834 by William IV, Chapter 23, the second session. And now as we move rather slowly, but effectively and efficiently, it has become appropriate and necessary and imperative that there be a new Law Society Act to govern



MR. HICKMAN: the operations of the legal profession within the Province.

There are two or three features in the bill, Mr. Speaker, that I think would be of interest to hon. gentlemen. No. one is a provision in the Law Society Act which, for the first time, provides for the appointment of lay representation on the Benchers. The Benchers of the Law Society are the governing bodies of the profession. And this is new ground. I believe it is the first of the professional societies, but I am not sure of this, to embark upon this procedure and philosophy, and it is one that I think will be welcomed and acclaimed by the general public.

The Act provides that the Chief Justice of the Trial Division, the Minister of Justice, and two lay persons appointed by the Chief Justice of the Trial Division for that purpose will recommend to the Benchers the appointment of the two lay persons who are to serve on that august body.

Then, Mr. Speaker, I direct hon. gentlemen's attention to Section 9 of the Act in particular, which deals with - I think it is 9 - no, sorry, Section 20 dealing with the powers conferred upon Benchers, one of which is long overdue, giving Benchers the right to prescribe that there be audits of the accounts of lawyers and law firms and that they may require as the condition precedent to a new practicing certificate, a certification of a chartered accountant to that end. And this is designed obviously, to protect clients' funds.

Mr. Speaker, as well there is provision in this Act under Section 61, 62 and subsequent sections under the Right of Seizure and Custody of Clients' Property. There has on occasion arisen over the years a situation where a sole practitioner in particular has died and where there has been all sorts of difficulty in trying to get into his office and get access over clients' files and to see to it that the work that has been carried out or has been started



MR. HICKMAN: has been completed. The same situation has arisen on one occasion to my knowledge where a sole practitioner became mentally ill and it was very difficult indeed for the Law Society to have a lawyer go in, take over the files and complete the work. There is adequate protection set forth, because an application has to be made to a judge in order to get an Order for a representative of the Law Society to move in and assume that responsibility and complete the work.

There is also provision in the Act for the establishment of an assurance fund by the Benchers, which again would

MR. HICKMAN:

act as a trust fund or deposit which in the event of - I hope this never happens, and I may add that it did not happen in my day in practice and, I think, for many years before, but as the Bar becomes larger all the time and the Society membership increased, that if there was a misappropriation of funds that there would be an assurance fund to which clients can look for some reimbursement. Over and above that there is now, I believe, a policy, a group policy covering matters that may be somewhat related thereto.

There is also provision in the Act for the establishment of a Bar admission course. Right now any candidate for call to the Bar must write examinations in practice, procedure and local Statutes. There is a very strong committee of young lawyers set up who, I understand, have responsibility for preparing - I believe they have completed their preparation - a Bar admission course which again they will make a condition precedent to a call to the Bar.

The last thing that is new to the Law Society Act, and not contained in the present Act, is the establishment of the Law Foundation, and in particular I direct hon. gentlemen's attention to section 72 of the Act which sets forth the powers of the Law Foundation to use any monies that come from the interest on trust accounts for legal education, law reform and the establishment of a legal referral service, and the establishment and maintenance of law libraries and the provision of scholarships.

It will be a while, I suspect, before that is in full swing, but at least the concept is good and it is one that will bring, not the Law Society in Newfoundland in line with the Law

MR. HICKMAN: Societies of other Canadian Provinces, but I believe this bill goes further in modernizing, and it is more meaningful to present day demands upon the legal profession than will be found in any other Act governing the practice of law in our sister provinces. Certainly it is as good. I would like to think it is even better legislation than is found in the other places. In any event, Mr. Speaker, I move, with a great deal of pride, second reading of this bill.

MR. SPEAKER(YOUNG): The hon. the Leader of the Opposition.

MR. ROBERTS: Mr. Speaker, let me begin by saying, Sir, that we on this side support this bill with pleasure. I say that in a dual capacity, both as a member of the House and as Leader of the Opposition in the Chamber and also because as a member of the Bar in this Province, I feel that this Act represents a step forward, and I think it ought to be recognized as such.

First of all, Sir, it is a bit of an historic occasion. As I recall it the original Law Society Act was passed in 1828 or 1829.

MR. HICKMAN: 1834.

MR. ROBERTS: My friend the Attorney General says 1934. That would have been about the first act passed by the legislature of this Province. The first House of Assembly met in 1832, and the Law Society Act would have been one of the first acts passed. I should imagine that the Act now on the books, which will be replaced by this bill when it becomes law, is probably the oldest single piece of legislation that we have. It is not the oldest principle, not the oldest legal principle which we have. There are many principles in our law which can be traced back a long way before 1834, but I think it is the oldest single statute and it has



MR. ROBERTS: do not think there are any radical steps forward. Nonetheless, there are changes and I would welcome them. The main purpose of the bill is to rewrite, to redraft, to update, to reclarify a number of sections in the bill which have become over the years, either inadequate to serve their purposes or just straight outdated. And after all, a law which was adopted when King William the Fourth was on the Throne of England - I believe King William the Fourth was the only member of the Royal Family, certainly the only Monarch of England ever to have been stationed in Newfoundland. He was stationed at Placentia as Prince William Henry. He was an officer in the Royal Navy. He was Commandant or Commander of a naval garrison at Placentia for a while. I think the Anglican Cathedral still has down in its vaults a piece of communion plate which was presented to the Anglican Church, the established church as it would then have been, the state church at Placentia, presented by Prince William Henry, as he then was. That was in the latter years of the 18th Century, during the period when his - let me see if I remember the genealogy. Was he a son of George the Third? Yes, he would have been a son of George the Third, Sir, and he was preceded on the Throne by his brother George the Fourth, the Prince Regent.

Mr. Speaker, the minister has touched upon most of the points which I would wish to touch upon, and I do not need to go over them in any detail. I very much, in particular, welcome the introduction - and this is new - of a very much strengthened and disciplined provision and an entirely new principle in our law. I believe it is called an assurance fund but it amounts to an insurance fund, a fund whereby the members of the Bar will each contribute by way of a levy each year to a fund, and that fund can be used to satisfy any claims



MR. ROBERTS:                        made against any member of the Bar who has defaulted under his professional obligations. I think it should be noted that it is only ones professional obligations. If a lawyer is acting as a lawyer, then his brethren at the Bar, in effect, will guarantee his client does not suffer any financial loss.

   But that is only in the lawyer's dealings as a lawyer. If the lawyer is dealing in an non-legal capacity, for example, lending money on mortgages, which I believe has been held not to be entirely a legal matter because a number of other groups and bodies are lending money and indeed, I suppose, very few dollars are now lent by lawyers acting in respect of mortgages. Most of the money now lent for mortgages is lent by trust companies, or banks, or Central Mortgage and Housing.

   But when a lawyer is acting as a lawyer, Sir, and where his client has suffered, as I understand this principle and this bill now, we members of the Bar will guarantee, within limits, the recompense of that client. I think that is a significant step forward. We have not had many instances in Newfoundland. The Bar, for all the noise and all the hard words that have been said about the Bar in this Province, my understand- is there have been very, very few instances where any member of the public dealing with the Bar of this Province, dealing with a lawyer practicing in this Province, has ever suffered any financial loss. There have been some, there have also been some cases, of which I am aware, where lawyers have personally guaranteed the result of their own mistakes, and I think that is only fitting.

   The minister may just look quizzical. I know of two or three which have come to my personal attention, and there may have been others,

MR. ROBERTS:    doubtless. Also, of course, most lawyers now carry - what is it called? - malpractice insurance. The difficulty with that is that it is largely nugatory, because before one can claim under the insurance a judgement has to be entered against the lawyer. I do not think any lawyer would very happily or willingly allow a

Mr. Roberts:

judgment to go against him on a case of professional malpractice; obviously he would rather satisfy the claim from his own resources before allowing the matter to go to court.

But in any event I think it is a welcome step. I think the Benchers or the Bar and the Benchers ought to be congratulated on introducing that principle. I am very happy to see the strength and disciplinary provisions. Again we have not had in this Province to my recollection or to my knowledge very many cases of lawyers going below or lapsing from the standards of ethics, the standard of practice. But the fact remains the Bar is undergoing really a fundamental change, and that is perhaps the point that ought to be stressed. I have been at the Bar ten or eleven years although I have not ever practiced in a commercial sense, and I was quite surprised, looking upon myself as a relatively junior lawyer, quite surprised recently while looking through the law list - actually we were considering the question of appointing some judges and looking at the law list - and as I recall it, if there are 150 members of the Bar now, I am about forty-five or fifty in order of seniority; in other words, there are forty-five to fifty members of the Bar who have been at the Bar longer than I have, and I hasten to say seniority only in that sense of the word which means that our Bar is a very young Bar, it is perhaps the youngest in all Canada, two-thirds of the members or more are junior to me at the Bar, and are, you know, fairly young and have a long and active practice ahead of them.

That has had some notable effects, Mr. Speaker. I think it is worth pointing them out. First of all, I think it is fair to say the quality of legal work has gone up. The lawyers who come to the Bar now without exception have law degrees. A few years ago, indeed for two or three years after I was called to the Bar, it was possible to come to the Bar without having taken a degree in law at some recognized university.

MR. WHITE: The last one was Allister Murray, was it not?

MR. ROBERTS: Pardon?

MR. WHITE: Allister Murray the last one, was he not?

MR. ROBERTS: No. I thought Mr. Richard Greene was the last.

AN HON. MEMBER: Allister Murray.

MR. ROBERTS: Allister Murray, son of Judge Myles Murray, now retired, was the last. He read articles I believe with the Department of Justice? Where did he read articles?

MR. WHITE: Bill Hall -

MR. ROBERTS: Not Bill Hall, Bob Hall. But in any event, Mr. Allister Murray was the last to come to the Bar. I thought Mr. Richard Greene was the last lawyer to come to the Bar without having had a law degree, but now it is no longer possible. Every lawyer must have a formal degree in law granted by a recognized university, and that effectively means a Canadian or an English university. I am not even sure American law degrees are looked upon with much joy in Canada.

I think that is a good thing. I do not want to take away, and I would not in any way wish to take away anything from the men who practiced at the Bar. I think the Bar in this Province has produced more than its share of giants, and more than its share of men who could stand with pride with any lawyers in the world - but the law is becoming immensely more complex, and I think it is only fitting that lawyers become better trained so that they can cope with it.

We are also seeing a new phenomenon; for the first time now lawyers are beginning to spread throughout the Province. The days when there were lawyers practicing in St. John's and maybe a few in Corner Brook and maybe a few in Grand Falls have been replaced with a system that now sees lawyers established at most of the larger communities throughout the Province, and I venture to say before very much longer we will see lawyers practicing in almost every community of, say, three or four thousand people in this Province. And that is a

Mr. Roberts:

change that is being brought about by economic factors more than any other. There is simply not enough room in the eyes of many lawyers for all the lawyers to practice in St. John's or Corner Brook or Grand Falls, and so they are spreading out, and they are doing very well.

Also, this is the important point about the spreading out, it is providing people with infinitely better legal service. The gentleman from Menihok (Mr. Rousseau) is in the House; down in Labrador City there are now two lawyers, the firm of Miller and Hearn, Mr. Arthur Miller and Mr. Ed Hearn.

MR. ROUSSEAU: And other lawyers visit.

MR. ROBERTS: I am sorry?

MR. ROUSSEAU: Other lawyers came there.

MR. ROBERTS: Yes, I talked earlier about the circuit riders. But the fact remains having lawyers practicing in a place like Labrador City gives people an immensely better legal service than does having lawyers visit on circuit, and I do not use the sense of judicial circuit riders. I think it is important. I think it is something that we should welcome. And I think it is something which ought to be encouraged. I think it is one of the changes that we will see in the next few years, more and more Newfoundlanders having access to legal services, and they need them. Not only are more and more Newfoundlanders falling afoul of the criminal code provisions, and particularly the breathalyzer and cases of that ilk. but also people, Mr. Speaker, as Your Honour knows throughout the Province are more and more relying upon such things as mortgages. A few years ago a mortgage would be unheard of



Mr. Roberts.

outside, you know, St. John's, Corner Brook, Grand Falls. People building homes, for example, in Lewisporte, represented by my friend from Lewisporte, would not have looked for a mortgage to enable them to build their house. Now through the Newfoundland and Labrador Housing Corporation and through the private agencies, more and more people are getting mortgage loans, and this means that they ought to have lawyers to protect them and look out for their interests and that means in turn it can only be done if lawyers spread out, as they are.

Mr. Speaker, I think it is worth noting that there is a special section in here, and I am very glad to see it, covering members of the House of Assembly, Section 33 - well 33 in its entirety - but the particular one is Section 33 (4).

MR. HICKMAN: It is the Roberts, Barry, Crosbie amendment.

MR. ROBERTS: It is the Roberts, Barry, Crosbie amendment.

And I think the House ought to know about this one, because two or three years ago there was an original draft of the bill done by the Law Society and it was a very good draft. Most of it is here unchanged. But one of the requirements of that draft, which I am sure nobody had anticipated - well, let me go back. Section 33 allows the benchers of the Law Society in effect to determine that a member, a lawyer, is not a practicing member and, therefore, his status is put in sort of a deep-freeze, in limbo, for the time being. And that is a sensible provision. But as the section was originally drafted it would have required a member of the House of Assembly, with the exception of the Attorney General, who obviously is practicing law, but any member of the House of Assembly or the House of Commons to rewrite law exams when he left the House and went back into practice. And an informal but with very effective lobby composed of Mr. Leo Barry, then the member for Placentia West, and I believe a bencher of the Law Society at the time, Mr. John Crosbie, then the member for St. John's West, and myself very quickly got together and made earnest representations to the Attorney General and to the Law Society.

Mr. Roberts.

I remember quite a long conversation with the then secretary of the Law Society, now Mr. Justice Goodridge of the Supreme Court, and I am very happy to see the section has been changed. I think it is right. I think it is proper. If a man serves in the House of Assembly he ought not, therefore, to be barred from returning to the practice of law without having to go through the same process of legal education as any students would. No other profession is under a similar disability, and I think it is only proper that the lawyers, who presumably have as close a connection with the heart of the business of the House, the business of making laws, as do any member. It would have effected, Mr. Speaker, any other member of the House who was a lawyer with the exception of the Attorney General or the Solicitor General. The section now is a little broader.

Mr. Speaker, there are only one or two other points that I would like to mention. I was going to say I am sorry that there is not any provision in here for the creation of specialists, but upon reflection that may not be the thing to put in legislation. None the less, I do want to say that I hope that the bar in Newfoundland will look and look seriously and consider seriously and earnestly consider the same type of action which is now being contemplated by other bars across Canada. I am not sure it has been adopted by any bar, but I think that perhaps we ought to look at it, and that is the question of not just having lawyers serve as specialists, but designating them or certifying them as specialists.

Here in Canada we have not even adopted the basic distinction which is fundamental to the British bar - not the British bar, I should say the English bar, the Bar of England, which is also the bar of Wales, and that is of separating people into barristers and solicitors. Here if a man or woman is admitted as a lawyer he or she is a barrister and solicitor automatically and is entitled by law to perform any legal service at all. That is not a question of competence.

Mr. Roberts.

It is simply saying that the individual has met certain basic tests, has undergone certain requirements and has a certain degree of good character all as certified to by the benchers. And then the individual is admitted to the bar and enrolled as a solicitor of the Supreme Court.

I do not think we should go to the barrister and solicitor practice in Canada. I never have. For the benefit of hon. gentlemen who may not be caught up in this terminology, a barrister is restricted to appearing in court, and he is a specialist in court work and indeed a specialist in higher court work. The solicitors are restricted to lower courts, I believe county courts and lower in England at present. They have the right of audience in county courts. But generally a solicitor does office work. The conveyancing of properties is a solicitor's work, the drafting of trust deeds and contracts. But the appearances in court are the prerogative of barristers.

MR. ROBERTS: And indeed, you can get to the point in England where you have to have two barristers, because if you wish to retain a Q.C., which in England is a very high designation - not as it is in Canada, but in England it means a senior counsel - and to retain a senior counsel you must also have a junior counsel, so you get stuck then for two sets of fees because no senior can appear without a junior.

MR. DOODY: The senior would get a higher fee.

MR. ROBERTS: The senior gets a very much higher fee, and I do not know what - I saw some fees recently of a thousand guineas a day. And lawyers' fees are still stated in guineas which is the extra 5 per cent to the lawyer's clerk.

MR. DOODY: People who pay them are guinea pigs.

MR. ROBERTS: A guinea used to be twenty-one shillings. But lawyers can be very - Lord Goodman, as the hon. gentlemen may - is a very experienced member of the - a solicitor, he is not a barrister - and I would think that Lord Goodman - a very competent lawyer - but the Attorney General can tell us, Lord Goodman believes that the lawyer is worth his hire. The Minister of Justice would confirm that? So are other lawyers.

MR. MURPHY: Neary is the most aware of that, I would say.

MR. ROBERTS: Well, my friend from LaPoile (Mr. Neary) has considerable experience with lawyers. But the point I wish to make is that the law is becoming more complicated. Lawyers are specializing. We have lawyers in Newfoundland today, particularly in St. John's, who do not do anything but conveyancing work, and we have others who spend almost all of their time in court, and we have others who are becoming well and favourably known for their expertise in the field of labour law or in particular types of company work; some lawyers tend to specialize in marine work. But we do not have any indication to the general public and the result is that a person looking for legal services



MR. ROBERTS: does not really know where to go and has no way to know other than he gets a lawyer and he does not realize that particularly for more advanced work, more difficult work, some lawyers are better than other lawyers - they have made a specialty of it, they have made a study of it, they are well up to date on all the latest developments.

The lawyers have not taken it as far as they ought to. I very much resent the fact that the lawyers have allowed the accountants to get a strangle hold on the field of tax work in Newfoundland. Tax work is legal work and yet the lawyers have largely abdicated the field to the accountants who have, you know, come into it very strongly. And the result is if today Your Honour should wish to get some advice on how Your Honour can best safeguard Your Honour's hopefully considerable estate against the ravages of the Capital Gains Tax or the tax authorities in general, then Your Honour would doubtless be well advised to seek the advice of one of the accountants around town as opposed to a lawyer. That is the lawyers' failing.

But I think the time has come when the lawyers ought to look at, perhaps, indicating a degree of specialization. The doctors came to grips with it many years ago and have now got to the point almost of no return, have got the point where almost every doctor is certified even if he is only certified as a general practitioner. I think the lawyers ought to look at that and it may not be appropriate for the bill, but I think it is certainly something which the Bar ought to look at.

Mr. Speaker, let me conclude by saying very briefly that I think this is a good bill, and I think the fact that the bill is before the House - and I do not want to take anything away from the Attorney General, I do not intend to, not in this instance - I think the fact the bill is before the House is a tribute to the Law Society including its Treasurer, and for the benefit of all hon.



MR. ROBERTS: gentlemen, it is not without significance that the head officer of the Law Society is called the Treasurer here and across Canada. I mean, that indicates something of significance, I am sure. The gentleman from Kilbride (Mr. Wells) is the present Treasurer of the Law Society. The Benchers and all of the members of the society I think they ought to be congratulated, I think they have reason to be proud of this bill. It is significant. It is not often we repeal an Act that is 143 years old and replace it with a new piece of legislation. I think the Law Society sort of served the Province well. I think the Bar in this Province has performed with as much expertise and as much responsibility as any Bar anywhere in the English speaking world, and I think by and large, Sir, the lawyers of the English speaking world can claim justifiably to have discharged their public trust. And let me end by saying that, Sir, that the public trust is what we are really talking about, because in this bill or in the twenty or thirty others that are now on the statute books of this Province what we are doing in the Legislature is conferring upon a group of citizens, a group of private citizens - they are not answerable to the public, they are answerable only to their own members, although there is, and very welcome it is, the provision for the appointment of some lay Benchers to the Law Society,

Mr. Roberts.

and in that we are following Ontario and a number of other jurisdictions - but we are conferring upon private bodies, Sir, the right to exercise quite considerable powers, the right to discipline, if need be, individuals, members of the society dealing with the public, the right to restrict entry into a profession. You cannot be a lawyer in this Province unless you have been admitted by the Law Society, and you cannot practice law unless you are a lawyer, unless you are a barrister and a solicitor, and there are very stiff penalties. Section 85 and so forth prohibits any legal activity by anybody not a member of the Law Society with certain quite narrow, but, I think, quite proper and quite defensible exceptions which are set forth in Section 86.

Well, Sir, that is a great public trust. It is one which has got to be discharged with a tender regard for the public interest. I think, Sir, that over the years the benchers and the members of the Law Society of this Province have exercised that trust with a due and a proper regard for the public interest. I think the lawyers of this Province have served the public interest well. I am not saying there could not be improvements, and I am not saying that everything was done was right. I am not even saying that I agree with everything that has been done by my brethren at the bar. But I can say, Sir, that in my opinion over the years the people of this Province have been well-served by their legal advisers, and I think that this bill, Sir, will enable that tradition to be continued and enable it to be enhanced. I congratulate those who were responsible, Sir, for its drafting and for the decision to introduce it, Sir. We on this side will support it with much pleasure.

MR. SPEAKER: The hon. member for Lewisporte.

MR. WHITE: Mr. Speaker, I do not think it would be fair to let this bill go through or the principle be adopted with only a couple of lawyers speaking in the debate. I have a number of points, three or four points, that I just want to bring up, matters that have come to my attention in the last couple of years, and I am wondering if we maybe could get some response from the minister when he stands to speak.

Mr. White.

Mr. Speaker, it is no secret that the law profession is a closed shop. As Mr. Speaker knows and as all hon. members know, it really is a closed shop. And in recent years, or in the last, well, I suppose, century, it has been common practice for the lawyers to follow the money and stay in St. John's, if that is where the money was. The Leader of the Opposition in speaking did mention the going outside of St. John's, if you will, of law firms, and that is very encouraging to me, representing a rural district. I now find it very convenient, for instance, Mr. Speaker, to refer clients to lawyers in Gander and in Grand Falls, and it is good to have them in both places, because in Grand Falls, if you refer a case to a law firm in Grand Falls chances are that ten minutes later the opposing person in that particular squabble is calling you to recommend a lawyer. M.H.A.'s recommend more lawyers than anybody else, I can assure you. And so it is always good to refer one particular complainant, if you will, of the particular case to a law firm in Grand Falls, and the opposing person to a law firm in Gander. But I am wondering, Mr. Speaker, why the Law Society, and maybe they do, do not encourage a little more decentralization. Because I can tell you, Mr. Speaker, that there is plenty of business in the town of Lewisporte, for instance, to keep a lawyer going or even a couple going. Major firms are located there, yet we have to deal with Grand Falls and with Gander. And I have said to a couple of my friends who are lawyers in Gander and in Grand Falls, Boys, move out to Lewisporte, because sooner or later somebody is going to do that and they are going to make themselves a good buck. So I just hope that at some future date, or maybe they do now, the Law Society would do something to encourage lawyers to travel and to live and to work in remoter parts of the Province, because I am sure that in places like Lewisporte and Twillingate and Springdale and other places like that that there is sufficient business to keep the lawyers going.

And just as an example, Mr. Speaker, I am sure that the dental profession has found that out now, because only recently have dentists started to move around the Province. They are finding that they

Mr. White.

very, very busy, and I would suggest to you, Mr. Speaker, that one of the reasons that the denturists came along so quickly in this Province was because they dared to provide some kind of service to people in remote areas. So I would say to the lawyers if they want to do a good job of PR, start moving out to remoter areas so that the expense on the taxpayers of this Province, the people who really cannot afford the access to a law firm would be easier to come by.

MR. WHITE: Mr. Speaker, I wonder if the minister when he speaks could address himself to the closed shop aspects of the Law Society? How difficult is it now for a young man, no matter how bright he is, to get into law school? I know a lot of young people who want to go into the law profession but they just cannot get accepted anymore. And I am just wondering if there is some kind of an agreement, and I am asking questions, I do not mean to make alleged charges or anything, I just want to know if there is an agreement between Dalhousie and Osgood Hall and all those places with the Law Society in this Province. And they phone up and say, "Should we take this particular guy in for training? Can you take another lawyer on down there?" Or, "Do you have enough down there already and should we bar anybody else from getting into Dalhousie or into any other of the law schools across Canada." I just wonder if it is a closed shop and if there is anything we can do about this because there is still a need for lawyers in Newfoundland and there is still a need for lawyers in the remote area and I think they should be encouraged to go to law school and right now I think they are finding it very, very difficult to get into law school and that is too bad.

Mr. Speaker, just a couple of more points, and there is one here that might sound a bit strange but I want the minister to tell me about it and that is with respect to fees being charged by lawyers. There is nothing in this bill with the exception of the collection of fees. I know they have no fee schedule. I know this has been argued in the past that lawyers really cannot have fee schedules, but I wonder how it relates to the ethics of the Law Society with respect to the fees they charge?

Mr. Speaker, I have had a couple of pretty blatant examples of what I consider to be overcharging in the last



MR. WHITE: couple of years and it concerns me very, very much, and I could relate a couple of incidents to the Minister of Justice because I want him to know about this, and that is in the case of a couple of drug cases in this Province, a couple of drug cases, the lawyer that was hired charged the two individuals involved \$2,000 each, cold, hard cash, before he would even poke his nose into a courtroom. He wanted \$2,000 on the table before he would walk into a courtroom and he got the \$2,000 and the case is still not before a court and that is twelve months, Mr. Speaker. Those particular individuals, whether or not they are going to be guilty or acquitted or convicted, they still do not know what is going to happen. They have been waiting twelve months and this particular lawyer charged them \$2,000 each in order to even take the case before a court and I think it is a scandal. I did mention it to the Secretary of the Law Society and I do not know if anything is going to be done about it or not. But I really do not want to kick up a particular big racket about it until at least the boys get their cases over with and see what happens.

Now the second one I want to mention, Mr. Speaker, is in connection with insurance fees that lawyers charge when they are doing insurance cases. Now I am not going to say they are excessive but they do in some respects make double money. And I will just relate this particular one to the minister. On a \$25,000 insurance claim the lawyer got \$5,000. Now that might not be too bad -

MR. MURPHY: Is this fair?

MR. WHITE: No, this is in accident insurance, on the road, a fellow gets beat up, \$5,000 for collecting \$25,000. Now maybe that is not too bad. I went to see the lawyer and I sat down with him and he went through with me what he had to do. It took six months of phone calls and he had those all tabulated and letters and travelling, expenses in hotels, arranging for witnesses, so really

MR. WHITE: the \$5,000 for collecting \$25,000 may not have been too bad. I will not say anything about that. I just said to the lady who contacted me about it, "Look, I think it is fair. He had to put a year's work in on it so let us leave it at that."

But, Mr. Speaker, this particular lawyer also-and I am not running down this lawyer, this is a lawyer who is a friend of mine-but the lawyers collect commissions from Medicare for arranging a case for a client who thinks she has been done in in the case of an accident. So really the lawyer is making money from Medicare and from the government while at the same time charging the individual who has hired this particular lawyer.

Now I know the lawyers at the table and the Minister of Justice know what I am saying because

MR. WHITE: you know, they are familiar with this but say where this particular lady went to a lawyer and said, "Okay, I want you to represent me to collect my money because my husband has been beat up in this accident." So she went and the lawyer collected the money from the insurance company, won the case in court, was awarded \$25,000 but in the process he also collected \$2,000 from the client from the insurance settlement for Medicare and got a kickback of, I do not know how much it was, ten, twelve or fourteen per cent from Medicare for collecting the money for the government.

Now I was a little bit dubious about that at the time, I did not know too much about it. And I just wonder if this is a common practice, and if it is a common practice I wonder if it is ethical, and if it is ethical, I wonder if it is legal. I would just like for the minister to go into it because it seems to me that the lady or the individual who retains a lawyer to look into an accident or something of that kind is also providing a means by which the lawyer can make money. And my argument to the lawyer was why do you not give the commissions to the person who was in the accident or subtract them from the amount that she was charged for doing that particular work? So I would like to know something about that because if it is kickbacks then certainly we should look at it - and kickbacks is a bad word. But if somebody is getting ten or fifteen per cent for collecting money from Medicare when Medicare did not retain them, then certainly I think we should have at least an explanation. These are a few points I wanted to make, Mr. Speaker.

MR. SPEAKER: If the hon. Minister of Justice speaks now he closes the debate.

MR. HICKMAN: I thank the hon. members opposite and in particular the hon. member for Lewisporte and the questions he just raised. When I shuddered I was not shuddering at what you said. I shuddered when I heard you crack your knuckles.

MR. HICKMAN: Now firstly, the suggestion, the allegation, that the legal profession is a closed shop. In one sense, every profession is. The medical profession, the dental profession, they have to be and this is why they have conferred upon them the very responsible job of insuring that those who enter the profession are fully and adequately trained. For instance, today a young man or woman embarking upon a career in the legal profession will first take an undergraduate degree in Arts or Commerce, or some in Science. I know some now who are going into engineering first, which I think is a very, very desirable thing, which is a minimum four years plus then three years in a recognized school of law, plus nine months articling. And there is talk in this bill of making it a year, and they will also under this bill have to take bar admission courses.

This means that they are spending in effect eight years in training in order to enter into this profession

and then they must get, and they should have, and the public demand that they should have some form of protection and that only these people be permitted to practice law. First when I started practicing law, Mr. Speaker, the circuits were going full swing then and I can recall a gentleman who has long since gone to his reward who used to do a lot of conveyancing out there and he was not a lawyer. And we could count on at least three cases before the Circuit Court in Corner Brook, each circuit arising out of the conveyancing or the drafting of that particular gentleman.

Now in the beginning the person probably thought that he or she was getting something for nothing or getting a very cheap fee. With respect to the decentralization of the legal profession, that is certainly ongoing. Today we have in this Province a large number of lawyers, I would think in excess

MR. HICKMAN: of thirty, practicing in the city of Corner Brook. When I started practicing law there were two practicing in that city. We must have six or seven in Grand Falls, we have at least two if not three in Gander, two in Labrador City, one in Marystown, two or more in Clarenville and there is very little doubt in my mind that the need is going to grow. One of the reasons for it is Legal Aid.

MR. DOODY: Did I read that there is one office open in Pouch Cove, a branch office?

MR. HICKMAN: I do not know. But when I started practicing law, when I was called to the bar, I looked at the Burin Peninsula, and it would have been impossible for a lawyer to make a living down there. Today I think that the Burin Peninsula can absorb three or four. We have had several



Mr. Hickman: things happen. One is the establishment of district courts throughout the Province, which mean, and very properly, the litigants no longer have to come to St. John's. We have Legal Aid. We have doubled the number of magistrates in the last five years. So the courts are much more readily available to litigants, all of which generates the need, and properly so, for lawyers. And people are becoming more conscious in that particular area.

Now the question of legal education, and the ability to get into law school for Newfoundlanders, and indeed Canadians, is a rather vexing one. There is no agreement between this government or the Law Society of Newfoundland and Dalhousie Law School. I understand Dalhousie Law School will accept ten qualified applicants per year from Newfoundland. I do know they will take two magistrates per year without question. They also have a programme, which is a very desirable one, of the mature student. I know a young lady from this Province who worked for a long time after she came out of Grade XI in a law office in St. John's, and a couple of years ago decided to enter Law School, Dalhousie, as a mature student. She did not have the undergraduate qualifications that would be required of the normal student. And she has now successfully completed her second year law. And I think I know another one who is about to embark upon that course this year.

MR. WHITE: What qualifications do you need?

MR. HICKMAN: You have to be over twenty-eight years of age. They look at the kind of work that you have been involved in during your working years, your maturity. There is an entrance examination that is required.

MR. F. WHITE: The minister himself may want to do it.

MR. HICKMAN: That is right.

There was a study commissioned by the Maritime Council of Premiers last year into the need for additional law schools in the Maritimes. And Dean Soberman of Queen's School of

Mr. Hickman:

Law carried out the study. He had to include, and did very properly include into his studies, the requirements of Newfoundland, because obviously Newfoundland students turn toward the Maritimes first for their legal education. His recommendation came down very strong against the establishment of another law school, and particularly in Newfoundland. Number one, he says a viable law school must have about 150 students minimum, otherwise you do not attract to that school of law the kind of professors that are so necessary. Professors today are insisting that there be two in each discipline; two professors in the field of contracts, minimum, two in taxation, two in courts, two in criminal law, so that they compare and do research together. His assessment in Newfoundland was that the most we could ever anticipate in Newfoundland would be between thirty and forty applicants from qualified students,

To ask the question then, do we provide an expensive law school to educate 150 Canadians, would be very desirable, great for national unity but hard on the pocketbook of the Province.

Mr. Speaker, the comments by the hon. gentleman with respect to certain fees that were charged in a drug case: I cannot comment on that. If the Law Society obviously cannot fix fees in cases that go to court.

MR. F. WHITE: Would the hon. member permit a question?

MR. HICKMAN: Yes.

MR. F. WHITE: The question is this, and I should have asked it: What does a client or a person do if he feels that he has been unjustly treated by a lawyer or charged exorbitant fees? I mean, what does he do, a guy who is in a small community?

MR. HICKMAN: Well, that was the very thing referred to by the hon. Leader of the Opposition, the very desirable, and strength and discipline procedures that are in this Act. If a person feels that he or she is not getting value for their money they have an absolute right to go to the Benchers. The Benchers can recommend to them, and probably would in the right case, that they change solicitors and that there be a refund of the fee.

Mr. Hickman:

But that is difficult in major criminal cases.

With respect to the insurance claim, the position is this; that under all of these cost shared health schemes, and properly so, if a person who has availed of them institutes legal proceedings they are obligated to include in the claim by the way of special damage any monies paid out by Medicare or under health insurance. And it is quite proper to apportion the cost, if you collect \$25,000 for your client, and \$2,000 for Medicare the total recovery is \$27,000, and you should apportion the fee, you know, proportionally.

MR. ROBERTS: (Inaudible) Medicare.

MR. HICKMAN: No, for Medicare -

MR. WHITE: Give us specific case.

MR. HICKMAN: - If they are subrogated.

MR. WHITE: They get a commission.

MR. ROBERTS: Yes, but is Medicare going to pay the solicitor a proportion of the legal fee?

MR. HICKMAN: Yes.

MR. WHITE: Yes.

MR. HICKMAN: Yes. The same thing under health insurance. It has always been that way with health insurance.

MR. WHITE: It is almost a double fee.

MR. HICKMAN:

If you -

MR. ROBERTS:

Well I suppose it saves the client

paying, but the fee is -

MR. HICKMAN:

That is right.

MR. WHITE:

They still have to pay.

MR. ROBERTS:

Yes, but he should not have to pay

the full fee.

MR. HICKMAN:

No, there should be an apportionment.

MR. WHITE:

Well, he does not.

MR. HICKMAN:

But, Mr. Speaker, I think I dealt with

the matters -

MR. DOODY:

Maybe the House of Assembly should set

the rates by regulations.

MR. HICKMAN:

- raised by the hon. gentlemen opposite

and I thank them for their participation in this debate, and I move

second reading.

On motion, a bill, "An Act To Restructure The Law Society Of Newfoundland," Bill No. 81, read a second time, ordered referred to a committee of the Whole House presently by leave.

MR. HICKMAN:

Order 28.

Motion, second reading of a bill, "An Act Respecting Certain Leasehold Interests Within The City of St. John's," (Bill No. 100).

MR. SPEAKER:

The hon. Minister of Justice.

MR. HICKMAN:

Mr. Speaker, I will not dwell very long upon this bill. The hon. gentleman from St. John's East (Mr. Marshall) I think can truly be named as the guardian or the father of this piece of legislation.

AN HON. MEMBER:

The Only Living Father of -

MR. HICKMAN:

There has been a problem existing in the city of St. John's with particular reference to leases that were entered into - property leases - prior to the second day of August, 1921.

MR. HICKMAN: There has been no adequate provision for the acquisition of the freehold property or title under the lease. Some of these leases are about to run out. Most of them are ninety-nine year leases, I believe - no, not ninety-nine year leases - but some are about to run out and there has been apprehension. It covers primarily the section of St. John's underneath the height of land -

AN HON. MEMBER: South of LeMarchant Road.

MR. HICKMAN: - south of LeMarchant Road -

MR. DOODY: My old area.

MR. HICKMAN: - in St. John's Centre and in St. John's East. And I know both hon. gentlemen who represent these two districts are very conscious of the problem. And this bill is designed to cure it and bring some order to it, and I am sure the hon. gentleman from St. John's East would like to be heard and I will simply move second reading.

MR. SPEAKER: The hon. member for St. John's East.

MR. MARSHALL: Mr. Speaker, this is a very important bill for a large number of people who reside in the city of St. John's south of the area from Elizabeth - between Empire Avenue and the waterfront and between, say, the Battery and right up, I think, to Campbell Avenue, up in that area, and on Topsail Road there are some. A real area of concern this is for a lot of people because many persons in this area of St. John's have their houses actually built upon leased land, not freehold land, and a large number of these were built upon land that had been leased prior to August 2, 1921. Indeed many of the leases were from the 1880's and 1890's and are about to run out in the next five, ten or fifteen years. Now the effect of this has been catastrophic upon the persons who are residing in houses on leased land in that even though they are not run out yet, they are about to run out. They cannot get financing from banks, they cannot get financing from mortgage companies. It has resulted in them being unable to get the necessary -

AN HON. MEMBER: And they cannot sell.



MR. MARSHALL:

- or neither can they sell them purely and simply because the purchasers cannot get the mortgages. Now what the present situation is, is this: Under the City of St. John's Act, leases entered into prior to August 2, 1921 can be bought out at their fair market value as if they were vacant land, as if the houses were not there on the property. And you determine the fair market value from the basis of

Mr. Marshall:

values that are presently existing. And what is contemplated by this bill is to state that this particular formula will no longer apply, because it is unfair and it is unrealistic to turn around and say that somebody who has had a house on land, say, for seventy or eighty years that they can buy the land out at its value as if it were fair market, at the fair market price.

MR. ROBERTS: Mr. Speaker, would the hon. gentleman yield. Mr. Speaker, the hon. gentleman may be coming to this, but it is a point that I think he would want to underline. That applies only in respect of residential premises. Commercial premises under the fair market value.

MR. MARSHALL: Right. I was going to get to this. This bill relates to residential premises. Commercial premises are still on the fair market value. I will get to that in a moment and explain it.

But persons who have homes and are residing in homes, and own homes have not been able to get title to their property. You have to buy it at the fair market value as if it were vacant land. And this bill says that we are not going to go along with this formula any more. Now we are going to set a formula whereby anybody who has a residential property on leasehold land can buy it out at a rate of forty times the annual ground rent. Since most ground rents, and many ground rents are set at the values for ground rentals in the 1880s and the 1890s, this is going to mean by and large that the property owners can buy out their land, the freehold to their land at amounts of between \$600, \$700, \$800, and \$1,000 as contrasted with a price of \$5,000, \$6,000 that they could under the old formula.

What the government is saying to the landlords is that we are not going to allow you to treat this as an investment, the return of which will be in ten or fifteen years or a shorter period of time the right to renew at today's large rates for, you know, at today's swollen values for ground rentals, we are not going to allow you to look at this investment whereby the house

Mr. Marshall:

will at the expiration of the lease go into your hands after ninety-nine years, but we are going to treat all of these leases as if they were an investment. And in effect what you can get, and the only thing that you can get out of it is an amount of forty-times the annual ground rent, which will mean that a person now say receiving \$20 a year ground rental will receive \$800 for his freehold, the \$800 can be invested and will result in between \$70 and \$80 a year interest. So it is fair and equitable as far as we are concerned from the landlord's point of view, but more so it is fair and equitable with respect to the property owner's point of view.

Another aspect of this bill, Mr. Speaker, that has to be brought to the attention of the House is the fact that as a result of the absentee landlords, the fact that many of these leases were entered into seventy or eighty years, many of the persons involved have long since left Newfoundland, They are residing in England, New Zealand, Australia, you name it, the United States. Of course, the original lessors are now dead, and the interest has spread down to their children and their children's children. So in some cases you get even the ridiculous situation of - I know in one case of one ground rental where one of the owners holds one-three hundred and sixtieth of an interest in the lease. And when you talk about one-three hundred and sixtieth of an interest in a \$20 rent you can see why he is not interested in signing any documents, and cannot be located, has no interest in the determination of the freehold at all.

AN HON. MEMBER: These are absentee landlords.

MR. MARSHALL: These are absentee landlords, yes. This is what they are. And what the bill does is that it gives I believe it is a six month period of time for these people to appoint an attorney, that is a person in the Province of Newfoundland to act on their behalf, failing which the Registrar of the Supreme Court will be

Mr. Marshall:

able to act on their behalf, and the Registrar of the Supreme Court will be able to make out the good titles, so we will not have the grave problem that has occurred with many people here even when they wanted to buy out their freeholds, they could not locate the owners, and the owners could not be readily obtained.

So the Registrar of the Supreme Court in those cases has the right to make out the titles. There is a provision in the Act that if the landlord has made any contribution to the house at all, which would happen in a very rare instance that the amount of that contribution can be ascertained by arbitration, there is provision there for the appointment of an arbitrator. If the landlord is an absentee landlord any questions are to be settled by arbitration, but it is always to be remembered that residential homeowners will only have to pay forty times the annual ground rent and the Registrar of the Supreme Court on the report of the arbitrator will have to make out the deed.

MR. DOODY: Is it possible that this principle may be applied to places like Harbour Grace or Carbonear or what have you? It would seem to me that the same sort of situation pertains.

MR. MARSHALL: It is not acute, see, in those cases. It is not acute.

MR. ROBERTS: Was it not the Great Fire which caused much of the trouble.

MR. MARSHALL: And we have the City of St. John's Act here which dealt with these leases in a very particular and peculiar manner. For instance, we do not have in this bill to deal with leases in the city of St. John's after August 2, 1921.

MR. ROBERTS: Both of these note the particular distinction between "a building lease" and others. That seems to disappear in respect to this.

MR. MARSHALL: Instead of calling it a building lease you call one an ancient lease, and the other is called a modern lease; a modern lease is after August 1, 1921.

MR. ROBERTS: But even the ancient ones are divided into residential and commercial.

MR. MARSHALL: Yes. The ancient ones - I will get to that now because the hon. member asked the question. It is not intended with respect to commercial properties to have the commercial holders or the tenants of commercial properties who are operating a business be in any different position that they are right now. The owners of stores, who are operating stores from premises, can only buy out their freehold on the same basis as now, at the fair market value at the time of the acquisition of the property. And there is a very real reason for this, and the reason is, number one, the major concern of course is with persons who have homes constructed on land and are living in fact there. But the other factor is that in recent times, in very recent times there have been transactions where the freehold to commercial lands have been acquired and they have been acquired at substantial prices. So it does not seem fair at this particular stage to change that category.

Now we have also provided for the instance where somebody is living in a home and operating a store from downstairs or in a part of the premises themselves. That will be considered as residential and be able to be bought out at forty times the annual ground rent.

MR. MURPHY: What about a big house with five apartments like some on LeMarchant Road? Would they be kind of commercial or what?

MR. MARSHALL: No, they would be residential.

MR. MURPHY: Residential.

MR. MARSHALL: Apartments would be residential because, you know, we have not got in the older parts of St. John's large apartment blocks. Any large apartment blocks built in recent years, before they would be able to be built there would be a condition that the freehold would already have had to be bought out. So there is no real problem there.



MR. ROBERTS: With a house that you rent two or three apartment that is commerical under this.

MR. MURPHY: That is what I say, a house with five apartments rented.

MR. ROBERTS: But the landlord should - why should -

MR. MARSHALL: Now if the landlord lives in it, it is going to be residential, or this was the intention anyway.

Now, Mr. Speaker, there is not too much more I can add to it, I mean, the provisions of the bill are there, and it is a piece of legislation that, you know, has long been overdue. What in effect it is is that it gives the homeowners of leasehold land the right to buy out their freehold; in other words, to acquire their land at a rate equal to forty times the annual ground rent they are paying. Now that is with respect to residential leases made prior to August of 1921, Those after August of 1921 are not dealt with in this Act, but really - well they are dealt with in the Act, but their position is not changed because all of those as a result of the Act that was bought in at that time can be bought in at a formula of twenty times the annual ground rent. But we have said forty times the annual ground rent in this case because there is a very real distinction; enquiries have indicated that it is the practice where landlords can be located to accept an amount of between forty and fifty times the annual ground rent. So we have set it at forty.

We have also dealt with the absentee landlord position that there will now no longer as a result of this bill be any inconvenience suffered to people as a result of absentee landlords. The absentee landlords have six months from the date of the enactment of this bill

MR. MARSHALL: to appoint an attorney in this Province to act on their behalf, failing which the Registrar of the Supreme Court will be deemed to be that attorney and act on their behalf upon receiving the compensation. We feel the bill is one that is fair to all parties. We do not think that the landlords can complain about it. We know that it will be very beneficially received by those many hundreds of people who have homes in the city of St. John's subject to leases of this nature. It will co-operate coincidentally with the Neighbourhood Improvement programme to very much appreciate and upgrade the housing in the older parts of the city of St. John's by reason of that fact that it will more easily now allow the sale of houses to take place, mortgages to be obtained and the necessary capital improvements to be made in the various places concerned. So that is generally the gist of it then. Residential houses before 1921 to be purchased for forty times the annual ground rent. Commercial property prior to 1921 we are not that concerned about. They can be purchased at the fair market value on the same basis as now. Absentee landlords will no longer be able to inconvenience the citizens of the people of St. John's as far as the area as, I say, South of Empire Avenue. I think that this is one of the most forward bills that has been presented to this House in their best interests and one which I know and I expect will be very well received. It is long overdue because it has already caused the tie up of the land system in the city of St. John's by this leasehold device that came into effect in the late 19th century.

It has caused a great deal of problems to persons in the city itself because it is a very real problem when one is living on land when you want to get the deed to the property and you cannot get the deed because the owners are away. And, number two, that you would have to pay under the present rate some five or six or even seven or eight thousand dollars for the block of land on which your house stood for forty, seventy or eighty years.

MR. MARSHALL: That certainly is manifestly unfair. The principle of this bill says that no longer will this investment be regarded as one the return of which can be the taking back of land and house at the end of the term but it is to be considered as an investment per se. The landlords can receive what has been adjudged by reasonable landlords, the few reasonable landlords there were in the past, as a reasonable return in which they can invest and receive more money really than they are receiving on ground rent. And it is a most satisfactory solution to the people concerned. So, as I say, I do not know if there are any other questions. I know the Minister of Justice can perhaps answer them but generally speaking that is the gist of the bill. And I would hope that it would receive the general approval of all members of the House because unless one has had really experience in this particular area, actually owning this land or representing a district in which so many of these houses have been tied up by these absentee landlords and what have you, you really cannot realize the full import and effect that this bill will have upon the city itself. It is long overdue. It has been wanted by the City Council and by persons who have, as I say, been very much inconvenienced as a result of it.

MR. DOODY: That means that we can pull up all these funny little bronze markers that were located all around the neighbourhood. There was a little bronze marker with the initials of the absentee landlord inscribed and they kept telling us we were living at the mercy and by the graciousness of some landlord in England.

MR. MARSHALL: Well, when myself and the hon. minister were growing up I do not think there was pavement around, but I think probably pavement has perhaps since -

MR. DOODY: No, these things were much higher than that. They were dandy. Dogs found them very convenient.

MR. MARSHALL: They can be taken down as well.

MR. SPEAKER: Hon. Leader of the Opposition.

MR. ROBERTS: Mr. Speaker, this is a very technical piece of legislation and in a sense it can be regarded as a bit of a lawyer's dream, but I think that would be wrong. I think the gentleman from St. John's East has outlined the reasons why this bill truthfully and truly ought to be regarded as a significant piece of legislation and one that rights what has become an historic inequity. It may not have been an inequity at the time the system of property holdines in downtown St. John's was put together but historically over the years it has turned into a very grave and a very serious inequity.

Let me say a word of congratulations to the gentleman from St. John's East. He has made a bit of a cause of this particular issue and I think we ought to recognize that and I think we ought to congratulate him. I do not know whether the government would have moved without his intervention, but I do feel that his intervention certainly helped to get the matter resolved and I would like to recognize that. All the more so because the hon. gentleman and I have certainly had our differences of opinion on public matters in the past and I have no doubt that we will again. But on this issue, Sir, I think that he deserves commendation and I am very happy to do it.

Mr. Speaker, as hon. gentlemen have outlined, the Minister of Justice and the gentleman from St. John's East, this bill essentially deals with a situation which has grown up in this city and in particularly the lower part, the older part of the city, the area of the city South of Circular Road - Empire Avenue and indeed I would say really the area of the city South of the old Higher Levels, the line of Military Road and LeMarchant Road, Hamilton Avenue and to the West and down I guess about as far as maybe the old Cross Roads and then the Battery here in the East End of the city. It grew out of what was then the way in which property was conveyed. In England I believe to this



MR. ROBERTS: day they still enter into these long-term leases as a matter of normal practice, and we adopted it here in Newfoundland. It was made all the worse because the fire of 1892 which destroyed such a large part of what was then the city of St. John's - it is now downtown St. John's that fire cleaned out a lot of houses and led to a lot of leases being issued. And most of the leases of which we are now speaking were drawn in the late 1880's, the 1890's and the early years of this century. In 1921 the legislature moved to draw a distinction and to provide a process whereby leases made after that date could be dealt with but nothing has been done before now with the older leases.

Mr. Speaker, the gentlemen in the hall are being -

MR. SPEAKER: Order, please!

MR. ROBERTS: - more than loud. I am sorry. I do not wish to interrupt them but it is difficult. Their voices do carry. I think other speakers have described what happens. It is really very straightforward although it seems to be very technical. If you are the lessee, if you are the holder of the lessee's interest under a lease, if the lease is one that was made subsequent to 1921, you can buy the freehold, the landlord's interest, the lessor's interest, you can buy that for twenty times the ground rent provided it is a building lease - and I think almost all of the leases made since then have been described as building leases. That is a term that is defined - but if you have one of the older leases made before 1921 it was essentially up to the lessor whether you bought it or not. And there were two problems that resulted: The first was the question of an unreasonable lessor, where a lessor said, "Well maybe the convention which has grown up is forty times the ground rent, but I think my land is worth more and I am going to hold out for more and I shall not sell!"

There is a provision for an arbitration clause but I think it has been only used once. I think there was a case involving the old Newman estate on Duckworth Street which - was it



MR. ROBERTS: Duckworth or Water Street?

AN HON MEMBER: Water Street.

MR. ROBERTS: Water Street. There has been one arbitration under it. A difficult process, a cumbersome process, a lengthy one.

MR. DOODY: That is the one who owned all the property downtown.

MR. ROBERTS: The Newman estate still owns large parts of downtown. And the McLoughlan estates own large areas. There are a number of older firms and companies. I will tell about one which surprised me going back 999 years. I had occasion to be asked about a piece of land -

MR. DOODY: The hon. member may have aged, but 999 years!

MR. ROBERTS: Well, the piece of land in question is owned by my family. It is the house I grew up in when we lived over "the store" on Duckworth Street, down by the T.A. Building at 340 Duckworth St. My father's office was on the ground floor and we lived on the upper floors, and we had occasion to bargain for the sale of that and the sale did not go through because there was only fifteen or sixteen years left on a 99 year lease and it was not worth buying. We got in touch with the lady - she happened to be a grand-daughter of the original lessor, we thought - and she wanted \$20,000 for what amounts to one building lot in downtown St. John's, and it is not worth \$20,000, whatever it is worth. The ground rent, I think, was \$50 a year so that is 400 times the ground rent and the real difficulty that came up was that it was not a building lease, within the term of which that is used. We could not find the original lease which has been issued by the Crown about 1845 for

MR. ROBERTS: 999 years and there was no way to get clear title. Well, under this act that will be resolved.

Mr. Speaker, the hon. gentleman who spoke of and dealt with the effect of the act and the way it works, as I way going to say there are two problems, one where you could not find the lessor, or the lessor's heirs, and secondly, where the lessor when you could locate him or her would not sell for a reasonable price. Well the price is now specified and the Legislature is saying what it deems to be a reasonable price, and where the lessor or a representative cannot be located there are powers conferred upon the Registrar of the Supreme Court to issue title and sufficient protection is provided for the lessor's interests and that money will be held in trust and so forth.

I would ask a question of the minister or perhaps the gentleman from St. John's East (Mr. Marshall), whoever can deal with it. The definition - well, we divided into ancient and modern, and in respect of ancient leases, those before 1921, we divide them into residential and commercial. Well that is a valid distinction. The residential lease, as I read the act, and I think the gentleman from St. John's East (Mr. Marshall) made this same point, embraces within it the case of a person who lives in a home but has two or three other apartments in it, or one or two, for that matter; that is not a commercial letting within the sense of this bill. Now I think that is an important point and I think we ought to be clear on it because to me the case of perhaps somebody on Lime Street who lives in one part of the house and rents the other part out, that is different than the case of somebody who owns a house, people own many houses around town and let them out commercially.

MR. MURPHY: An awful lot invested in the older homes like a lot of the -

MR. ROBERTS: Right. Right. And in many cases you have got people who own the older houses but have moved into the other parts of the city and yet kept the older houses and let them out

MR. ROBERTS: as commercial investments. For example, 340 Duckworth Street is not lived in by any member of my family now, it is rented on a commercial basis.

MR. MURPHY: Is that City Terrace?

MR. ROBERTS: No, it is not City Terrace. It is just to the East of City Terrace.

MR. MURPHY: Oh yes, that way.

MR. ROBERTS: It is the small block between Bell Street and the TA building. There are three or four houses there and, as I say, I grew up in one, indeed lived there the night the old TA building burned down and it was - I remember the policeman carrying us - that is all I remember of it, but it did not even scorch the home in which we were living which was three or four feet away.

MR. DOODY: Remember the night the Board of Liquor Control burned down?

MR. ROBERTS: I do not remember that one.

MR. DOODY: Great big casks going up in the air. It was most spectacular.

MR. ROBERTS: Mr. Speaker, the reminiscences of the Minister of Finance and myself aside, I would like the Minister of Justice to confirm one point which I think is an important one and it relates to the situation whether a lease is commercial or residential, and that is that all ancient leases are deemed to be building leases whether or not the term is used. Now the definition 2 (1) (a) seems to say that an ancient lease is a building lease whether any words or any covenants are used or not and that contrast was section 2 (1) (h) which specifically mentions covenants to erect a building. It is an important point because the real difficulty has arisen, I am told, in respect of going to arbitration under these old leases under the present law, the law which we purport to amend, the real difficulty is determining whether it is a building lease or not and that is a matter that can be argued and in the case

MR. ROBERTS: of the instance which I referred, 340 Duckworth Street, there is an argument whether it is a building lease or not and I have asked a number of lawyers and I have gotten differing opinions. Some say it is, some say it is not. Well, as I understand the act now, the act before the House, that distinction is meaningless. If the lease was made before 1921 it does not matter whether it was a building lease or not; all that counts is whether it is in commercial or residential use, If it is residential it is forty times the ground rent; if it is commercial you go through the arbitration process and if it cannot be agreed between the parties, the arbitrator will set a figure and that is that. Is that the effect of the -

MR. HICKMAN: That is my interpretation of it.

MR. MARSHALL: If the hon. member will yield.

MR. ROBERTS: Yes.

MR. MARSHALL: I just saw the bill this morning. Now I have seen it before but there was supposed to be, and I am sure there must be, a clause in it to the effect that there is a presumption that leases made before 1921 are ones upon which a building has been erected or one pulled down and another erected. In other words, it is presumed that they are ancient leases within the meaning of that definition.

MR. ROBERTS: I do not see that -

MR. MARSHALL: It may be here. I have not had a chance - I know I asked the draftsman to put it in. If it is not in it certainly should go in.

MR. ROBERTS: I do not see that precise section. The definition section seems to achieve the same thing because it is an important point, Mr. Speaker, it is very relevant to the principle. "Ancient lease," the section reads, "means a lease of vacant land within the City that was made before the 2nd. day of August, 1921, on which land the leasee or his assign has erected a building or has pulled down an old building and erected another and includes any extension of

MR. ROBERTS: an original lease whether the extension is expressed to be an extension or not of that original lease." Contrast that with subsection (h) of that same definition section which mentions specifically building covenants and I would assume the draftsmen meant that distinction to be that.

MR. MARSHALL: Well, after 1921 the reason why the covenant is in there is because that was the law as it presently exists and anyone entering into a lease after that period of time if they had intended it to be a building lease they would have put it in. But pre-1921, as I say I just, you know, I have obviously seen this bill and gone over it with the draftsmen, but last week I indicated that there should be a provision in here to the effect that there is a presumption or assumption that a lease made prior to 1921 is an ancient lease within the meaning of that interpretation. In other words, it is one on which a building has been erected, or a building pulled down and another one put there. And if that is not there I think we should put it in in Committee.

MR. ROBERTS: Well, Mr. Speaker, I am not sure that the point is covered.

MR. MARSHALL: Well, if it is not it should be.

MR. ROBERTS: I will defer to hon. gentlemen. Perhaps what we might do is when the bill receives second reading we might have a careful look at it and then if necessary the Attorney General could authorize the gentleman from St. John's East (Mr. Marshall) to consult with the law officers and I think the gentleman will agree it is an important point. It is all very well to say that if your residential tenancies are straight. There is no question about that. Any person who is a residential lessee within meaning of this act will be able to get his freehold now for forty times his ground rent, no ifs, ands, buts or maybes and the procedure is clear.



MR. ROBERTS: But the commercial case will be clear if it was a building lease. But the question is if it is not a building lease, and I think we all agree that it should be clear whether it is a building lease or not, that pre 1921 that is a meaningless distinction but nonetheless it is one which has arisen, and if we are going to clean up the situation let us. I agree with the distinction between commercial and residential for the value. A man who is renting a house for gain should have to pay more than the man who is living in that house, even if the man living in the house may be renting a portion of it as a room or as an apartment, or equally a man who is renting a building for a store. For example, I do not know if it is still true but the Ayres stores on Water Street, the western one was in the old Pitts estate. It may still be for all I know. Well, if Ayres wish to buy the freehold, assuming my example is valid, surely they should have to pay for the freehold on a different principle that somebody on Flower Hill or Barters Hill or Duckworth Street, who is living in a house which presumably has been in his family for some time.

MR. MARSHALL: If someone is residing, I might say, in the house for three months and is renting another part of the house, that is forty times a week. It is only when they are out of the house -

MR. ROBERTS: Yes. That is quite clear. That is subsection (3) of section 2 covers that case and I think that is a wise thing. But there is this question of commercial leases, are they automatically deemed to be building leases or not. Is that still a barrier, and if so I think we agree we should remove it. It is certainly offensive to principle. Other than that, Mr. Speaker, I think the bill is a wise one. We could have a long discussion of how property law came about and what it means but I think the important thing now is that people can get title and get it quickly and definitively. That simply because somebody a long time ago owned some land in St. John's, which they have chosen up until now not to sell, that will no longer be a barrier. We have

MR. ROBERTS: protected the lessor's rights. After all, these people will have had a lot of years of drawing ground rent, in some cases seventy, eighty, ninety years of getting rent which was adequate when they let the lease; now they will get forty times that in satisfaction of their leasehold interest. I think that is fair. They have done very little except collect their rents. Indeed I suppose they have nothing except collect their rents once the original letting was made. In the commercial case, it will be the case of fair market value as if the land were vacant land. What we are saying there is the landlord is entitled to some of the appreciation in property values which have come over the years, and again that is I think reasonable in the circumstances. The bill is in a sense long overdue but I do not think the issue really arose until two or three years ago. I do not practice, so I did not hear of it in that way, but I was not aware of any discussion until

Mr. Roberts:

two or three years ago, I guess that was about the time the leases started falling in or began to be immient. And now we are at the point where unless this bill is passed anybody living in a leasehold premises, you know, he thinks he owns it; the houses are bargained for, bought and sold their full substantive value, every lawyer in town has seen conveyances of that. But now we are getting to the point where these houses are valueless because the period before the lease reverts to the landlord, the lessor in many cases is only ten, or fifteen or twenty years. And nobody is going to buy a house for \$20,000 or \$30,000 when there is only ten or fifteen years left on the lease at the end of that period, your rights as lessee are forfeited and the lessor living God knows where, in Victoria or in England or in any place in the world, can come in and claim the full value of that property and take the property as if it were his own, as it would be under the terms of the lease, because once the lease ends the lessor in law gets everything that is on it, the land and the buildings. So we are ending that and so we should. I think it is a step forward. It is a significant one. Too bad it has to be so technical, but these are technical matters. I think it will help a lot of people because the gentleman from St. John's East (Mr. Marshall) said, people now under NIP will be able to get freehold title to their houses, it will mean they can mortgage them, and they can sell and transfer them. I think that is important.

I do not know of anywhere else in Newfoundland where this problem has come up. It may have come up in Harbour Grace, but I have never heard of it. Most places outside of St. John's, you know, land was never that tied up in the property law. It was dealt with in a much more casual way. I am not aware of any problems that have come up elsewhere, but if they do then obviously the House should legislate on them. The problem has come up in St. John's, Sir, it has come up with a vengeance. And I think this bill will help to rectify it and remedy it.

Mr. Roberts:

We will support it, Sir, and subject to the, you know, one or two very minor points which I raised, which I hope can be resolved, I may not have read the bill fully because like the gentleman from St. John's Centre (Mr. Murphy), you know, I only saw it Friday and I have not had much chance to study it, but subject to that, Sir, I think it is a good bill and I would congratulate the minister for bringing it in, but more importantly, because I think more relevantly I would congratulate again the gentleman from St. John's East. It is a measure of legal reform, Sir. It will help people and I think we should welcome it, and I do.

MR. SPEAKER (MR. YOUNG): The hon. Minister for Consumer Affairs.

MR. MURPHY: Mr. Speaker, I am just going to add a few words. I do not want to get into the technicalities or the legal part of this, but I want to get into the very human part of this. Perhaps I am one of the few members of this House who does live in the old St. John's, as we call it, and not the New Jerusalem as Mayor Andrew Carnell did call the newer area North of Empire Avenue. But if there is one thing that we do get calls on, I am talking about the St. John's members, is leasehold land within the City of St. John's. I myself live on LeMarchant Road, and I have been worried for some time because the hon. Leader of the Opposition says, Why has it become a little bit pertinent at this time?

I think what is happening with movement outside of the older city of St. John's, and the majority of the people living in the older homes with their families reared have been very anxious now to sell these large houses, like my house, for example. It has ten foot ceilings, the old style, and perhaps it is worth about four what you would build in the other areas. You would not bulldoze it down with a bulldozer. The new roofs blew off in the recent storms. But the tragic part is this, I am paying leasehold rents there - I am not - since

Mr. Murphy:

1903 but the house was built in 1903, and not long ago I was sort of made aware of the size of the house when the Ener-Save people surveyed it, and I have only twenty-one feet frontage. Now under city law I do not think I can build anywhere less than sixty feet, if I am not mistaken. Is it sixty now?

MR. ROBERTS: I think it is considered a tolerance.

MR. MURPHY: You know, if the house burnt down I do not think they would allow me to put what they would term a shack or an outhouse today, twenty-one foot wide, on this lot, but this is the type of home

MR. ROBERTS: You would be allow to rebuild but not in a new area.

MR. MURPHY: I see.

So, you know, as I say this is one thing that comes to my mind. Now this is a wonderful thing I believe because it is going to help an awful lot of people who want to sell their homes but cannot because like in my case there is twenty-five years left -

MR. ROBERTS: That is all you can sell.

MR. MURPHY: - on the lease. And that is all I can sell. So no one is anxious to say what will happen in that twenty-five years. But this in itself, and I say this, Mr. Speaker, it is going to create some problems. We can all talk about forty years ground rent. In my case it is going to be about \$1,200, Well, possibly I can go to a finance company and get a loan for the \$1,200, But I know there are an awful lot of people in the older part of St. John's who cannot go to a bank or go anywhere else to borrow that money to buy it out. So this would be one problem. And towards that end I have a little suggestion to make, whether we accept it or not, that a clearing house be established with the Department of Municipal Affairs and the St. John's City Council, somewhere an office set up for information purposes, and perhaps to look at the fact to help people get over a rough time, where perhaps we can give them enough money to buy out their lease and pay it back in a sort of a loan rather than actually expecting them all to pay \$600 - and I mean we talk about \$600



Mr. Murphy:

here. We are used to flogging millions and millions, I mean, what is \$600? But to an awful lot of people in the older part of St. John's it is a lot of money to put down in one bundle.

MR. ROBERTS: There would be no trouble where the house is being sold because it would be swept up in the mortgage.

MR. MURPHY: Yes, that is all right, but people who continue living in them.

MR. ROBERTS: But the people -

MR. MURPHY: That is the point I make.

So that would be a suggestion I make. I welcome the legislation. I think everybody in the House sees the value of it. It is not a great Tory concept to help St. John's again. Basically St. John's is the one deeply concerned with this because it affects it. And I think we will establish a pattern, if it does apply to Harbour Grace or Carbonear I think the same pattern would apply right across the board.

So I would again like to thank the hon. Minister of Justice, because I have been after him for some years, and the hon. member for St. John's East (Mr. Marshall), who brought the thing forward, but we were dealing with Council - and I say we, because myself as a member for St. John's, I have been chatting back and forth with different councillors over the time, and I think they had ideas of doing this, but I believe, and this is my opinion, their way of doing it would be perhaps a bit more cumbersome than is happening now.

So I say to the hon. Minister of Justice, the Attorney General, that I would like to congratulate him, and possibly thank him on behalf of hundreds of people in my district who live below LeMarchant Road and bounded on the West by Springdale Street and on the East by Church Hill, and I think the hon. minister has pointed out that St. John's South, St. John's East, and St. John's Centre are the three districts that lie below LeMarchant Road, and also I believe it would apply to that area, if I am not mistaken, Mr. Speaker, of

Mr. Murphy:

Field Street, Cooks Street and these places. I would imagine they would be a part of it and they lie within my district.

So again I am very happy with this, but the suggestion is that when the time comes there are going to be a lot of enquiries, How do we go about it? that possibly the hon. Minister of Municipal Affairs is not in the House now will sit down with the councillors and perhaps opening a clearing house in the Council office down on Duckworth Street where it would be accessible to all these people and all the information disclosed. Thank you.

MR. SPEAKER (MR. YOUNG): If the hon. minister speaks now he closes the debate.

MR. HICKMAN: Mr. Speaker, I thank hon. gentlemen for their contribution to this debate. With respect to the point raised by the hon. Leader of the Opposition, I have asked the Chief Legislative Draftsman, Mr. James Ryan, O.C., who drafted this bill if he will meet - he is not in his office right now - with the member for St. John's East, and the hon. Leader of the Opposition, if he is here this afternoon, to ensure that if the point raised by the hon. Leader is not covered that it be covered by an amendment in Committee.

On motion, a bill, "An Act Respecting Certain Leasehold Interests Within The City Of St. John's", read a second time, ordered referred to a Committee of the Whole House presently by leave.

MR. HICKMAN: I want the Family Court if I can find it here. Bill No. 94, Mr. Speaker, Order No. 18.

Motion, second reading, a bill, "An Act Respecting The Creation Of A Unified Family Court".

MR. SPEAKER (MR. YOUNG): The hon. Minister of Justice.

MR. HICKMAN: Mr. Speaker, this is a relatively short bill and sets forth fairly clearly what is intended here, and it is pursuant to an announcement to the provisions contained in the Speech from the Throne. Negotiations have been ongoing with the hon. Ronald Basford, P.C., Minister of Justice and Attorney General of Canada, with a view to setting up a pilot project in the Province of Newfoundland

MR. HICKMAN:

for three years as a Unified Family Court. The hope is that the Unified Family Court will be on stream and operative when the Fall term of the Supreme Court opens.

MR. HICKMAN: The area to be covered by this pilot project will be Metropolitan St. John's and Bell Island. The people who have been working on this for a long time, one of whom, and I would say without any hesitancy, one who has played a very lead role in this is Mrs. Mary Noonan, LL.B., who is a solicitor on the staff of the Provincial Department of Justice, and the negotiations that have been ongoing during the past several months led us to the conclusion that Metropolitan St. John's would be the area where we can best ascertain the effect of the Unified Family Court in the three year period. There will be a cost sharing agreement entered into between the Government of Canada and the Government of Newfoundland for the cost sharing on a fifty - fifty basis of this trial project and this will cover the cost of salaries and fees and wages and leases and rent, supplies, pretty well a fifty - fifty cost sharing of the total cost of the Unified Family Court.

We have in St. John's right now the family court that is under Magistrate Charlie Roberts of the Family Court in St. John's. That court has jurisdiction over certain areas of family law. Then the Trial Division of the Supreme Court has jurisdiction in the field of divorce and alimony and custody. And all of this, this division of jurisdiction certainly, in my opinion, makes it very difficult for our courts to meaningfully deal with the various family issues such as adoption, custody and access to children, maintenance of children, that come before different courts. I am not sure of this; this is the reason why we are moving toward a pilot project for three years to see how it will work. Two other provinces of Canada are entering into similar agreements, Manitoba and Prince Edward Island, and Ontario are moving in that direction themselves; whether they cost share it or not I am not sure. British Columbia last year set up their own pilot project in Burnaby which appears to be working reasonably well.

The act provides that the judge of the Unified Family Court will in effect be a judge of the Trial Division of the

MR. HICKMAN: Supreme Court. This is an appointment.

MR. ROBERTS: In effect, only a Supreme Court shall be a judge of the Unified Family Court.

MR. HICKMAN: That is right. So the appointment that will be made by the Governor-General in Council will be to the Trial Division of the Supreme Court (Unified Family Court).

MR. ROBERTS: It will be by the Chief Justice.

MR. HICKMAN: There has been some discussions with Ottawa, That section has to be changed slightly, otherwise you would have the Chief Justice having to veto over the appointment.

MR. ROBERTS: Well only the Governor in Council under the BNA Act.

MR. HICKMAN: That is right. And that is -

MR. ROBERTS: The thing is now ultra vires.

MR. HICKMAN: That is right. That was not our draft, in defence of our legislative draftsmen.

MR. ROBERTS: That is good, because I do not think it would stand up under -

MR. HICKMAN: That draft came from Ottawa and I saw it on Friday, It was drawn to their attention and they have agreed that it has to be slightly changed.

As I say, the judge will be a judge of the Trial Division of the Supreme Court. So that all family matters will be handled in that court in the Metropolitan St. John's area where we get a very high percentage of these problems at this time.

Secondly, the emphasis will be against the adversary system within family matters. The emphasis will be on trying to keep the family together rather than have them in an adversary position because I am convinced that in a divorce case, even though under the divorce laws of Canada a trial judge in a divorce case may, if he feels it appropriate, send the parties back for marriage counselling -

MR. ROBERTS: Has that ever happened?



MR. HICKMAN: I do not think it has ever happened.

MR. ROBERTS: And are not solicitors required under -

MR. HICKMAN: Solicitors are required to file an affidavit saying that in their opinion no further -

MR. ROBERTS: There is no point in it. Yes.

MR. HICKMAN: - reconciliation attempts will be beneficial or result in the marriage being anything but dissolved.

MR. ROBERTS: Which is a ridiculous burden to lay upon a solicitor.

MR. HICKMAN: That is right. And the judges are not availing of it and I am convinced anyway that when a husband and wife appear in a divorce court facing each other -

MR. ROBERTS: They are not going to make it up.

MR. HICKMAN: - the time for reconciliation has long since passed.

I think it is a meaningful change in the family law of Newfoundland. I think it will be beneficial. It is always unwise to set forth or to predict, rather, what a pilot project will show and accomplish, but I believe this pilot project will result eventually in a Unified Family Court throughout our Province. I would only hope that when that happens that we will be able to persuade the Government of Canada to continue the cost sharing on a permanent basis. There will be procedures for periodic evaluation by both governments or both Departments of Justice and any other appropriate departments so that evaluation will be an ongoing thing and we are not going to simply sit back and wait for the three years to expire and say this was good or bad, or we should keep it.

There is an obligation on the government of this Province to submit to the Government of Canada, in particular the Attorney General of Canada, not later than August 1st., 1977, a written submission respecting the operation of the family court pilot project and giving all the details and the estimated budget. Some of that has been done because of our negotiations that have been ongoing for

MR. HICKMAN: the last several months, indeed a year or more, but we are moving towards it in the fond hope and ambition that this pilot project can get underway in the Fall term. I move second reading.

MR. SPEAKER: The hon. Leader of the Opposition.

MR. ROBERTS: Mr. Speaker, let me say at the outset, Sir, that we support the bill and do it gladly because I think it is an attempt to deal with an issue which is important now but which will in the years to come become more and more important because I think, Sir, it is obvious, I think events have made it obvious even though there may well be many of us who find it odious, but it is obvious that the institution of marriage, as we know it, and effects which flow from it in the sense of family life and so forth, that institution, I do not think it is threatened, I think it is undergoing a very serious, a very real change, a very basic change. Facts such as the one which is put to us regularly that one out of every three marriages entered into today will, on the statistics, end in the divorce courts. That does not mean that one of every three persons who is today married will see his marriage or her marriage end in the divorce courts but apparently across Canada one out of every three marriages that is entered into now is ending in the divorce courts.

There are a number of other statistics we could talk about, all of which would indicate that the institution of marriage, the institution of marriage and the family structure which comes from it, all of which is very deeply embedded in our law, that institution is undergoing very real and very radical and very basic changes.

Now, Sir, it is not our purpose as a House to talk about marriage and divorce. Indeed under the British North America Act it is a subject that is reserved for the exclusive legislative jurisdiction of the Parliament of Canada. Our purpose here is to talk about the bill which I think we ought to recognize really

MR. ROBERTS: does nothing more or less than make some significant and worthwhile procedural changes. There are no new principles of law embodied in this act as far as I can understand it. Instead what we are talking of doing is combining two courts into one.

Now, Sir, I think that is reasonable and I shall support it. The situation now of course, as is well known, is that the legislation or the law respecting the kind of matters that will be dealt with by the new Unified Family Court is both divided and confused. Both this House of Assembly and the Parliament in Ottawa have the power to make laws in respect of some of the matters which we deal with here. We have dealt with any number of subjects legislatively in this House in the last few years that are also subject to this court, to this proposed new court. Of course, divorce itself, the question of custody of children of a marriage which is subject to divorce proceedings, the question of alimony and the finance arrangements resulting from divorce, these are in part the responsibility of Ottawa. The question of marriage and divorce itself is, but the other questions are ones in which we have a valid legislative interest as well. The other issues here, some of them are provincial, some are federal.

The problem now, as I understand it, Mr. Speaker, is that often you end up if you are party to these proceedings, or proceedings arising out of these problems, in two courts: You end up before the Family Court as it now exists in one type of issue, and you end up in the Supreme Court under another type of issue, and yet both issues deal with essentially the same matters and both really ought to be viewed in context, the one with the other. So what we are doing here as I understand it is simply saying, 'Henceforth for the period of the trial, the three year trial period envisaged by this pilot project, all matters effecting family law in this Province within the geographic area of Metropolitan St. John's and Bell Island, all those matters will be dealt with by one court, by the Trial Division of our Supreme Court, headed by

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MM - 6

MR. ROBERTS: Mr. Chief Justice Wifflin and by Mr. Justice Mahoney and Mr. Justice Goodridge and the fourth judge, Mr. Justice "

Mr. Roberts.

Nathaniel Noel, of course, a former Deputy Speaker of this House. I think it is a reasonable project, and I will endorse it. And in so doing though there are one or two questions that arise that perhaps the minister could deal with. They do not so much deal with the principle of the bill as they arise out of the subject matter of the bill. But before I get into that there are two procedural questions. First of all, I am not sure where this leaves Judge Charles Roberts - or magistrate to use the title which I prefer - but Judge Roberts of the Family Court. As I understand it, almost all of the matters with which he now deals, with the exception of the juvenile, you know, the law relating to the juvenile delinquency or the behaviour of juveniles, almost all of those matters with which Judge Roberts now deals will be taken from him and conferred upon the Unified Family Court by the provisions of this bill. And the judge of the Unified Family Court is a judge to be designated of the Trial Division of the Supreme Court, a federal judge, a federally appointed judge, an Order-in-Council judge as are all our district court judges and as are our seven Supreme Court judges, the three in the Appellate Division and in the four in the Trial Division. Now where does this leave Judge Roberts? He is not a federally appointed judge. Perhaps he ought to be. But he now holds his office by virtue of an appointment under the - whatever we now call it - I think the Provincial Courts Act is the relevant legislation. He has served with distinction, and I would think has many years of service before he retires.

MR. HICKMAN: Three years.

MR. ROBERTS: My friend, the Minister of Justice, tells me that Judge Roberts has three years to go before he becomes of retirement age, but he is a very vigorous -

MR. HICKMAN: I do not want to make him sound older than he is. At the end of three years he is eligible for retirement -

MR. ROBERTS: He is eligible for retirement.

MR. HICKMAN: - and I believe he plans to do just that.

But at the end of eight years he must go.

MR. ROBERTS: I do not know what Judge Roberts' plans are, but -

MR. HICKMAN: Fifty-seven.



MR. ROBERTS: - he is a very youthful and a very vigorous man who has many years of service left, whatever his own plans are. The point is that he is not a man who should just be put on the shelf, and so I ask the minister what plans he has for Judge Roberts because I have not seen an analysis of the case load of the family court, but I would be prepared to believe that more than half of the matters with which he deals are matters that are dealt with under Section 7 of this bill, matters which will be referred to the new Unified Family Court. And I would not want to see Judge Roberts under-employed. I think he is much too valuable a public servant, much too valuable a judge to be put in that position. He cannot be a judge of the Unified Family Court, because they will only be, by the terms of this bill, federally appointed judges, and I suppose that is unavoidable given the fact that they are dealing with the dissolution of marriage, the matters raised by and dealt with under the Divorce Act of the Parliament of Canada. And I guess the Parliament of Canada is not prepared to confer that jurisdiction upon - indeed they will not even confer it upon district court judges although they ought to in my view. So that is one point.

Another one, Sir, is to ask the minister if he could assure us that the load on the Supreme Court, the case load, will not become overly burdensome. I again do not know how much casework is now dealt with, how many cases and what kind. I do not have any figures before me, but there are quite a number. Take adoptions; there are a lot of adoptions in this Province, not all of them in the instance of children in care of the Department of Child Welfare, There are a number of other instances where the adoption process must be followed by law, and I want to know about the case load and what affect it will have. We have four judges in the Trial Division. That is an increase in that - well, we have had four in the Trial Division for a long while, but the four before also had appellate provision so we have gone from four to seven judges in the highest court in the Province, the Supreme Court, in the last few years, and yet I am told that their workload is a very heavy one. And, of course,

Mr. Roberts.

judges are looked to by the government for appointment as commissioners under the Enquiries Act. Mr. Justice Mahoney, the Chief Justice, the Hon. R. S. Furlong and Judge McCarthy of the district court, Judge Bartlett of the district court and Judge Cummings of the district court, five of our judges are now carrying out -

MR. HICKMAN: There are six, Judge Gushue.

MR. ROBERTS: Oh, I have forgotten Mr. Justice Gushue of the Court of Appeal on the nursing home situation there.

No less than six of the judges in Newfoundland, and we only have fourteen, so six of the fourteen are now engaged in enquiries under the Public Enquiries Act. And I have no reason to think that the judges will not continue to be, you know, leading candidates for appointment as commissioners under the Enquiries Act, and so I raise the question of case load. I am told by my brethren who are more active than I am before the bar that, you know, even now the case load is beginning to catch up on the judges, and we may not be much further ahead than we were a few years ago when it was beginning to be a potentially scandalous situation. The delay in having an action come before the courts. That was dealt with by greatly expanding the number of judges, creating the new appellate division and separating out the trial division from the Supreme Court into its own division. Now, of course, we are putting another load on them.

A minor question and one which intrigues me - and I am not sure I should not have raised a point of order, but I will not. I think this act should be severed. I think Section 21 of this act is completely foreign to the rest of the bill, Mr. Speaker. The bill deals only with a unified family court. Section 21 is a minor amendment, I will agree, to the Judicature Act. It is a procedural amendment, but it is not consequential under anything in this act as I understand it.

MR. HICKMAN: But it can be done.

MR. HICKMAN: I am told it is proper legislative drafting.

MR. ROBERTS: Well, I am not really going to make an issue of it, because I have no argument. What it provides is for the provision of a fifth trial court judge in the Supreme Court, and that may be the result of the other questions I raised about the case load.

MR. HICKMAN: No, no!

MR. ROBERTS: Then that leads to the question of whether the gentlemen in Ottawa have agreed to it?

MR. HICKMAN: No, no!

The fifth judge of the Trial Division of the Supreme Court is the judge of the Unified Family Court. That is where the fifth one comes in.

MR. ROBERTS: Yes, In other words, we are going to get a new Supreme Court judge.

MR. HICKMAN: Yes (Unified Family Court).

MR. ROBERTS: Right.

But that will require an amendment to the Federal Judicature Act or whatever they call it, The Judges Act, I think they call it in Ottawa.

MR. HICKMAN: Yes, it is in their act now.

MR. ROBERTS: And to allow for eight Supreme Court judges in this Province.

MR. HICKMAN: That is the one that is before Parliament right now.

MR. ROBERTS: Before Parliament? It is not in the law as yet?

MR. HICKMAN: No, no.

MR. ROBERTS: And I am not sure - you understand, I do not want to make an issue of it, but I do want to point it out because the minister did not - I am not sure that it is proper in the Parliamentary sense. I have no doubt the draftsmen feel that it is proper or it would not have been put before us. But, you know, it is not a consequential amendment. It is a separate amendment. It is a separate issue altogether.

MR. HICKMAN: Right.

MR. ROBERTS: It is one thing to say that we are setting up a new court on a pilot basis but now we are talking of an eighth Supreme Court judge,

Mr. Roberts.

a fifth judge of the Trial Division, and there are three in the Appellate Division. I do not object to it. It means that one more of my brethren at the bar will cease to be in active practice when he is appointed or she is appointed - well, I do not think we have any ladies at the bar yet who are sufficiently senior to be qualified.

MR. HICKMAN: Almost.

MR. ROBERTS: Almost.

But as yet none who have put in her ten years of active practice, the basic requirement. But the fact remains, you know, we are talking of an eighth Supreme Court judge, and I do not want to argue with it, but I would not want to let the inclusion of that section in this bill go, you know, unremarked or unnoticed. We are expanding the Supreme Court again, and then that raises all the other questions, the vexatious questions of office space and staff and all these things with which the minister, I am sure, is familiar, but in respect of which I am told not enough action has yet been taken.

Mr. Speaker, I would like to raise a couple of other matters which I think grow out of the bill. What about combining the idea that is beginning to get wide currency and I think wide support, combining district courts and the Supreme Court? We now have seven Supreme Court judges. We will shortly have eight. And, by the way, the eighth judge will remain even if in two or three years it is decided to drop this project, because the judge will not be appointed simply for the jury duration. He will not be a pilot judge. He will be a judge, period, a



MR. ROBERTS:                                    puisne judge, a puisne judge of the Supreme Court, and of course, his appointment will be valid until he is seventy or until he dies or until he is removed from office by joint address of Parliament - the only procedures that one has for removing a judge in our system. So, you know, what about taking the seven district court judges and combining them in one High Court and having a High Court and then having an appellant division to hear appeals from that and then leaving the district court judges stationed widely throughout the Province, which is a system I would encourage, and that would also enable us to have Supreme Court judges throughout the Province. It is an old issue, one that is becoming more and more heated. The distinctions now in jurisdiction are becoming fewer all the time. There is still a monetary limit, there are still some types of criminal matters which may be dealt with only in the Supreme Court. There are some questions such as the divorce law - Divorce Act - which may be dealt with only in the Supreme Court. But as far as I am concerned a man who is a district court judge is perfectly competent in my view, and if he is not competent he should not be a judge. And if he is competent then I do not see much distinction between a claim - what is the law? - \$10,000 now, the dividing line? And if your claim is for \$9,999.00 you may go before a district court judge and have the matter dealt with. If it is for \$10,001 you must go before a Supreme Court judge. I think the distinction is largely meaningless and I understand that both the Bench and the Bar would welcome the suggestion. The Minister of Justice looks quizzically. I understand that all would welcome it, maybe not every individual member of the Bench or of the Bar, but I think it is an idea that we ought to look at very, very seriously. And let us then have twelve or fourteen, fourteen or fifteen High Court judges throughout the Province, three of whom would be appellant judges. The rest would be judges dealing with all matters which would come before the federal courts or the federally created, the federally authorized courts in this Province. You know, the old



MR. ROBERTS: question of Why do you have to go before a Supreme Court judge simply to get a dissolution of marriage? It is usually not that complicated in the legal sense. As the Minister of Justice has pointed out, by the time a man and his wife appear before the courts in a petition for divorce it is usually a very straightforward matter. I suppose, I have not looked it up - what? - ninety per cent of divorce actions are undefended now?

MR. HICKMAN: I would think, yes.

MR. ROBERTS: You know, at least there may - and the only arguments I am told that ever arise are not over the fact of the marriage or its dissolution, but over the custody of children and over the money, the disposition of the assets of the marriage. And of course that leads me to the other question I would like the minister to address himself to. We were told in the Throne Speech that we would have brought before us a procedure - I do not think there were proposals at that stage - a procedure for looking at new proposals with respect to the questions of family law that are within our jurisdiction, and that includes basically the monetary aspects. Again there is a divided jurisdiction of the Divorce Act and Canada gives the judge power - I forget the words - the power to make such order as he thinks fit, a very wide grant of discretion. But the whole question of the matrimonial property regime, views are changing and I think we ought to change in this Province. Ontario has gone a long way. They have twice introduced a bill - I am not sure if it has ever got second reading, it keeps getting interrupted by election campaigns - but presumably now that things have settled down in Ontario politically the bill will be brought before the Ontario Legislature again and I assume dealt with. I think we ought to look at new legislation here. Basically, our matrimonial laws, Sir, have not changed I suppose in forty or fifty years in any significant way, and the time has come when we should look at new legislation embodying new principles.

MR. ROBERTS:

I very much like, for example, the idea of sharing the assets of marriage, just splitting them down the middle fifty/fifty with a discretion to the judge to vary that where the circumstances require it in equity and in justice. Now that is the kind of policy which I would favour. This quite ridiculous thing that simply because the house in which the family live is in one name or another name and therefore if the marriage is dissolved that that affects the custody of that house or the ownership of that house, that to me is absurd. I think you should simply look at the assets that a man and a woman have acquired during marriage with regard to the situation whereby, you know, the man may have paid for the house because the woman either did not take a job because she looked after children at home or because she paid for the groceries instead. We are all familiar, I am sure, with the Murdoch case which went to the Supreme Court of Canada and has caused a great deal of furore because most people feel that while it was - or not most, many feel that while it was the right result in law it was certainly not the right result in policy. So perhaps the minister could touch upon that.

Mr. Speaker, I think those are the main points I wish to make. Let me repeat that the bill sets up a new court, or actually confers upon the Supreme Court an extended jurisdiction. And I think it is a worthwhile measure and will support it. It does not bring in any new principles of law, it does not set forth any new policy judgements. I have adverted to the kind of thing which I think we should have, and perhaps the minister could tell us that.

I am also interested in these other questions - the position in which it leaves Judge Roberts, who I think is an admirable member of the Bench, an ornament to the Bench of this Province. I would also ask what it does to the case load of the Supreme Court, because it will obviously increase it greatly and I would want an assurance that it will not in any way retard the process by which actions are heard and disposed of by the court. I believe - and I do not think anybody could

MR. ROBERTS: argue with this - it is very important that justice not only be certain, but that it be reasonably speedy, and I think if people have recourse to the courts to settle their difficulties they have a right to expect a hearing at a reasonably early date and the judgement at a reasonably early time thereafter. Well, the minister in this House can do little about judgements being rendered within a reasonable time thereafter, but we can certainly ensure that there are adequate courts, adequate staff, adequate judges in those courts to ensure that litigants seeking the service of the courts have access to them within a reasonably early and a reasonably quick time. I think that is very fundamental to the administration of justice in this Province.

And finally, perhaps the minister could tell us where we are with respect to the suggestion of new property legislation - new matrimonial legislation. I think it is something which we ought to have in this Province. The Throne Speech presumably at the minister's urging included some sections or some commitments, some promises, some words with respect to a new matrimonial property regime or a movement thereto. We have heard nothing of it since. A great deal may have been done, but we have heard nothing of it since. Perhaps the minister could bring us up to date on that as well. I believe it is a subject where the government should act. And, Sir, we will support the bill. We will do it with pleasure. We think it is a step forward.

MR. WOODROW: Mr. Speaker -

MR. SPEAKER: The hon. member for Bay of Islands.

MR. WOODROW: I have just one comment to make on this, Mr. Speaker, and it pertains to the Legal Aid Society. Now people have all kinds of weapons at their disposal to try at least to help some of their problems. However, in many cases they cannot afford to pay lawyers. So I am going to ask the minister when he is making his closing remarks to let us know how far Legal Aid goes in helping people and how

MR. WOODROW: many lawyers in Corner Brook are looking after Legal Aid. Very often, in fact, I have occasion to advise people who cannot afford to go to lawyers to seek their help to call Legal Aid. And they call, and all too frequently - the number, by the way, is in the directory in Corner Brook - when they call there is nobody there. And I would add that even though it is available people have to go through all kinds of hardship to seek this legal aid which I think they are entitled to, because after all, if they cannot get help - that is to say people who are not able to afford to pay lawyers - if they cannot get help to solve their problems this bill would maybe be considered as a bill for the rich and not for the poor.

MR. HICKMAN: Mr. Speaker.

MR. SPEAKER: If the hon. Minister speaks now and he closes the debate.

MR. HICKMAN: Mr. Speaker, I thank hon. gentlemen for their contribution to this debate and I will deal with the matters raised.

Firstly, the matter by the hon. member for Bay of Islands. Legal aid, which is a cost shared programme between the Government of Canada and the Government of Newfoundland, deals primarily with criminal matters, but there is a provision or a policy decision of the Legal Aid Commission that if they can be furnished with an indication that in matrimonial cases that the health of one of the parties or the children may be endangered by there not being a resolution to that problem that legal aid has been provided. I do not know how many members of the Law Society or practicing lawyers in Corner Brook are participating in the Legal Aid scheme, but my guess is they all are. I guess the most senior practicing lawyer in Corner Brook right now is Mr. Leonard Martin, Q.C., who is very active in Legal Aid; in fact, he is the Commission's representative out there. I cannot think of anyone who is not, but I may be wrong on that.

MR. WOODROW: Yes, there is a girl in the office all the time.



MR. HICKMAN: I think, but this -

MR. ROBERTS: The hon. gentleman from the Bay of Islands (Mr. Woodrow) may profess only a lawyer employed by the Legal Aid Division on a full time basis does legal aid.

MR. HICKMAN: I see, I am sorry I missed the point.

MR. ROBERTS: Any lawyer does legal aid.

MR. HICKMAN: Most lawyers, not all lawyers, most lawyers practicing in Newfoundland participate in legal aid, and if a client who qualifies for the legal aid wishes to retain a particular lawyer, and that lawyer is prepared to act, that legal aid will prevail and will cover the fee on that particular case.

MR. ROBERTS: It will pay the fees is what it comes down to. It is like Medicare.

MR. HICKMAN: Now the matters raised by the hon. Leader of the Opposition, firstly with respect to His Honour Judge Roberts who looks after the Family Court in St. John's: I do not know what the decision of the Governor-General in Council will be with respect to Judge Roberts. He is a member of the Provincial Court Bench. When he was appointed the second time, when he was re-appointed he had indicated the desire to do more work in the Magistrates Court. That has never come to fruition because of lack of magistrates.

MR. ROBERTS: Is that what is going to be done now -

MR. HICKMAN: Well I do not know. If the Governor-General in Council decided to appoint Judge Roberts -

MR. ROBERTS: He cannot.

MR. HICKMAN: Well -

MR. ROBERTS: He is caught by that ten year rule.

MR. HICKMAN: Could be. But in any event -

MR. ROBERTS: We looked into that, 'Alec'.

MR. HICKMAN: -he will be protected in the sense as a Provincial Court judge. I do not think that he would be anxious even without the protection of going into another court. It would mean that he has to wait for a number of years in order to qualify for certain benefits under their Act, but that is his personal problem and, you know,



Mr. Hickman:

I think I would be a bit unwise to start commenting on that. He is very conscience of it. I have had discussions with him.

MR. ROBERTS: The point is he will still be fully employed.

MR. HICKMAN: Oh, yes make no mistake about that.

Now the case load in the Supreme Court; I am hoping that this bill is going to relieve some of the case work in the Trial Division of the Supreme Court, because we will have a judge in another building who will

MR. HICKMAN: deal with all the divorce cases in the -

MR. ROBERTS: You cannot possibly deal with them all.  
There are too many.

MR. HICKMAN: - in the St. John's area, not throughout  
the Province. I am not so sure of that now. Remember, very few  
of these divorce cases require written judgements.

MR. ROBERTS: Except the certificate being signed.

MR. HICKMAN: But this is one hope. Secondly, with respect  
to the district courts, true there is a monetary limitation on  
the jurisdiction now, but the District Courts Act which was passed  
in this House last year, and amended this year, and which will be  
hopefully proclaimed before the end of August, will provide for,  
firstly, an additional district court judge.

MR. ROBERTS: That is the minister's job, is it not?

MR. HICKMAN: The eighth -

MR. ROBERTS: The chief judge.

MR. HICKMAN: I know who I would like to see and it is not me.

MR. ROBERTS: Well, I know too but the minister will not be appointed.

MR. HICKMAN: It is not me but I know who I would like to see there.

But anyway the Chief Judge of the District Court, that court in civil  
cases will have unlimited jurisdiction under the new act.

MR. ROBERTS: Only in civil, I mean -

MR. HICKMAN: There will be some limitations, true, in  
divorce and in criminal cases. They will also have provincewide  
jurisdiction, which they do not have today.

MR. ROBERTS: You mean each judge will have -

MR. HICKMAN: Yes. It is also provided in the act that  
the chief judge must convene at the beginning of each term, or  
immediately prior thereto, a meeting of his judges and he must  
assign them circuits. So obviously -

MR. ROBERTS: They will still continue to be resident -

MR. HICKMAN: Yes. If the district court judge in Grand  
Bank appears to have very little work or case load coming up in the

MR. HICKMAN: Spring term, the chief judge can say, Off you go to Corner Brook and relieve the district court judge out there who seems to have a case load that he is not going to be able to handle between now and June. Or go to Labrador or wherever.

I have had some discussions with the judges on this and the plan is to very carefully monitor the case load in the Trial Division during the Fall term of the Supreme Court to see whether or not the change in jurisdiction of the District Court will have relieved, to a large extent, that problem.

MR. ROBERTS: The only differences then will be the divorce jurisdiction and the criminal jurisdiction.

MR. MURPHY: Is the district court judge restricted to his own district?

MR. HICKMAN: Yes. Right now he is. Now the hon. Leader of the Opposition raised a very interesting proposition and that is the merger of the district courts and the Supreme Court. Prince Edward Island has done it. The reports from Prince Edward Island indicate it is working very satisfactorily -

MR. ROBERTS: I think it would work here.

MR. HICKMAN: But merging all the courts in Prince Edward Island is like merging all the courts in downtown St. John's. Alberta has had a commission sitting on it, I am not sure if they reported back or not. British Columbia passed an act, and subsequently repealed it without proclaiming it, to merge their courts about four years ago. I think it was the Wacky Bennett government passed it just before they were removed from office, the Barrett government repealed it two or three years later, and I have never quite known why. I think that you will find a divergence of opinion on the bench as to merger.

MR. ROBERTS: Quite possibly.

MR. HICKMAN: I am sure. But again I think it is coming. There are some major amendments coming before the Ontario Legislature this year on the restructuring of their courts and they plan to

MR. HICKMAN: remove a lot of the procedures and matters and decisions which heretofore by convention had been judged that of the court - postponements, adjournments.

MR. ROBERTS: They should go to Masters.

MR. HICKMAN: They are going to have administrators who make these decisions.

MR. ROBERTS: So they should.

MR. HICKMAN: So again they can see a judge up in Sudbury who has very little to do, why? And if it means that he has got to be sent somewhere else let the administrator do it. The Matrimonial Property Law, I would hope, that there will be - there will be invitations for massive submission this year to government by people for changes in the Matrimonial Property Law. I move second reading.

On motion, a bill, "An Act Respecting The Creation Of The Unified Family Court," (No. 94), read a second time, ordered referred to a Committee of the Whole House presently by leave.

MR. HICKMAN: Mr. Speaker, we have one minute left and the hon. the Leader of the Opposition may, and he is my critic, he has been a very good critic today, he is kind -

AN HON. MEMBER: He is one of a number.

MR. HICKMAN: I beg your pardon.

AN HON. MEMBER: He is one of a number.

MR. HICKMAN: We may have time to order, if I may, I know it is a bill of my colleague the hon. Minister of Consumer Affairs and the Environment but it appears to be one involving the law, if I might call bill no. 40, order 12.

MR. SPEAKER: Order 12, it is moved and seconded that bill no. 40 entitled, "An Act To Amend The Mortgage Brokers Act," be now read a second time.

The hon. Minister of Consumer Affairs.

MR. MURPHY: Well, actually I move it and the reason is this, that there is no great change, the one per cent still stands as originally plus the \$100. We did receive representations from the Royal Trust and I met with a group and there is one thing we have in it which stipulated that an amount be set, like \$100 for expenses, they asked us to estimate because there might be \$104 I think, or \$105. Basically this is the whole thing so actually instead of saying the cost will be \$150, it could be \$147 or \$162 but in no way changes the principle of the bill from the one per cent and the \$100. That is the only thing.

MR. SPEAKER: Mr. Speaker, swayed by the minister's eloquence, carried away by the lucidity of his explanation, we will certainly support the amendment as the minister said and I really think his speech really said all that needed to be said. It is a very technical amendment. The bill, "The Mortgage Brokers Act," as far as I know has worked very well. I think it met a need which was dealt with at some length in this House a year or so ago. I think it seems to have met it adequately. All the premonitions or all the fears which we heard and I am sure the minister heard that it was somehow going to bring the mortgage broking business grinding to a halt have not happened. I mean, people who want mortgages get them and people who want to be mortgage brokers are being mortgage brokers and life goes on as it ought to. So we will support the bill, Sir. While it is a very minor one, it cleans up a couple of very technical problems which certainly is not one that in my opinion that substantively effects anybody's rights or interests.

On motion, a bill, "An Act To Amend The Mortgage Brokers Act," (No. 40), read a second time, ordered referred to a Committee of the Whole House presently by leave.



MR. HICKMAN: Order 17, Bill No. 92.

MR. SPEAKER: Order 17, it is moved and seconded that Bill No. 92 entitled, "An Act To Amend The Public Utilities Act," be now read a second time.

The hon. Minister of Justice.

MR. HICKMAN: Mr. Speaker, the explanatory note sets forth the technical amendments to this bill; One is to make clearer a clause that went through last year with respect to the use of utility poles for cable television; secondly, it deals with, this was at the request of the, I think the Chairman of the Utilities Board that they be able to take into account expenses properly charged to operating for pensions as being reasonable and prudent expenses of Public Utilities. There is a technical change, to change the words, "Supreme Court" and substitute therefore, "the Trial Division thereof," and the other is that the Utility must keep showing the rates in a prominent place. I move second reading.

MR. SPEAKER: Before recognizing the Leader of the Opposition, I assume this is the wish of hon. members to go a few minutes beyond one, because otherwise if we do not stop the clock I am obliged to leave the Chair and come back at three. Is it agreed that we stop the clock?

The hon. Leader of the Opposition.

MR. ROBERTS: I will not be a moment, Mr. Speaker. I understand this is the last of the bills which the minister proposes to deal with so we will forgo the opportunity for a lengthy debate on the Public Utilities Commission and the matters raised which can be dealt with under that heading. The amendments themselves are both straightforward and technical. I do not think very much need be said on them. One of them rephrases and restates, hopefully a little more clearly, exactly what was intended in amending "The Public Utilities Act," last year. I suppose it is necessary to do it. But it is interesting to note the

MR. ROBERTS: Public Utilities Commission have already acted under the authority we gave them last year and ordered that cable television be strung on poles and set the rates which the cable television company, and thus the subscriber to that company, will have to pay to the Utilities in return for using their poles. And the other amendments seem to be quite straightforward. I am not overly excited over the pension one because that will presumably add to the cost of doing business and therefore in turn be reflected in the rate increases, or reflected in the rates which the consumers pay. On the other hand, in our society we accept the fact now that a pension is a legitimate part of employment. It is part of the recompense and there is no reason why people who work for the Public Utilities should not have access to pensions and if Utilities is going to pay them out, their only source of revenue of course is the customer who pays for the services the Utility provides and that means that those payments will have to be taken into account.

I suspect that has been going on. I have never looked into it but I suspect that for years if the Utilities were paying pensions they were including it in their operating costs. I suppose it is a legitimate way to do it. The board has the discretion and that is the important thing. This would prevent for example the Utility company deciding to give its president a \$100,000 a year pension and then loading that on the backs of the consumers. They could do that only if the board was prepared to authorize it and I am quite sure the board would not authorize anything that is unreasonable.

Perhaps in closing the minister could touch briefly upon a subject which very much concerns me and that is this; the Chairman of the Board of Commissioners of Public Utilities, Mr. Powell, must be very close to retirement, if in fact he has not already passed his sixty-fifth birthday. I think that Mr. Powell is

MR. ROBERTS: one of the most admirable public servants we have had in this Province. He is a tower of strength, without in any way wanting to take away from the other men on the board, Mr. Good, Mr. Earle, is there a fourth man?

AN HON. MEMBER: Mr. Lawrence.

MR. ROBERTS: Oh, Mr. Lawrence, the man who went there so he would not run against Val Earle. That is true. That is why Mr. Lawrence got - Oh yes, and I have not doubt he is doing his job admirably.

MR. MURPHY: (Inaudible).

MR. ROBERTS: Was it not? Was it not? And to think it was done - He was running Liberal at that time. I think it was done to protect Mr. Val Earle, of all the people in the world.

But in any event, Mr. Lawrence, as far as I know, has served with distinction. He has done his job properly and I have no - anymore than I have any criticism of Mr. Reg Good, who, you know, got there because he was friends of friends and why not? But I am talking about Mr. Powell, who I think is an admirable public servant. I suspect he is getting close to retirement. He may have already passed his retirement age and is staying on, but at some point I am sure he will want to retire and that concerns me very much because the Public Utilities Board is perhaps the most important of all of the various commissions and agencies which we have around and I think it is essential that the Chairman of the Board be a man of the sort of stature and calibre that Mr. Powell has been over the years. I am not saying he is irreplaceable, but it will be difficult to get a man of that stature and I would ask the minister if perhaps he would indicate his thinking, what has been done if anything, what is going to be done, because I suspect the problem - I have not spoken to Mr. Powell about it - but I suspect the problem is with us. It may be a year or two or three if his health holds out, as I assume it will, but it is not something we should ignore and wake up some morning and then end up with an unqualified or

MR. ROBERTS: a less qualified person in that supremely important job.

So subject to that, Sir, we will support the bill and, you know, I suppose it is hardly the most earth shattering bill but if it is necessary to put it through we will co-operate.

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

MR. HICKMAN: Mr. Speaker, with respect to the Chairman of the Board, Mr. Powell, under the act, I am quite certain, the retirement age for the Chairman is seventy, not sixty-five. But be that as it may, Mr. Powell has made it abundantly clear for quite some time that he has no intention of staying on as Chairman of that Board until he reaches age seventy and then retire with no time left to enjoy his retirement. Because if there is any Newfoundlander who is -

MR. ROBERTS: Mr. Smallwood is seventy-seven.

MR. HICKMAN: - if there is any Newfoundland who has earned, you know, a pleasant and fruitful retirement it is Mr. Clarence Powell and he does have the - You know, it is so seldom where you can find a man, I believe he is a Gold Medalist graduate from Nova Scotia Tech in engineering. He was then a magistrate. He was then a deputy minister, which gave him all sorts of administrative experience. He served as a magistrate in several parts of the Province. He has had an exposure to this Province that very few of us have had, and he is known throughout the business as the ablest of the Public Utilities Chairman in this nation, and deservedly so. I have talked to him from time to time and what I have really said to him is, and I am sure he will not mind me repeating it, 'You find a successor if you can. You make the recommendation,' and that has been difficult. That has been ongoing now for a couple of years. Not to come in immediately, I would not want anyone to say that, I would not want to read tomorrow in the St. John Evening Telegram, Mr. Clarence Powell is going to retire tomorrow, far from it. But

MR. HICKMAN: I am hoping that his successor will have some years of experience with him.

MR. ROBERTS: Yes.

MR. HICKMAN: And the desirable thing is an engineer, or a chartered accountant, or lawyer. A combination of all three would be absolutely superb.

MR. ROBERTS: It is not true that the minister is interested?

MR. HICKMAN: No. No. No.

I move second reading.

On motion, a bill, "An Act To Amend The Public Utilities Act," (No. 92), read a second time, ordered referred to a Committee of the Whole House presently by leave.

MR. SPEAKER: It now being one o'clock I now leave the Chair until three.



PRELIMINARY

UNEDITED

TRANSCRIPT

HOUSE OF ASSEMBLY

FOR THE PERIOD:

3:00 p.m. - 6:00 p.m.

MONDAY, JUNE 13, 1977

The House resumed at 3:00 P.M.

Mr. Speaker in the Chair.

MR. SPEAKER: Order, please! The motion is that I leave the Chair.

On motion that the House resolve itself into a Committee of the Whole House, Mr. Speaker, left the Chair.

COMMITTEE OF THE WHOLE

MR. CHAIRMAN: Order, please!

MR. HICKMAN: Order 12. (Bill No. 40 )

A bill, "An Act To Amend The Mortgage Brokers Act." (Bill No. 40)

Motion that the Committee report having passed the bill without amendment, carried.

MR. HICKMAN: Order 17. (Bill No. 92)

A bill, "An Act To Amend The Public Utilities Act." (Bill No. 92)

Motion that the Committee report having passed the bill without amendment, carried.

MR. HICKMAN: Order 18. (Bill No. 94)

A bill, "An Act Respecting The Creation Of A Unified Family Court." (Bill No. 94)

On motion Clause 1 through Clause 2, carried.

MR. CHAIRMAN: Shall Clause 3 carry?

MR. HICKMAN: Section 3 of Bill No. 94 is amended by rearranging the phrase, " or of providing humane and constructive solutions where this cannot be done " to read, "or, where this cannot be done, of providing humane and constructive solutions"

On motion Clause 3 as amended, carried.

On motion Clause 4 carried.

MR. CHAIRMAN: Shall Clause 5 carry?

MR. HICKMAN: Section 7 of the said bill is struck out and the following substituted. "5(1) A Judge of the Trial Division shall be appointed to be the presiding Judge of the Unified Family Court for the period this Act is in force. (2) Every Judge of the Trial Division is a Judge of the Unified Family Court but no such Judge, other than the presiding Judge of the Unified Family Court, may preside over the Unified Family Court except on the request of the Chief Justice of the Trial Division"

On motion Clause 5 as amended, carried.

On motion Clause 6, carried.

On motion Clause 7, carried.

MR. CHAIRMAN: Shall Clause 8 carry?

MR. HICKMAN: Clause 8(1) Subsection (1) - There is an incorrect section number there. The first line Section 7 instead of Section 6.

On motion Clause 8 as amended, carried.

On motion Clause 9 through 11, carried.

MR. CHAIRMAN: Shall Clause 12 carry?

MR. HICKMAN: I move that the words "his discretion, may permit to be present." be stricken out and substituted therefor "as the case may be."

On motion Clause 12 as amended, carried.

On motion Clause 13 through 23, carried.

Motion that the Committee report having passed the bill with amendment, carried.

MR. HICKMAN: Order 25. (Bill No. 81)

A bill, "An Act To Restructure The Law Society Of Newfoundland." (Bill No. 81)

On motion Clause 1 through 37, carried.

MR. CHAIRMAN: Shall Clause 38 carry?

MR. HICKMAN: Mr. Chairman, Subsection 3(c) should be numbered C(c) . Show there is a small "u" for unless and "he" instead of and in the first line and after the third line Sub-paragraph (ii) of. And the word "the" goes in there instead of "any jurisdiction"

MR. CHAIRMAN: On motion Clause 38 as amended, carried.

On motion Clause 39 through 102, carried.

Motion that the Committee report having passed  
the bill ~~without~~ amendment, carried.

MR. HICKMAN: Order 8. (Bill No. 95)

A bill "An Act To Amend The Education (Teachers'  
Pensions) Act. (No.2) (Bill No. 95)

Motion that the Committee report having passed  
the bill ~~without~~ amendment, carried.



MR. HICKMAN: There is a word misspelled there, any period of absence not, so it will have to be carried as amended, in Clause (4).

On motion Clause (4) carried as amended?

MR. HICKMAN: Clause (4) should read "Any period of absence from employment as a teacher for the purpose of educational or sabbatical leave and any period of absence not in excess of".

MR. CHAIRMAN: Carried.

On motion Clause (4) as amended, carried.

On motion title carried.

Motion Committee report having passed the bill with amendment, carried.

A bill, " An Act To Amend The Memorial University Pensions Act. (Bill No. 72).

Motion that the Committee report having passed the bill without amendment, carried.

A bill, "An Act To Amend The Education (Teachers' Pensions) Act. (Bill No. 41).

Motion that Committee report having passed the bill without amendment, carried.

A bill, "An Act To Amend The Forest Land (Management And Taxation) Act, 1974 And To Make Other Statutory Amendments In Respect Thereto). Bill No. 67

On motion Clauses (1) through (16) carried.

MR. STRACHAN: Mr. Chairman, -

MR. CHAIRMAN (MR. YOUNG): The hon. member for Eagle River.

MR. STRACHAN: Clause (17) I take it to be the principle of the bill, and a tax. Could the minister indicate again this only applies to Bowater's as such. It does not apply to Price (Nfld.) nor would it apply to any holdings in Labrador. This is specifically designed for Bowater's as such, is that correct?

MR. MAYNARD: Yes, Mr. Chairman, that is correct. And that is because the leasehold or the type of leasehold or freehold arrangement that Bowater's have is different from what the other company has,



Mr. Maynard:

Price. And, of course, as far as Labrador is concerned no one at this point in time has any holdings whatsoever. It is all Crown. So this applies only to Bowater's because of that reason.

MR. STRACHAN: Could the minister indicate here, and again specifically the bill was for Bowater's, could he indicate that in Labrador it is all Crown land? Is it the intention then to maintain that ownership in Labrador belonging to Crown rather than to allot any forest under leasehold title in the future?

MR. MAYNARD: Yes. The intention of government is that all lands that are held by the Crown, not held under any lease arrangement with any companies, and Price and Bowater's are the only two right at this point in time, so the intention of government is to retain Crown control over all of these lands and issue permits for people who want to harvest the trees off them from time to time as we do at the present time, but no intention whatsoever of granting or leasing for long periods of time large tracts of land or even small tracts of land. Does that answer the question?

MR. STRACHAN: This then is essentially a management Act in which there is a tax or a forest tax applied in order to attain good management of the land held by Bowater's, for instance. How would it work in the case if it belongs to the Crown, then does the Crown have to absorb totally all of the cost of such good management or husbandry or is there going to be any form of taxation, similar to the taxation specified here, which would be applicable to companies who would take the Crown land?

MR. MAYNARD: Well, as far as Bowater's and Price are concerned, of course, they pay seven and a half cents an acre as a basic tax, but they do not pay any stumpage, what we call stumpage which is \$1.50 or \$3.00 a cord or whatever the case might be. All other permittees pay stumpage, so it is taxation in a different form if you want to call it that way. So while we assume the responsibility for forest management, building access roads and that sort of thing on holdings - not holdings, but where people like Van Beke,

Mr. Maynard:

for instance, has a permit, we collect stumpage from them to try to offset some of that cost. Whereas in Bowater's or Price's case we do not collect stumpage but in lieu of stumpage we get the seven and a half cents per acre.

MR. STRACHAN: The thing I am trying to get at is that are the different methods of collecting funds, revenue, money are they equitable? In other words, is your collection from stumpage equitable with your seven and a half cents tax that you are applying in this case here?

MR. MAYNARD: Pretty well. It may not be exactly equitable but it is as close as we can come, and of course we will adjust that as we go along. And both can be adjusted either to seven and a half cents or the sumpage can be adjusted as you go along. And we know that we are not going to recoup all of government expenditure on forestry for obvious reasons. There are salvage roads that have to be put in for spruce budworm, shell wood, and this sort of thing. But within reason, without making it too uneconomical for either the companies or the permittees, then we will collect as much money as possible to try to offset the cost of access roads, of firefighting and whatever the administrative cost.

MR. STRACHAN: The final point I had here; was this tax collected in such a form here in management process, how is this applied against the company or how is the arrangement with the company and the management of reforestation? I mean the replanting as such, because there has been no replanting process as such in this Province or a real serious programme. How does this relate then, this tax? Would any of this be associated or are the companies totally responsible for this? And if so, how would they be held to maintain any good programme of reforestation?

MR. MAYNARD: The two companies that hold timber rights, as I stated a couple of days ago, which are Price and Bowater's essentially, have to submit management and operational plans. Within that operational plan, in order for it to be accepted by government, they have to show where over a period of five years or ten years they are

Mr. Maynard:

going to reseed or they are going to fertilize or they are going to do thinning operations in certain areas as they cut, or they are going to clear cut in one area, selective cut in another, you know, the whole bit.

They have to withstand the total cost of that.

The only area where we will get involved as far as expenditures are concerned is if there is a large insect attack in a certain area that has to be a salvage operation, a sort of a crash job, and we will get involved to the point of assisting with access roads. But as far as replanting and seeding and thinning this sort of thing on their holdings they will pay the total cost. We will ensure by approval or rejection of management and operational plans that it is done.

MR. STRACHAN: If they do not?

MR. MAYNARD: If they do not do it, if we do not accept their operational plan or if they do not carry out the intent and the thing that is accepted in the operational plan, then we have the weapon of high taxation. And I can reject an operational plan retroactively under the Act.

MR. STRACHAN: Yes. Okay. One more point. You are talking about that if they do not meet your requirements then the taxation will increase as such?

MR. MAYNARD: Right.

MR. STRACHAN: I am concerned of the fact that Bowater's when this came up were prepared to go to court. They were not pleased with this piece of legislation, but since retracted and set up a reasonable relationship with the department. Should you decide on a higher rate of taxation because of their inability to carry out the programme the way you want it carried out, what is the certainty of collecting that taxation? Do you not envisage then that if they initially had been prepared to go to court on this that there will be court action in the future, in the delaying and paying of taxes? We all know that court actions are just generally in many cases a form

Mr. Strachan:

of delaying which can go on for many years, in which case the whole piece of legislation can bog down and fall down there. Could you explain a little bit of that?

MR. MAYNARD: Well, it is really a legal question. Bowater's were willing to go to court; as a matter of fact they did go to court because their contention was that the 1974 Act did not override the 1938 Act between government and Bowater's. Okay?

MR. STRACHAN: Yes.

MR. MAYNARD: So it was a legal interpretation as to whether the 1974 Act really applied. Although they have withdrawn from the court case at this point in time, we consider it appropriate to make sure now by stating specifically in the Act that the 1974 Act does apply to everyone. As far as if we bill them for a higher rate of tax and they took it to court, that can only be answered, of course, by the judge who presides over that. But our lawyers tell us that the language changes that are being made now will ensure that there is no out. Now I have to depend on the lawyers' advice.

MR. STRACHAN: Probably do it dealing with Clause (18). rather than (17), but the same thing, the principle of the tax, I am concerned that should there be a debate about the tax, if you increase the tax to them because you feel there is poor management and so on, and you increase the tax and they go to court, is there any way in which it is stipulated in this Act that they must pay that higher tax until it is settled in court. In other words, it is retroactive rather than they argue and continue to argue every year, and try to keep the taxation level low simply by simple arguments in court. Is there any method in the bill which allows the tax to be -

MR. MAYNARD: Collected?

MR. STRACHAN: - they have to pay it almost immediately, and then argue it afterwards?

MR. MAYNARD: Yes. They have to pay it, but they can pay it, of course, without prejudice; but they have to pay it. The same as in the last two years they have taken this matter up before court, but in the meantime because of the sections in the 1974 Act they paid it, but



Mr. Maynard:

stated it was without prejudice, in other words dependant on the outcome of the court. And this is why Clause (18) is in there to try to eliminate any doubt whatsoever.

You see, one of the big arguments, if I might explain just for a second, is that their lawyers argue that the tax was discriminatory, and that it was a special tax as opposed to being a method of ensuring forest management. So we put this section in there to declare in the legislation that it is not special, it is not discriminatory, that it is a management taxation as opposed to a revenue gathering taxation.

MR. STRACHAN: Yes. I am taking the case here where this tax applies; I am taking the case where the tax does not apply, and that is the case of Labrador, for instance, where you collect in the form of stumpage rather than in the form of this taxation here. I am wondering exactly, because there has been great concern even during Labrador Linerboard's days, and even concern now under Van Beke, and regardless of the minister's faith in his department, I am not questioning them at all, but what I am stating is that there is a great deal of concern on the whole reforestation principle in Labrador as well, that many people with Labrador's concern for environment, there are a tremendous amount of people there having traditionally lived certain styles or ways and so on that they are concerned with a great deal of environment, sometimes far more than economic considerations, but regardless of it their concerns are deep; and I am concerned here that does this stumpage rather than a tax like this, because since this tax seems to make sense although it is applied in a particular case, is there any way that if stumpage cannot recover the kind of funds required for reforestation, whether a tax of this nature or a similar tax could not be applied in the case of all forest in the Province to guarantee the fact that reforestation will take place, and that places will not just be totally raped or skinned out and left alone, and left for just undergrowth to come up in future



MR. STRACHAN:

years, in many cases we realize it gives very poor timber especially in Labrador where there is very slow growing, and it takes a long time, it is a very poor system.

So I am wondering whether something of this form, this taxation form cannot be applied in the case of things outside of this particular case of Bowater's?

MR. MAYNARD: Well, I am not pretending to be a legal person here, but as I understand a tax can only be applied on something that you own or control.

MR. STRACHAN: But you own the Crown land?

MR. MAYNARD: In all of the cases you charge a fee for the use of a certain property, and stumpage is a fee for using that certain property, so it would not be a tax in the case of people who are cutting in Labrador, or people who are cutting on Crown lands on the Island portion of the Province. It would have to be a fee charged, whether we call that stumpage or whatever, you know, really does not matter as long as the - and there are different rates for different areas depending on the economic condition of the area. For instance, the stumpage rate charged in Labrador is lower than it is on most parts of the Island because of the economics of the situation. But in that case where the permittee does not have control, complete control, as Bowater's and Price do over certain limits, well then government collects the stumpage or the tax, whatever they want to call it, and then does the reforestation of whatever.

Now we have had some trouble, by the way, with regeneration in Labrador, and that is slow.

MR. STRACHAN: Well, okay. The final point: Will the minister take into consideration then the possibility of something in this line of a management fee in addition to stumpage, for instance, which would provide a revenue fund, or some kind of funding, instead of being lost in general revenue, or a lot of it is, which would be attributed right directly back into the forest so that a reforestation programme could be carried out in a proper manner knowing the kind of funds that

Mr. Strachan:

are available, and raising the funds through, you can call it anything you like, stumpage is one form of taxation, and this is another form that is simple enough to be able to get. But I am thinking of something specific that you are charging, although you do own the land, it is being cut, and it is being harvested by a company who are reaping the benefits, and therefore to regenerate there must be some process of regeneration costing money. And I am wondering if something in this form could not be done in that case, in addition to stumpage, whatever is a few cents more, which could then be kept - and I mean that word "kept" because I think once it is lost into the general revenue, parks and so on, we will then get into the budget, and your slice and your sharing and it is gone.

Mr. Strachan.

I am thinking of 'kept,' specifically for the purpose of regeneration of the forest in the Province.

MR. MAYNARD: Well, that certainly is something we have been looking at of trying to cover the costs of management, reforestation, and this sort of thing by direct fee from the permittee or in this case from Bowaters or Price or whatever. I think we have to work into that fairly - well, not slowly, but fairly cautiously so that we do not make it too difficult for people to operate. You know, we could say that we will go with the Swedish-Norwegian method where I think stumpage is around \$30 per cord in Norway right now. But I think we have to work into this very slowly. But the ultimate aim, or the ideal thing is to have enough money generated from the companies or permittees to cover off the cost of management but not make a profit. In other words, taxation is not for revenue gathering but merely for an ongoing management effort. That is the aim, but it is going to take a few years obviously to work into that sort of an ideal situation.

MR. STRACHAN: But the point I was just trying to make is that if the forests are going to be a renewable resource, then they got to be renewable.

MR. MAYNARD: Yes.

MR. STRACHAN: And in order to be renewable, we need money collected somehow or other to make them renewable.

MR. MAYNARD: Right.

MR. STRACHAN: And as such I think that that renewable resource - it should go back - it should be taken off the companies who own that land in order to continue that programme.

MR. MAYNARD: I agree that that is the ideal situation.

On motion Clause 17 through to 21 carried.

Motion that the Committee report having passed the bill without amendment, carried. +

MR. HICKMAN: I was going to do the leasehold one, but I do not see - there was supposed to be a meeting. I move - is it all right?

AN HON. MEMBER: He is here.

MR. HICKMAN: Who? 'Bill Marshall' is not here, is he?

AN HON. MEMBER: Yes, he is.

MR. HICKMAN: And has he met with - did the hon. gentleman for St. John's East (Mr. Marshall) meet with the Legislative draftsmen from my department?

MR. MARSHALL: First of all, did the minister say I was not here? I want to get that -

AN HON. MEMBER: No, he asked if you were here.

MR. MARSHALL: Oh, I see. In that case I will answer the minister. I just met with the Legislative draftsmen a moment ago, and they are going to give us a wording in maybe a half an hour's time so we could have it.

MR. HICKMAN: I move that we go back into Committee. I move that the Committee rise, report progress and ask leave to sit again.

On motion that the Committee rise, report progress and ask leave to sit again, Mr. Speaker returned to the Chair.

MR. SPEAKER: The hon. member.

MR. YOUNG: Mr. Speaker, the Committee of the Whole reports that they have considered the matters to them referred and have passed the following bills with amendments, Bill No. 94, 81 and 95.

MR. SPEAKER: The Chairman of the Committee of the Whole reports that they have considered the matters to them referred and have passed bills, 94, 81 and 95 with amendments.

On motion report received and adopted.

On motion Committee ordered to sit again presently.

On motion amendments read a first and second time.

On motion the said bills read a third time presently by leave.

MR. SPEAKER: The hon. member.

MR. YOUNG: Mr. Speaker, the Committee of the Whole reports having considered the matters to them referred and having passed the following bills, 40, 41, 67, 72 and 92 without amendment and ask leave to sit again.



MR. SPEAKER: The Chairman of the Committee of the Whole reports that they have considered the matters to them referred and have passed Bills no. 40, 92, 72, 41 and 67 without amendment and ask leave to sit again.

On motion report received and adopted.

On motion Committee ordered to sit again presently.

On motion the following bills read a third time, ordered passed and title be as on the Order Paper.

A bill, "An Act To Amend The Education (Teachers' Pensions) Act." (Bill No. 41).

A bill, "An Act To Amend The Forest Land (Management and Taxation) Act, And To Make Other Amendments In Respect Thereto." (Bill No. 67).

A bill, "An Act To Amend The Memorial University (Pensions) Act." (Bill No. 72).

A bill, "An Act Further To Amend The Education (Teachers' Pensions) Act, (No. 2)." Bill No. 95).

A bill, "An Act To Amend The Mortgage Brokers Act." (Bill No. 40).

A bill, "An Act To Amend The Public Utilities Act." (Bill No. 92).

A bill, "An Act Respecting The Creation Of A Unified Family Court." (Bill No. 94).

A bill, "An Act To Restructure The Law Society Of Newfoundland." (Bill No. 81).

MR. HICKMAN: Order 11 - Bill No.49.

Motion second reading of a bill, "An Act To Amend The Mineral Act, 1976," (Bill No. 49).

MR. SPEAKER: The hon. Minister of Mines and Energy.

MR. PECKFORD: Mr. Speaker, the three major parts of this bill, as I remember it, one deals with the business of mineral exploration as it applies to municipal boundaries and where the act now is rather vague,



Mr. Peckford.

the Department of Mines and Energy would like to see it more specific. In recent years, especially over the last five to ten years, the boundaries of municipalities have been delineated in such a way as to include large tracts of land which are outside the residential or commercially developed area of the municipality leaving large tracts of undeveloped land in any way, shape or form still within the boundaries of the municipality. It is the intent of this amendment to allow mineral exploration to occur on those areas of land within a municipality that are not developed commercially, residentially or whatever. That is the first point, the first amendment.

Secondly, there is provision here to amend the present Mineral Act as it relates to the kind of information that can be made public. Right now as the Mineral Act reads, it restricts the availability

MR. PECKFORD: of very normal information, like the number of people employed on a given exploration programme, the length of the exploration programme, this kind of thing. So that kind of information now can be public to anybody. So it relaxes the law as it relates to information being available as the result of an exploration programme by a mining company.

Number three, there is also a provision in the Act as it relates to other information which is still confidential, that it only should be confidential for about three years.

These are the three major amendments that are encompassed in this Bill No. 49.

MR. SPEAKER: The hon. member for Eagle River.

MR. STRACHAN: On the first clause, yes, they are dealing with the communities and the municipal boundaries and so on.

AN HON. MEMBER: Yes.

MR. SPEAKER: I do not think there is any problem with that, I think that is fairly well straightforward. And as has been stated, many of the communities have very large areas around them and in fact one of the questions now - what I know in Northern Labrador, for instance, is that the original community -

AN HON. MEMBER: - like that.

MR. STRACHAN: - boundary as staged out many years ago for instance originally by Moravian missionaries in order for protection of the community, the town site, although it was not regarded then as a town site, the area of land is a very large area of land, many, many square miles, and of course this then raises the problem as the minister has related to it.

The second part of the Act, of far greater importance, I think, is the question of confidentiality of information. And the minister in reply to this - and I think we will possibly get through to it in a clause to clause stage. I would like

MR. STRACHAN: to get some more information from him on it. Basically what he is stating is that the information has to be made available. Is that correct? I think it has to be made available within a period of time from mining companies and so on. I also would like the confidentiality of information clause - I am wondering how the situation applies to exploration done by his own department, for instance. They have been carrying out some exploration.

MR. PECKFORD: Yes,

MR. STRACHAN: And we are wondering exactly how this fits into the confidentiality of information. I am also concerned as to whether this is purely related to non-petroleum minerals - non-organic - whether it is purely in the mineral field as to whether this applies, whether the petroleum or organic minerals as we would call them totally come under his previous or his new regulations whatever they be and coming out in environmental or in the oil and gas regulations here, whether what he is talking about here is purely the mineral Act per se, referring to that and not the petroleum part of it at all.

MR. PECKFORD: Yes, well just a minute now.

MR. STRACHAN: Otherwise I think we have no great - there are some things in the clause by clause we will probably get into, but as far as we are concerned the steps that have to be taken - the first clause of course is no great argument at all. I do not know how it would relate to the member for Lewisporte (Mr. White), whether this had anything to do with it in relationship of quarrying - the Quarry Act - if that has anything to do with it. This -

MR. PECKFORD: No, these are amendments to the Mineral Act.

MR. STRACHAN: This is totally Mineral Act and nothing to do with the Quarrying Act?

MR. PECKFORD: Yes, right.



MR. STRACHAN:

So we see no problem.

So I feel there is no argument there.

MR. SPEAKER:

closes the debate.

If the hon. minister speaks now he

MR. PECKFORD:

Yes. Just for clarification, these are amendments just to the Mineral Act. It does not apply to the Quarry Act nor does it apply to the Petroleum and Natural Gas Act. So therefore these are two other Acts under which -

Yes. Just for clarification, these are

AN HON. MEMBER:

Yes.

MR. PECKFORD:

- other things dealing with "minerals" in the large definition of minerals would come, namely, the gravel pits which would come under the Quarry Act which has nothing to do with the Mineral Act, the oil and gas which comes under the Petroleum and Natural Gas Act which has nothing to do with the Mineral Act. These are other Acts governing those specific areas as relates to minerals broadly defined. The section dealing with the providing of information right away which is now confidential under the Act, which has no business being confidential are things like numbers of people employed, types and amount of work done and expenditures, qualifications or levels of skill of people employed, residences or places of origin of people employed and other similar statistical data which cannot in any way be termed as being confidential, so that that should be made available automatically as the exploration programme is over. And other people might be just interested in it. The government are interested in having it and other people might as well for a whole bunch of things - it could be all the way from something critical for them to know or just information for students or organizations, research organizations, this kind of thing.

The other one, there is a more substantive amendment in that it deals with more crucial information as it relates to the exploration programme that the company undertook, and what we are saying here now is that they have three years of confidentiality. After that,

MR. PECKFORD: that too must be public information, because if the company in question has had that acreage for that length of time and has done exploration work, well then they should have assessed it within three years to know whether in fact they are going to do any more work on it. If not, then somebody else should be able to have a look at that kind of information. It might be right near their acreage. They would like to see what kind of results they had on their acreage -

MR. MURPHY: - (Inaudible) -

Anything they gathered in exploration then that would become public knowledge.

MR. PECKFORD: Yes, even the crucial kinds of information.

MR. STRACHAN: Would the minister permit a question?

MR. PECKFORD: Yes.

MR. STRACHAN: Would this apply - for instance, we were discussing the Forest Management Act - and would this apply to cases where people had leased the land or whether they had ownership through any means, or in other words, any mineral exploration there, after a three year period they have to make it available -

MR. PECKFORD: Yes.

MR. STRACHAN: - regardless of what the type of ownership is?

MR. PECKFORD: That is right. If they had mineral rights which are identified and claimed under the Mineral Act then therefore this applies. So any acreage that this Act applies to would come under it. And so therefore that kind of data now can only be confidential for three years if this amendment goes through, which puts more of an onus on the companies to expand their - to let them know and put them on guard that the kind of - The mineral industry is a strange and wonderful bird in that way in the sense that they are very, very cautious -

MR. STRACHAN: With money.



MR. PECKFORD: - about even tiny bits of information that on the surface do not seem to be - 'on the surface', that is a nice phrase - do not seem to be important. I move second reading.

On motion, a bill, "An Act To Amend The Mineral Act, 1976," Bill No. 49, read a second time, ordered referred to a committee of the Whole House presently by leave.

MR. HICKMAN: Order 15.

Motion, second reading of a bill,  
"An Act To Amend The Gasoline Tax Act," (Bill No. 80).

MR. SPEAKER: The hon. Minister of Finance.

MR. DOODY: Mr. Speaker, this bill, strangely enough, does not increase the gasoline tax. Most of the bills that are introduced so far in this session of the House have been increasing of taxes. This adds further regulations to an already over regulated society and it basically redefines and tries to make clearer the regulations under the gasoline tax bill as it now applies and more specifically as it applies to those sections of the community which are tax exempt or entitled to a tax exempt status through the use of -

MR. SPEAKER: Order, please!

MR. DOODY: I am sorry.

MR. SPEAKER: I am sorry to call the hon. gentleman to order. It appears to me that this bill must be considered, it would appear in committee under the resolution stage.

MR. DOODY: It is an amendment to the Act, Sir, not an increase in taxes. It is not a money bill per se. It increases penalties and - with respect, Your Honour, it increases penalties and redefines those people who are eligible for exemption. There is no -

AN HON. MEMBER: It is a resolution.

MR. DOODY: - change in the taxation powers of the - however, you know, I bow to Your Honour's ruling as always.

MR. SPEAKER: A resolution was distributed with the bill.

MR. SPEAKER: A resolution to be submitted to a Committee of the Whole House in relation to a measure to amend the Gasoline Tax Act, chapter 147 of the revised statutes of Newfoundland.

MR. DOODY: If that is the case then maybe the House Leader can recall the resolution.

MR. HICKMAN: Let us go into Committee.

MR. DOODY: And we will have a go at it from that angle and see if we can get it through. You will find me completely flexible, Your Honour.

AN HON. MEMBER: That becomes another thing.

MR. DOODY: Up to a point.

On motion that the House resolve itself into a Committee of the Whole to consider a certain resolution, Mr. Speaker left the Chair.

COMMITTEE OF THE WHOLE

MR. CHAIRMAN: (Young) Order, please!

MR. HICKMAN: Bill No. 80.

RESOLUTION

That it is expedient to bring in a measure further to amend the Gasoline Tax Act, Chapter 147 of the Revised Statutes of Newfoundland, 1970.

MR. DOODY: Thank you, Mr. Chairman. This makes it a little bit simpler, really, because we can go through the clause by clause discussion of the bill without going through the second reading process which indeed this particular bill, as covered by the resolution, is intended so to do.

The various clauses, as I had started to outline, deal with the implementation and regulation of the Gasoline Tax Act as it now applies to those parts of our society which are entitled to tax exemption, mainly through the media of the coloured gasoline. There have been many loopholes in this particular piece of legislation and the taxation division of the department have been trying to find ways of fighting the loopholes.

As I pointed out to the Committee and to the House when we were discussing the Tobacco Tax Act and discussing various other tax increases or tax bills, the higher the tax the more prone people are to try to find loopholes in them and the more profitable it is for people to look elsewhere to find the product which is so taxed. To that end, as I said, the tobacco tax is rapidly reaching the point where it has reached its level of total income. It is to the point now where it is just as profitable, or more so, far more so, for people to cross the Gulf and pick up a few cases of cigarettes. The same is getting very close to the truth in terms of alcoholic beverages, and I guess the same is true in terms, now, of gasoline to a large extent. So in order to try to control it there are certain changes in the regulations which are necessary or tightening of the act.

Unfortunately, what this does not cope with, which has been, I think, one of the major problems with the exemption status of the Gasoline Tax

MR. DOODY: Act which provides exemption for fishing boats, for instance, and for people in that sort of related industry. One naturally looks at the application of the tax to those people in the forestry industry, particularly in the small, single family mill, or even in the gathering of firewood in certain parts of the Province. We have been trying to find a way to draw a line between the sustenance, through the commercial and money-making, as it were, facets of the skidoo as opposed to the recreational end of it. It is fairly easy to do in terms of boats. It is relatively simple to be able to make a judgement on whether a boat is a pleasure boat or a fishing boat. It becomes far more complicated in terms of skidoos, and unfortunately that particular area is not handled here. There are some areas which are handled which, in my opinion, are not nearly as important but which are important and it is a matter of relativity.

This bill provides, in clause 1, the issuing of permits authorizing certain persons to add dye to tax exempt gasoline. That is important. The subclauses in that bill, 2 and 3, just add clarification to the present provisions of the legislation and are relatively unimportant.

Clause 27 is a new provision which requires consumers of gasoline, if directed by the Deputy, to keep proper records of all purchases and consumption of gasoline and, as I said, this is another example of people who are required to keep more and more records.

Subclause 8 requires all retailers who purchase gasoline for resale from sources other than licensed collectors to report such transactions to the Deputy Minister and to pay the tax. One would suspect that that would be self-evident, but it had not



MR. DOODY:

been so spelled out.

Clause 31: For the purpose of clarifying present provisions because of various questions asked by the legal people, that had to be reworded.

Subclause 2(c) is amended also to include some of the newer and fancier gases which are in use in the marketplace now, propane, butane, liquified patroleum or not and so on, if they are used for purposes other than to create power in an internal combustion engine. D, E and F have been repealed because they are no longer applicable.

Clause 4: The Act presently requires a person who is entitled to purchase tax-exempt gasoline to procure only marked gasoline, that is the goo to which that blue dye has been added. But there have been instances, and there are many instances where certain consumers, because of the type of operation in which they are involved are continually required to switch from a tax-exempt product to a taxable product and so, in effect, we have been really asking them to keep two sets of tanks or two sets of storage equipment, which is unreasonable. So in order to try to avoid the inconvenience of that, which is a nuisance, we are simply telling these people that if they so desire this will permit them to purchase taxable gasoline and make an application for refund when they demonstrate the fact that this gasoline is being used for the purpose for which it was intended. So rather than go through this switching back and forth process they can simply apply for a refund on that part which is non-taxable.

Clause 5 is part of the grand design of the bureaucracy to take over the government. It substitutes a deputy minister for the minister as a person who may issue licences to vendors of gasoline.



MR. DOODY: When questioning the drafters of the bill, they tell me they do not want to burden the ministry with such detail. (b) empowers the deputy, with the approval of the minister, to refuse to issue a licence for cause and this is really the substance of the thing. A deputy minister, what I am saying here, may issue a licence to vendors who apply. That is fine, it keeps the minister out of the administrative detail of the thing. (b), which is the part where a licence is turned down, then the deputy has to refer that to the minister before it is turned down. So I think that is significant despite my facetiousness in the beginning of it.

(c) eliminates the requirement of obtaining a licence if the gasoline being sold is not for use in an internal combustion engine. Quite honestly, that escapes me. But there are people in this House who are probably more familiar with the various types of engines than I.

MR. HICKMAN: What are we doing?

MR. DOODY: I am going through the clause by clause reading in Committee. The bill that you called, Mr. House Leader, Bill No. 80.

MR. STRACHAN: Bill No. 80, 17(c).

MR. HICKMAN: 17? I am sorry!

MR. DOODY: Yes. You had no problems with the bill to legitimize lawyers earlier this morning. And the bill to do with family courts you stayed with it. Now we get into the gasoline tax for the poor old fishermen, and here you are lost already.

MR. HICKMAN: I heard the word 'combustible' and I got all excited. I did not know what it meant. I thought it had something to do with sex.

MR. DOODY: Clause 6 eliminates the necessity of a form prescribed by regulation when making

MR. DOODY: application for a licence.  
I like this one. This eliminates the necessity of a form prescribed by regulation while making application for licence. Anything that I see that eliminates forms kind of brings me back to, 'That government which governs least governs best.'

Clause 7 which permits a retailer to purchase gasoline for resale from another retailer in addition to a wholesaler. For some reason now, the Act is worded such that you are only allowed to buy gasoline from a wholesaler. So if a fellow runs short and goes next door to his neighbour to buy some gasoline to put him over until the wholesaler arrives on the scene, he is breaking the law - which is not the intent of the law.

Clause 8 again designates the type of records to be kept by a licenced vendor, which is the same sort of standard form as the retail sales tax, tobacco tax and so on, and it is more or less to try to standardize the thing, and hopefully, to cut down, eventually, on the number of inspectors who keep running through these premises.

Clause 9: The Act presently requires licencees to report on the actual basis the quantity of gasoline purchased. That information is really of no value, so this is just being repealed. We do not care how much gasoline they purchase.

Clause 10: The Act requires the licencees to keep records in the form prescribed in by the Act of Regulations. This is too standardized and too regularized. It makes the biggest operator in the Province in the

Mr. Doody.

same position as the smallest operator in the Province, and they have all been expected to use the same form and the same regulations and be liable to the same. This particular clause gives the deputy minister the right to approve forms which may be more applicable to various sections of the Province and make it easier for a lot of people who do not have the expertise available to fill out these big bureaucratic areas.

Clause 11 requires a licensee to return his licence within fifteen days after he ceases to carry on business. It is a most reasonable clause. That is not required now unfortunately and the thing can just sit there for an indefinite period of time and the department is obligated to keep harrying this person for returns and he may have long since left the Province, died, sold the business and so on.

The next one is a big one, Clause 12. It increases the maximum penalty from \$400 to \$5,000 for a breach of Section 14 which is the breach of the main section of the act, which is the payment of the tax - or the collecting of it.

Clause 13 removes the mandatory provision for paying a commission to collectors. We do not pay commissions to collectors any more. We want all the collectors to get the same satisfaction that St. Matthew got during his days as a tax collector.

Clause 14, there is a new provision which requires a vendor to pay a penalty equal to the amount of the tax loss should he sell tax exempt marked gasoline to a person who is not the holder of a permit. And he may also be required to pay an additional amount of ten per cent of the tax loss if in the opinion of the authorities that this has been done with malice aforethought sort of thing.

Clause 15 makes a reference to governing sections of the Financial Administration Act - and I hate to use the term, because it has gotten us in all sorts of trouble - but the Financial

MR. DOODY.

Administration Act now replaces the Revenue and Audit Act, and that is the act that is mentioned in the original bill.

Clause 16 imposes a maximum penalty of \$100 for a failure to file returns.

The new Section 17 requires all drivers delivering gasoline - and this is a new one - to carry proper documentation of the products being transported - drivers of these tanker wagons coming in from wherever, North Sydney or St. John's or wherever. It also prohibits drivers from placing tax exempt gasoline in the storage tanks of equipment unless the purchaser is a holder of an exemption permit. I guess that clause tells a story in itself in the smuggling of gasoline.

MR. WHITE: Very much of it?

MR. DOODY: One only knows, you know, by the amount that you find.

MR. WHITE: Those trucks that are bringing in gas, can they take the hose and fill up their own tanks?

MR. DOODY: Well, this is what this is designed to eliminate. It has been done, and they have been captured - or caught, but we really have had no legislation to do very much about it. The gentleman who is adapt at turning meters upside down probably would be able to tell us more about this sort of thing. I am sure he has given this some thought, too.

MR. WHITE: Oh, boy!

MR. DOODY: You know, as an example, the more complex these laws get, the more loopholes and the more ingenuity is devoted to finding ways to avoid them and evade them.

Clause 18 provides that if tax exempt gasoline is discovered - we did this one - well, no, not really. This is the same one, but they say that if after twenty-four hours, the same guy is picked up, and he still has not done anything about it, he has committed a second offense and on and on it goes,



Mr. Doody.

because it is like the parking ticket. If you can leave it on your windshield long enough they think that you have been ticketed.

Clause 19 is an important one, I think. It provides for the seizure of motor vehicles, ships, boats, aircraft or other motorized equipment if marked gasoline has been dealt with in an illegal manner - is found therein. This one is designed to tell the person who owns the pleasure boat out in Long Pond or wherever that it is no good of him saying that I am sorry, I did not know I was not allowed to use it. We would say, Well, you know, while we got your boat locked up somewhere maybe you can find someone who can explain what happened.

Clause 20 is a rewording, once again to clarify the intent.

Clause 21 covers the issue of tax exemption permits for prescribed periods, and it also makes provision for a fee to be charged for the permits.

Clause 22 is an increase once again in the penalties. Striking out the \$400 and substituting the words, '\$5,000.' Now this is a maximum once again. And there is a minimum in there.

The act previously restricted the imposition of interest only in respect of tax collected. This clause will authorize interest to be charged in amounts payable by consumers. Before this we were only allowed to collect the interest in respect of the tax collected which is a bit weird, because it is a tax that we have not collected is what we are really concerned about collecting the interest on far more so.

Clause 24 once again refers to sections of the Financial Administration Act as against the old internal Revenue and Audit Act.

And Clause 25, I guess, is the only other one that removes the minimum penalty previously imposed for breaches of



Mr. Doody.

the act, and I guess that would leave it up to the Summary Jurisdictions Act and the discretion of the magistrate.

The other three, Clause 26, 27 and 28 are exactly as they read. "Meters are required," it says here, which is hardly surprising, and there is a certificate of default if somebody is in default.

And Clause 29 then simply refers to the various amendments that went on before.

And as I say, it is a long technical and involved bill, but it is a bill that is not a revenue collecting bill. And it is a bill that I hope will help to clear up a lot of the problems that the small guy out in the field has experienced with this act. But I also at the same time admit quite readily that it does not deal with one of the major ones, and that is the ski-doo problem, and that is one that I have not been able to find a way to draw the line between where the recreation end of it comes in. So, Sir, I pass it to the Committee for comment.

MR. CHAIRMAN: The hon. member for Eagle River.

MR. STRACHAN: Mr. Chairman, the minister described it very well, I think. I can see now that we are going to have to get very worried in Nain and hide all the aviation gas we used in our snowmobiles all Winter. Aviation gas, by the way, is far better. It runs a cooler engine than normal gasoline.

MR. DOODY: Does it hurt the engine?

MR. STRACHAN: No, it is cooler.

MR. DOODY: Is it?

MR. STRACHAN: In fact, during the Spring of the year aviation gas is better than normal gas.

MR. DOODY: Is that an octane, a high octane?

MR. STRACHAN: No, we use 88 aviation gas.

It is also a heavier gas, and, therefore, is cooler.

However, to get back to the point, as the minister said one of the main failures in this - and he indicated problems, so I hope in his indication of problems that he has had with it

Mr. Strachan.

that he is still considering some form or other, because there is a great deal of difficulty with people who operate snowmobiles and who mainly travel by boat during the Summer and operate snowmobiles for travel during the Winter and travel long distances -

MR. BOODY: We would welcome any suggestions you might have.

MR. STRACHAN: - 400, 500, 600 miles.

Yes, I think I certainly would. I would probably get together with the minister, because I think there are ways of doing it. What one has got to differentiate between are people who use that snowmobile to fetch wood or to travel distances hunting and so on compared with some people who just want to drive around the community, children, youngsters -

MR. DOODY: Or chasing moose to death.

MR. STRACHAN: - and so on, and the difference is in trying to separate these two. But already there is a method, for instance, on the Labrador Coast which I am greatly concerned about in that most people who obtain tax exempt gasoline are generally fishermen who have obtained their permit to obtain gasoline and then as soon as the boat is laid up - and generally they are often using tax exempt gasoline at a time when they are not fishing. For instance in the North, the Arctic char and the salmon fishery is over by mid-September, the end of September definitely, and people still use tax exempt gasoline in October, November to do their hunting, their duck hunting and so on. So they are in essence breaking the law in many ways, because they are using tax exempt gasoline. Yet as soon as the ice comes, and they are using snowmobiles, they no longer can obtain the tax exempt gasoline. And I think there is a registration procedure already in force for them to use it during the Summer. I think it is something with a limitation on the amount, that is that the people who have certificates or permits to use during the Summer with a limitation on the amount they can buy per month of tax exempt gasoline, and that can easily be ascertained, because it is very easy to work out the standard figures for how much gasoline. By the way, in a snowmobile you use tremendous

Mr. Strachan.

volumes of gasoline. You are getting only something like eight miles to the gallon with a load, and it is nothing to be travelling with forty-five gallons of gas on your komatik, travelling long distances.

MR. DOODY: Is this standard for snowmobiles or is it only because they only have -

MR. DOODY: or at least the ones that I have been on on the Coast of Labrador have only got one speed, and that is full ahead?

MR. STRACHAN: Well, the farther North you go the faster they get, there is no question about that.

MR. DOODY: I do not know whether that is to impress the guy from St. John's or whether it is standard procedure but they -

MR. MURPHY: Trying to frighten you to death.

MR. STRACHAN: I should indicate to the minister on that point there that every Easter we have a race in Nain, the Easter Race which must be the most difficult race in this Province. The race is fifty miles long over sea ice and up over mountains, across islands and back again to Nain. It is fifty miles long. I take part in it every year and it is won under an hour. It is a race which, as I say, is cross country, rising up 2,000 feet.

MR. DOODY: Spine shivering.

MR. STRACHAN: What?

MR. DOODY: It must be very difficult on the spine, all that bouncing up - seriously, it -

MR. STRACHAN: Oh yes, it is a very -

MR. MURPHY: Is that done on our tax free gas then, all this galavanting around? I thought everything was used for hunting and all the rest.

MR. STRACHAN: In the Easter Race there is a \$1,000 prize for the first race, and this year was won in fifty-four minutes, I think the record is fifty-one minutes for fifty miles. That averages around sixty miles an hour across country and across sea ice, over islands and through necks. It is a pretty good skill if you can do it.

MR. MURPHY: There are times I wish the people of St. John's had it so easy.

MR. STRACHAN: However, the problem is they are trying to apply this tax exempt.

MR. STRACHAN: I should also indicate that this is an important factor because we have communities such as Pigolot, as I stated before, which are paying up to \$1.45 for a gallon of gasoline and people who are essentially fishermen and then go on to snowmobiles or use boats at other times of the year and cannot get a tax exempt permit are paying up to \$1.45 per gallon for gasoline, which is a tremendous price. It will probably go up again. It must be the highest price in the Province.

MR. MURPHY: It is so near to Coose Bay -

MR. STRACHAN: Well, it is Hudson Bay and the trouble is that it is all brought in by Hudson Bay and Hudson Bay are the only distributors and of course they monopolize it, and there is a real serious situation there. And possibly, I do not know, maybe the minister concerned, Consumer Affairs and so on should have a look at that.

MR. MURPHY: I have never had a complaint. Would the hon. member believe that? I have never had a complaint about the price of gasoline on the Labrador Coast.

MR. STRACHAN: Yes. Yes. Because it is a real concern for people there. They are very poor people. They have not a great deal of income and it is an extremely high price to pay.

The other point I have here and the question is when one can use tax exempt gasoline, is that people may be fishermen, but there is a trend nowadays, and it is tied in with the Minister of Fisheries, there is a trend nowadays to go on the Labrador Coast from large fishing boats, I say large, large for the Coast. That is the old open trap boat, thirty, thirty-two feet, thirty-five feet. There is a trend now to go to speed boats, especially in the fishing of char and the salmon and things like this. With a result that often the vessel being used, the boat being used, is under the stated figure, the length required to certify as a fishing



MR. STRACHAN: vessel. So in many cases people using speed boats cannot get tax exempt gasoline. And now that the minister has reduced the figure, the length of the boat down, it may be easier now that they can register that speed boat and therefore get their gasoline.

Put the real problem is with snowmobiles, and this is the real problem we face because we are going through large, large quantities of gasoline. It is nothing for a community the size of Main, which is only a small community in many ways, 1,000 people, it is nothing for 1,000 people to use 50,000 gallons, 60,000 gallons quite easily during the Winter months and even then go short. Despite the increase in the quantity of gasoline used, they complain about the fact that they feel that the taxes they are paying on the gasoline is a tax which they regard as a road tax. They therefore have complaints and arguments that the tax they are paying is a road tax and yet they have no roads and that in essence the roads they are using are roads that they make themselves on the sea ice and so on. So there is a great deal of complaint about this. Possibly the minister, I am sure, could come up with some form to allow a certain quantity of gasoline for normal hunting, trapping and firewood, for instance, going and getting in firewood on the Coast and I think that if people who are certified during the fishing season are generally the people who are doing it during the Fall and Winter and therefore very easily would be allowed to get a certain quantity. I think the quantity would have to be limited because I think that you could get into a situation where everyone in the village would be going around on tax exempt gasoline and nothing in the world would keep enough gasoline in the community.

MR. DODDY: That is right.

MR. STRACHAN: Already there are real problems on the Coast because people are using gasoline, if I may say so, they are using

MR. STPACHAN: gasoline wrongly, in my argument, because they are using gasoline for activities on snowmobiles which are not the proper activities for a snowmobile, and they seem to have the money to do it but - well and good to them - but they are spending far too much time on the snowmobiles in that kind of way and then running out of gasoline and then asking the government to fly it in, as we have seen this Winter, and we have had discussions about it and so there have been real problems in this case.

So I think that the people who are getting tax exempt gasoline would have to be very limited to these type of people, the hunters, the fishermen, all of whom are well known and are already getting tax exempt gasoline during the Summer, and I think that it should be very easy. I cannot see any problem there. And I essentially gather if you were going to restrict it to, let us say, fifty gallons a week - I am not sure of the quantity; fifty gallons is hardly enough. It is nothing to go through fifteen gallons a day, nothing at all. Fifteen gallons a day is very easy because you are only getting about eight to ten miles per gallon and you are travelling thirty miles, at least, for wood, twenty-three miles back and forth, so that you are talking that kind of number. That figure can easily be done. I do not see the difficulty in applying it that way.

MR. MURPHY: (Inaudible) in a general way, across the board, tax exempt.

MR. STPACHAN: Yes. Essentially I am talking about people who are already tax exempt during the Summer and these people are generally the people who would need to be tax exempt during the Winter. I do not see why I should be tax exempt or teachers and so on. I have my own means of getting around it.

MR. MURPHY: (Inaudible) made for everybody.

MR. STPACHAN: No. I think seriously that the people there can be handled that way. And you are talking of a small number of

MR. STRACHAN: people but it is important to them that they are trying to live traditionally and at the present price of gasoline they are having a great deal of difficulty to trap, for instance, or to go sealing or to go getting firewood and so on and many of them are turning back now to firewood because of the high cost of stove oil and going back to it but finding that it is just as expensive going back because the cost of gasoline to go and get firewood is just as much as to bring in stove oil and burn the stove oil. And I am sure that such a method of making it tax exempt would assist these people to go back to that kind of thing, in using firewood instead of stove oil or furnace oil.

These are the only arguments, apart from the rest of it, as the minister has indicated, the more complicated it gets the easier it is to find loopholes and ways around it and it becomes a very complicated thing to try to keep up with. I am sure that the Labrador Coast we will not have to worry about for a long time because we will not be seeing the inspectors coming down our way for quite some time and in the middle of Winter, especially, he will not be able to tell anyway.

On motion Resolution, carried.

Motion that the Committee report having passed *Res. & became*

Bill No. 80 without amendment, carried. *X*

MR. HICKMAN: Order 11 - Bill No. 40. *49*  
A bill, "An Act To Amend The Mineral Act, 1976."

On motion Clause 1 carried.

MR. CHAIRMAN: Shall Clause 2 carry?

MR. STRACHAN: There is an amendment to 2 is there not?

MR. HICKMAN: 3 (a) of subsection (1) of section 21 is repealed and the following substituted, "Notwithstanding the surrender the licensee is bound to make all reports respecting assessment work as carried out all in accordance with the terms of licence."

MR. STRACIAN: Clause 2, Sir, the minister in describing this act here, I question the section, what he stated here quite clearly, as quite explicit, that the companies will have to supply information within a three year period and that is fair enough. I think any companies or people carrying out any exploration work should be obliged, for instance, to give within a three year period, their information which they have collected or have been able to obtain on the minerals of this Province.

MR. STRACHAN:

I question situations in Labrador, for instance, where there is the Kitts-Michelin uranium deposit, and another deposit at Bruce Moran Mountains Hills, but I am questioning the fact that how do we know that the companies are given this information that we seek, and all the information that they have on hand? Because surely in many cases it would be to the companies benefit - the thing about mineral information, and the thing about their secrecy is that the mineral information is a very, very powerful, and very, very expensive piece of information to obtain. You can spend thousands of dollars trying to obtain information, and I am sure, as has been indicated by Brinex Corporation, for instance, that Brinex has spent a great deal of money obtaining that information. And I am questioning the fact that if within a three year period of time from their initial exploration, one, Brinex could have turned over to the government the information on their holdings, or their information on their mineral development, their exploration programme, how do we know that the information they are giving us is accurate information, is true information, is all the information they have or whether they can give us any kind of information whatsoever and unless we have an actual ability to get at the books, and even then it must be in a trust relationship, so I am just wondering exactly whether this legislation does have the teeth it requires or whether this legislation is a piece of trust legislation in which you are hoping that the companies and the government will have a meaningful relationship and a trustful relationship and that the information will be forthcoming.

But should a company, for instance, have information it is often to their benefit to maintain and to hold and to keep that information for many years. For instance, if you are into, as I said, a uranium development, we knew there was uranium at Kitts Pond in the back of Monkey Hill for many, many years now - fifteen years, more



Mr. Strachan:

than fifteen years, and that Brinex Corporation has had the information but they have not been willing to give us that information, to exactly delineate the area or the quantity or the quality of the uranium ore present. So I am wondering if this legislation here, although it is stating confidentiality of information, whether if the company wants to give us anything, and say look we got an ore here, an ore body of such-and-such, and such-and-such, but obviously in their holdings they would not want to make it look too commercial or too attractive because otherwise it may attract other companies to that area or similar areas. I am wondering how this information which is obtained and has to be given in the period of three years is going to be accurate information, and truthful information, and all the information the company will have because it can be a real question. We have often questioned the information being given to us by oil companies, and I think the same thing would then go for mineral companies, too. It is often to their benefit to withhold information or to give half truths; in other words, just to give enough that they have to give rather than get into specifics and start spelling out information which they have spent a lot of dollars at, a great deal of money has been poured in to obtain that information. I wonder if the minister could explain that?

MR. CHAIRMAN: The hon. Minister of Mines and Energy.

MR. PECKFORD: I do not know if the hon. member has read the Mineral Act or not, because a lot of the information that he appears to be deficient in is in that particular Act. It is extremely difficult for a mining company at the present moment under the Mineral Act to do the kinds of things that the hon. member is saying, give erroneous information. We can usually tell anyway from the kind of programme that has to be approved by the department, and so on, the amount of work, whether it is seismic, it is very, very difficult to tamper with that kind of mapping and technical detail that would be on the seismic recorders or as it relates to their assessing of their mineral cores and this kind of thing. It is very, very difficult

Mr. Peckford:

indeed. And, you know, it is hardly a problem. The kind of safeguards that are built in there make it almost impossible for information to be the wrong information or that they have fiddled around with the information. And even like, for example, now when the hon. member mentioned about offshore and the kind of information that the companies, Eastcan or whatever, we have other experts in the field of oil and gas exploration tell us, say to us, Look, here is the information we are getting. Our petroleum geologist tells us that it is correct and proper, and that it is all of the information. What do you think? Is this good information? Can they manipulate this in some way before it gets to us? And unanimously they said, Look, this is the proper information, there is no question about that, you have all the information there is to have for offshore.

MR. STRACHAN: (First part inaudible) There is no legislation or has not been legislation in which they give you all the information, there has not been up to now. And these crowd have been maintaining most of that information for themselves.

MR. PECKFORD: No, we have all of the information.

MR. STRACHAN: All of it?

MR. PECKFORD: How it is interpreted it is another matter.

MR. STRACHAN: All of the information from Eastcan?

MR. PECKFORD: Oh, yes, on the logs for their wells, not only from Eastcan, from B.P. Yes, all the logs are stored over in the department on all of the wells. Now it depends on what kind of formula you want to apply to that log in order to get - you can a formula which will give you, you know, a great big commercial find there, or you can apply a formula so you have to use all of those kinds of figures in there. But we do get all the information on the offshore. Onshore is the same kind of thing.

MR. STRACHAN: But it was my belief that Eastcan were retaining a great deal of information for themselves, in fact, they had until 1978 or -

MR. PECKFORD: Not to my knowledge.

MR. STRACHAN: -or 1979, they had somethings before they could let go that information.

MR. PECKFORD: Not to my knowledge. Not to my knowledge. I will check it out. But I know we have all the logs from all the wells, which is the kernel, you know, the major part of the information that one would need besides the seismic information that has gone on. We have all of that. So, you know, we are in a fairly good position to determine what is going on, and to be on top of it.

The same goes for the minerals here. We get all of the information. As a matter of fact, just recently we have established - we always had it, but it was sort of ad hoc - an area in the department where all of the mining company people go to look at this information, to give them a place to go to get the information or to copy the information, and this kind of thing.

So what we are doing here does not in any way mean that we are on the one hand ostensibly requesting the companies for information, whilst the information that we are going to receive is not very good. You know, it is clear both in the mining industry and in the department that the information we are getting is valid information, and it is very, very difficult for them to try to manipulate the figures to their own advantage. But I will be willing to discuss that with the hon. member at more length, and to give him more detail on it later. But I can say pretty categorically that what I am saying is correct.

MR. HICKMAN: Shall the amendment carry?

MR. CHAIRMAN: Shall Clause (2) as amended carry?

On motion Clause (2) as amended carried.

On motion title carried.

On motion a bill, "An Act To Amend The Mineral Act, 1976", carried with amendment.

MR. HICKMAN: Bill 100, Motion 28.

A bill, "An Act Respecting Certain Leasehold Interests Within The City Of St. John's".

On motion Clause 1 carried.

MR. CHAIRMAN: Shall Clause (2) carry?

MR. HICKMAN: Clause (2), Mr. Chairman, is amended by adding thereto subsection (4) to read as follows: "for a lease of land within the city that was made before the 2nd. day of August 1921, is, in the absence of any proof to the contrary, presumed to be an 'ancient lease'.

On motion Clause 2 as amended carried.

On motion Clauses (3) through (22) carried.



Motion that the Committee report having passed the bill with amendment, carried.

MR. HICKMAN: I move that the Committee rise, report progress and ask leave to sit again.

On motion that the Committee rise, report progress and ask leave to sit again, Mr. Speaker returned to the Chair.

MR. SPEAKER: The hon. member.

DR. COLLINS: Mr. Speaker, the Committee of the Whole have considered the matters to them referred and have passed a certain resolution and a bill consequent thereto and ask leave to sit again.

MR. SPEAKER: The Chairman of the Committee reports that they have considered the matters to them referred, have passed a certain resolution recommending the introduction of a bill consequent thereto and that they ask leave to sit again.

On motion report received and adopted.

On motion Committee ordered to sit again presently.

On motion the resolution now read a first time.

On motion the following bill read a first, second and third time, order passed and its title be as on the Order Paper,

A bill "An Act To Amend The Gasoline Tax Act" (Bill No. 80)

MR. SPEAKER: The hon. member.

DR. COLLINS: Mr. Speaker, the Committee of the Whole have considered the matters to them referred and have passed the following bills with amendments and ask leave to sit again. Bill No. 49 and Bill No 100.

MR. SPEAKER: The Chairman of the committee report that they have considered the matters to them referred, have passed bills No. 49 and No. 100 with amendment. When shall the report be received?

On motion report received and adopted.

On motion the Committee ordered to sit again presently.

On motion the amendments read a first and second time.

On motion the following bills read a third time, ordered passed and title be as on the Order Paper.



A bill "An Act To Amend The Mineral Act. 1976)

(Bill No. 49)

A bill "An Act Respecting Certain Leasehold Interests  
With The City Of St. John's. (Bill No. 100)

On motion second reading of a bill "An Act To Amend  
The Fishing And Coastal Vessels Rebuilding And Repairs (Bounties)  
Act." (Bill No. 117)

MR. SPEAKER: Hon. Minister of Fisheries.

MR. W. CARTER: Mr. Speaker, this is "An Act To Amend The Fishing  
And Coastal Vessels Rebuilding And Repairs (Bounties) Act."

wherein we now under the existing act to obtain assistance to  
repair or to rebuild a fishing boat would only be available to  
boats fifteen years of age and older. Under the amendment that we  
are proposing that age limit would be reduced to twelve years.

SOME HON. MEMBERS: Hear, hear!

MR. W. CARTER: In other words, a boat twelve years of age and  
over would then qualify for a grant of thirty-five per cent of the  
estimated cost, or the cost of effecting the necessary repairs or  
to rebuild the boat. We believe this amendment is necessary because  
now with the cost of boats increasing substantially we find that  
more fishermen are interested in rebuilding their boats and effecting  
certain necessary repairs to extend their life. This amendment to  
the act will have that effect. Like said, it will enable fishermen  
owning boats of twelve years or over, enable them to obtain the  
thirty-five per cent grants on their boats to  
effect certain necessary repairs. It would also, Mr. Speaker, enable  
the bounty to be payable on the cost of the boat-or at least on  
the cost of the repairs or the rebuilding cost, as opposed to on the  
length of the boat. This too we believe to be a very important  
amendment because the costs of repairing boats as well  
as the cost of rebuilding boats are increasing rapidly and to  
pay a bounty just on the length of a boat sometimes is not an  
accurate appraisal of what can be done.

This would now mean, Mr. Speaker, that a person

MR. W. CARTER: repairing his boat of twelve years of age or older would get a grant from the government of thirty-five per cent on the cost of the repairs. He would then qualify for a fifty per cent loan to undertake the repairs, which means that he would require a fifteen per cent down payment. The loan could be amortised for a period of up to as long as eight years. So that, Mr. Speaker, is pretty well the substance of the amendment that we are proposing to "The Fishing And Coastal Vessels Rebuilding And Repairs (Bounties) Act."

MR. SPEAKER: Hon. member for Lewisporte.

MR. WHITE: Mr. Speaker, I just want to ask the minister a question.

I know that the member for Eagle River probably has something to say as well, but I wonder if he would go a little more deeply into the repairing of vessels. A lot of the fishermen that I have come across are under the impression that they have to rebuild their entire boat before they can qualify, and all this kind of thing. And in some cases, Mr. Speaker, I have had some difficulty—I am not going to go into specific details now but I can talk to the minister about them separately—that they have had to really go into repairs before getting any money and this would not qualify if they just wanted to spend three or four thousand dollars.

MR. SPEAKER: The hon. member for Eagle River.

MR. STRACHAN: Mr. Speaker, we certainly have nothing against this piece of legislation. It is a welcome piece of legislation in some ways. It makes certain changes and I think in most cases they would be very acceptable to the fishermen. The period of time now is that the vessel, when it reaches twelve years old, would qualify for the bounty, the thirty-five per cent maximum bounty, the cost of repairs of the vessel. This would then allow him to gain his fifty per cent loan and this would be amortized over a period of eight years.

I have a couple of questions here that possibly later on in the clause by clause the minister would like to answer, or when he closes off the debate.

MR. STRACHAN: Number one, that makes the vessel by the time he is finished paying for it, if he has initially paid for that vessel plus if he has repaired that vessel at the age of twelve years, for instance, or let us say even if the vessel is older than that, let us say it is fifteen years old before he decides that it requires repairs and so on, I am concerned that the cost of those repairs amortized over a period of eight years means he may be still repaying this loan. And I wonder what the average age is of these vessels before they are finally finished as a productive and useful fishing vessel, not only from a point of view of the state of the vessel itself but also because, as we are witnessing now, there are many changes occurring within the fishing industry to vessel design. And the minister is aware that they themselves are looking now at new vessel designs.

I imagine over the next few years and hopefully over the next few years we will see changes in the design of vessels or at least the method of fishing of vessels away from the gillnetting. They are called longliners but they are not longlining really, they are gillnetters and as such gillnetting is a very passive form of fishing. It is not an active form of fishing. In a sense the nets are still stationary. One does not hunt fish essentially with a gillnetter or longliner, as you call them. You actually have a passive - all you have done is remove the trap essentially from the shore in the form of a gillnet and moved it out. You will move to banks and so on, in which you have a certain amount of movement but you still have a very passive form of fishing, whereas nowadays the trend all over the world and hopefully here will become a very active hunting form using sonar and all the aids that they do have in order to search out for the fish and especially the species of fish that they require, and to actively fish with a different form of gear.

So what I am concerned about then is if a fisherman has a longliner - here he has a longliner twelve years old. It is a longliner as such, and many of the longliners are not terribly adaptable, they are adaptable to a certain



MR. STRACHAN:

extent, but because they were designed in certain ways they are not terribly adaptable. For instance, the longliners that we are using in this Province tend to sit down in the stern. Especially with a load, they tend to squat and the stern comes up with the result that some of them are not quite unseaworthy, but they are not vessels which lend themselves to playing around with the afterdeck very much. And so, if a fisherman was trying to get into another form of fishing and place a fair bit of gear in the afterdeck, then he could get into a situation in which that vessel is not suited. So what I am concerned about here is that one, he may be paying for a vessel which he has repaired at twelve years, and by the time it is fifteen or sixteen years old it is no longer seaworthy and he may have to repay for a vessel which is no longer producing any money, in which case it may have to be written off; secondly, I am concerned that as the change in models and fishing boat design occurs over the next few years - and I would hope over the next five to eight years we will see a great deal of change in fishing vessels - that people who are essentially repairing vessels which are obsolete or will become very quickly obsolete in design, and I am hopeful that the minister, although we welcome this kind of legislation as an encouragement to the fishermen, there are also certain things I think that should be built in so that this is not done on a willy-nilly basis. Anyone who wishes to apply can get it, and then we find, of course, that they are not able to maintain the payments or they are not able to get into another type of fishery or they may have to reject that vessel altogether. So there are certain questions there that I am concerned about, and possibly the minister could explain his feelings and philosophy on that, because it is of major concern. I feel strongly that well as we may try to get into oil and gas and so on, we already have our gold - our black gold - in

MR. STRACHAN: many cases we already have it in the fishery, and if we develop this kind of change that is now occurring in the fishing industry and the adaptation of the vessels, that we can run into some problems here in the management of this loan and in management of this bounty. So I wonder if the minister in closing off could explain his philosophy on these two counts; one, the age of the vessel itself, whether it is long gone out of use and the man is still paying for it; and secondly, the fact that there will be hopefully in the next few years major changes in vessel design, and therefore to repair some of the vessels we now have twelve years old would be to repairs a vessel which is not adequate and will not be productive in the fishing industry in four or five or six years time.

MR. SPEAKER: The hon. member from Port de Grave.

MR. DAVE: I am sure that many of the fishermen in my district welcome this bill. And I have a question for the minister when he closes the debate to let the Committee know that, say, when a fisherman is doing the repairs to his boat, would his labour in this manner be credited in the same way as part of the costs, and if so, what proportion - if the minister is aware - of the labour would be considered part of his costs - if the fisherman's own labour would be part of the cost of these repairs and what proportion of the repairs or what rate, wages a fisherman would be allowed to charge for his labour, or, as I say, what proportion, if it is so, of his own or a group of fishermen's labours would be a part of the cost of the repairs. And sure, if that was so, it would lessen the amount considerably that would have to be borrowed for these repairs.

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

The hon. Minister of Fisheries.

MR. W. CARTER: Mr. Speaker, to the points raised by my colleagues opposite: The member for Lewisporte (Mr. White) mentioned what type repairs would qualify, would fall within the criteria and it



MR. W. CARTER: has been established certainly any repairs that would enable a boat to remain seaworthy or to diversify to another fishery would certainly be considered as being necessary repairs and ones that would I am sure qualify for the assistance as outlined in the amendments to the Act.

The hon. member for Eagle River mentioned the age of the vessels. Well, right, some longliners eight or ten years of age would probably be ready for the scrap pile, but there are vessels that have been looked after and not overworked, maybe in the twelve and eighteen year bracket, that would still have some life left in them. But I am rather proud of the fact, Mr. Speaker, that we do have a very efficient Fisheries Loan Board and I think the fact that fishermen's loans are now - or at least the bad debt ratio, I believe, is probably less at the present than 3 per cent of the actual loans made by the board speaks for itself with respect to the Loan Board. But certainly any applications submitted to the board for assistance to repair or to rebuild a fishing vessel would be very closely scrutinized by the Fisheries Loan Board and certainly the money would not be handed out indiscriminately to anybody who wants to repair a boat that just maybe should not be repaired. But we believe that this, like I said, with the cost of boats increasing as rapidly as it is - we believe there are more fishermen now interested in maybe extending the life of their existing boats and certainly fishermen who want to diversify, to get in maybe to another type fishery.

With respect to the questions posed by my friend from Port de Grave (Mr. Dawe) - Would a fisherman's own labour be part of that cost? - I will have to be quite frank, Mr. Speaker, and say I am not really certain of that, but under the regulations a fisherman would require a 15 per cent down payment. Fifteen per cent of the cost of effecting the necessary repairs or rebuilding cost would have to be borne by this builder. I would think that maybe

MR. W. CARTER: the owner's labour - sweat equity,  
I believe it is called - would probably qualify as being part of  
his 15 per cent down payment.

That, I believe, Mr. Speaker,  
pretty well answers some of the questions that have been put to me  
by the members opposite.

On motion, a bill, "An Act To Amend  
The Fishing And Coastal Vessels Rebuilding And Repairs (Bounties)  
Act," Bill No. 117, read a second time, ordered referred to a  
committee of the Whole House presently by leave.

MR. HICKMAN: Order 13.

Motion, second reading of a bill,  
"An Act To Amend The Tourist Establishments Act," (Bill No. 64).

MR. SPEAKER: The hon. Minister of Justice.

MR. HICKMAN: Mr. Speaker, in the absence of my  
colleague, the Minister of Tourism, and as the explanatory note  
sets forth very clearly the purpose of this bill, I move second  
reading.

MR. SPEAKER: Is the House ready for the question?

MR. STRACHAN: Mr. Speaker -

MR. SPEAKER: The hon. member for Eagle River.

MR. STRACHAN: The only point, did the minister  
explain that this is an amendment to the maximum fine and that does  
not touch the minimum fine whatsoever? And that is correct.  
Could the minister indicate what the minimum fine is under the  
Tourist Establishments Act?

MR. HICKMAN: There is none.

MR. STRACHAN: There is none.

On motion, a bill, "An Act To Amend  
The Tourist Establishments Act," Bill No. 64, read a second time,  
ordered referred to a committee of the Whole House presently by leave.

On motion that the House resolve itself into Committee of the Whole, Mr. Speaker left the Chair.

COMMITTEE OF THE WHOLE

MR. CHAIRMAN:

Order, please!

A bill, "An Act To Amend The Tourist Establishments Act," (Bill No. 64).

Motion that the Committee report having passed the bill without amendment, carried.

MR. HICKMAN:

Bill No. 117.

A bill, "An Act To Amend The Fishing And Coastal Vessels Rebuilding And Repairs (Bounties) Act," (Bill No. 117).

Motion that the Committee report having passed the bill without amendment, carried.

MR. HICKMAN: Order 4, Bill No. 62

A bill, "An Act Respecting Labour Relations In The Province".

On motion Clause (1) carried.

MR. CHAIRMAN: Shall Clause (2) carry?

MR. HICKMAN: Mr. Chairman, I move Clause (2) to be amended by Paragraph (n) of Subsection (1) of Section (2) is amended by adding after the words "employees" the following: "and without limiting the generality of the foregoing includes a municipality and a board as defined in the Local Government Act, 1972, a community is defined in the Community Councils Act, 1972, the City of St. John's, the City of Corner Brook and any regional council established under an Act." That was requested by the Federation of Labour.

MR. CHAIRMAN: Shall the amendment carry?

On motion Clause (2) as amended carried.

On motion Clauses (3) to (8) carried.

MR. STRACHAN: Mr. Chairman, I wonder if we could - we think this is a very important piece of legislation, and I wonder could we slow down a little bit because there are some sections we got marked off, and when you mention the head, the letter, the number 7 and so on, there are subsections, you are on to 8 and 9 and we are still trying to look for that subsection. So I wonder if you could slow down a little bit?

On motion Clauses (9) through (11) carried.

MR. CHAIRMAN: Shall Clause (12) carry?

MR. HICKMAN: There is an amendment to Clause (12), Mr. Chairman, I move that Subsection (1) of Section 12 be amended by adding the following after the word "decision", "if requested to do so by any of the parties." Again that is at the request of the Federation of Labour.

MR. CHAIRMAN: Shall the amendment carry?

On motion amendment carried.

On motion Clauses (13) through (27) carried.



MR. CHAIRMAN: Shall Clause (28) carry?

The hon. member for Eagle River.

MP. STRACHAN: Not specifically in this Clause, but we are deeply concerned about this legislation because in many cases we do not agree with much of it. As we indicated previously, in a previous reading, we feel that the legislation is both regressive and it is also what you would call a lawyer's dream in that it is loaded. And I wonder about 28, for instance; the whole section there deals with coercion and persuasion. I wonder how the minister - and also previous clauses so far as well - it seems to us what we are getting into in many cases here is that no one can move within a union or in a management position, no one can move in any of these situations without having to have at least a battery of lawyers behind you to interpret some of the effects of it. This coercion and persuasion clauses and so on I can see as in many other clauses a tremendous difference of opinion, and tremendous disagreements. Our argument against the whole bill is that it is not changing a bill previously which we felt was a good bill by amendment, but it is adding things that make it more expensive, more complicated, more complex, more legalistic, and therefore instead of encouraging labour relations it does the very opposite.

So I wonder if the minister in this section as well as in previous ones can indicate totally how one is going to interpret some of the clauses there, especially in very serious situations when coercion, intimidation, and persuasion and so on are applied, and when it is legally binding, and how it can be held?

MR. CHAIRMAN: The Minister of Labour and Manpower.

MR. ROUSSEAU: Mr. Chairman, the interpretation of any sections which is open to interpretation in the Act are referred to the Labour Relations Board. In other words, if somebody has an indication that there is any coercion or persuasion to engage or discourage or encourage to join the membership of a union, then that would be referred

Mr. Rousseau:

to the Labour Relations Board. They would have a hearing and would make a decision whether indeed there was any coercion or persuasion to encourage or discourage membership. So the Labour Relations Board would be really the court to decide on interpretations within the Act, and to find out if there was any violations of the Act within the spirit of it. So it is referred to the Labour Relations Board.

MR. STRACHAN: Could the minister explain then if it is going to go before the Labour Relations Board, and they will decide on these things, this coercion, intimidation or persuasion as well as many of the other sections we dealt with so far, and will be dealing with. If it goes before them then we are concerned about some of the situations arising. How are penalties and situations then assessed after that, and in a case like this? For instance, I know that there has been a fair bit - and it seems to be getting very active in the labour field, people are now prepared to challenge some of the grounds in which they are working under or things that are occurring to them. Intimidation, for instance; Len Lake, for instance, in the member's own district has just recently described to me some of the situations that were existant in IOC strike earlier on. Certainly I would say that some of the things that went on in Lab City, in the IOC strike were intimidation to a considerable extent in order to try to get people to react in certain ways, and in order to try to create a situation or atmosphere which would make the company, in my personal feelings, and the corporation would look better, looking good, and the members of the unionship looking very much the worst as though they created a situation. And I am wondering how then are the penalties assessed, and what happens after that if there is intimidation or coercion? If it goes to the Labour Relations Board then how is it assessed? How are penalties applied in any of the cases, whether it be labour or management or whatever.

MR. ROUSSEAU: The section of course in the Act which denotes penalties, and I do not know which section it is offhand, I can find out when we get to that section, I will check with the Act here. But of course there are - if we go back maybe to the beginning we could probably find - I do not know what section it is - what section is it?

AN HON. MEMBER: Sections 118, and 119.

MR. ROUSSEAU: Sections 118, and 119 - and I refer to it when we come to it, it is the enforcement of the Labour Relations Act by the Labour Relations Board. So the questions that the member is asking would be answered there; maybe he can wait until we arrive at that one that gives you the penalties and the enforcement of the decisions of the Labour Relations Board are given back to Section 118 and Section 119. Is that okay? That is the question the member asked in the enforcement of the orders of the Labour Relations Board. That section refers to Part 7 - Enforcement of the decisions of the Labour Relations Board.

MR. STRACHAN: In the same section then, Mr. Chairman, I know in the formation of the Fishermen's Union, for instance, that in certain plants, and in

MR. Strachan.

certain establishments that there were a great deal of intimidation being used by the employer to prevent the formation of unions. Through many ways, subtle ways, it can be done. In these cases here it was done in very blunt ways in which there was severe intimidation. And yet it seems to me that where as soon as an employee - and especially in the larger corporations, the larger companies - as soon as an employee attempts to use similar types of intimidation or similar types of tricks, if you want to call them that, then very quickly that employee finds himself at the rough end of the stick. And yet the company who applies such tactics and such techniques as coercion and intimidation seem to get off fairly well scot-free. And I am wondering whether the minister would like to expand on that or discuss that point there, because I feel that in the case of Labrador City again, which I was familiar with, there was this kind of intimidation, there was this kind of persuasion. And then again it was done in court, for instance, where lawyers tried to brand every - for instance, Labrador City is very wild about the statement by the lawyer in court which got screaming headlines in the Daily News and created a tremendous incident there. So I am wondering exactly how the minister can imply or how he can track down where he can assess whether there has been any coercion or intimidation on the part of the employer, and whether it is really meaningful or whether it is just there as a clause, and it does not really mean much because there is no way of proving it?

MR. ROUSSEAU: Mr. Chairman, first of all if we look at Section 5, Every employee has the right to be a member of a trade union and to participate in its activities. While Section 28 describes the employee, Sections 23, 24 talk about the employer. And I can only explain to the hon. gentleman the procedure. When there is a suggestion that there is a violation of any aspect of this act, the charge may be brought about by the employer or the employee to the Labour Relations Board. The Labour Relations Board will rule on it and will



Mr. Rousseau.

enforce it according to part 7, Section 118, 119, 120 and 121.

On motion Clause 28 carried.

On motion Clause 29 to 30 carried.

MR. CHAIRMAN: Shall Clause 31 carry?

MR. HICKMAN: Mr. Chairman, I move that Clause 31 be amended by striking out subsections 2 and 3. That means it would be just 31 without a bracket.

On motion Clause 31 as amended, carried.

MR. STRACHAN: You are striking a strikeout on Clause 31?

MR. HICKMAN: We are striking out subsections 2 and 3.

MR. STRACHAN: This is the question of religious beliefs in a union.

MR. HICKMAN: Yes.

MR. STRACHAN: We agree with that.

On motion Clause 32 to 34 carried.

MR. CHAIRMAN: Shall Clause 35 carry?

MR. LUSH: Clause 35, Mr. Chairman. On this particular one, Mr. Chairman, relating to assignment of wages, we do not like this particular clause. It seems to be against what was the - or what is the accepted practice in the Province in all collective agreements and for that reason we want to object to this particular clause. As we have said - and was suggested earlier by my hon. colleague from Eagle River (Mr. Strachan) - there are many sections in this particular bill with which we disagree, and it is not an amendment at all, Mr. Chairman, to a previous bill. In many cases it is new ideas, new clauses completely. This particular one here, as we have said before, we think goes against what was accepted practice, and we think it is discouraging people from getting into unions - or discouraging unionization, if you will. What it says in effect really is that an employer will collect fees from a person in a union if they have written to agree to that. But, of course, it can be revoked. In other words, all people do not have to pay. It is our feeling that people should have to pay fees whether they are working under a certain system, a certain bargaining union. They should have to pay whether they are members of the union or not, because it discourages unions otherwise.



Mr. Lush.

What kind of relations do you have where you have got a bargaining union within a certain industry or within a certain place of work where sixty per cent of the people belong to the union and forty per cent of them do not? It is discouraging people from joining unions, and it seems to me that the whole purpose of this bill is to encourage unionization. And this particular act here certainly discourages this. It discourages unionization.

MR. MURPHY: Does the hon. member mean the automatic check-off? Whether you want to do it or not that the government should take your money and give it to someone else? What about the individual's rights?

MR. LUSH: Well, how about the rights per union? You know, if we are going to encourage unions it seems to me that we have to take the extra step to facilitate this.

MR. MURPHY: Well, what about if the churches decide next week that they should collect your dues and the schools and all the rest of it? Where does it end?

MR. LUSH: I am not talking about churches, Mr. Chairman. I am not talking about schools. I am talking about a labour bill, and this is a different story altogether, a different situation, quite different. And what we are talking about here, of course, is the Rand formula in this respect, and this is what the CLC is working for right throughout Canada. Indeed it has been promised in Quebec.

MR. MURPHY: Does that mean it is right because CLC or CUPE or anybody else does it?

MR. LUSH: No, but if we are going to be progressive, if we are going to encourage the formations of unions in this Province, it seems as though we have to do all we can. And this particular clause here certainly discourages it. It is a way out for people to belong to unions. And as I have said before, as a matter of fact it is promised in Quebec. The application of the Rand formula was promised by Mr. Bourassa. It is also promised by Mr. Levesque to be brought in to the Province of Quebec. There is

Mr. Lush.

a movement afoot to bring it in to Alberta. And it seems as though we had an opportunity to do something that certainly would have improved labour relations in this Province, and we have not. We have become stifled on this particular one. We have certainly come short of making a move that would certainly facilitate the formation of unions in this Province. But the way it is now it certainly will discourage the formation of unions. It gives the people a way out. It gives them a way to get out of being unionized. And as I have said before it seems as though this bill is certainly to encourage unionization. And this particular clause, this system of revocation that a person can write to his employer and say that I do not want to be a member of this particular union, I do not want to be a member of this particular bargaining union, it seems to me to give a way out to discourage the formation of unions. And this certainly is not what the intent of the bill is. And as I have said before, it has been a matter of practice in collective agreements in this Province. It has been a matter of practice to do this, and there has only been three or four cases where employers have refused to recognize this principle. And if my memory serves me right, I think this was the whole reason for the strike in 1971 at Burgeo. And this is how it was settled. It was settled with this clause that all people - everybody working would pay the fishermen's union. And so we had a strike settled on that issue. And now here we go back again to take a backward step and to put unions in the awkward position of having to - what shall we say? - to try and force themselves again upon the labourers, and it should not be this way. Once a union is accepted and certified as the bargaining agent, it seems to me that everybody under that agent, everybody working in that place of employ, should be members of that union. To make it otherwise is to discourage the formation of a union. And I am not sure

MR. LUSH: what this will do to unions in the Province when people know that they do not have to pay. I think we should have taken the extra step to enforce what we have been doing with all collective agreements throughout the Province. As I said before, it is nothing startling. It is nothing new. It is what the unions have been fighting for all across Canada and it is a retrogressive step. This Province could have taken the lead because there is no question about it that this is going to become a part of legislation right throughout Canada but we just here sit and allow ourselves to let a piece of legislation go through like this, which is a total discouragement of the formations of unions in the Province. I think we should take a second look; a second look at this before we let it slip through.

MR. CHAIRMAN: The hon. Minister of Finance.

MR. DOODY: Mr. Chairman, I would like to have just one or two words on this because, as the hon. member for Terra Nova (Mr. Lush) says, this is one of the principles of the trade labour movement that has been argued back and forth, pro and con, for quite a number of years and the Pand formula, on the face of it, is a very attractive way out. I think as time progresses it becomes more and more obvious that it is not the final solution because it only covers one side of the coin and it makes it very, very easy for people to get into and support a particular unit, a particular union as well they might since the theory is that since they are going to benefit from the communal activities or group negotiations of a particular unit or union, then you should contribute toward the upkeep of that particular union. And in as far as that goes, it is very difficult to argue that principle. When that principle then is extended to compulsory membership in that union you get into complications which I am sure that Justice Pand did not anticipate or others did not anticipate when they were formulating that principle. And the one that comes to mind, the one that stands out most obviously is the most set of negotiations

MR. DOODY: between the province and the IOS group of employees here, or maintenance and service people in which a letter from the chief negotiator and general business agent of that particular union went out to the unit saying that those people who are members of the union who dared to cross the picket line and go back to work in the event of a strike, and the strike had not been in progress at the time, would be fired, because of the fact that they would be excluded from the union and therefore their exclusion from the union would make them ineligible for employment.

Now the principle of that act and the principle behind us is to entitle every person to have the right to strike and that is a principle that I endorse whole-heartedly.

AN HON. MEMBER: Hear! Hear!

MR. DOODY: By the same token, I also endorse whole-heartedly the principle that a person has a right to work if he so desires and that there is no union or no group or no entity can deny a man the right to work if he so desires by forcing him to be a member of the union if that entails the right of a union executive or a union group saying, "Because you are a member of this union and you want to go to work it does not matter how your family is suffering, it does not matter how much you want to go to work, it does not matter how much you disagree, it does not matter how big your minority is, as long as we say you are not going back to work because we have the right to fire you, not the employer, but me, the union executive. I have the right to say whether you will work or not." Well that is surely not the principle that Justice Brand was getting at when he was trying to establish the equal participation for equal rights in a group membership of a union.

I think that is one of the problems that has surfaced since that principle was enunciated and I think that that is one of the reasons why the hon. minister and why this administration generally is very reluctant to put into legislation that Brand formula at this particular point in time. Because it is becoming obvious



MR. DOODY: that although the principle of it is a very sound principle but putting it into practice could very well become a very, very dangerous weapon indeed in the hands of a militant few and then trying to protect the rights of everybody one has to give a great deal of consideration to both sides of the coin and that is why I very whole-heartedly support this section of the bill which the minister is advocating, that that Rand formula thing while fine in philosophy is lacking a great deal when it comes to the execution. And just as I have said, as this government, as this administration, and I am only speaking as one employer now and as President of the Treasury Board I guess I represent the employer, I am saying that just as we respect the unit's right to strike, as we pointed out to the '08 group at that time, we also respect the rights of the individuals in that group to return to work if they so desire. And that principle has to be one that has to be upheld if there is to be any meaning at all in fair labour relations. And that is what relations mean presumably, a balance, a scale. And I can see exactly the point that the hon. minister is presenting here and I endorse it completely.

MR. ROUSSEAU: Mr. Chairman, if I may. Just a few things because I know the importance of this section. I know there are two sections that are very important, and other ones are important too, but this one and the ballot for a strike are important. I am aware of that. I held a meeting with the Federation last Friday and went over each individual point from start to finish in the bill as it now exists. And, you know, to be quite frank the changes that have been made now, the three thus far, the three amendments are as a result of the meeting we had with the Federation of Labour.

Now government has considered this section and as my colleague, the hon. Minister of Finance and President of Treasury

MR. ROUSSEAU: Board has indicated, the government feels that this is in fairness a section of the bill which government is supporting. It is the same, by the way, as the existing Labour Relations Act. It is not any change in the one we now have. It is the same as it was in bill 75 so there is no change insofar as that is concerned. I could say that the Pand formula is not in Canada but that is no reason why we should not have it here in Newfoundland but as again my colleague said, it is a very difficult thing to administer.

AN HON. MEMBER: We do not have the Taft-Hartley Act either.

MR. ROUSSEAU: Do we understand what the Pand formula means? It means that upon certification every employer shall be required to deduct union dues and every employee shall be required to pay dues. And we think that the person should have a choice. It is incumbent upon the union to convince the members working in a plant that is unionized that it is to their benefit. Now unfortunately you are going to have those few people who will always ride the coattails of the benefits that the union gets and that is going to happen in any sort of circumstances and that is unfortunate, that at least they are not satisfied to pay whatever you want to call it, it is not dues -

SOME HON. MEMBERS: Oh, oh!

MR. ROUSSEAU: But again the question is that the union should be able to convince these employees who do not want to become members of the union that it is to their advantage to do so. We feel that it is not, as I say, timely at this time to legislate the Pand formula although I know the confederation feels very, very strongly about it. It was considered and considered quite seriously at the request of the Federation of Labour but government's decision is that this is the fair and equitable way that an individual should be treated in respect to joining a union. He does not have to join a union. He can revoke if he does not for any set of circumstances that in his conscience or any other reason that he does not want to join a union or does not want to pay union dues and

MR. ROUSSEAU: that should be his prerogative. But we must remember one thing too, Madam Chairman, is that in many instances and in almost all instances I guess with the larger unions, and hopefully with most of the small ones, that it is a part of their collective agreement that can be negotiated. One of the first items here is that these are minimum standards. That does not mean that a union cannot negotiate with an employer or a group of employers to gain better things than are in this act, this is a basic act in which you want to leave the offices open, if a union is able to convince the employer or a group of unions is able to convince a group of employers across a table that the Rand formula would be appropriate for that unit then so be it. We feel now that we leave it open and leave it up to the individual to make his choice.

MR. CHAIRMAN: (Mrs. MacIsaac) The hon. member for Terra Nova.

MR. LUSH: Madam Chairman, I can appreciate what the minister is saying, but the point remains is that even though the union can persuade people, and try to encourage them to become members of unions, and to impress upon them the benefits that can accrue to a group of people belonging to a union. But the point remains here we are leaving an opening for people to opt out of, becoming members of a union, and these are the people that want to get all of the benefits of what the union will do, but they do not want to pay fees. It is as simple as that. They will take all the negotiations done by the union with respect to salaries, and with respect to working conditions, they will take all of those benefits but they do not want to pay the fee of belonging to a union. And I think this is a ridiculous situation. I do not think we should have any legislation that encourages people from joining unions. And the thing is we are not digressing from practice. This is what we have been doing. And I mention again the case in Burgeo where the strike was settled on this particular issue. And if we were changing policy, if we were digressing, but the thing is that we have been doing this all along, this is something that we have been doing. Just about all of the major settlements that have been made in recent years or just about all of the negotiations working with unions been settled on this issue. that people do, are required to pay union fees even though it has not been a legal position. We have encouraged that, and rightly so, to encourage people to belong to a union. So it is not anything new. But this is new. Now we have allowed them to opt out, and they do not have to become members of the bargaining unit, which I think is discriminatory, and it is discouraging the formation of unions in this Province, and again we are making room for people who do not want to be unionized, but people who will take all of the advantages, people who want to take all of the benefits without paying the fees. And it is unfortunate that we are now going to make this position legal, that we are going to encourage this position



Mr. Lush:

if you will, encourage people from not joining unions. And this is what this particular piece of legislation is doing.

MR. DOODY: That is the name of it.

MR. LUSH: Okay, but the point is that we have not been applying it, we have been -

MR. ROUSSEAU: We have.

MR. LUSH: But how was the Burgeo situation in 1971? Again if my memory serves me correct that was the big issue, the mandatory check off, and it was settled on that basis, was it not?

MR. MAYNARD: That was between employer and employee.

The legislation was exactly the same as you are reading here now.

MR. HICKMAN: Right.

MR. MAYNARD: It always has been in Newfoundland.

MR. HICKMAN: And in every other Province.

MR. LUSH: You know, what we have done here is made legal a practice that has not been followed. You know, we have made legal -

MR. DOODY: If the hon. member will permit me?

MR. LUSH: Sure.

MR. DOODY: We have not made or we are not making any change at all, we are not legalizing or delegating anything. This is the same word verbage that has been in the Act since 1951, the original Act. The situation in Burgeo was a set of negotiations between the employer and the employees on working conditions. It is not covered under this legislation at all. There is no change in this. I think what you are asking is that the Rand formula be incorporated into this, which would be a change. This legislation calls for no changes, the situation is what it was in the original Act.

MR. LUSH: No. The point I am making, Madam Chairman, is precisely if we have this piece of legislation, and it is not effective, what is the point in keeping it in? Because to my knowledge just about all situations -

MR. ROUSSEAU: It is a negotiating point between the union and the employer. It is a negotiating point. They negotiate that into

Mr. Rousseau:

the agreement. Some have it. Some will get it in future times. The unions are not going to let them get away with it.

MR. LUSH: But to my knowledge most situations where we have unions, that either we have the closed shop principle or the employers take out the fees of everybody, right?

MR. ROUSSEAU: That has been negotiated. That is a negotiating point.

MR. LUSH: That is one of the two situations. So why leave this situation now, we are breaking with precedent with what we are doing, you know.

MR. ROUSSEAU: How are we breaking the precedent?

MR. LUSH: Because what we are now doing - what we have now is one of two situations a close shop -

MR. WHITE: Have them all join.

MR. LUSH: Right. A close shop or either the situation where the employer -

MR. ROUSSEAU: Right. But how are we breaking the precedent?

MR. LUSH: - deducts the fees from all of his employees. Now we are saying this you do not have to do that. Now all workers do not have to pay union fees.

MR. ROUSSEAU: It is the same as it has been since 1951.

MR. LUSH: I am not saying it is not the same, I know it is the same, but it is not in accordance with practice, so why do we not update the legislation -

MR. WHITE: Keep up with the times.

MR. LUSH: - and put it in accordance with practice.

MR. ROUSSEAU: It is negotiated by the union and by the company.

MR. LUSH: The practice now is that just about all -

MR. WHITE: Just about everywhere.

MR. LUSH: - just about everywhere where you have unions, all people working in that particular area, working under that union, they are all paying fees.

MR. WHITE: Of course.

MR. LUSH: We have done it for the doctors, The doctors have to pay their organization or their society fees, every one of them they have got to pay. And why do we not do it for the workers of this Province? And as I have said before, we are giving people here people who do not want to pay their fees, we are giving them the chance to slip in under, receiving all union benefits, all privileges, they will accept the working conditions for which the union is negotiating.

AN HON. MEMBER: They join, but they are forced to join.

MR. LUSH: Well that is what we are doing now. That is what is happening in practice.

MR. MURPHY: No.

MR. LUSH: Well.

MR. MURPHY: Look you get in there and give me ten dollars a month or else, is that it?

MR. LUSH: They are going to take away the rights -

MR. MURPHY: Is this it? Is this hon. gentleman's idea of democracy?

MR. LUSH: Are we going to -

MR. MURPHY: Take the fellow by the neck and throw him in -

MR. LUSH: Talking about democracy, Sir, -

MR. MURPHY: Come on! Come on!

MR. LUSH: - and there are many things in this bill.

SOME HON. MEMBERS: Oh, oh!

MR. LUSH: There are many things in this bill -

MR. MURPHY: We talk about human rights, the rights of the individual.

MR. LUSH: The minister talks about democracy.

MR. MURPHY: Yes.

MR. LUSH: There are many things in this bill that are not democratic.

MR. MURPHY: Such as?

MR. LUSH: And we will come to them as we come up to the various clauses. There are many things here not democratic.

MR. F. WHITE: Hear, hear!

MR. LUSH: And if the minister is going to talk about being democratic let us apply it to everywhere in this bill.

SOME HON. MEMBERS: Oh, oh!

MR. LUSH: No, this is just simply giving -

SOME HON. MEMBERS: Oh, oh!

MR. LUSH: If these people are going to be allowed to work in a certain area, in a certain industry without being members of the union, we talk about rights, they want to have the rights to participate in all of the negotiations which the union will do for working conditions and for salaries, but they do not want to pay the fee.

MR. MURPHY: (Inaudible) automatic.

MR. LUSH: Madam Chairman, I just wonder why the minister again - he has not addressed himself to this particular issue - why we do not have a bill that is in harmony with accepted practice, with labour relations throughout the Province. And the accepted practice is, as I have said before, either that we have close shop or either that the employer deducts wages from everybody that is in the union.

MR. WHITE: A compulsory check off.

MR. LUSH: It is a compulsory, mandatory check off. And that is what we have been doing in practice, but here we got a bill, we have kept in an old bill that is not in harmony with that situation.

MR. CHAIRMAN: (Mrs. MacIsaac): The hon. member for Eagle River,

MR. STRACHAN: Madam Chairman, -

AN HON. MEMBER: Go for 45 minutes, 'Ian'.

MR. STRACHAN: There is nothing radical about a man -

AN HON. MEMBER: A very conservative gentleman.

MR. STRACHAN: Very conservative, extremely conservative.

SOME HON. MEMBERS: Oh, oh!

MR. HICKMAN: Order!

MR. STRACHAN: The points that the hon. member for Terra Nova (Mr. Lush) are making are the very crux of the matter. It seems



Mr. Strachan:

to me in listening to the Minister of Finance when he was explaining the application of the Rand formula that he talks in certain terms - and if I can get radical now and stop being conservative. We indicate in our attitude towards unions that we are concerned, very concerned there about the militant few or the situation of the unions that somehow or other they are different from any other association or society.

This morning we went through a bill, Bill No. 81, "An Act To Restructure The Law Society In Newfoundland", 102 sections in the Act, and probably all written by the lawyers, you know, all of whom suggested it all pretty well. Let us face it, you know, they come up and provided it. There was very little discussion on it or very little debate probably from the government on it. All prepared by the lawyers, a lovely bill, and it comes up here and it is very legalistic, and it is hard to make terms of it, and so on, and this will then be the union, this is the lawyer's union book, you know, their little doctrine, their little red book they will keep in their back pocket for governing themselves, written by themselves and passed in and now adopted into law, and that will be the society that governs the lawyers, and we have another society governing doctors and so on. But as soon as we get down to the ordinary worker and we term it union, as soon as we get into that then it is going to be different kind of legislation all together. We have to guard against the militant few. We have got to guard against the number of these radical people who do not understand, who do not have the ability to govern themselves, whom we have often got to

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tell them what to do. They are not able to run their own affairs, and that is surely the very crux of what we are adding in the labour legislation, and that is the very argument that we have against this bill, Bill No. 62. We feel it is regressive, it is backward moving, because, in effect, what it does is still create the adversary situation for labour people. We are still putting the labour movement in an adversary role, and there are other methods out of the labour problems we are faced with right across Canada and in this Province, and will be faced with in the years to come. And the way out of it is not to create them and put them into an adversary situation and neither is it to get them to write their own act like we asked the lawyers to write their own act. But essentially the lawyers write their own act, and they come in and get it passed into legislation. But the union, the Federation of Labour, they cannot write their own act because maybe even when they ask for some changes, there are arguments. They cannot run their affairs, we got to watch them. These people might be militant. They are going to argue. There are going to be big fights and they are going to get out of hand, and we got to be careful we do not become raving lunatic socialists. And what we are stating here is that we must change our attitude totally towards the labour movement if we are going to get anywhere with them at all. And what we must do then surely is to adopt a role which will not put them in an adversary situation. And it has been done in certain other countries of the world and has worked in certain other countries of the world with the resultant increase in productivity, the increase in labour relations, the increase in profitability. And if we could only persuade some of the companies and corporations to do that, to start making these kind of concessions, to start getting off their high horse and off the idea that only they can run the country and start coming down to levels of saying that the labour group as such is equally important, in fact, more important than the capital group, that there are the resources, the capital labour and labour has an equal role, if not, slightly higher than the capital role. But if

MR. Strachan.

so, let us create them as an equal position. And let us try to get some relationship in which they can work together. And surely that is exactly the point that we are trying to get at, that this legislation does not do that. It is not an enlightening piece of legislation. It is a backward piece of legislation as far as we are concerned, because it makes it so darn legalistic, it makes it so complicated, it changes the whole language of the labour movement that they worked with for the last fifteen, twenty years.

So what we now have is a new bill of 154 sections, essentially requiring a lawyer or a battery of lawyers to try to help you through each section. And our argument then in this case here is that it does not assist or help. I wonder if a doctor in this Province decided he was not going to belong to the society, he did not want to belong to the Newfoundland Medical Association - is that what you call it, the NMA? - that he no longer wanted to belong to them, he does not want to have anything to do with them, he does not want to practice according to their lights, according to the principles they have laid down, and he wants to opt out and stay out of it, I wonder how long he would last in this Province? I wonder what would happen to him? I wonder how he would operate if he did not want to take that kind of situation? I wonder if the MCP would work on their principles? I wonder what the whole situation is? I wonder if a lawyer did not want to belong to the Law Society, if he turned around and said, I do not want to belong to the Law Society, a union of lawyers in this Province; it does not benefit me, I get no benefits from it, I do not see why I should have to pay anything towards it, and I will stay out of it, and he gives up totally belonging to the Law Society. I do not know if he can. Shoot in legislation - is enforce - in which he cannot. At least I have the understanding that a lawyer must belong to the Law Society to be a lawyer. So what we are saying in this legislation here is that if a member is a welder, if he belongs to the union of the welders, in order for that union to be able to -

MR. MURPHY: He cannot operate as a welder unless he gets a certificate.

MR. STRACHAN: Oh, yes. It is exactly the same as a lawyer cannot operate without his degree and a doctor cannot operate without the degrees. There is no question about it. They are the same. His welding certificate is the same as a doctor's degree or anything else.

MR. MURPHY: A Chartered Accountant can -

MR. STRACHAN: No, you are missing the point, no, no! What I am stating is that if a welder is a welder and he has his welding certificate, he has gone through training and so on, that he has got his welding certificate. That gives him the qualification to be a welder. It requires him to work. If he wants to work in Labrador City as a welder, he then joins the union and belongs to the union.

MR. DOODY: E.F. Barnes does not have a union.

MR. STRACHAN: Well, that is right. That is correct. Because in effect, you know, E. F. Barnes are not unionized. But the point is this, that if it comes to the stage of the unions starting to organize E. F. Barnes, exactly the same as there are places here because of the class structure we have been in, there are places that are not unionized and have not felt to be unionized. What we are stating is that the professional organizations, the professional man has a union. They do not call them unions, because unions got a dirty word to it. The professional man has a union to protect him. He has got all the protection in the world behind his own union. What we are stating here is that if a welder wants to work in an IOC plant he, therefore, must become a member of the union. And as such he, therefore, must have the money, the check-off system, the money is taken off, his dues paid and so on each time. If he does not want to become a member of the union, then he does not work at IOC, and he does not belong to the union. He goes and works at something else if he does not want to do that. And I agree with it. I think that is the only way that if a union is going to sit and bargain with a company, a major



Mr. Strachan.

corporation for the benefits for that welder, then surely that welder, whether he wants to or not, should become a member of the group which gives him that protection. It is okay to turn around and say to him, You do not have to remain a member, but then as soon as anything is in trouble, as soon as he finds that he is in trouble, then immediately he runs off to the union to try and get assistance or get underneath their umbrella. What we are stating here is that we believe the situation, the simple answer is that if a member wants to have the right to work - and I believe in a member having the right to work - but if he does so then he must as such, the same as in all organizations, be it professional or labourer. If he is going to work in that area then he belongs to the union, and he accepts the fact that he must support the union financially by donations from his pay cheque. And what we are asking here is essentially that. Essentially what we are saying is put the Rand formula into place, apply it here; that although this here has been on the books for many, many years. In essence what does happen all over this Province, and in many cases in unions, as members do belong to it anyway, what it does lead to is the same point that I was trying to get at earlier, the argument of coercion or persuasion in which the minister says, Well, it is up to the union, therefore, to persuade the member that there are benefits and advantages of belonging to the union, and persuade them to join that union. What we are saying is that there are also advantages, and many advantages, therefore, for the employer to persuade him not to belong to the union and break down the whole system in which case the methods used, the coercion, the intimidation. Let us take it that if a man wants to go to Labrador City and does not want to belong to the union or if he is encouraged, the man, therefore, when he goes to Lab City can own a house and the company might turn around and say, Look, do not belong to the union, and we will give you your house. We will arrange the house for you.

MR. STRACHAN: Let us remember this much: If a man is fired in Labrador City, he loses his house even though he has a mortgage, and he has obtained his house and he has paid for his house for eight years, If he is fired and loses his job, he automatically loses his house, plus the fact, not only losing his house, he has to pay depreciation on that house at the rate of two per cent. A man conceivably can be in a situation in Labrador City in which he might have to pay after eight or ten years for his house which is taken away from him because he has been fired.

Now we are starting to talk about class situations or situations in which the worker is trying to defend himself. Surely, there is a typical situation in which the worker is totally under intimidation and fear. And the only way he can get out of that and feel that he has any rights or any security is to join the union and hope the union will do battle for him. But it is a ridiculous situation that if a man who owns his house - and the house, by the way, paid for by government funds, the house is built under CMHC, under government money - is taken by the company, mortgaged to the worker, and if the worker is fired he loses his house, he loses his mortgage and he has to pay depreciation on it. And we are starting to talk about why people want protection, It is a ridiculous situation! I cannot imagine any doctor, any lawyer, any professional man in this Province ever going to work under a situation like that. No one would ever accept it, because what he is then is living under a fear that if I am fired I automatically lose my house and all the money and all the mortgage - all gone! Plus, of course, if he wants to sell his house to someone else, he must sell it back to the company who then sells it to the other man, and also sells to the other man for the normal sum of \$1. And, therefore, this Province loses revenue because he has not lodged the house and the true value of the house. He is now transferring it through registration, the company is, for \$1. But these are situations in which the labour force find themselves.

Mr. Strachan.

We start wondering why in Heaven's name do they want to belong to unions and why do they want these kind of check-off situations, because surely all the company has to do is offer certain tid-bits. Given a situation in which they do not have to belong to the union,

MR. STRACHAN: they can apply their powers of persuasion and give them certain tid-bits and feed away from the union and then there might as well not be a union at all. We might as well banish unions forever, forget them! because they have got no bargaining strength whatsoever. They hardly know what is going on. In many of these situations in which there are strikes, we know full well that the strikes are not called by the workers. The strikes are called by the companies. That is well known.

MR. MURPHY: Does the hon. member really believe that?

MR. STRACHAN: It is well known. It is amazing to know that when an IOC strike is called in Labrador City, when it is created, it is amazing to know that for the previous six weeks the IOC Company built up and stockpiled iron ore in Seven Islands, Quebec. In fact, they were quite prepared, quite prepared to close the mine down, close it down. We stockpile it anyway, we can go for two months without having to do another day's mining.

MR. LUSH: The same thing happened in Labrador Linerboard last year.

MR. STRACHAN: Oh, that is proved. You know it is well known. They did not need another railroad car of iron ore.

MR. MURPHY: - causes the strikes.

MR. HODDER: Labrador Linerboard Limited did not have any market so they kept the union on strike until they got some more orders and then they settled the strike.

MR. MURPHY: Did they all go on strike?

MR. HODDER: Well, they were not ready to negotiate. They would not sit down until -

MR. MURPHY: That is a different matter. There are two sides to every argument. One side always right. Sometimes they might -

MR. WHITE: Finally showing their Tory colours.

MR. HODDER: Yes, boy. All for management, all for management.

MR. MURPHY: Listen, my son, I was in a union when you were in knickerbockers.



MR. HODDER: All for management.

MR. MURPHY: You do not know what a union is.

MR. WHITE: I was never in a union in my life.

MR. MURPHY: No, that is bloody well right you were not.

MR. WHITE: Never in a union in my life.

MR. MURPHY: Bloody well right you were not in a union.

And that is why you do not know what the union really is.

MR. STRACHAN: What we are stating here is that this piece of legislation, this clause and so on, gives the right to the companies to persuade people not to belong to unions and because it is obligatory it therefore means that the person, employee, need not belong to a union. And an employer can do it in many, many ways, he can apply this coercion. And I have seen it in many, many ways. I have seen it in ways, an employer has advantages and his home, he has buying privileges and I could enumerate them if you want me to give proof of that, I could enumerate them.

I saw people who were intimidated, intimidated in the severest ways from joining a union first formed and I was fortunate enough to be involved with them early on, in which people were intimidated. All they were trying to do was trying to get a reasonable price for their fish, plus certain benefits.

I cannot see why we are so frightened and so turned off by the unions that we almost run and regard them as being communist organizations or something like that. In fact, some of the trouble with some of the unions is they are so conservative, I mean small "c" conservative, some of the unions, that they do not do anything for their members. It is often very difficult to get unions to move in certain ways. But what we are getting into here is that if we carry on with this kind of legislation, it is a typical class battle building up over the years which is going to be to the detriment to this Province. exactly the same as it is the detriment of every other country in which this kind of movement and this kind of struggle takes place, especially in Britain,

Mr. STRACHAN: for instance, in which a ridiculous situation occurs, in which they have all driven themselves into corners and cannot survive anymore. What we are saying is that surely there are enough examples of enlightenment all around. What they are trying to do is build into themselves some protection because they feel they need that kind of protection. And the unions are saying, "Give us the membership. We need the membership to protect our society, our profession, because fishing is a profession and welding is a profession, the same as law or medicine is a profession." And we are fast getting to the situation where people in fishing can make more money than many of the people coming out of the university with degrees who cannot find jobs. But the people in the technical skills, on the technical side, are the people who can make money in this Province. And what they are asking for in many cases is to stop treating us as though we are nothing and low down, but start treating us on an equal basis that we have skills to provide and you need those skills and therefore as such we need some form of protection. And this is exactly what this legislation is asking for here. What it is asking for is that where there is a union the members should belong to that union. The people who are employees should belong to it, that if we give them any method of stating, "I do not want to belong to a union," then in many cases the unions might as well get out because they will find they will support them in some and not support them in others. "If it is of benefit to me I will join your union. If it is not of benefit to me directly at the moment I will not join you." And you can have a ridiculous situation, a ridiculous situation.

So surely, Mr. Chairman, what we are trying to explain here is that we feel the Rand formula as such should be applicable if it is essentially what is occurring in this Province now, if it is in most cases, although there are many cases that I know of in which it does not occur, but in most cases if it does occur then why have legislation on the books if it is enlightened future kind of legislation, then why have legislation on the books

MR. STAPLETON: which is fifteen years old and with which the Federation of Labour does not agree. So what we are asking for here is a major change in this section here, 35, on the assignment of wages. X

MR. CHAIRMAN: The hon. member for Terra Nova.

X MR. LESE: Just one other word on this particular bill. A moment ago somebody mentioned about democracy, forcing people to belong to unions, forcing people to join unions against their own wishes. And I want to say, Mr. Chairman, that actually this is the only instance and it happened several times throughout this piece of legislation, where indeed we go against the principles of democracy. Before a union becomes certified a vote is taken among the employees and it is only with the majority vote of the employees that a particular union becomes certified and what we say here, and I suppose I cannot think of any other case in democracy where we say it, is that okay we have got the majority of the people here voting to be unionized but those of you who voted against it you do not have to go along with the wishes of the majority. You can flagrantly stay outside the majority decision. If we were to apply that in any other situation it would be rather ridiculous. It is almost analogous to tell the people of this Province who did not vote for the Tory Government that you do not have to go along with paying their taxes or whatever legislation they make. You do not have to go along with obeying their laws. You can get outside of this because you did not vote for it.

So this is not a matter of coercing people into belonging to something which they do not want. This is not an infringement upon human rights. They were given the decision to vote for the union and the majority of the people accepted it and since the majority of the people accepted, why allow people, other workers who are only a minority, to not have to go along with the majority rule.

MR. LUSH: I think actually it is discouraging the formation of unions. When we allow for this sort of thing that is happening here, it is certainly not going along with democracy in any way or form. It is flagrant digression, as a matter of fact, away from democratic principles. It is not at all imposing or making impositions upon people. It is not an infringement of their human rights when indeed the union came in there properly. It was voted on by the people. And they could not be the bargaining unit if they were not voted upon by the majority of the people. Well, this idea of human rights is a lot of nonsense. What we are allowing here is allowing people to get away from a majority decision, allowing them to duck out, allowing them to escape and allowing a situation for them to take all the benefits that will accrue to a particular group from belonging to a union but allowing them to duck away from the disadvantages. It is a retrogressive step and it is unfortunate that we had to maintain this particular piece of legislation.

Mr. Chairman, what we are saying is that we would like for the Rand formula in this particular case to be applied.



MR. LUSH: We would want it that where a union is voted upon to be the bargaining unit, to be the bargaining agent for a particular group of people that everybody employed in that particular area should belong to that union. They should have to pay the fees and the employer should collect them, and nobody should be allowed to duck out from it, to duck out from under it because it was in the first instance a majority decision for the people to belong to that particular bargaining unit. And so there are two things here that we are asking for, there are two things in this particular bill: One, that the employer be required to collect the fees from everybody working in that union; and of course the other part which is concomitant with it is that all the employees be expected by legislation to pay the union fees. And these are simply the two things that we are asking for. The way it is now we think that it is discouraging unionization in this Province and we do not think it should be that way.

Did I hear someone say agreed?

SOME HON. MEMBERS: No, no!

MR. LUSH: Upon that basis, Mr. Chairman, I would like to propose an amendment to 35 - I would like to put in an amendment I should say to 35 - make it 35 (1) (a) and 35 (1) (b) to incorporate the two things that I have talked about. I want to move an amendment, seconded by my hon. colleague from Eagle River, and the amendment will read as follows: "That upon the request of a trade union representing the majority of employees in any appropriate unit, the following clause shall be effective and its terms shall be carried out by the employer with respect to such employees on and after the date of the trade union's request until such time as the employer is no longer required by or pursuant to this act to bargain collectively with that trade union. Every employee shall as a condition of employment whether or not a member of a trade union be required to pay not less than once monthly the

MR. LUSH: periodic dues uniformly required to be paid by members of the union." And the (b) section would be: "The employer shall deduct and tender to the union not less than once monthly the amount of periodic dues as required by the union from each employee and shall inform the union with each transmittal the names of the employees from whose wages deductions have been made and the amount so deducted from each employee's wages." The expression "the union" in the clause should mean the trade union making such request .

Mr. Chairman, again the two points that are fundamental to this is that nobody would be allowed to duck out from being associated with a union when it is the majority decision of the people in that group. As I have said, it is the only - and we have made this exception three or four times in this particular bill for workers, that the people that are a part of the minority do not have to go along with the majority. This certainly is a flagrant digression from everything that is democratic.

So I just want again to summarize by saying that I think that where there is a union -

MR. CHAIRMAN: Order, please! Is the hon. member debating the amendment because the question has not been put yet? The amendment is in order and is as was stated.

The hon. member.

MR. LUSH: Mr. Chairman, just in summation that is all. I think that the present legislation is discouraging the formation of unions in this Province by allowing people to - the minority if you will, to not belong to the union. It is a way out and I think the legislation should be drafted as indicated in my amendment so that this is not the situation .

MR. CHAIRMAN: The hon. member for Lewisporte.

MR. WHITE: Mr. Chairman, I just want to make a point or two with respect to this particular amendment which has been moved by the hon. member for Terra Nova (Mr. Lush) and supported by the rest of us. Mr. Chairman, why should people not pay for what they get?

MR. WHITE: I have worked in a situation where there has been unions and for a year or two - if it is a two year agreement you will find people dropping out of that particular union all the way through. Six months after the contract is signed a whole slew of people have dropped out of that particular union and have not carried on with their union dues because they got the benefits now, the contract is signed, we are all okay so we will drop out. And what kind of foolishness is that? If we are going to have enlightened legislation in this Province at least let us make it somewhat easier for the working man to continue on. Now I am sure all members here have seen suffering on the pickets lines throughout this Province often enough. When workers are on the picket lines for long periods of time, they are not getting enough money to feed their families, they cannot get welfare or social services, they cannot get unemployment insurance and they are getting twenty-five or thirty or forty dollars to keep them going on the pickat line because their union fund is not big enough. Yet the same people who walked out belonging to the union or refused to pay the union dues receive the same increases or the benefits that come about as a result of that. So let us put in enlightened legislation . And at least if we are not going to bring in what they call "the closed shop" let us have compulsory checkoff where, if a man is going to be represented by a union, on whose behalf the union is negotiating and the union gets new benefits for that particular individual why should he a month after that, or two or three weeks after that be permitted to sign a slip of paper and take it into his employer saying I do not want anything else to do with this union. Then the next negotiations come up and then they are scattering around like flies because they want to be re-enlisted in the army that is going to get them the wages again. Now I have seen it happen. Most hon. members know where I worked before, where they had a union and they had a strong union. But I am suggesting to you that they had no compulsory checkoff. They got it later in negotiations, but it was a fight. And I suggest

MR. WHITE: that this piece of legislation here is meaningless, it is outdated. It is not a matter of being socialist or anything like that, or leaning to the left or anything like that. It is just trying to get common sense into our legislation. So, Mr. Chairman, I support this piece of legislation and I hope that the government sees fit to go along with our amendment, to at least give the working man a chance and to give some of the new unions that are trying to get ahead in this Province, trying to do something for the workers, a situation whereby there would be compulsory checkoff. I am sure we would not have seen the situation up at E.C. Boone - is that where the big strike was on for a long, long time? Where was that?

AN HON MEMBER: O'Leary's.

MR. WHITE: O'Leary's. Right! We would not have seen the situation there that existed for such a long time, and all the suffering that went on, if the kind of enlightened legislation, the kind of advanced legislation we are talking about were brought in instead of this Dark Ages legislation which is twenty years out of date. It is ridiculous.

MR. CHAIRMAN: Hon. member for Eagle River.

MR. STRACHAN: Mr. Chairman, Since it is two minutes to six -

AN HON MEMBER: One minute to six.

MR. CHAIRMAN: Is it considered to be six o'clock? Agreed!

I leave the Chair until eight o'clock.



PRELIMINARY  
UNEDITED  
TRANSCRIPT

HOUSE OF ASSEMBLY  
FOR THE PERIOD:  
8:00 p.m. - 11:00 p.m.  
MONDAY, JUNE 13, 1977

The Committee resumed at 8:00 P.M.

Mr. Chairman in the Chair.

MR. CHAIRMAN: Order, please!

The hon. member for Eagle River.

MR. STRACHAN: Mr. Chairman, I had not spoken on the amendment proposed by my colleague for Terra Nova (Mr. Lush), on Section 35.

Mr. Chairman, we outlined earlier on before supper our feelings about this, that we felt that people who work and enjoy the benefits of a trade union movement should therefore have to pay the dues to the trade union movement. We feel that they cannot take it just when they feel like it, when they get the benefits of the union movement, and they will be a member then and pay the dues, and when they feel that it is inappropriate to belong to it then they do not have to pay the dues. And we feel that the amendment moved by my colleague there in which it states that every employee shall as a condition of employment whether or not a member of a trade union be required to pay not less than once monthly the pay out of dues, uniformly required to be paid by members of the union. And this second clause which stipulates the payment of these dues; the employer shall deduct intended to the union not less than once monthly the amount to pay our dues as required by the union for each employee, and shall inform the union with each transmittal the names of employees from whose wages the deductions have been made and the amounts so deducted from each employees wages. The expression 'the union' in the clause shall mean the trade union making such request of employer.

We believe that that is necessary. We believe it has to be done. We feel quite strongly about it. We discussed it and we will be voting for this amendment, and voting against what the clause state. Again we feel that if it is virtually the position which is in the Province at the present, then it is the position in which virtually it would be very easy to change, and adopt this amendment, if as most of the trade unions and most of the employees and

Mr. Strachan:

sections dealing with trade unions belong to the union and never pay their dues, we feel that by changing Section 35 and carrying these amendments that will make it more in line with what is actually the case in the ranks at the present date.

The other point that I was getting on with before 6:00 o'clock was the argument about the position of unions, and the attitudes towards unions, and here we are getting into a little bit of talk on whether one is pro-union or anti-union or pro-left or pro-right or whatever it is. And I stated there my feelings were that the lawyers have a society, the doctors have a society and so on, and yet when we come to dealing with an ordinary worker and his union and so on we have a different attitude towards them. I suggested then that there were ways in which it could work, ways which were more applicable, and ways which would make it a non-adversary situation. And just so that I am not criticized totally for being negative on this point, I would just like briefly to enlarge on that, and take an example for instance within this Province in which the Burgeo Fish Plant would be an ideal example or even Fishery Products for that matter, to illustrate where I think could be a position which would make strikes occur less often, because I think what - we are talking about here in this union relations, and labour relations is trying to make things work successfully; work successfully for the Board of Directors, work successfully for the employers, the employees, work successfully for the Province, so that everything is moving in a successful order, and I think if we maintain it, that is what we are trying to get at. We got to be careful then that what we are stating is that it must be a success for all of these groups. And what I was trying to get at there was that I feel in the case of the Burgeo fish plant, for instance, in which the Province has invested virtually all the money into it, the Burgeo fish plant a great deal of the money is money of this administration, and I welcome the fact that they did it, they took

Mr. Strachan:

over the plant and made it operate and so on. And as such  
therefore -

MR. HODDER: They paid too much for it, though.

MR. STRACHAN: I agree, and they have taken in the process,  
taken I should say no worse than the workers have been taken for  
years and years.

MR. DOODY: It is necessary for social reasons.

MR. STRACHAN: That is right. I agree.

MR. HODDER: They paid too much for it.

MR. STRACHAN: I think it is indicative of the viewpoint that  
the people we are dealing with in a lot of these situations.

But I think that what we were talking about there  
is that if the workers as such who formed a union were given a  
role which is different from the adversary role created through  
the union, if they were given, for instance, number one, some kind of  
profit sharing, so it is to their benefit financially to keep the  
system working, to keep production high, and to keep production  
ongoing. So number one, profit sharing. And number two,  
if we gave to the workers, the union members and so on  
a position on the Board of Directors, because what we are stating  
by doing that is essentially that the worker, the union representative  
or whatever it is, once he sits on the Board of Directors  
then he realizes many of the problems that a company board  
have to wrestle with, many of the decisions that they have to make,  
many of the positions that they have to come to because they are  
faced with a number of very tight situations, and tight negotiations  
and in order to keep the business successful, in order to keep it on  
its feet, in order to make sure that the business does not collapse,  
I am sure that the union would become far more informed of the positions  
and the difficult positions, that some companies are in, and the unions  
therefore in that case will not be so ready (a) to take strike action,  
or (b) to cause production slowdowns, which are quite often done, and  
which do not benefit either the employer or the employee in  
the long run either.



Mr. Strachan:

What I have felt many, many times is that since this Province owns these industries, virtually has money in it, the union as such, the Fishermen's Union, for instance, in the case of Fishery Products is essentially running these fish plants for the government. It is not the Monroes who are running it, they are the figureheads, they are the Board of Directors, they are probably calling all of the shots at the moment or a great deal of the shots, certainly a great deal of the shots they are in the marketing organizations and so on they are -

MR. DOODY: They are also responsible for the financial administration of the company

MR. STRACHAN: Yes, the financial administration, I quite agree.

The government has somebody attached to them, there is a watchdog, then what we are stating here is that if the Government of this Province have got that much money invested into them, it is virtually the people of this Province who put their investment in there, and it is the people in the Province and in the fish plant who are keeping this operating. So by going to the union, and saying to the union, You appoint your member to sit on the Board of Directors, I am sure that the relationship between the government and the union and the company would change immediately and dramatically, and the union all of a sudden would become much more aware of the problems that the company faces and the government faces in this particular industry. Therefore having that information would indicate to the union members the problems that they face in a more rational way and in a far more informed way. That is the kind of thing that I feel needs to be done in order to remove a great deal of this adversary role, that if we stop regarding unions as being something in which you tell them nothing or where you keep them back, that they are going to be against you and against production and against that kind of thing; that what they will do is, number one, if we give the members profit sharing so they are encouraged by productivity, they are encouraged to keep the plant going and that is surely a positive step which gets away from this adversary role that we are always

Mr. Strachan:

continuing putting union members into. This has worked in many parts of the country; in fact, some of the best companies, and even some of the largest corporations ICI and Field Chemical Industries, for instance, have used this for years, fifteen years now have used this kind of process. ICI and Field Chemical Industries are related to very \_\_\_\_\_

MR. STRACHAN: large European chemical industries very large employers, extremely large employers and they have a company which has a tremendous record as far as downtime is concerned, a tremendous record in non-striking in a country where strikes are a way of life, for instance, in England.

MR. DOODY: They are one of the big shots in the arms of the British Commonwealth besides during the past few years.

MR. STRACHAN: That is right. That is correct, In fact, they have created that position for themselves and made that position, for instance, in the Central Belt of England where the people are tremendously unionized and go so far to the left and are so extremist, yet these are one of the few organizations which have never been hit for many years. It is also applicable in countries like Germany, which has made a tremendous comeback in industry and used this attitude of proper profit sharing and with union members sitting on the boards so they become therefore more informed of the problems facing the company and have an actual input into the company. And I do not think by doing that you are co-opting unions by any means at all. I do not state this in a process of co-opting unions, that you buy them over by any kind of tokenism. What you do is make them actually a strong member of a board with a viewpoint from the point of view of labour. And they sit there and they put into it and they are discussed. And also along with them you have people representing the money, the capital, the management and so on, and they then become a far more even representative group and you do not get this adversary position in which the board of directors then come to the union and tell them, 'This is the decision we made in your best interests.' And what you are talking about then is equality.

So this is the kind of thing that I wanted to explain a little bit because I felt that we should start to move in some cases that way, and what finer way to move than some of the companies that the government own or have taken over for various reasons, right or

MR. STRACHAN: wrong, where the government should be in business. They have had to in some cases, and in some cases I commend the government for doing that. As a Tory party it is a very left wing movement and it kind of makes one scratch one's head because in some cases I think the Tory party in this Province earlier on leapfrogged the Liberals and went so far to the left that it pushed the Liberals to the right.

MR. MURPHY: Is there any difference now?

MR. DOODY: The wrong side of the House.

MR. MURPHY: Tory or Liberal, what does it mean?

MR. STRACHAN: No, that is the problem - there is no difference.

MURPHY: Smallwood or anti-Smallwood.

MR. STRACHAN: That is the problem. If we want to get on to that, that is the problem.

MR. DOODY: Your problem is that you are a Conservative in a hurry.

SOME HON. MEMBERS: Hear, hear!

AN HON. MEMBER: That is a good one!

MR. STRACHAN: I am not anywhere close to Conservative, I can tell you that! My father would turn in his grave!

MR. DOODY: My poor father is like a whirling dervish!

MR. STRACHAN: Yes, and some of the members here.

St. John's West might feel the same too seeing some of the ways they have turned. However, this is the point -

MR. DOODY: Well there is a big night coming.

MR. STRACHAN: - that I was trying to get at. And so with the result then that I support this amendment. I feel quite strongly that we want to see this go through, Clause 35 as it is here changed, and the amendment put in, because we feel that the employees should belong to the union. They should not be there taking the benefits the union has fought for, taking the benefits from all around them. For instance,

MR. STRACHAN: they get higher fish prices or better wages, better safety conditions and so on that the union is constantly ongoing fighting for and yet they are not putting anything into it. And we feel that this should go through, that this amendment should be adopted. I do not see it as being a radical change, I do not see it as being something you require the fellows on that side to go along with. I cannot see where the real argument is. All we are stating is that if it is already practiced in labour and industry in this Province let us carry it out and just put it in as such. But that is essentially the points that we want to make on this amendment, and hopefully maybe other members will want to get in and discuss it.

MR. CHAIRMAN: The hon. Minister of Manpower and Industrial Relations.

MR. ROUSSEAU: Mr. Chairman, just so we understand what we are talking about here, because I do not think the hon. member from Eagle River (Mr. Strachan) wanted to give anybody the impression that this was just a minor matter. I think it is a major matter. It is one of the two major matters in respect to the -

MR. STRACHAN: I just want it to make sense on both sides.

MR. ROUSSEAU: - Federation of Labour. But let me -

MR. STRACHAN: A little bit of housekeeping.

MR. ROUSSEAU: - let me make it abundantly clear,

No. one, this side has -

AN HON. MEMBER: No campaigning can be done on polling day.

MR. ROUSSEAU: - no hesitation in saying and agreeing with the hon. members opposite that people who derive the benefits from union should pay. That is not the bone of contention. The point of contention is the mechanism by which it is done.

Now we have a section here which is similar to the previous Labour Relations Act, similar to Bill No. 75, and similar to all other jurisdictions in Canada, But that is not a reason that we should be doing it. If we thought there was a better way of doing



MR. ROUSSEAU: it we should do so. Very, very, very serious consideration was given to Section 35 and, I am sure, the same arguments we will again get when we get to Section 08, I believe it is. Government gave a lot of serious consideration to it and considered it in all its aspects.

Now let us understand what we are being asked to do. The Opposition has brought in an amendment which says that government should legislate the Rand formula, that government should say to the employers of the Province, that upon the certification of a union every employer shall be required to deduct union dues, and say to every employee who is a member of a union that they shall be required to pay union dues.

MR. STRACHAN: What is wrong with that?

MR. ROUSSEAU: Now, government has decided that it is not appropriate at this point in time to legislate the Rand formula, and to give the reasoning for that I think it is important that we should understand, this is a book - big enough to be a book - Bill No. 62. The other day we passed a labour standards legislation and in it, as I mentioned previously, the forty hours a week is not mentioned. Nowhere in this Province in legislation is the forty hours a week legislated. It is not legislated because it is a point that is bargained across the table.

AN HON. MEMBER: Hear, hear!

MR. ROUSSEAU: Now had I stood up here a week ago or so and said, 'I am going to legislate forty hours a week,' I would not have gotten out of the building, because that is a negotiating point between the unions and the employers. Sometimes they have forty-four, sometimes they want sixty hours in the construction industry, sometimes they want thirty-seven and one-half. They talked about thirty-five and thirty-two, different sets of hours, but these are items that are negotiated across the bargaining table.

The right to have a closed shop or a union shop or a compulsory check off system - what have you, whatever term you want to use - is another point that is used in the collective bargaining process.

MR. ROUSSEAU: This legislation here is not an attempt to iron clad all the principles of negotiation between unions and management. My God, if I came in here with a bill and I legislate everything, what is left to talk across the table about?

MR. MURPHY: What do you want to have a union for?

MR. ROUSSEAU: A union has to sit across a table from an employer and say, 'Look, you do not hire anybody but union people in this shop and unless they pay union dues you do not hire', if the employer is prepared to give up that, good; if the union is prepared to do without it, good; but that is their prerogative across the table. And this government is not prepared at this point in time to legislate it as requested by the amendment from hon. members opposite. It is not a minor thing, it is a fundamental principle. And I would say personally, Joe Rousseau, there is no question. I think if a man derives benefits he should pay the dues - no question about that. And I cannot speak on behalf of the government - I am speaking as an individual person, not even as a member - how I feel. I think they should pay their dues. The only thing we are disagreeing on is the mechanism. We say 'no' to the Rand formula - we have to say 'no' to the Rand formula. We have given it a lot of serious consideration. It exists nowhere else in Canada. that is not a reason why we should not have it here, certainly, but this bill is not only for the labour movement, it is also for management, it is also for the Department of Labour and Manpower. And there has to be some sort of a rationalization of the fact that it has to serve both labour and management, and in government's view it would not be appropriate or fair to say to a man, 'You must join a union.' Well this is what the Rand formula wants it to say - you know, 'You must collect dues.' What we say is, one, if a man wants to do so he may do so; two, the union by

MR. ROUSSEAU: by subtle persuasive methods may do so or, number three, the union may sit across the table from management and say, "We want the closed shop." And if management are prepared to give away that in negotiating session, good. If they are not, that is something that the union will have to continue fighting for, but it is a negotiating point. And this bill 62 is merely a mechanism, a shell, to provide for better labour relations in this Province.

Now the other day, you know, I mentioned all the things that are there to protect the unions. At least we feel they are in favour of the unions. I am not unknown as a pro union type either in my couple of years being Minister of Labour and Manpower. But in this instance I think that I can understand the feelings of the Newfoundland Federation of Labour. I can understand the feelings of gentlemen opposite. But at this point in time, this government is not prepared to move on legislating the Rand formula. And not just to be obstinate or stubborn, we have sat down now since I announced it in 1973, I think it was 1973, or 1974, in Corner Brook and announced the Labour Relations Act and it is just now going through the House.

I am not going to stand up here and say that next session there may not be one or 100 amendments to it. The NTA Collective Bargaining Act, as my hon. friend from Terra Nova (Mr. Lush) knows, there are a number of amendments that have to come to that, one of them because management did not play a game with section (5), with the Labrador West teachers. You know, it is in there. They know what the intent is but they did not play the game with it. So you have got to amend it to make sure that they do.

The Public Service Collective Bargaining Act had to be amended on numerous occasions. There is no bill

MR. ROUSSEAU: in its entirety going to stand the test of time. There are going to be amendments in it. That is not to say that at some point in the future this Province may not be the first one to legislate the Rand formula. I do not know. But as it stands now we think it is fair that a man has a choice by informing his employer that he may wish to have his dues, or an equivalent assignment to the union. Number two, the union can persuade the man to join the union, or number three, the union can collectively bargain across a table and attempt to get it included in the collective bargaining agreement where it is in most instances across this Province.

But the argument, and I accept the argument, and a good argument by the member for Terra Nova (Mr. Lush) and the member from Eagle River (Mr. Strachan). Look, it is a fact now so why not legislate it? So is the forty hour week a fact but I am not going to legislate because I think that people may, some people may want sixty hours in the summertime in the construction industry. Some people, like the electricians and the other trades want thirty-two, thirty-five, thirty-seven and a half hours.

MR. DOODY: Public Service - thirty-seven.

MR. ROUSSEAU: Public Service. What have you? There are certain things that are prerogatives of labour and management across the table. Government thinks that this is one of those prerogatives and we are going to let that remain with labour and management because we do not think that government has any business interfering with that type of legislation.

SOME HON. MEMBERS: Hear! Hear!

MR. DOODY: No business under the -

MR. CHAIRMAN: The hon. member for Terra Nova.



MR. LUSH: Mr. Chairman, I will not delay the debate at all. I just want to make a few points about the amendment to make sure that everyone is clear as to what it means. The idea, not the amendment, is not to force people to join unions. It is a matter even though they are two subsection (a) and (b) both are relating to mandatory check off. One is asking that employees be required to pay union fees and the other is that employers deduct it and pass it over to the unions in the proper way. So the essence of the amendment is for mandatory check off.

The reasons, and I am not going to go over those again in great detail, but, one, to strengthen the position of unions in the Province; and secondly, to give those people who enjoy the rights and privileges of unions to impress upon them the necessity also of accepting the obligations that go with being a union member. We have, I think, certainly thrashed out the point that there are people who want to get the benefits and the rights from a union, if they want that certainly they should also pay the shot and pay for the privileges that are in it.

MR. ROUSSEAU: Did the hon. member read section 31 (1), which is now section 31, Nothing in this act prohibits the parties to a collective agreement from asserting in the collective agreement a provision requiring as a condition of employment membership in a specific trade union or granting a preference of employment to members of a specified trade union".

MR. LUSH: Yes. Pight. That I know. Right.

So, the point is, what the government are saying is they agree with everything here but they are not willing to legislate what is really practiced and this I do not understand. The minister says you know it should be a negotiable point. This would be an approachable point particularly doing the period where a union is applying for certification. It need not be. But it is likely that the union would iron out those things in the beginning and -

MR. MURPHY: - on the same principle.



MR. LUSH: Pardon? If there are two -

MR. MURPHY: If the government are going to order something - which one do you choose?

MR. LUSH: Yes, but this is not the point here in this point at all, you know. I cannot see why the government is obstinate and stubborn on this particular point when they have acknowledged that it is a practice that - when it is a principle that is in practice and you know all I can say is that it almost looks like a position to protect people who do not want to join unions, almost to protect scabs, if you will.

MR. DOODY: No, it is not. As a matter of trade union ways of negotiating this, Scabs indeed. You would not know a scab if there was pus running out of it.

MR. CHAIRMAN: The hon. member for Eagle River.

MR. STRACHAN: The Minister of Manpower uses the point that you cannot legislate a forty hour week, and I agree with him.

AN HON. MEMBER: Yes, you can.

MR. STRACHAN: Yes, you can, but you have not, and I agree with him that under the conditions that he is outlining it would be foolish I think in the extreme because as he has indicated some people may want to work sixty hours and some people different hours and so on and that would be all up to your agreement to that. But to try and relate that clause or that thought to what we are talking about here, what we are talking about here is something totally and entirely different. We are not talking of a forty hour week legislated. Of course I think it is an entirely different principle altogether. What we are talking here is that where, upon the request of the trade union and representing a majority of employees who have already gone through the democratic process, they have a union, they have voted in favour of the union by a majority,

MR. STPACHAN: they have a union set up and so on, what we are stating then is that if they have a majority decision, and we are not taking away any democratic rights whatsoever, they have voted and they have their union in place, what we are stating then is if the majority of workers have their union in place and have agreed to have a union, all we are simply asking for is that the dues be collected from those members who do not wish a union. Because in order for the union to function they have already voted and like everyone else who votes you get what you voted for. The government collects taxes and maybe they have not voted for the PC Party. But you have already voted and you have your union in place and all they are asking for is that number one - if the union is recognized legitimate in force then the employees who are not union members, who do not want to belong to the union, but who derive the benefits the union can obtain for them through the collective bargaining process, that these employees should therefore pay their dues to their employer, the employer should collect that dues and they should be reimbursed back to the union. So the union can carry on its function.

It is so simple I cannot see applying the Rand formula, applying this condition here. I cannot see it as a fact where you could bog down. It already is in effect, it already occurs in the Province, it already occurs in most industries, and to say that we cannot legislate it because if we do legislate that we are going to get into all kinds of things in legislation, we already have a great deal of legislation, 154 clauses of it. So surely you cannot say that in some cases you are prepared to legislate it and in most other cases you are not, surely that does not hold any water. What we are arguing about here is that surely if a majority

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MR. STRACHAN: have decided to have the union, then they all pay their fees, all pay their dues. So the union can carry on its function as a union representing employees.

Mr. Strachan.

And I cannot see it done in any other way. I do not know. The minister says he is not being stubborn. Possibly the minister states that at this point in time - that is not to say that it may not occur next year. Our feelings are that if he is considering that in that kind of statement, if he is making that kind of statement then obviously he has given it very serious consideration. What we are saying then is if he is giving it that kind of serious consideration and we could see an amendment coming in then why not accept the amendment now and put it into force, because it makes sense. At least to us it make a great deal of sense. And as it is here - what it does allow is that it does allow the employer by persuasive means to try to filter people off from a union. And it gets back to the whole clauses that I was earlier concerned about the clauses concerning coercion, persuasion and worst than that, intimidation - these clauses there. Because it is very obvious then that a corporation or a company can try to filter people off in order to break down the whole collective bargaining agreement, the whole union arrangement, labour arrangement which is in force. And we feel here that making this mandatory that they pay their dues - they have still got a choice whether they wish to belong to a union or not.

But if the majority of the people who are employed have elected in a democratic fashion, and I do not see any high-handed militant few trying to run it at all, that it is a democratic process in which they vote and decide on a union, then surely it removes from the situation, the labour relations within that plant or industry, it removes a feeling that there are a few people who possibly - my colleague mentioned scabs - but there are a few people who want to get the benefits but have nothing to do with the union or nothing to do with paying dues or contributing to it. But they are also generally the first people when hard times come on them or when situations arise that they cannot handle, they are the first ones to jump ship or jump overboard and want to join a union or get the benefits or complain why the union is

Mr. Strachan.

not doing it. And what the unions are asking here then is that they are given some funding, that they have funding, that they have the monies to be able to do the job. And so simply that is what we are calling for here. And I do not see why the minister has become stubborn on this one. It is something he says that they have considered and something they might consider in the future, and this possibly might come in as a form of amendment. What we are arguing for here then is that you accept the fact that in its form it is an amendment. If you did so, I do not think it would be backing down to the Federation of Labour. But if you did so, I think it makes sense in itself.

MR. ROUSSEAU: Would the hon. gentleman allow me?

MR. STRACHAN: Yes.

MR. ROUSSEAU: Believe me, it is not a matter of backing down from the Federation of Labour. My God, after four years if the Federation of Labour thinks that that is the relationship we have ! They put their arguments forward, you know, we will consider them, they win a few, they lose a few, we win a few, we lose a few, but it is not a matter of backing down. Not to move that now is not because I am afraid of backing down from anybody. That is not the point. I would not like that left on the record . That is not the way I would view it at all.

MR. STRACHAN: Well, if that is the case, and the minister does not feel - and if the minister feels that they have discussed this often enough and there has been enough give from himself and the administration opposite to give into the Federation of Labour, and the Federation of Labour have lost some things, too, surely in this one here which makes such, we feel, a great deal of sense, and which in actual fact occurs anywhere within the Province - it is a fact of life, it occurs within the Province - then surely all we are asking to do is put into a form of legislation what already is a fact of life. And surely then in that case then, there is no loss of face - and I will accept the minister's statements there - there is no loss of face, there is no backing down from the Federation



Mr. Strachan.

of Labour on this clause. But surely all we are stating then is if it is a fact of life and a recognized fact of life within the labour industry in this Province, then surely the amendment then could stand and be acceptable. And to state that you do not wish to put it in here in that you would then be legislating a great deal of things, union matters which you feel you should be outside of. I do not agree with that whatsoever at all. Surely, if it is a fact of life, the forty hour week is not and to try to relate that to a forty hour week is totally wrong. I think that is something totally separate and should be something which is left up to each industry to qualify and get its number of hours, whether it is a construction industry which wants sixty hours during the Summer or some other industry wants only thirty-seven hours. But what we are stating here then is that this amendment here should be accepted and I, for one, will vote for it.

MR. CHAIRMAN: Does the amendment carry? Those in favour "aye."

Contrary "nay." In my opinion the "nays" have it.

MR. STRACHAN: Mr. Chairman, could we have a standing vote on that?

AN HON. MEMBER: (Inaudible).

MR. STRACHAN: I do not care. As long as I stand in my place I do not care. I do not give a damn.

MR. MORGAN: - standing vote.

MR. CHAIRMAN: On division.

Call in the members.

Shall we consider that three minutes have passed?

SOME HON. MEMBERS: Yes.

MR. STRACHAN: Mr. Chairman, a point I think should be clarified. I asked for a standing vote, of course. I wonder whether this includes the calling of names of the people who are present?

MR. CHAIRMAN: Yes.

MR. STRACHAN: It does.

MR. CHAIRMAN: If three members stand a division is called for and the clerk will record the names.

MR. CHAIRMAN: Order, please!

The question before the House is, Does the amendment carry? I do not think I need to read the amendment.

Those in favour of the amendment, please rise:

Mr. Hodder, Mrs MacIsaac, Mr. Strachan, Mr. Lush, Mr. Callan, Mr. McNeil, Mr. Winsor.

Those against the amendment, please rise:

The hon. Minister of Transportation and Communications, the hon. Minister of Health, the hon. Minister of Social Services, the hon. Minister of Consumer Affairs and Environment, the hon. Minister of Mines and Energy, the hon. Minister of Justice, the hon. Minister of Finance, the hon. Minister of Municipal Affairs and Housing, the hon. Minister of Manpower and Industrial Relations, Mr. Young, Dr. Twomey, Mr. Goudie, Mr. Cross, Mr. Patterson, Mr. J. Carter, Mr. Woodrow, Dr. Winsor.

MR. CHAIRMAN: The motion is lost.

On motion Clause 35, carried.

On motion Clause 36 carried.

MR. CHAIRMAN: Shall Clause 37 carry?

The hon. member for Terra Nova.

MR. LUSH: Clause 37, Mr. Chairman, Clause 37 (b) which has to do with the certification of a bargaining agent and (2)(b) says that if as a result of a vote of the employees in the unit the board is satisfied that a majority of them have selected the trade union to be a bargaining unit on their behalf, the board may certify the trade union as the bargaining agent of the employees in the unit. Now, Mr. Chairman, if I read that correctly, this means a majority of the people in the unit.

MR. ROUSSEAU: Clause 47 would be the appropriate place for that.

MR. LUSH: No, no, I just want to make a point here - that is all - just make a point.

MR. ROUSSEAU: Oh!

MR. LUSH: If this is what I am reading that 37 (b) with respect to the certification of a bargaining unit - it is asking that a majority of the people in the unit - is not on a vote - it is the majority - if the minister could clarify that, please?

MR. ROUSSEAU: This is read in conjunction with Section 47 (1) and what it says - and I know the hon. member is going to have a go at this one, too, because that is another point.

Mr. Rousseau:

If there are one hundred people in the unit, then in order for a certification to be considered by the Labour Relations Board the number voting in favour must be a majority, 50 per cent plus one. So if there is one hundred members in the unit then fifty-one people must vote in favour of certification for it to occur. Now so we can get the underbrush out right away, what the Federation of Labour are asking for is that a majority must vote, in other words fifty-one must vote, and the majority of these voting must vote, you know, but that comes under Section 47. But the principle related to in Section 37, Subsection 2, Subsection (b) is that fact that relates to Section 47 which is the one that you are talking about in the numbers.

MR. DOODY: Section 47?

MR. ROUSSEAU: Yes, 47 is the section.

SOME HON. MEMBERS: Oh, oh!

MR. STRACHAN: Yes, yes. But what it also means is that if someone does not vote, essentially it is a vote against in this clause here.

MR. ROUSSEAU: Yes. The more appropriate place really for the detail here, because we can read along with it, is Section 47 Subsection (1) and (11), if hon. gentlemen would look there, page 32 bottom and top page 33. That is where you have your 50 per cent and your numbers. That is where the actual, in other words the request is spelled out.

MR. CHAIRMAN: Shall Clause 37 carry?

On motion Clause 37 carried.

On motion Clause 38 through 45 carried.

MR. CHAIRMAN: Shall Clause 46 carry?

MR. LUSH: Mr. Chairman, just a question on 46 again. For the purpose of determining whether the majority of the employees in a unit consist of members in good standing - maybe this comes under 47 - but the thing is here it is not determined what a majority is, whether it is by a vote, you know.

MR. ROUSSEAU: That is just a mechanism whereby the official from

Mr. Rousseau:

the department may check the records of the employer to make sure that you have the appropriate number in the majority; in other words, look at the records of the officer.

By the way, while I am at that another point brought up by the Federation, which I have given verbal agreement to, is that in some instances the union does not know who the list of employees are. The conciliation officer, the officer checking out does know, and I made a commitment that we would make that available to them. So all we are saying here is that the employer must open his books to let us know, because we do not know what the number of employees are, and we do not know what a majority is unless we know the number of employees on the roll. So we are saying here that we have the ability, the Department of Labour would have the ability to check the records of the employer to make sure the exact number, whether he got one hundred employees or fifty employees or twenty-five or two hundred and twenty-five. So that is all that says.

SOME HON. MEMBERS: Oh, oh!

MR. CHAIRMAN: Shall Clause 46 carry?

On motion Clause 46 carried.

MR. CHAIRMAN: Shall Clause 47 carry?

MR. LUSH: Well, Mr. Chairman, the minister says this is the appropriate place. What we are concerned about here is the majority for applying for certification. If as it is in 37 (b) which says that it is the majority of them that have selected the trade union, which, as the minister just indicated, means a majority of the membership that this is certainly not the way things work in democracy. You know, it is a majority vote, and here it is not that, and that certainly is undemocratic if those people who did not vote can be counted as against the vote, really as a negative vote. If what the minister said a moment ago, if you have fifty-one, for example, out of one hundred that is a majority, but if you had fifty-one voting then you could have twenty-six, and you would have a majority.



MR. STRACHAN: The majority of those voting.

MR. LUSH: Right. The majority of those voting. But this here is saying, if I understand it correctly, that it is a majority of the membership. Right? It is a majority of the membership.

MR. HICKMAN: This for the purpose of being -

MR. LUSH: Certified.

AN HON. MEMBER: Certified.

MR. LUSH: Right. That is right.

MR. HICKMAN: Yes, well the majority can vote to go on strike, but certification is a change of a total status of an individual, and surely that, you know, -

MR. PECKFORD: They could have vote, after vote, after vote this sort of thing.

MR. HICKMAN: Yes.

MR. DOODY: If this one is not satisfactory they could have another group meeting next month and have another go at it. But, I mean, we could do this here in the House -

MR. STRACHAN: Maybe the Minister of Finance would like to explain it a little bit more to us if he feels like that. I will certainly yield to him.

MR. DOODY: Carry on. Proceed.

MR. STRACHAN: As the member said, what our concerns were here was that it should be changed to the majority of those who have so voted rather than the fact that just the majority who are allowed to vote, because in essence what it is stating is that those who have not voted are essentially casting their vote against. That is the point we are trying to make here, that those who do not turn up to vote, who do not vote as a bargaining agent, are essentially voting against.

So I think the point we are trying to make is a reasonable point. I would like to hear if the minister has something which could straighten that out or some point that he has which would

Mr. Strachan:

make sense to us. It does seem the democratic right to vote, and in this case here the right if someone does not vote, then what you are doing is casting a vote against. And that is our whole argument, that by not voting you are voting against. What we say is that the majority who vote then whatever the vote is that should be the result which is maintained. If 51 per cent of those who attend or 60 per cent vote to do something, then surely that should be the one which goes ahead. Otherwise in that case, if we so considered everybody who did not vote in some election, we would have no government in this Province.

MR. CHAIRMAN: The hon. Minister of Labour and Manpower.

MR. ROUSSEAU: The situation is such that - first of all, let us review if there are one hundred in the unit then the majority have to vote 50 per cent plus one, which is fifty-one people, to accept membership in the union for it to have a hearing before the board and subsequently of course to be certified as a bargaining agent. In some instances, you know, nobody is going to let the letter of the law 51 per cent - I am sorry, fifty-one people out of one hundred, or 50 per cent plus one - so what we say is if an applicant has a membership notwithstanding less than forty, and not more than fifty, in other words if they are in the area of 40 per cent the chief executive officer of the board can cause a vote to be taken - to be certain that we have the number. So in other words if it is 50 per cent plus one, and the person goes out and they check the records and they have 50 per cent plus one it is then referred to the Labour Relations Board and invariably the certification is given, invariably, with a majority in the unit voting for approval of the certification of the union. Now where there is between 40 per cent and 50 per cent, in other words less than the required number by legislation, then they can have a representation vote taken, and a hearing can be held by the board.

You know, you have to remember one thing about the Labour Relations Board for the hon. gentleman, that it has membership from both the management side and labour side, and both

Mr. Rousseau:

sides are there to protect each other, and certainly it is not an attempt by either labour or management to try and put the boots to the other. I mean, there is equal membership on the board, there are two full time members representing labour and an alternative, there are two full time members and an alternative representing management, and an independent chairman, and an independent vice-chairman. So that management's and labour's views are certainly heard on the board. So the principle is one that the majority in the unit must vote approval to join a union before the certification is going to be held by the Labour Relations Board.

MR. LUSH: That means 51 per cent, is that right? Is that what a majority means?

MR. ROUSSEAU: 50 per cent plus one.

MR. LUSH: Right. 50 per cent plus one.

One other question to the minister before we get over this is if the numbers meet the requirement, in other words, if it is 50 per cent plus one, why does the reading of the clause continue that the board may certify the union as the bargaining agent of the employees in the unit? If they meet the requirements and got the numbers and so on, why must it be 'may,' giving the indication that they could also turn it down? Why should it not be 'shall'? If they meet the percentage, got the 50 per cent plus one,

MR. LUSH: why should it not read there that the board shall certify the trade unions?

MR. ROUSSEAU: There may be a number of other variables there that would be of concern to the board. If you have a plant, for example, where - you have another section in there "breaking out of sub-units" and of course you do not want eighteen or twenty different unions in one plant of, say, one hundred or one hundred and fifty or two hundred workers. But the board has to have the prerogative to accept, all other conditions being equal, to accept the certification on a majority vote and invariably it does so. All this is saying is that you do not bind the board to it. The Labour Relations board is an independent board to which I have an equal right with the member for Terra Nova (Mr. Lush), no more, no less, than to ask the board to review something or to certify or decertify or whatever other request, answerable to the House of Assembly through the minister. But we have to give the board the prerogative that they may do it. There may be other factors, extenuating factors, that would not be in the best interest of certifying a certain union in a certain set of circumstances. The vote itself is not merely the only point that has to be considered when certification is impending by the board.

MR. LUSH: Mr. Chairman, again I am not sure of what this clause is saying here, 37(B). And I just want to read to the minister one from The Fishing Collective Bargaining Act to see whether or not this clause here is doing the same thing as this clause in the fishing industry in their bargaining act. The minister is gone now, but I hope he is listening to what I am saying.

AN HON MEMBER: He is.

MR. LUSH: Okay. Under their application for certification whereas here - I want to get this straight - whereas in this one here it say "If as a result of a vote of the employees in the unit the board is satisfied that a majority of them have selected the trade union to be a bargaining agent on their behalf then the board shall certify the trade union!" But under the one in the Fishing Industry Act it says "If as a result of a vote of the fishermen excluding



MR. LUSH: those whose wishes are disregarded pursuant to Subject (1) of this Section 10 " but that is in the unit "the board is satisfied that a majority of them have voted and that a majority of those fishermen have so voted, have selected the association to be a bargaining agent on their behalf." So is there any difference between the two?

MR. ROUSSEAU: There is clearly a difference in this act and the one the hon. -I did not hear the act but I think it is a Fishing Industry Collective Bargaining Act and I think the gentleman is reading from Section 10, Subsection 2(b).

MR. LUSH: Yes, right!

MR. ROUSSEAU: Well, this is government's thinking at this point in time and maybe there might be an amendment to the Fishing Industry Collective Bargaining Act to bring it in line with possibly. I do not know.

MR. LUSH: Or one to this one to bring it in line with that.

MR. ROUSSEAU: Well no, government feels that this is - Now I might make one point which is very important by the way. The fact of a certification vote by itself or a majority vote does not mean that the union is certified. That is only to assist the board in deciding whether it would give -

MR. LUSH: In making the decision.

MR. ROUSSEAU: So fifty per cent plus one would not make it mandatory that the board would certify the unit as the bargaining unit. That is only to assist the board in making this decision because the unit may be employer dominated. There maybe a number, a raft reasons why the board may say "No." but there are hearings. Management and labour come in for the hearings, and the board is given all the information from both labour and management and they have to make a decision. But not on the basis of the fifty per cent plus one, the majority, if we may use that term, does it in itself ipso facto give certification to the unit requesting it. That is why the board may because there maybe other circumstances. The unit maybe employer dominated. We



MR. ROUSSEAU: had some problems over at one of the units we had here where there was a big argument and an arbitration board about who were employers and who were supervisory personnel. And there was quite a mix-up about it and quite a long prolonged strike in the city because of it, and there was some question about who were the hourly men and who were actually supervisory. The representation vote again conducted by the officer - he may seal the box, he may bring it to the Labour Relations Board-but where there is an indication, and it is only an indication to the Labour Relations board that a majority of the people are in favour of a union then normally, all other things being equal, the unit may be certified. But that does not necessarily mean because of the majority vote that a union would be certified.

MR. LUSH: Now did the minister attempt to explain what was the difference in those two here ?

MR. ROUSSEAU: The difference in the one now? - is that you must have a majority of those in the unit. The Fishing Industry Collective Bargaining Act says you must have a majority of those in the unit voting and a majority of those voting will give you the certification request.

MR. LUSH: Why the difference?

MR. ROUSSEAU: Because government's thinking has changed on it. It is the same way across Canada. We have changed it. Maybe it is inconsistent with the Fishing Industry Collective Bargaining Act, which does not mean we may not amend that. And then again we may amend that one. Nobody knows what is going to happen to a piece of legislation with 155 sections in it. There are going to be amendments to it. At this point in time government feels that it would be democratic for the majority to vote. Now the Fishing Industry Collective Bargaining Act was done quite a while ago.

AN HON MEMBER: (Inaudible)

MR. ROUSSEAU: Okay. That section has stayed in there. The Newfoundland and Labrador Federation of Labour wanted the same in

MR. ROUSSEAU: this act as it is in the Fishing Industry Collective Bargaining Act. But it is different. In other words, what could happen in the Fishing Industry Collective Bargaining Act, there would have to be - number one, in this one, one hundred, three would have to be fifty-one voting approval.

AN HON. MEMBER: Right!

MR. ROUSSEAU: In the Fishing Industry Collective Bargaining Act where there were one hundred, only fifty-one would have to vote and twenty-six would have to approve it. So twenty-six out of one hundred employees voting for certification would have a certification hearing before the board because of that majority, and other factors of course would be considered, whereas in this one there has to be fifty-one of the employees voting in favour of applying for certification.

MR. CHAIRMAN: Hon. member for Eagle River.

MR. STRACHAN: I wonder if the minister then could tell us which of the acts is the democratic one? I mean, which of the acts then contain the clauses which are correct? Because what he is stating is the fishing union act there states that if they had fifty-one and twenty-six voting that that would be acceptable, and in this one here we have a situation in which we need fifty-one voting. It seems to me as though if one is wrong then why not correct the other? But if the fishing union act is obviously acceptable and has been acceptable for quite some time - nobody has argued about it, nobody has thought about bringing in an amendment to change it - then this act comes out now, following the fishing union act, and this act comes out with an entirely different basis for voting. Surely one has got to be right and one has got to be wrong.

And the other point that the minister is stating, the difference between may and shall: Surely the point is that if we are giving the people the democratic right to vote, and we are accepting the fact that they voted and in voting they are obviously voting to do something - I mean, they are not

MR. STRACHAN: going to have a vote to do nothing - you then have the right to take away from them the very right they have gained by voting. So surely the operative word should be shall there instead of may because you virtually have no right having given them the choice to vote, you virtually have no right to take it away from them.

MR. CHAIRMAN: The hon. minister.

MR. ROUSSEAU: The point raised by the hon. member is correct if the assumption is made that because there are fifty-one out of one hundred people voting that that union will be certified, and that is not correct. There maybe fraud involved, you know, fake cards. There maybe other circumstances. Another one I mentioned a few minutes ago, the fact that the majority votes by itself is merely an assist to the Labour Relations Board in considering the application for certification. Not in itself will it lead to certification, it is one of the factors considered by the Labour Relations Board when you certify the union - I am sorry, in considering the certification of the unit - one of the factors. So even if one hundred people in the unit and one hundred voted in favour of the union, that would still not mean by the fact that one hundred out of one hundred had voted that the unit would be certified. Invariably, all other things being equal - I say all other things being equal, yes, it would be.

Now on the point in respect to the Fishing Industry Collective Bargaining Act, it was passed in 1969 or 1970 and it was not proclaimed until 1971 in a very big hurry. The hon. member probably knows the circumstances with the Fishing Industry Collective Bargaining Act. Now that was an act not prepared by this government or this administration. This act is, and it is a change of thinking between both administrations in respect to the way a majority should be conducted.

MR. CHAIRMAN: Hon. member for Eagle River.

MR. STRACHAN: The minister is still in essence answering and stating that the vote then is only one of the factors which is taken into consideration by the board, and therefore

MR. STRACHAN: comes around to say that the workers themselves are therefore not in charge because they are only a factor in voting, all they are doing is just showing that they indicated to go that way. What he is stating is that the vote is not that important, that in itself the voting is not important. In other words, the board could say, Well, we think most of them would vote for it, for certification, so let us see whether the other factors are of importance.

In very many cases you would not need to have a vote at all. What you are doing is giving the workers the right to vote for certification and then saying, Now, if you vote for certification you are not necessarily going to get it, we may take it away from you, you may not get it. So in other words, why give them the chance to vote? Why give them the right to vote in a democratic process only to vote 'yes' and have to be told again, 'no', the answer is 'no' and you cannot get it.

Surely the ultimate process of all is the right to vote in anything, the ultimate process. And it is not a process in which you are just another step down the road. It is not a hole, nor it is not anything else; the vote is surely the ultimate right. Surely if they have charge of their own affairs then in having charge of their own affairs, running their own affairs, then if they vote, surely one should have to uphold the decision of their voting. But to turn around and say that the voting is only another factor to consider, another instrument to consider, then I cannot accept it. Inadvertently what you are doing is taking away a democratic right. Otherwise, do not give them the opportunity to vote.

MR. ROUSSEAU: What I am saying is, there is a majority vote, that invariably all other things being



MR. ROUSSEAU: equal the unit is certified. Now is that understood? That principle is there. Now we have had a case where the union said to somebody who had a card, You do not have to pay any dues, we are going to pay them for you. That case is a concrete case and an application for certification was turned down on that. Fraudulent cards, coercion, persuasion, the board has to have the power, not only with the majority - just because there is a majority vote - well, no, maybe I am misleading in a way, the majority vote is important and I guess all other factors would take away from the majority vote. So if there was a majority vote and all other things are equal, good. If there is a majority vote and it is found that some of the votes are fraudulent, or some of them are through persuasion, or coercion, or of that nature, and the vote is not considered to be the majority vote that it was considered to be before the investigation took place on the matter, of course, would not be approved for certification. So there are other factors besides the number in the sense that these factors could contribute to an increased or an inflated number when, indeed, those in the unit are not in favour of a union.

MR. CHAIRMAN: The hon. the member for Fortune - Hermitage.

MR. J. WINSOR: Mr. Chairman, I would like to ask the minister a question relative to that: Why not tidy it up before you put it to the vote? You say there could be many reasons why you would have to go back and have another look at it, even though you had 51 per cent. This has happened to me.

MR. ROUSSEAU: Has it? Yes. Yes.

MR. J. WINSOR: Sure. They took a vote and I suddenly discovered there were three deaf mutes included who should not have been voting. because there was no



MR. J. WINSOR: way they could really understand what the issues were.

MR. ROUSSEAU: That was at the certification hearing, was it? Or during the hearing?

MR. J. WINSOR: No, the vote was taken in the plant and these three were not - I discovered that they were allowed to vote. But the second time around all these things were cleared up by agreement between the employer and the union. We went over every name on the list. "Do you agree to this one?" "Yes." "Do you agree to that one?" "No."

MR. ROUSSEAU: Right. Yes.

MR. J. WINSOR: It should be tidied up before that vote comes, long before that. When that vote is taken it is a mandate. Fifty-one per cent, you are obliged to say, Okay, you are certified.

MR. ROUSSEAU: Yes. Yes. That is correct, if that vote is okay. Now if I could read - the question of the Labour Relations Board, as I say, and the number of people in the unit, we will certainly, certainly make those available to the employees or to the unit looking for certification.

In respect to the certification, the officer goes down there and he will conduct as many votes as he thinks is necessary. They will check back with the employer and the unit.

MR. J. WINSOR: Each side has a right to reject or accept.

MR. ROUSSEAU: Right. Each side has that right. Now the unions are complaining; the Federation complains that they have not always had access to the membership lists.

MR. J. WINSOR: Well, that is a must.

MR. ROUSSEAU: No, it is not a must. That is the funny thing about it. But I have given them a verbal

MR. ROUSSEAU: commitment; the Labour Relations Board and the Conciliation officer who conducts the vote will make it available to them, because I think it is only fair that they would know who is working there, because it is a lot of ferreting out. In some plants, as the hon. the member for Eagle River (Mr. Strachan) says, and I do not disagree with it, in some plants there is subtle persuasion, or coercion that somebody does not want a union in the area, so it becomes a very difficult thing for somebody to stand up on his two feet and - this is, of course, in here too, and if a unit has that problem then all they have to do again is have a hearing before the Labour Relations Board. And while I will agree this is not black and white, the Labour Relations Board, made up of competent management people in this Province and competent labour people in this Province, will be able to ferret out what is concrete and what is ice cream. It will not take them too long to do that. And if the employer is playing games, or if the union, whoever may be looking for certification, is playing games then they are certainly going to be ferreted out by either the investigating officer, and if they get by him, then certainly the Labour Relations Board.

MR. CHAIRMAN: The hon. the member for Terra Nova.

MR. LUSH: I do not know why the minister is being so obstinate on this one. I believe he realizes that there was just simply a grammatical error there, that is all, that is should be 'shall' and not 'may'. It is just that somebody did not understand the difference between 'may' and 'shall'. It should be 'shall'.

SOME HON. MEMBERS: Hear, hear!

MR. ROUSSEAU: Now there is no way that I am going to stand up and put 'shall' in there.

MR. CHAIRMAN: Does clause 47 carry?

MR. STRACHAN: On a point of order.

MR. CHAIRMAN: A point of order.

MR. ROUSSEAU: I was going to say -

MR. STRACHAN: What is the point?

MR. HICKMAN: No, he was sitting down.

MR. CHAIRMAN: No, the minister has to take his place.

MR. ROUSSEAU: I think -

MR. STRACHAN: You can make the point. We can revert to it.

MR. ROUSSEAU: I cannot put 'shall' in there, no. I cannot make the Labour Relations Board do that.

MR. CHAIRMAN: Order, please! Order, please!  
A point of order has been raised that the minister was speaking when the vote was taken. That was not my understanding. But if it is the wish of the Committee to revert to 47.

SOME HON. MEMBERS: Carried.  
On motion, clause 47, carried.  
On motion clauses 48 through 51, carried.

MR. LUSH: Mr. Chairman, before that is passed I wanted to speak to 52.

MR. CHAIRMAN: The hon. the member for Terra Nova.

MR. LUSH: This here, Mr. Chairman, I think there is a loophole here that has caused some trouble with labour/management relations in the past. This is for giving the times for dealing with revocation of applications or for revoking the certification of a bargaining agent. Here there are three conditions given and I am thinking there is a serious one that is left

MR. LUSH: out here. I do not know whether it was by design or probably just that the situation was not seen. I think that one other addition should be made here and that is, "while a legal strike is in progress." I do not think that there should be a move to revoke a union while a legal strike is in progress. That, I think, was essentially what happened in the case with the O'Leary situation, when there was a move to revoke the certification of the bargaining agent.

MR. ROUSSEAU: What clause is that?

MR. LUSH: 52, Okay?

MR. ROUSSEAU: Where do you see strike there?

MR. LUSH: No, I am making a suggestion.

I am making a suggestion for an amendment, actually. I think there is a big loophole here by not having that included, when you can revoke a union, decertify it. There are three conditions listed, (a), (b) and (c), and I am suggesting that there should be another and that is that there should be subsection d, if you will, which says, "While a legal strike is in progress." Does the minister understand what I am saying?

MR. ROUSSEAU: Yes.

MR. LUSH: The Board is not required to accept or deal with any application to revoke the certification of a bargaining agent under section 51." I would like to see a 'd' there and that is, 'While a legal strike is in progress'. Without the inclusion of this section there is a potential for intimidation of employees when a strike is on. At any time there could be a situation where there could be a move to revoke



Mr. Lush.

The certification for this particular union, and I think that that is a weakness here, and I think there should be that inclusion. I do not know whether the minister is aware of that or sees the danger there. But this can certainly be an intimidation to workers that while a strike is in progress, that their union can be revoked.

MR. CHAIRMAN: The hon. minister.

MR. ROUSSEAU: Sometimes it is confusing, you know. I thought this was a beautiful section. We doubled it from six months to twelve months. We thought everybody was happy. That one I was not aware of. The Federation did not bring that to my attention, if you are speaking on behalf of the Federation. At least, it was not brought up to me. I mean, did they bring that point up to you, if I may ask?

MR. LUSH: (Inaudible).

MR. ROUSSEAU: They did not bring that point up to me. We had doubled that from what was, six months to twelve months, and we understood that they were happy with it. Now, you know, if a union perpetrates a strike on a plant, and the membership finds that the strike is not in their best interest, they have a right to look into it. I mean it goes both sides. You know, what I am afraid of is that hon. members do not understand how the Labour Relations Board functions. You know, people do not go into the Labour Relations Board and pull the wool over their eyes. Nobody is going to decertify anybody unless there is a valid reason for it. Now the labour movement have two members representing them. Management has two members representing them. We have two supposedly - and they have always been, to the best of my knowledge - independent chairman and vice-chairman on that board. They are normally very competent people. Leo Barry is the chairman of the board at the present moment, and Mr. Caul - is it? -

MR. HICKMAN: Allan Caul.

MR. ROUSSEAU: - Allan Caul is the vice-chairman. And then you have



Mr. Rousseau.

two representatives and an alternative from labour and two representatives and then an alternative from management. I would not think for one moment it would be beyond me to assume that the Labour Relations Board would revoke certification of a union with two union members on their without, you know, knowing the facts of the case. That is why we go to the Federation of Labour and ask for their representative on the board, to ensure that any hearing before the board, be it certification, revocation or anything else that is heard before the board, that there would be an input from the labour movement.

On motion Clause 52 carried.

On motion Clause 52 through to Clause 56 carried.

MR. CHAIRMAN: Shall Clause 57 carry?

The hon. member for Terra Nova.

MR. LUSH: Mr. Chairman, just a small point. I am just wondering in 57 there whether that means Sections 58 and 68 apply only to the construction industry or whether it means 58 to 68?

MR. ROUSSEAU: 58 and 68.

MR. LUSH: 58 and 68.

MR. ROUSSEAU: Yes.

On motion Clause 57 through to Clause 76 carried.

MR. CHAIRMAN: Shall Clause 77 carry?

The hon. member for Terra Nova.

MR. LUSH: Clause 77 - the last part of Clause 77 here says to conclude a collective agreement. I am just wondering here why this should be this way. The group certainly, or the union should certainly have the authority to bargain, but I think to conclude a collective agreement without any condition for a reference to the workers does not seem proper, does not seem democratic. So the minister would get this again, what we are saying is that the union -

MR. ROUSSEAU: What section?

MR. LUSH: 77.

- is that the union -

MR. LUSH : - of those employees whose employees are concerned with collective bargaining, those employers who are their representatives have authority to bargain collectively on behalf of the organization and to conclude a collective agreement without any reference to the membership.

MR. ROUSSEAU: No, no; that is employers, not employees. Employees - anything that is called a memorandum of agreement is subject to ratification by the membership. But what we are saying is - you know, when people are bargaining across a table and every five minutes that the employers' representatives have to run out of the room and make a phone call back to somebody to find out if they can put another cent on the table or two or do this or that, you know, they have to have the power to go in and negotiate as a union does, and the union will sign a memorandum of agreement and subject to ratification it will become an agreement. For the employer, we are saying, Look, have your people there, and have them able to conclude a collective agreement. Do not start playing games on the phone every five minutes or what, you know. It is a frustrating thing.

On motion Clause 77 carried.

On motion Clause 78 through to Clause 85 carried.

MR. CHAIRMAN: Shall Clause 86 carry?

The hon. member for Terra Nova.

MR. LUSH : Clause 86, Mr. Chairman, again just as a point of clarification. The enforcement of arbitration - this is just a point of semantics really or for clarification - near the end there - let me see where I can pick up the reading - "file at the Registry of the Supreme Court of Newfoundland a copy of the decision exclusive of the reasons therefore in the form prescribed in any rules made under Section 22." Now I am just wondering what that Section 22 refers to, you know, whether it is a section of the law court or whether it is the - just what it refers to? There seems to be no clear indication what this Section 22 is referring to.

MR. ROUSSEAU: What Section 22 says is that the Labour Relations Board may make rules of general application governing its procedures. So whatever forms that the board comes up with - in other words, you know, the Lieutenant-Governor gives the Labour Relations Board the authority to determine its own procedure to use with its panel and with the board with its panels and also whatever other documents it may use, and that is a proper and adequate document to file at the Supreme Court registry. It is a decision of the board.

On motion Clause 86 carried.

On motion Clause 87 through to 88 carried.

MR. CHAIRMAN: Shall Clause 89 carry?

The hon. member for Terra Nova.

MR. LUSH: Mr. Chairman, I just wanted to go back again for a point of clarification on 88, if I could be permitted. It is just to ask the minister a question on Clause 88, subsection 10. There seems to be two repetitions there, and I am wondering why they are repeated? For example, 88 (10) says, "An arbitrator appointed pursuant to this section who renders a decision" and so on and so forth, but anyway that seems to be exactly the same as 84, subsection (3) and (4).

MR. HICKMAN: One uses a single arbitrator and the other an arbitration board.

MR. LUSH: Okay, all right. Let us go to number thirteen. Certainly this one again defines the construction industry.

MR. ROUSSEAU: Now we have there the twenty-four hour quickie, you know, where because our construction season in this Province is very short, if there is a dispute, I have the ability to appoint a - by midnight of the day of the dispute and to have it back within a day and try to get the thing back on track again, where there is an arbitration procedure.

MR. DOODY: The construction workers cannot afford to wait around.

MR. ROUSSEAU: It is because of the short construction season.

MR. LUSH: No, but what I am wondering is why the definition here, because it is given under 54 subsection, word for word, and I am just wondering why another clause, you know?

MR. HICKMAN: Shrewd draftsmen to make sure that it is clearly understood that it applies to both.

MR. LUSH: So give it 154 instead of 155.

MR. HICKMAN: Right.

MR. CHAIRMAN: Shall 88 carry?

MR. LUSH: Just a second now, Mr. Chairman - sorry - until I find where we are. Which one are we on again?

MR. CHAIRMAN: Clause 89.

MR. LUSH: 89, okay.

On motion Clause 89 through to Clause 96, carried.

MR. CHAIRMAN: Shall Clause 97 carry?

MR. LUSH: Mr. Chairman, we certainly disagree with this particular Clause 98 because we think it takes away a lot from unions, it is intimidating really, and what is the real query about it, or what concerns us here is when a strike, for example, will be considered to be harmful because I am sure there is not an employer in the Province when there is a strike called against them but would say it is going to be harmful to that particular industry,

AN HON. MEMBER: That is 98, is it?

MR. LUSH: Pardon? Yes this one, is not that the one?

SOME HON. MEMBERS: No.

MR. LUSH: I am sorry, Mr. Chairman, I thought we were on 98. I am sorry about that.

MR. CHAIRMAN: Shall Clause 97 carry?

On motion Clause 97 carried.

MR. CHAIRMAN: Shall Clause 98 carry?

MR. LUSH: Now I am up to the right one, Mr. Chairman, I can start all over again. I am sorry, I thought we were on to 98.

MR. DOODY: You have already made a good start on it.

MR. LUSH: Yes.

What again is a big concern here is to what criteria is used to determine whether a strike or a lockout poses a threat to an industry in the Province or to a geographic area of the Province?

And this is the frightening part about this particular bill. And it is intimidating to workers and to unions. It renders ineffective, really, strikes in the future because just about anybody can call upon this particular bill, call upon the government to invoke the legislation, to invoke the power which they have under this particular legislation, the power given the government, and it seems that we will certainly render unions ineffective, certainly it will be intimidating.

When a strike is called unions know that the vote can be taken, and certainly it is an intimidating piece of legislation,



Mr. Lush:

and one that we believe should be thrown out completely. And we do not think there is any place for it at all. And it is certainly a step backward. It is not a forward step. And again it is a piece of legislation really that is against the unions of this Province. It is certainly not a progressive piece of legislation. And it is just a piece of legislation that is going to harass the workers of this Province, the unionized workers of this Province. It is just something that is going to harass them, and something that is completely unnecessary.

So, Mr. Chairman, I just simply say that for this time that we want to see this bill wiped out all together, we want to see it taken out of the bill completely.

MR. CHAIRMAN: The hon. Minister of Finance.

MR. DOODY: I think, Mr. Chairman, this is one of the more important sections or clauses in this particular bill. I am sorry there are not more members present in the House -

MR. H. COLLINS: On that side.

MR. DOODY: - on either side to listen to and discuss and to take an active consideration of this, because I think this strikes at -

AN HON. MEMBER: Want a quorum call?

MR. DOODY: Well I am not going to ask for a quorum call. But I think that this particular clause has been misconstrued and has been presented as a threat to the trade labour movement. I just heard the hon. member opposite suggest that this particular clause will render strikes obsolete, and useless, and will take away from the trade labour movement their weapon, their strike weapon and so on. And perhaps, Mr. Chairman, just for the sake of the record and for clarification that particular clause should be read into the record: "And where the Lieutenant-Governor has evidence that the continuations of a strike or a lockout poses a threat to an industry in the Province or a geographic area of the Province," - that

Mr. Doody:

Mr. Doody: almost sounds like a state of national emergency - "the Lieutenant-Governor in Council may by order require the bargaining agent representing the unit of employees who are on strike or locked out" - and that is important because this is not aimed at the union or aimed at management, it is there for the benefit of both, but more particularly it is there for the benefit of the economic well-being of the Province - "may by order require the bargaining agent representing the unit of employees who are on strike or locked out to conduct a secret ballot of the employees in the unit to determine their wishes with respect to the resumption of work." It does not require them to go back to work, Mr. Chairman, It does not tell them that the strike is finished. It does not tell them that they have no more rights under the Collective Bargaining Act or under this legislation or any other legislation or under their collective agreement, it simply directs the bargaining agent representing that unit to conduct a secret ballot, a secret ballot of the employees.

We are not talking here about the right to strike. We are not talking here about intimidation. We are not talking about any legislation that is aimed to render strikes obsolete or useless. We are not talking about any of the basic rights of trade labour movements or of the trade labour movement generally. We are not talking about the rights of management or the so-called rights of management to lock people out if they do not like the way they are acting. We are simply saying that if there is a part of the Province or an industry, a geographic area that appears to be in dire consequence because of a particular strike that the Lieutenant-Governor in Council can ask or can order that the bargaining agent ask that union to conduct a secret ballot. We are not telling them that they should go back to work, We are not telling them that they do not have the right to strike. We are asking them to have a secret ballot. So what the sum and substance of this particular subsection or section is is the secret ballot. Should there be a secret ballot

Mr. Doody:

in a case like this? And I think that there should be. And if having had a secret ballot, and the unit decrees in their own wisdom and judgment without coercion or otherwise, without coercion or persuasion that they want to stay out, then so be it, then government has the onus of decreeing or deciding in consultation with the House, if they feel that is necessary, you know, to carry on with the necessary legislation. I have heard hon. members opposite say that you do not need this particular clause in. If such a state occurs, or in the opinion of government if such a state occurs then government should come to the House and put legislation into effect and order these people back to work. To me that sort of thing is a last resort. To me this sort of clause is a very necessary halfway mark to ask the membership to have a secret ballot, and in order to have that secret ballot to the satisfaction of all, section (2) or subsection (2) is in there, The minister may require that an officer of the department be present during the conduct of the vote.

One of the hon. members opposite said, The storm troopers are going to arrive, the jackboots are going to march down to the union hall.

AN HON. MEMBER: Who said that?

MR. DOODY: He is not here tonight. The hon. member is not here tonight, but it was said. The large presence of government is going to be there, and the unit is going to be intimidated. I can just imagine any union in this Province being intimidated as to how they would vote in a secret ballot by the presence of a returning officer appointed by the Department of Labour. The idea is ludicrous in the present context of the trade labour movement. It is absolutely ridiculous, any more, you know, than one would say to have a returning officer in a polling booth in Ferryland or St. John's West in a few days time is intimidating to the voters who are going to go into that polling booth. It is just there for the protection of those who vote, for the protection of those who are authorized to vote and for the protection of both people who are offering alternatives for

Mr. Doody:

the purposes of the vote. To me this is a major piece, and a major departure, and one of the kernels and hearts of this whole bill.

MR. DOODY: If I had the eloquence to be able to express it, this has absolutely nothing to do with coercion of the trade labour movement. It simply is a protection more than anything else for the members of a unit, because there is nobody in this House, or outside this House who are in any way naive enough to think that without a secret ballot that there are a lot of people in a trade labour movement who are somewhat hesitant to voice their opinion. But we are not even going that far in this particular piece of legislation, we are simply saying that we ask these people in secret ballot to decide whether or not they want to carry on with the work. The nights are - 'Brian'?

MR. PECKFORD: My foot went to sleep.

MR. DOODY: Your foot went asleep. You see as I said earlier, I am not a great orator.

SOME HON. MEMBERS: Hear! Hear!

MR. DOODY: I never really expected my colleague to demonstrate it so forcibly, just a yawn would have done, Sir.

I honestly though, more seriously, Mr. Chairman, feel that this is a move in the right direction and a move I think that brings to the heart and substance of the bill the attention of this Committee. I think that where the Lieutenant-Governor in Council has evidence that the continuance of a strike or lockout poses a threat then the Lieutenant-Governor in Council causes a secret ballot to be taken. Now if that secret ballot is carried in the negative from the point of view of the public problem, which is suggested here, then government is faced with the conundrum of whether or not it should legislate these people back to work, this unit back to work. But they should not have to do that unless they first have the wishes of the people involved expressed in secret ballot, and I think that that is the significance and the substance of this. And it will not



MP. DOODY: be done capriciously, it will not be done facetiously, it will not be done by whim, it cannot be done by whim, because that day is long since gone and past when the minister of any department, and in this particular instance it is the Minister of Labour and Manpower, comes up and says to the Lieutenant-Governor in Council, "We have got a bunch of guys down in Nain who have decided that they are on strike and you know, we think that they are endangering the geographic area." Well you know that is just non-sensical, it just is not reasonable. But there could be circumstances where a geographic area could very well - Well, I will look at the St. Lawrence situation of a little while ago, with the geographic area was in danger, and I may be picking a wrong example and there may be people here who will argue with me on that, and there was no way that they could get a ballot, there was no way that they could get a secret ballot. And I have no hesitation in saying at all, at the risk of having the people of St. Lawrence throw me into the gulf, that these people who are members of that union down there were being used as pawns by that parent union in the Province of Quebec. They had an ongoing battle with Alcan up in Quebec and they used the miners down in St. Lawrence as pawns. I think in a situation like that the Lieutenant-Governor in Council -

MR. STPACHAN: The company did it.

MP. DOODY: Pardon?

MR. STPACHAN: The company did it.

MP. DOODY: Well, the company and the union, all right, both, up in Quebec, with a head office, we will use them both if you want to and that is fair enough. They had this battle, struggle royal going on, but they did not decide to take the high ground where they could possibly be hurt economically, either one of them. They decided to use the operation in St. Lawrence for their purposes and they used the union down there and they used the management down there, or the mine

MR. DOODY: down there, and as a result of it that area has never recovered.

Now if the Lieutenant-Governor in Council had evidence that the continuation of that strike or lockout posed a threat to the industry in the Province or a geographic area of the Province, the Lieutenant-Governor in Council could at that time, under this legislation, require that the bargaining agent, this hon. gentleman from Rene Levesque's dominion, representing the unit, could be told to have a secret ballot and we will have a representative from the minister's department down there to see that the thing is done properly and then if those people in St. Lawrence elected to stay out, under secret ballot, then government would have to wrestle with itself as to whether legislation was necessary or not.

As it stood down there under these circumstances, we had no choice but to respect - respect what? Nobody knew what was going on down there? Was it a strike? Were the people on strike? Did they want to stay on strike? Did they not want to stay on strike? There was no way of getting a handle on the situation and that is all this is aimed at in extraordinary circumstances like that, and I had to go back to my memory to pick one and I picked that particular one. But it is not the sort of thing that goes on every day. It is not the sort of thing where you go to the Waterford and say, "We want a secret ballot." Because the Waterford does not pose - the continuance of the strike at the Waterford does not pose a threat to an industry or the Province or a geographic area of the Province and the Lieutenant-Governor in Council has announced time and time again that it has absolutely no intention of ordering either a secret ballot or a return to work. It is simply in there. I doubt very much if 98 (1), (2) will be used more than a half a dozen times. I hope it will never be used. But it is in there for the protection of the union membership

MR. DOODY: more than it is in there for the protection of anybody else and so, Sir, I recommend this very heartily to the Committee. I know that the unions feel that it is an intrusion into their rights. I know that they feel very strongly about it. I do wish that they would reconsider it in the light in which it is intended. I know that the minister and the minister's colleagues, the Cabinet, feel that it is necessary and that it is essential.

I also realize the fact that it has been suggested that it should be the House of Assembly or that it should be some other body, but the Cabinet has to take the responsibility in these cases and instigating this sort of thing that is what governments are elected for, that is what governments are supposed to do, they are supposed to take the responsibility, they are supposed to put their necks on the line and make these decisions and that is what this legislation is intended to do and I whole-heartedly recommend it to this Committee and I feel it would be a very, very terrible mistake to rescind it, to amend it or to change it.

Thank you, Mr. Chairman.

MR. CHAIRMAN: The hon. member for Stephenville.

MR. MCNEIL: Would the hon. member permit a question?  
If you say that the Cabinet has to stick its neck out at times and if in the opinion of the Lieutenant-Governor in Council -

MR. DOODY: Which is the Cabinet.

MR. MCNEIL: Which is the Cabinet, okay. - you know, that if it is a danger to a geographic area or to the people or to the industry, why do you not take the measures up legislating the workers back to work rather than leaving it amongst themselves to fight amongst themselves. You know, you are just passing the buck here.

MR. DOODY: I thought that I had, but once again, as my hon. colleague, the Minister of Mines, demonstrated, I am not a very good speaker as his foot fell asleep on the way through. I thought that I had demonstrated that.

MR. DOODY: It is very easy for governments to pass legislation or for the Lieutenant-Governor in Council to pass Orders-in-Council and what not, and sit on high and make a judgement, and make a decision and stick your neck out and impose yourself into the collective bargaining process. That is the simplest thing in the world to do. But what I am doing is taking this thing one step before that and we offering the trade labour movement the opportunity to have a secret ballot, supervised by the Public Service, to see if that is indeed their intent. If these people then say that, We want to go back to work, that is fine. Or if they are locked out vice versa then the onus is on the company. Or if they say, No, we are going to stay out and we are going to stay out forever and to heck with you and your Lieutenant-Governor in Council, Then is the time for government to decide whether to bring this thing to the House or to make a decision. But to make the decision before having heard through the democratic process, through a secret ballot, the wishes of the employees, I think would be an abrogation of the trade labour movement and therefore I feel that this step here is a very, very necessary first step before government dictates rather than after having heard the opinions of the people directly involved, then made a deliberated decision. And that is why this is, as I say, a half way step between what you are suggesting and what -

MR. MCNEIL: Well I think the wording in here like, "had evidence that the continuance of the strike or the phase that poses a threat to the industry or to the Province." Well maybe there is no need of that, if you are trying to put in another step before it gets to that stage, there is no need of that sentence.

MR. CHAIRMAN: Shall 98 carry?

MR. DOODY: No, I do not think so. The hon. member for Eagle River.

MR. STRACHAN: You go first.

MR. ROUSSEAU: I want to say a few things about this. I do not know whether this was covered. I was only just out grabbing a smoke in panic as they say. Pardon?

MR. HICKMAN: The hon. member for Eagle River (Mr. Strachan) went first, and now he has more to say.

MR. ROUSSEAU: Okay. Go ahead.

MR. STRACHAN: Quite simply, I want to register my protest about it but the Minister of Finance was pointing ut essentially that



Mr. Strachan.

it was not designed purely against the unions or their employees, and that there was a case of a lockout in here. And I think the statement is sort of misleading, because it says - if I can just go back a little bit - "The Lieutenant-Governor in Council may by order require the bargaining agent, representing the unit of employees who are on strike or locked out, to conduct a secret ballot of employees in the unit to determine their wishes with respect to the resumption of work." Now that is fine in the case of a strike.

MR. DOODY: St. Lawrence was a lockout. But we never did get a secret ballot on whether they wanted to be -

MR. STRACHAN: But at St. Lawrence your representatives were present from the department.

MR. ROUSSEAU: That was only by arrangement, by the negotiations that were going on.

MR. DOODY: That was not through legislation. That was just -

MR. HICKMAN: Everybody down there wanted a vote and the man up in Montreal who had no interests in this Province said, No. And finally one day there was one taken when he was not there and they were back.

MR. STRACHAN: Okay -

MR. HICKAN: And they are suffering today.

MR. STRACHAN: - well enough on the case at St. Lawrence.

But I think there is still a little bit of -

MR. DOODY: Of course, there is.

MR. STRACHAN: - strike or lockout. How do you separate the difference here in a strike or lockout?

MR. DOODY: Obviously, you cannot get the Board of Directors to have a vote because they have made their minds up long before. But this lockout thing was done in consideration of that sort of situation. The St. Lawrence thing was a lockout. They locked the gates and said, You stay out until you are ready to come back. But then the union never did get an opportunity to vote on whether or not they wanted to.

MR. STRACHAN: That is right.

MR. STRACHAN: In this case here then if you take it in the broadest kind of sense, then what you are stating is that the employees in the case of a strike, the employees in that case there, but how do you in the case of a company or in the case of a situation like that?

MR. DOODY: We force.

MR. STRACHAN: Force them back? How?

MR. DOODY: No, no, we do not force them back. We just force a vote of the employees to see if they want -

MR. STRACHAN: To see if the employees want to come back.

MR. DOODY: Now if the employees say that they want to go back and the conditions are laid down, then obviously the government goes to the company and says now, Look, fellows, you know, you are completely out of order in this thing. You got to settle it.

MR. STRACHAN: In other words, it is legislated then.

MR. DOODY: It could very well be.

MR. STRACHAN: It is legislated then.

MR. DOODY: The option is there then, and the strength -

MR. STRACHAN: The option is there, for instance, for the government to go to the employer and say to the employer, Look, the vote has been taken, they want to get back in, they want to work.

MR. NEARY: That is right.

MR. DOODY: And you got the strength of the union behind you, public opinion.

MR. STRACHAN: Okay.

MR. ROUSSEAU: Can I say a word first?

MR. CHAIRMAN: The hon. minister.

MR. ROUSSEAU: I can say to hon. members of this House that the first day that the consideration by this government was towards a new Labour Relations Act that section was thought of in conceptual terms. And I can say to the hon. members that there would be a better chance to get the Rand formula legislated than to get that - that is the guts

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of the bill. That is the guts of the bill.

Now I would say this, first of all, you know, the storm troopers, my conciliation officers that were mentioned here a little while ago, these are individuals who deal day in and day out, week in, week out, month in, month out, year in, year out with labour and management in this Province. I feel quite proud to know from both sides that they are happy with the conciliation officers. They are not storm troopers. The fact that I sent somebody down to -

MR. STRACHAN: Point of order, Mr. Chairman.

MR. ROUSSEAU: Yes.

MR. STRACHAN: Just in case there is any misinterpretation -

MR. ROUSSEAU: No, no!

MR. STRACHAN: - you were explaining -

MR. ROUSSEAU: Yes.

MR. STRACHAN: The point is that -

MR. ROUSSEAU: The hon. member for LaPoile.

MR. STRACHAN: - the hon. members opposite here never called any of the members storm troopers.

MR. ROUSSEAU: No, no!

MR. STRACHAN: We never referred to them in that kind of way or that kind of thing.

MR. ROUSSEAU: No!

MR. CHAIRMAN: Order, please!

MR. ROUSSEAU: I withdraw.

MR. CHAIRMAN: Order, please!

I do not think it is a point of order, just a point of explanation.

MR. ROUSSEAU: I withdraw. I did not mean it. I was talking about the hon. member for LaPoile (Mr. Neary) when he brought up the point earlier. I am sorry.

But these are people who work, and they go down, and they have to supervise. Now a fact of life occurs at a union meeting, you know, whether they are going to go back to work or not - if people stand up or sit down, if they are opposed to agree to it,

Mr. Rousseau.

it is a little more different than a secret ballot. This is only done where there is a threat to an industry or a threat to a geographic area. I can assure you that for no other reason than plain politics, if you want the basis of reason, that a Minister of Labour is not going to walk in every second day and order a secret ballot. So that this situation has to be one of great and impending danger as the hon. Leader of the Opposition used the terms. So that is what is going to be used. And, you know, the fact of the secret ballot, all we are doing is asked for the wishes. We do not want to legislate somebody else to work. Now I can say one thing. I spent a few days - or a week, I guess, with the Waterford workers during the strike, and in my opinion it was worthy of a vote, in my opinion. And the negotiating committee said to me, It is no good, it will not fly. Then I said, If you guys say it will not fly, it will not fly, and I agreed, you know. Subsequently a week or two weeks later on they had a vote and, I think, four people, you know, were in agreement with it. So they were right. The union negotiating committee and the executive know for the most part how the membership feels. They are in daily or hourly contact with them. So this is only a tool -

MR. DOODY: The majority of unions do have secret ballots.

MR. ROUSSEAU: Oh, yes, the majority of unions do. But in an instance where you have a prolonged strike, a secret ballot might be helpful in bringing about a resolution to the problem. Then certainly the Lieutenant-Governor in Council should have that power, take the leadership, not the House of Assembly. The Minister of Labour would walk into his colleagues and ask their advice on it, and their approval for it. And I will tell you something, that it would not be easy to get to the fourteen or fifteen or sixteen other guys sitting around the table either. So anyway I think it is a good section. And like I say, it is the guts of the bill really, and it is government's intention to use it with



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discretion, and I am sure that subsequent events in years to follow will show that.

MR. CHAIRMAN: The hon. member for Terra Nova.

MR. LUSH: Mr. Chairman, I just want to say a few concluding remarks. I believe this particular clause to be anti-democratic, and it certainly takes away the democratic rights of workers in the Province.

SOME HON. MEMBERS: Oh, oh!

MR. LUSH: This is a very serious matter, and this is not something that should be laughed at, I can assure you. This is a very serious bill, Mr. Chairman, and members opposite would like to make a joke out of this, but this is certainly no joke. This is a serious bill, and one that takes away the democratic rights of workers in this Province. The thing that I think that it does more than anything else -

MR. MURPHY: How can the secret ballot be taking away their democratic rights?

MR. LUSH: Well, the right to strike. It is intimidating.

MR. CHAIRMAN: Order, please!

MR. LUSH: Yes, Mr. Chairman, I would like to have some protection here. I am being harassed. And this is what this bill is doing. It is harassing the workers of this Province. But I think what it does more pointedly, Mr. Chairman - I will finish up with these few remarks - I think what it does more pointedly than anything else is that this bill shows a complete lack for the responsibility of unions in the Province. Unions should know when to call a strike. They should know when their strike is going to be harmful or detrimental to a particular industry in the Province. So what this bill does is that it is not giving the unions - it is not recognizing the unions as having this sensitivity as to recognizing when a strike is going to be harmful to the economy or harmful to a particular industry. It is not putting unions in a very high regard. It is not respecting unions. It is saying to the unions, You people do not know when your



Mr. Lush.

strike is being harmful to an industry or being harmful to a geographic area of the Province. And for that reason, Mr. Chairman, and other reasons not listed, I have to object to this particular clause, and I think it should be thrown out.

MR. CHAIRMAN: The hon. member for Stephenville.

MR. MCNEIL: I am not clear on a point with regard to the lockout, say, in the case of St. Lawrence where you got a parent company on both sides, and they were used for the national benefit. All right. So they picked on a few little things and they got a walkout or strike. Now you have a secret ballot to determine if the men want to go on strike, and if the majority say, no, what do you do then with regard to a company from outside, a national company controlling this little company here in Newfoundland? You know, where do you stand then? What is the point?

MR. HICKMAN: May I?

MR. ROUSSEAU: Yes.

MR. HICKMAN: I was very much involved in that. It is an oversimplification. What happened was that the union and the company were negotiating and they were not getting close to arriving at a collective agreement. Now there was also some picketing that went on in between the company that locked them out and said, Here is our offer -

MR. MCNEIL: Yes, but the national company can still -

MR. HICKMAN: Wait now, wait now!

But the problem was not with the national company. The local company said, We have made our offer, we are locking you out unless and until - they were picketing the stockpile - until you lift that picket, the illegal picket around the stockpile.

MR. MCNEIL: So the local company -

MR. HICKMAN: But here is the situation. The union

MR. HICKMAN: that represented the local, and the only one of its kind outside of Quebec - it is a totally Quebec orientated union- who have had a row in Quebec where they had been decertified by the Quebec Labour Relations Board as representing the main body of workers in Arvida belonging to Alcan. Right?

AN HON. MEMBER: Right!

MR. HICKMAN: And I think the Steel Workers were certified as the bargaining agent. And they used St. Lawrence to take it out on Alcan in St. Lawrence. The St. Lawrence workers wanted a vote. There is no question about that. But there was a gentleman in Quebec who would not let them and finally one day a very senior representative of the Department of Labour, just after Christmas happened to be in St. Lawrence and they asked him to come in and supervise the vote. "We want to vote. The hell with what they tell us in Montreal." They had a vote and she was settled. But it took nine months.

MR. MCNEIL: Is it not one of the rights of the union whereby if they have a certain percentage of the union membership they have a right for a secret ballot?

MR. HICKMAN: Yes, but it was being controlled by their man in Montreal.

MR. CHAIRMAN: Does the amendment carry?

MR. McNEIL: If it is being controlled by a man in Montreal then you are saying that the local people did not have any rights.

MR. HICKMAN: You had to look at the CNTU constitution, which is an unusual one as well.

MR. MCNEIL: So the local union in St. Lawrence could not take a majority -

MR. HICKMAN: I hate to get into St. Lawrence now because things are so touchy down there. And just even to hear the name mentioned I am scared what ramifications it will have in other areas.

MR. McNEIL: Well, you can take the linerboard for example. The same thing.

MR. HICKMAN: That was a very real problem there.

On motion clause 98 as amended, carried.

On motion clause 99 through 136, carried.

MR. CHAIRMAN: Shall clause 137 carry?

MR. LUSH: Yes, 137, 138 and 139. This, Mr. Chairman, was not in - we have said before these clauses were not in Bill No. 75, I believe that is when it was referred to as, this was not in Bill 75 but got slipped into this particular bill, Bill No. 62, for what reasons I do not know. There appears to be no logical or any rational reasons why these particular clauses 137, 138 and 139 should have crept into this particular bill. There was no reason under Bill 75 to include these clauses and why they should be there now is beyond my understanding. They are some of the worst features of the old Trade Unions Act and as a matter of fact I do not think -

MR. ROUSSEAU: Do not make a general statement like that.

MR. LUSH: I think they were -

MR. DOODY: He should have seen the old act.

MR. ROUSSEAU: The old Trade Union Act was done with the IWA strike in 1959.

MR. LUSH: And this is some of the -

MR. ROUSSEAU: No, it is not.

MR. LUSH: Well it is not some of the better features, that is for sure, it is something that has got the labour movement -

MR. ROUSSEAU: Are you obviously going to stand up there and tell me that I should not ask - or the Minister of Labour should not ask the names of the executive officers and the constitution and any amendments they have to it. And that I should not say to a member of a union that he has a right to see an audited statement of the union's books?

MR. LUSH: Well these are - the minister can justify these things if he wants, Mr. Chairman. But the point about it is the

MR. LUSH: inclusion of these clauses have certainly irritated the labour movement in this Province and the idea of the bill, the entire bill, was to improve labour relations in this Province, to make labour relations as harmonious as possible. And the thing is that to my understanding that the provisions of these particular clauses have not been used in this Province for a long, long time. They have not been used. And what the minister must answer to this House tonight is what are the set of circumstances that have caused the ministry to bring in these clauses now when they have not been used in this Province for a long, long time? I do not think - I forget the date, but I think it goes back to the IWA strike. I think that is when some of these bills were used. They were used to try and take care of some unsavory situations that were in existence at that particular time. I think when this government took over office it sort of repudiated these - or if not repudiated, certainly did not have them as a part of its operation, as a part of its function. And it was not considered important enough to be included in Bill No. 75, but now when Bill 65 comes back it is here. I do not know what consultation there was or what dialogue there was with the Newfoundland Federation of Labour. My understanding is that there was not an awful lot. And I think the labour movement in this Province was under the impression that this was not to be included and it came back in this bill and it is offensive legislation. I was under the impression a couple of days ago that the minister was favourable to dropping this. I do not know whether he has changed his mind or not but up to a couple of days ago, first when this came in, I was under the distinct impression that he too thought that this was not the best legislation, this 137, clause 138 and 139, certainly not the kind of legislation that is going to promote good labour relations in the Province and I thought he was inclined to dropping this but I do not know what the situation is tonight.



MR. LUSH: But certainly what must be explained to members here tonight, what must be explained fully, what must be explained to all of us here tonight is why, what set of circumstances gave rise to the inclusion of these offensive clauses, 137, 138 and 139 in Bill 62 when they were not a part of Bill 75?

MR. ROUSSEAU: The hon member - I am sorry! Do you want to have a go too?

MR. STRACHAN: I want to have a go at 137, in particular clause 1 of 137.

MR. HICKMAN: 137, 138 and 139.

MR. STRACHAN: But in particular I am interested in clause 1. Each trade union and each council of trade unions is a legality for the purpose of prosecuting and being prosecuted and for the purpose of suing and being sued. One of our complaints about this whole bill, all the 154 clauses of it, is the fact that it is virtually a lawyer's dream in many ways. It is a totally new act -

MR. ROBERTS: It is a worker's nightmare.

MR. STRACHAN: Yes, a lawyer's dream and a worker's nightmare. Because in essence it creates the trade union the position of legal entity of being sued or of suing and I could see the clause, the operative clause being the one of being sued. I would like it if the minister in reply could express to us some of the situations that could occur if the union could be sued. Then I would like to know what grounds and what basis it could be sued on, for what recovery of what damages and how this - I could see this getting into a lengthy court battle long after the strike is over or such a situation is over, a lengthy court battle in which there could be very large sums of money being claimed as damages. Surely the fact is that if something is legal and a strike is legal as such and if it is settled then if a company can prove that through the situation



MR. STRACHAN: of the strike it has failed somewhere in its processing or marketing or somewhere along the line the strike caused it, then obviously although the strike is legal they may start arguing all kinds of small clauses or -

MR. ROUSSEAU: Not in a legal strike situation. No!

MR. STRACHAN: Well, regardless of it being a legal strike the point is that this would be a court battle and it would be up to the judge to decide exactly who is at fault.

MR. ROUSSEAU: You must assume

Mr. Rousseau:

that a union going on a legal strike has followed all of the directions given to it by this Act, and if they then go on legal strike what is the company going to sue them on? There is no grounds they can sue them on, unless during the strike somebody decides to burn down a building or wreck a truck or something of that nature, you know.

MR. STRACHAN: I still feel that as such this clause in here does create a situation, or I can see a situation arising of a fair amount of court cases arising out of this one fact that the trade union is now a legal entity.

The other thing that astonishes me, this morning we went through Bill 81, which was - again to get back to the House Leader who is out at the moment, an Act To Restructure The Law Society of Newfoundland, which is essentially the corresponding Bill for the Law Society, and this is the one for labour unions, and I wonder if the Law Society can be sued? Is it in here -

MR. ROUSSEAU: Yes.

MR. STRACHAN: Are there any Acts here?

MR. ROUSSEAU: Yes.

MR. STRACHAN: Apart from liability of individual members?

MR. LUSH: They have to give a statement of their assets.

MR. STRACHAN: But I wonder whether they are asked for the statement of their assets.

MR. ROUSSEAU: Section 99. The Law Society Bill, section 99.

AN HON. MEMBER: Taken under financial position.

AN HON. MEMBER: That is why their members require it or not?

MR. ROUSSEAU: Yes.

AN HON. MEMBER: I doubt very much if the hon. member -

MR. ROUSSEAU: My own Act. What am I doing on 99?

MR. STRACHAN: Reference, all regulations, rules inconsistent with this Act I am told Section 99 does not -

MR. ROUSSEAU: No, no, no my -

MR. STRACHAN: - state that or -

MR. ROUSSEAU: I am sorry the Labour Relations Act; excuse me, you had the Law Society Act.

MR. STRACHAN: Yes. But what I am stating is that here we have -

MR. ROUSSEAU: But just read section 99 of the Labour Relations Act, that you have already approved.

MR. STRACHAN: Section 99, Where an employee is on a strike that is - Liability of employees.

MR. HICKMAN: The Law Society is worse because you can sue the individual.

AN HON. MEMBER: We are not looking at that one, are we?

MR. STRACHAN: I see.

MR. ROUSSEAU: Do you want to read that out now so that -

MR. STRACHAN: Section 99 of your bill here states, "Where an employee is on a strike that is not contrary to this Act, no action lies against that employee or against a bargaining agent acting on behalf of that employee in respect of damages in contract for which the employer has become liable to another person as a result of the strike, but nothing contained in this section exempts an employee or bargaining agent from any liability for a tortious act." I follow the point you are making there. Then what you are stating here then -

MR. ROUSSEAU: In other words, what I am saying is that if a person is on a legal strike then it is a safe assumption that he has followed all of the regulations according to this Act, so therefore there is no action against them.

MR. STRACHAN: But surely in the same case that we are dealing with an Act which is 154 clauses long, that if there is anything at all in these clauses the companies could use to prove a liability or on behalf of a trade union then the unions are liable whether they have upheld the clauses or not legally in an operation of a strike.

MR. ROUSSEAU: That is right.

MR. STRACHEAN: What it means now is that almost every - he is going to have to move with lawyers in order to make sure that they cannot be held liable.

MR. ROUSSEAU: Not in legal strikes.

MR. STRACHAN: I can see it in the case of somebody burning something down. I think any destruction of any property whatsoever by whoever in this Province whether it is a union or an employee or employer or anything else is an act where it requires a court case, requires a litigation against.

SOME HON. MEMBERS: Oh, oh!

MR. STRACHAN: But there is no argument there at all.

MR. HICKMAN: (Inaudible) all these actions regardless of what is in the legislation.

MR. STRACHAN: Well I do not know about that. I just know that eight or nine members from the hon. gentleman's district have just spent ten days -

MR. ROUSSEAU: That was not a legal strike, That was an illegal strike.

MR. HICKMAN: Oh, yes.

MR. STRACHAN: Yes, for showing their face. That is all they did in one case. But however, we are getting off the point. I think the point I was trying to make is I wonder could he explain exactly when the cases would be that the union would be liable to be sued? I cannot see many cases in which the union could sue the company, but I am wondering exactly when the unions could be sued? And what kind of case it is? And exactly what it means, because it could virtually bankrupt many of the unions or it could be used as a method of wiping out the unions altogether.

MR. HICKMAN: Because they could only -

MR. STRACHAN: It could be if -

MR. HICKMAN: The union really could only be sued as I see it in the case of an illegal strike, and of course if a person commits illegality that they should be liable to the damages flowing therefrom. All right?

MR. STRACHAN: I would like the minister to explain that point anyway,

MR. ROUSSEAU: If I could just say for one moment, just to go back before I explain that point, if I may: The Trade Union Act which we had in 1959, which has never been used had the same sort of thing in it, and this is the way it read: Section 5, All actions, suits, prosecutions, and complaints taken by or against a union in any court of competent jurisdiction touching or concerning the property right or claim to property of a union registered under this Act shall be taken in the name of the trustees, and the trustees may sue and be sued, plead and be impleaded in any such court in their proper names without other description than the title of their office and all other actions binding against a union registered under the Act shall be taken in the name of the union.

That is only one example of what the Trade Union Act was. You know, I have a choice; I keep the Trade Union Act, which nobody wants, or this.

Now what am I asking the House of Assembly? I am asking no more than was in the previous Trade Union Act, and I am taking most of it out. "Each Trade Union and each Council of Trade Unions is a legal entity for the purpose of prosecuting and being prosecuted and for the purpose of suing and being sued." All right.

I say in Section 99, "Where an employee is on strike" etc., the hon. member read that, in other words in a legal strike situation there is no recourse.

AN HON. MEMBER: No cause of action.

MR. ROUSSEAU: No cause of action unless a tortious act.

MR. HICKMAN: A tortious act is one - a tortious act. for example, where I am driving down the highway and I run into you and I am negligent and I cause you injury the damage is flowing therefrom arise out of my tortious act.

MR. ROUSSEAU: In other words it is a civil -

MR. HICKMAN: A civil.

MR. ROUSSEAU: A breach of civil law.

MR. HICKMAN: Right.



MR. ROUSSEAU: Now if I stand here and I make this commitment on behalf of government, if in Section 137 (1) if in a legal, l-e-g-a-l, a legal strike situation that there is action against a union for anything but a tortious act, that I will guarantee you it will happen twice, the first and last time. There is no action against a union in a legal situation. Section 99 spells that out.

MR. HICKMAN: Right.

MR. ROUSSEAU: Now in an illegal strike situation, that is a different one. If a person goes on an illegal strike and he got a load of perishables on the back of his truck and he decides to sit down, the company has an action against the gentleman, or against the union.

MR. STRACHAN: Fine.

MR. ROUSSEAU: If the company locks the union out, the union has a case against the company, action against the company.

MR. HICKMAN: Loss of earnings.

MR. ROUSSEAU: If the company -

Now the other day I read - what? - thirty-five or forty articles which are, you know, pro labour in this Act. There are some that tend towards management, in their opinion. If management or labour violate any of the sections of this Act that applies to them then there is an action against them the employer or the union can be sued or can sue for any infractions under this Act.

MR. STRACHAN: What the minister is stating then, we can take the case of IOC in Lab City, is that it was an illegal strike -

MR. HICKMAN: Right.

MR. STRACHAN: - therefore the company could sue the union for whatever losses they have had plus all expenses that they have incurred plus helicopters that they brought in, plus rail cars that they held up from -

MR. ROUSSEAU: Yes, oh they have -

MR. STRACHAN: In other words they could virtually break the back of the union; financially they could wipe out the union -

MR. HICKMAN: If they could prove that in court.

MR. STRACHAN: If they could prove -

MR. HICKMAN: That is right.

MR. STRACHAN: - that in court.

MR. HICKMAN: They can do that now without this legislation.

MR. ROUSSEAU: There is a case now before the courts where the Iron Ore Company of Canada has laid a charge against a union, I do not know where that is along in the courts, for loss of production.

MR. STRACHAN: Yes.

MR. ROUSSEAU: But it is a vice versa situation.

AN HON. MEMBER: That will go to the Supreme Court of Canada.

MR. ROUSSEAU: And by the way, I mentioned the other day, you know, the other provinces, that this is not inconsistent with the other provinces of Canada.

MR. HICKMAN: No, we have had it.

MR. ROUSSEAU: Now in 138 I am saying - oh, are we doing one or can I do the three of them?

MR. HICKMAN: Do all three.

MR. ROUSSEAU: In 138 what I am asking for is no different than that - you know, this one is really one- I am asking for a copy of the constitution, I am asking for a copy or a list of the names of the officers. That is all I am asking for,

MR. ROUSSEAU: you know, any amendments to the constitution or by-law?

MR. HICKMAN: I had a call last night from a constituent wanting a copy of the constitution of the Carpenters and Joiners who cannot get one in Grand Bank.

MR. ROUSSEAU: There is nothing wrong with that. I know, as a matter of fact, that there are unions in this Province who are just not going to be able to sit down and type something up. I may get it six months or six years later on, but nobody is going to harass a union on that sort of thing. That is not worth harassing a union on.

What else am I asking? I am asking that upon request by a member that the union should provide him with an audited financial statement.

MR. SIMMONS: Disastrous.

MR. DOODY: Why? It is his money.

MR. LUSH: Every member will go and ask for this.

MR. DOODY: Every member who has money in that has a right to know where his money is going.

MR. ROUSSEAU: An audited statement, once it is done yearly - the last annual audited statement -

MR. DOODY: If that legislation had been on the books of the United States

MR. ROUSSEAU: - you could give that out at a general membership meeting. I would read that, and I am not the lawyer or the interpreter, I would read that, that if the executive of a union at a general meeting passed out an audited financial statement, that would fulfill that section for the year.

MR. LUSH: They just do a statement yearly and pass it out, and this way -

MR. DOODY: Whether it is audited or not?

MR. LUSH: Well, they do an audited statement yearly, obviously.

MR. DOODY: Who does?

MR. LUSH: You know, if they are responsible.

MR. ROUSSEAU: I am really making it difficult, am I not?

MR. DOODY: How many unions have you been in, 'Tom'?

MR. LUSH: Mr. Chairman, would you -

MR. DOODY: I am sorry, the hon. the member for Terra Nova.

MR. HICKMAN: The hon. minister is being harassed by us.

MR. LUSH: And making all sorts of strange remarks over there.

MR. DOODY: I get carried away sometimes.

MR. ROUSSEAU: All I am asking for is for the year preceding the year in which a request is made. I am not asking anybody to run down and get a firm of auditors and get an audited statement. For the year previous to the request being made - now is that not reasonable?

MR. LUSH: The minister did not say why he brought that in, but it was not in Bill No. 75.

MR. ROUSSEAU: I say because the minister wanted to get rid of this, the Trade Union Act.

MR. DOODY: A solid argument.

MR. LUSH: The minister wanted to what?

MR. ROUSSEAU: Get rid of the Trade Union Act which had never been used. I do not deny the union

MR. ROUSSEAU: feels that it is harassment, that in their minds it is, that they perceive it to be. I do not deny that. But my God, in my mind, in my own personal opinion, and I changed a few of the things that resulted, requests they made.

Two of the big parts of this bill were section 35 - was it? - the one on the Pand formula and the one of the secret ballot. These were the two guts of that. I feel more strongly about these three sections, why they should now stay in there. I think this one has the least of the three of these, the least argument to take it out. My God Almighty, if I thought I was being persecuted and harassed on that! But I have never given the indication that I was. The indication may have come from the fact that it was one of the points that the union wanted taken out.

SOME HON. MEMBERS: Carried.

MR. LUSH: Not going to answer the question? Never answered the question.

MR. CHAIRMAN: The hon. the member for Eagle River.

MR. STRACHAN: Just one last point. In the case of an illegal strike, or in the case of a strike in which the union executive have no control over the membership and it creates an illegal strike situation - and the minister understands that often the executive have stood up and told the membership, "Boys, you must go back to work, it is illegal!" - I wonder what the liabilities would be in such a case? Because there are a number of situations, recent ones too, in which this has occurred.

MR. ROUSSEAU: I might mention, by the way, that our hon. friend, the member for Mount Pearl (Mr. N. Windsor) is the proud father of a baby daughter today.



MR. ROUSSEAU: So I think it should be suitably entered in the record.

SOME HON. MEMBERS: Hear, hear!

MR. ROUSSEAU: And I think now would be a fine time, if he has a few cigars left, for the two hon. across to run and get them. I would like to compliment them, by the way, on their perseverance through the day. It has been a long day and they have done a very fine job.

Normally, to answer the question of the hon. member for Eagle River (Mr. Strachan), when a union executive stands and asks the men to go back to work, or publicly states that they want the men to go back to work, that will satisfy the law.

In Grand Falls it did not happen. That was a specific point that recently happened. But the onus is then on the company to prove that a member of, or the entire executive aided and abetted the strike. The onus is on the company to prove that, and they have to do that in a court.

MR. STRACHAN: Would the employee then be liable for suing who went on the illegal strike?

MR. ROUSSEAU: If the executive -

MR. STRACHAN: No, I am talking about if the employees go out, the executive indicate to them and meets with them and tell them, "You have to go back to work," what we are saying here is, are the employees then liable? The union may not be liable because the union had done everything according to the rules. The only thing it can do is keep the men in line.

MR. ROUSSEAU: No, section 122, "When every trade union or council declares or authorizes a strike contrary to this Act." All the union executive has to say is, "Look, go back to work," and not aid and abet it. If the company feels that the union executive has

MR. ROUSSEAU: aided and abetted the strike, then they have to lay the case before the court and to prove it.

Subsection 3 of section 122, "Every employee of an employer who participates in or goes on a strike contrary to this Act is guilty of an offence and liable on summary conviction of a fine not exceeding one hundred dollars." That is the employee. But the onus would have to be on the company to prove that the union executive aided and abetted. That is what happened in Grand Falls and apparently - and it can go to arbitration as well besides the courts. It can go through the arbitration procedure according to the collective agreement.

MR. STRACHAN: I am sure that could be quite difficult to prove.

MR. ROUSSEAU: But the onus is on the employer.

MR. STRACHAN: Yes, but that could be quite difficult to prove.

MR. ROUSSEAU: Yes.

MR. STRACHAN: If the union executive stand up in a hall, the union hall, and tell the boys to go back to work and wink out of one of their eyes, give them the wink and tell them to go back to work, then sit down, they have done their job according to the law.

MR. ROUSSEAU: The hon. member has me at a disadvantage. Of course, there are certain things about illegal strikes that are not appropriate to put into the record, but when an executive says go back to work, that normally satisfies the requirements.

On motion, clause 137, carried.

On motion clauses 138 through 149, carried.

MR. CHAIRMAN: The hon. the member for  
Terra Nova.

MR. LUSH: The minister is outside and I wanted to ask a question here on 150. I will ask the question and he can - I am just wondering when we were doing 36(b), about the majority vote that was necessary for the certification of a bargaining unit, I referred him to the Fishing Industry Act which takes the majority of those who have voted. I am just wondering - I might not be in order, but if the minister will allow me - I am just wondering if this legislation on 37(b), which was the majority of those in the bargaining unit is all right? What I am getting at is the difference between the two, the Fishing Industry Act and this one here, application for certification. I am just wondering if this one here is such a progressive piece why the minister, since he made an amendment to the Fishing Industry Act, why he did not carry on and do the same thing with their appeal for certification.

MR. ROUSSEAU: Because the Moores P.C. Government does not agree with that principle. The principle in the Fishing Industry Collective Bargaining Act was brought in by the previous administration, you know. We agree with this. You are talking about the majority now?

MR. LUSH: Right! Which is for the - you could have changed it.

MR. ROUSSEAU: I will just say, the reason we did not change it is because this government felt that the one that is in the new Labour Relations Act is the one that we subscribe to. The other one was done in a previous administration.

MR. LUSH: No, but you do not subscribe to the one that is in the Fishing Industry Act? It is the rule right now for them.

On motion, clause 150, carried.

On motion, clauses 151

through 155 by leave, carried.

Motion, that the Committee report having passed Bill No. 62 with amendment, carried.

On motion that the Committee rise, report progress and ask leave to sit again, Mr. Speaker returned to the Chair. X

MR. SPEAKER: The hon. Chairman.

MR. CHAIRMAN: Mr. Speaker, the Committee of the Whole have considered the matters to them referred and have instructed me to report having passed Bill No. 62 with amendment and ask leave to sit again.

On motion, report received and adopted, Committee ordered to sit again presently.

On motion amendments read a first and second time.

On motion a bill, "An Act Respecting Labour Relations In The Province," read a third time, ordered passed and its title be as on the Order Paper.

MR. SPEAKER: The hon. Chairman.

MR. CHAIRMAN: Mr. Speaker, the Committee of the Whole have considered the matters to them referred and have directed me to report Bills Nos. 64 and 117, both without amendment, and ask leave to sit again. X

On motion report received and adopted.

On motion the following bills were read a third time, ordered passed and their titles be as on the Order Paper.

A bill, "An Act To Amend The Tourist Establishments Act." (Bill No. 64).



A bill, "An Act To Amend  
The Fishing And Coasting Vessel Rebuilding And Repairs  
(Bounties) Act." (Bill No. 117).

MR. HICKMAN: Mr. Speaker, we will do a  
few more second readings while hon. gentlemen are  
having a smoke. I promised to call two or three quick  
ones that need no debate so I will call, if I may,  
two that I cleared with my Justice critic today

Order 42, Bill No. 112.

MR. SPEAKER: Order 42.  
Motion, second reading of  
a bill, "An Act To Amend The Companies Act." (Bill No.112).

The hon. the Minister of Justice.

MR. HICKMAN: I move second reading of the  
bill.

On motion, Bill No. 112  
read a second time, ordered referred to a Committee of  
the Whole House presently, by leave.

MR. HICKMAN: Order 43, Bill No. 113.  
Motion, second reading of  
a bill, "An Act To Amend The Registration Of Deeds Act."  
(Bill No. 113).

MR. SPEAKER: The hon. the Minister of Justice.

MR. HICKMAN: I move second reading.

On motion, Bill No. 113  
read a second time, ordered referred to a Committee of  
The Whole House presently, by leave.

MR. HICKMAN: Bill No. 116.  
Motion, second reading of  
a bill, "An Act Respecting The Preparation And Revision  
Of The Statutes And Subordinate Legislation Of The  
Province." (Bill No. 116).



MR. SPEAKER: Is the House ready for the question? Those in favour 'aye', contrary 'nay', carried.

On motion, Bill No. 116 read a second time, ordered referred to a Committee of the Whole House presently, by leave.

MR. HICKMAN: Order 39, Bill No. 104. Motion, second reading of a bill, "An Act To Amend The Motor Carrier Act." (Bill No.104).

MR. HICKMAN: I move second reading.

MR. SPEAKER: Is the House ready for the question? Those in favour 'aye', contrary 'nay', carried.

On motion, Bill No. 104 read a second time, ordered referred to a Committee of the Whole House presently, by leave.

MR. HICKMAN: There is one tied in with that Act, and my colleague is not here. No. 40, Bill No.111.

Motion, second reading of a bill, "An Act To Amend The Highway Traffic Act."

MR. HICKMAN: I move second reading.

MR. SPEAKER: Is the House ready for the question? Those in favour 'aye', contrary 'nay', carried.

On motion, Bill No. 111 read a second time, ordered referred to a Committee of the Whole House presently, by leave.

MR. HICKMAN: Committee of the Whole. Then by the time we get leave we will have a cigarette and get back and do some work. Thank you very much.

On motion that the House resolve itself into Committee of the Whole, Mr. Speaker left the Chair.

MR. CHAIRMAN: Order, please!

MR. HICKMAN: Bill No. 113.

MR. CHAIRMAN: Bill No. 113, "An Act To Amend The Registration Of Deeds Act."

On motion, clauses 1 through 6, carried.

Motion, that the Committee report having passed bill No. 113 without amendment, carried.

MR. HICKMAN: Order 42, Bill No. 112.

MR. CHAIRMAN: Bill No. 112, "An Act To Amend The Companies Act."

On motion, clauses 1 through 10, carried.

Motion, that the Committee report having passed bill No. 112 without amendment, carried.

MR. HICKMAN: Order 40, Bill No. 111.

MR. CHAIRMAN: Bill No. 111, "An Act To Amend The Highway Traffic Act."

On motion, clause 1, carried.

MR. HICKMAN: Mr. Chairman, I move an amendment to clause 2 by striking out the word 'eight' and it should read 'subsection 9'.

On motion, amendment as stated, carried.

On motion, clause 2 as amended, carried.

On motion clauses 3 through 9, carried.

MR. CHAIRMAN: Shall clause 10, carry?

MR. HICKMAN: To clause 10, Mr. Chairman, there is an amendment. An insertion of the words 'with motor vehicle inspections in (f), 10(f).

On motion, amendment to section (f), carried.

On motion, clause 10 as amended, carried.

On motion, clause 11, carried.

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Motion, that the Committee report  
having passed bill No. 111 with amendments, carried.

MR. HICKMAN: Order 39, bill No. 104.

A bill, "An Act To Amend The Motor Carrier Act," (Bill No. 104).

MR. CHAIRMAN: The hon. member for Terra Nova.

MR. LUSH: I just want to commend the minister on this particular Act. As he knows, this is the one that I have been fighting for for a long time, and this act put the ambulance services in this Province under the Motor Carrier Act. And I think this is a move that will regulate and control ambulances and make them more effective in this Province. And, as I say, I just want to commend the minister. I think this Act is in line with an Act that I read from New Brunswick and with other provinces across Canada, and I think it is a good amendment.

On motion Clause 1, carried.

On motion Clause 2, carried.

Motion that the Committee report having passed the bill without amendment, carried.

MR. HICKMAN: Bill No. 116.

A bill, "An Act Respecting The Preparation And Revision Of The Statutes And Subordinate Legislation Of The Province," (Bill No. 116).

Motion that the Committee report having passed the bill without amendment, carried.

On motion that the Committee rise, report progress and ask leave to sit again, Mr. Speaker returned to the Chair.

MR. SPEAKER: The hon. member.

DR. COLLINS: Mr. Speaker, the Committee of the Whole have considered the matters to them referred and have directed me to report having considered Bill No. 111 with amendments and ask leave to sit again.

MR. SPEAKER: The Chairman of the Committee reports that they have considered the matters to them referred and have passed



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MR. SPEAKER:  
leave to sit again.

Bill No. 111 with amendment and ask

presently.

On motion report received and adopted.  
On motion Committee ordered to sit again

second time.

On motion amendments read a first and

On motion a bill, "An Act To Amend The  
Highway Traffic Act," read a third time, ordered passed and title be as  
on the Order Paper.

MR. SPEAKER:

The hon. member.

DR. COLLINS:

Mr. Speaker. the Committee of the Whole  
as directed have considered the matters to them referred and direct me  
to report Bill Nos. 113, 112, 104 and 116 without amendments and ask  
leave to sit again.

MR. SPEAKER:

The Chairman of the Committee reports  
that they have considered other bills to them referred, Bill Nos. 113,  
112, 104 and 116 and have passed same without amendment.

On motion report received and adopted.

On motion the following bills, read a  
third time, ordered passed and title be as on the Order Paper.

A bill, "An Act To Amend The Registration  
Of Deeds Act," (Bill No. 113).

A bill, "An Act To Amend The Companies  
Act," (Bill No. 112).

A bill, "An Act To Amend The Motor Carrier  
Act," (Bill No. 104).

A bill, "An Act Respecting The Preparation  
And Revision Of The Statutes And Subordinate Legislation Of The Province,"  
(Bill No. 116).

MR. HICKMAN:

Order 24.

Motion, second reading of a bill,  
"An Act To Amend The Public Service Pensions Act," (Bill No. 97).



MR. SPEAKER:

The hon. Minister of Finance.

MR. DOODY:

You caught me off base, Your Honour.

I have to start digging.

This is a series of amendments, Your Honour, to the Public Service Pensions Act, which in a large way parallel the amendments which were introduced recently to the Teachers Collective Bargaining Act as it applies to their pensions. And there are a number of amendments which were taken from a number of briefs which had been presented to government by the public service unions over the past several years. As a matter of fact the public service unions, I think, have been quite patient in waiting for some of their suggestions to have been brought forward. It is this year that we have managed to get them implemented. Quite frankly, as I mentioned earlier during the debate of the estimates of the Department of Finance and of Treasury Board, the pensions division of government, which has always been centered or located or headquartered in Finance, has been transferred this year to Treasury Board. Finances, responsibilities and problems, I have found, are really not all that closely related to the everyday ongoing pension problems and so the Treasury Board people who deal with the public service unions on a day to day basis are far more sensitive to the needs and so on. And this accounts to a large extent for what appears to be a veritable onslaught of pension legislation in this particular session of the House. A lot of it is really legislation that should have been brought forward some time ago but which had never been done.

The Public Service Pension Act amendments in this particular Act, there are about seventeen sections, but the principle is generally to allow agencies such as the Crown corporations to enter into contracts with their employees to allow them to opt out of this particular pension plan if they wish and get involved in a pension plan other than the public service plan. The changes - the definition of year and month and so on, counts portions of a month as

MR. DOODY: a month, and this is something that has always been a point of contention, a minor item indeed it would appear, but a large one to the people involved. The open vote employees who are now referred to as the MOS people found this particularly offensive. Since they would be on for several months, part of the month would be particularly important to them. And this definition of salaries extended to look after these people, and the definition of salaries also expanded so that extra salary items such as the contact pay at these various institutions could be included for pensionable rights. There is also a plan in there

MR. DOODY: to protect male liberation; it allows men the same rights as women in terms of generosity and interest in pension plans and it revokes all the elections that would bring all the seasonal employees back into the act. The establishment of equal status between males and females is an important clause and there is a clause there that provides for maximum contributions after thirty-five years service. And I think this is a very important one, it increases the interest payments or refunds from a three per cent simple interest, which was unfair in the extreme, to a five per cent compound interest which is far more reasonable in terms of the amount of money that employees pay into the fund. Those who want to withdraw from it would not receive their money at a five per cent compound interest. It provides for contributions on the date of amendment and so on for maximum service prior to April 1, 1967. The interest rate once again for survivor benefits is from three per cent to five per cent. The interest rate goes from six and a half per cent simple to eight per cent compounded for employees who are credited with additional service. You can buy back additional service but to have to buy that now at the eight per cent compounded interest rate rather than the simple six per cent.

There are various other clauses in there. The benefit clause that for optional retirement at age fifty-five, with thirty years pensionable service which is a big step forward with regard to the Public Service request over the years, that is age plus service, in this particular case it is eighty five, but it locks in an employee at age forty-five with ten years service. There is a clause that raises the survivor benefits from fifty to fifty-five per cent. The union would have liked to have sixty per cent but I think they are quite pleased with this particular benefit. And once again, survivor benefits for dependent children who are at university or at school can be extended from age eighteen to twenty-four.

MP. DOODY: We had that in the teacher's clause. And there are two or three other clauses in there which are compromise situations between that which the Public Service have been asking for and that which we are in a position to grant. I think that it should also be brought to the House because it has been raised on several occasions that the liability to government and the ongoing cost of pensions and so on is a matter of major interest and major concern. I think that I have already touched on that subject on several times both in the Budget Speech, in subsequent discussions and in debates across the House during the past few days. It should be of benefit to the House to know that there is an actuarial evaluation by Peat, Marwick and partners underway right now. They did the 1974 study, they are now doing a study which will cover all plans that government has an interest in, MUN, Fisheries, the Hospital Association, MHA, Teachers and so on. We would hope to have a full study and a full actuarial benefit analysis done by no later than September. By that time we will be able to bring it forward, table it in the House and the appropriate steps will have to be taken at that time to make sure that the pension liability of the Province and the payments into the fund, and the funding of the various plans, whether they be on a matching basis or on a funded basis or a partially funded basis, will have to be examined and examined very closely at that time. Because as we have already said, pensions there are almost as important, if not as important right now to everybody in the Province as salaries and so with that, Sir, I commend second reading of the bill, to amend the Public Service (Pensions) Act.

On motion, a bill, "An Act To Amend The Public Service (Pensions) Act," (No. 97), read a second time, ordered referred to a Committee of the Whole House presently by leave.



Motion second reading of a bill, "An Act To Make Provision For Animal And Meat Inspection In Slaughter Houses." (No. 106)

MR. SPEAKER: The hon. Minister of Justice.

MP. HICKMAN: The minister is not here, I move second reading.

On motion, a bill, "An Act To Make Provision For Animal And Meat Inspection In Slaughter Houses," (No. 106) read a second time, ordered referred to a Committee of the Whole House presently by leave.

On motion following bills read a second time, ordered referred to a Committee of the Whole House presently by leave.

A bill, "An Act To Amend The Department Of Health Act," (No. 108).

A bill, "An Act To Amend The Livestock (Community Sales) Act," (No. 88).

A bill, "An Act To Amend The Historic Objects, Sites And Records Act," (No. 85).

A bill, "An Act To Amend The Regulation Of Mines Act," (No. 90).

A bill, "An Act To Amend The Housing Act," (No. 51).

A bill, "An Act To Amend The Automobile Insurance Act," (No. 87).

A bill, "An Act To Facilitate Metric Conversion," (No. 89)

On motion that the House resolve itself into Committee of the Whole, Mr. Speaker left the Chair.

COMMITTEE OF THE WHOLE:

A bill, "An Act To Amend The Housing Act," (No. 51).

Motion that the Committee report having passed the bill without amendment.



A bill, "An Act To Amend The Regulation  
Of Mines Act," (No. 90).

MR. CHAIRMAN: Shall clause one carry?

The hon. member for Eagle River.

MR. STRACHAN: This act essentially is just a change  
in wording to make it more up to date, I imagine, as such.  
But there are some questions I want to raise with the  
minister here in respect of the IOC operation at Labrador  
City and which I understand is under investigation at the present  
moment, an enquiry has been set up into this here. But it does  
seem to us on the number of occasions now we have visited there  
that the safety of workers which caused this strike earlier  
on, that

Mr. Strachan:

there are some conditions and situations there which do seem to indicate both the safety and the health of miners, workers there, are in jeopardy and so on. And I wonder if the minister could explain to us the kind of penalties that are thought about, or the regulations may provide for breaches of this Act or regulations issued under this Act. I wonder if the minister would like to explain if this is a change in wording or whether it has anything specifically in mind with this in view because of the situation there?

MR. CHAIRMAN: The hon. Minister of Mines and Energy.

MR. PECKFORD: The first part of the hon. member's question I cannot answer. I do not know the penalties off the top of my head, and I do not have them here, I have the information to do with this amendment specifically, but I will undertake to get the penalty things that apply. This is more than just changing words, it is more than just semantics. It is an attempt by the department to enlarge the scope under which the regulations that can be made under the Act can apply, especially as it relates to 'sanitary', which is now in the Act, and changing it to 'work place environment'. Because 'sanitary' is rather a restrictive word, and we could get in trouble with some of our regulations in regulating the 'work place environment', in which men work, as opposed to the company saying, But that is not covered in the Act, because the Act says 'sanitary'. So what we want to do is to put in some phraseology which will give us more leverage imposing safety or environmental standards within the area that the workmen actually work. And so this is why we are doing it there. We have in mind obviously therefore a number of additional regulations which will apply, which will help enhance the business of improving the environment at the place of work. And this is the reason for the change.

It is a fairly major change, because it will give a lot greater flexibility in the preparing of regulations to strictly regulate better working conditions in the work place for the workers. And of course the other minor one is 'workmen'; and now we want to call

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it 'workers' which is a very minor one. But 'sanitary' and 'work place environment' is a fairly major change to give us a greater degree of leverage in implementing regulations which will bring about better environmental conditions in the place of work of the miner.

MR. STRACHAN: Mr. Chairman.

MR. CHAIRMAN: The hon. member for Eagle River.

MR. STRACHAN: I seem to get an indication from what the minister is saying here that this is enabling legislation in some way, inasmuch as that there will be ways - what he is suggesting there is that there will be other legislation following it.

MR. PECKFORD: Regulations.

MR. STRACHAN: Regulations following in which this will broaden an aspect of it which will then come into force.

MR. PECKFORD: Right. Exactly.

MR. STRACHAN: Some questions there; could the minister indicate whether - well obviously it cannot come in this session - obviously whether this legislation or it could be By Order-of-Council imagine or -

MR. PECKFORD: That is right. You are a tiny bit confused there. This is enabling legislation so that we can go ahead now without the House being open or anything,

MR. STRACHAN: Yes.

MR. HICKMAN: And make regulations.

MR. PECKFORD: - and make regulations subject to the provisions under the Act.

MR. STRACHAN: Okay.

MR. PECKFORD: Okay.

MR. STRACHAN: I got that now.

MR. CHAIRMAN: The hon. member for Eagle River.

MR. STRACHAN: Thank you, Mr. Chairman.

I am concerned a little bit here inasmuch as I have heard there is an inquiry in Lab City, -

MR. PECKFORD: Yes.

MR. STRACHAN: - at the moment going on, and I was there a few short weeks ago. For instance, there was one death in Lab City attributable to a truck being operated. These trucks are very complicated mechanisms in which you are short out by having a truck stationary, you can short out the whole braking system by pumping the brakes, there is a fan system which cools the whole upper system of the truck, the whole braking system which is an electric system, and below five miles per hour you are not suppose to apply the brakes whatsoever. And I understand that these have never been really looked at by the inspectors of the minister's department. And similarly I have heard of other cases where the dust aspect is some pelletizing plant there, the dust has been very heavy, and yet when the inspectors come enforcing this Act there seems to be - and this is the feeling of the workers, this may not be so -

MR. PECKFORD: Yes. Yes.

MR. STRACHAN: But it seems to be in the workers case, they feel that there has been notice given to the company, and they seem to feel that at the same time as inspectors arrive enforcing this special regulation here, that a part of the operation will be closed down to lower the dust level to an acceptable level, and as soon as the inspector leaves -

MR. PECKFORD: Yes.

MR. STRACHAN: - back on everything goes to full production again.

MR. PECKFORD: Right.

MR. STRACHAN: And whether this is correct or not I do not know.

MR. PECKFORD: Right.

MR. STRACHAN: I cannot say because I have not witnessed it firsthand. But it seems to be - or whether this is a ploy being used by the union or by the workers and so on, again I do not know. But I am wondering whether the minister could indicate under this here whether there will be some kind of teeth into this legislation he is talking about which will be enabled under this clause here?

MR. PECKFORD: Oh, yes, no question.

MR. STRACHAN: Whether they will be taken to task, some of the situations I referred to?

MR. PECKFORD: Yes. I could not agree with the hon. member more as it relates to, you know, if you give notice to the company that an inspector is going to turn up tomorrow, well it destroys the whole fact of having an inspector almost because as you say the company can close down or modify or change the environment so that you are going to get good readings. We try to avoid that now. The inspectors try to avoid that and just walk in on a moment's notice, just go right on in without even calling or letting the company know they are coming. And, you know, it has to be this way if it is going to work. And it can only work that way if you have inspectors on site. And one of the problems we have, as the hon. member knows, is we are up to our complement now, I think, our ten or twelve inspectors. We are better off now than we have been for a long while, but it is a job to keep -

MR. STRACHAN: It is still inefficient.

MR. PECKFORD: But it is still not enough. Definitely not, you need to double that.

MR. STRACHAN: Yes.

MR. PECKFORD: The problem there is also one of wages, salaries. A real problem there now just recently on that score, I think we are losing the man in Labrador City, and we have to replace him with somebody else on site. But you have to have inspectors, especially in those major areas like Labrador City and Wabush, full-time, there on site so they can monitor daily and weekly, so you really get your good readings. And this is why so much work has been done in Lab City, for example, in the plants and so on. There has been \$3 million or \$4 million spent by that company over the last few years, -

MR. STRACHAN: Yes.

MR. PECKFORD: - and it is primarily because we established, the department established certain levels that they had to meet in a certain period of time; in order to do that they had to spend this additional money.



MR. PECKFORD:

I agree we need more inspectors. They must be on site. They must not give notice of when they are coming, otherwise it defeats the whole purpose of what we are trying to do. As it relates to the trucks and that, under the regulations now we have I think enough power, flexibility to get on to the business of the machines and this kind of thing for safety measures. Here the major change is one of the working environment to give us a bit more flexibility in administering certain additional improved standards in the environment.

AN HON. MEMBER: Carried.

MR. STRACHAN: One last point, Mr. Chairman.

MR. HICKMAN: Shall we agree to stop the clock for a few minutes?

MR. STRACHAN: Oh yes, yes. It suits me. I think our caucus agrees.

MR. MURPHY: Do you have a caucus; a full caucus?

MR. HICKMAN: Order!

MR. STRACHAN: A more orderly one. One which seems to go through legislation a bit more orderly.

MR. MURPHY: Right.

MR. STRACHAN: I am specifically concerned here about the uranium mine. This seems to me to be legislation which will allow some kind of control over the working environment in uranium mines.

MR. PECKFORD: Yes.

MR. STRACHAN: And I wonder if the minister intends to bring in fairly soon some kind of legislation through the Order-in-Council procedure -

MR. PECKFORD: Yes.

MR. STRACHAN: - which will govern the kind of work and the kind of environment which will be created by Brinex?

MR. PECKFORD: Yes.

MR. STRACHAN: Because I know there has been criticism of Brinex. But I would say this much, that I think Brinex have been a good corporate citizen in many, many ways.

MR. PECKFORD: There is no question.

MR. STRACHAN: Have bent over backwards.

MR. PECKFORD: Yes.

MR. STRACHAN: I think I would be fair in saying bent over backwards far more than any previous mining group working in this Province.

MR. PECKFORD: Yes.

MR. STRACHAN: And much of the criticism of them is criticism by people in my district, for instance, who do not understand fully some of the things that they are bringing in. But I am concerned here that the people themselves who are stating that they are looking for jobs or want to work in such a situation are people who are unqualified by health reasons for working that job.

For instance, I understand that Brinex have been talking already that people who smoke cannot work in a uranium mine. They do not wish that. I think they are trying to look for some kind of even legislation. That was indicated that to me any way. And certainly people who have any history of TB or scars and so on will be wiped out. I am wondering if they cannot work in the mine, in fact, all they can have is cooking jobs or various surface jobs.

MR. PECKFORD: Yes.

MR. STRACHAN: Now I can immediately see

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the question of, if not racism, the question of its being implied that you are not therefore giving the prime jobs to people in the communities closest to the mine. And I am wondering if you intend bringing in such legislation or assisting Brinex corporation with the legislation which is necessary for the proper orderly running of a uranium mine so that people do not come down in five or ten years time with illness or fatally ill, whether this will be brought in here and whether this will be explained in a satisfactory way to the people there, because they are constantly on the radio. They are constantly creating a furor about it. But I think in many cases they do not understand that the prime jobs cannot be given to people for the reasons we are stating here.

MR. PECKFORD: That is right.

MR. STRACHAN: And I wonder if this could be explained?

MR. PECKFORD: Yes.

The main - the business of the Kitts-Michelin and Brinex and the uranium is simply this: Right now we are in the process, as is Brinex, as the hon. member knows, in the process of developing environmental statements.

The hon. Minister of the Environment and I are involved right now in this whole process. And we are also looking very closely at what is happening at the public hearings in Saskatchewan, I think it is, right today and what is going to happen there. We have also got to do a lot of work with Atomic Energy of Canada Limited on the latest. It is changing fairly fast. Recent periodicals on the question are changing almost monthly. So what we are more or less saying is, let us amass all the data we can get, watch the Saskatchewan situation very carefully and the public hearings, you know, with Atomic Energy, with the environmental people, public environmental impact statements and so on that are going to have to be a part of the process, almost definitely, in order to have this whole thing get off the ground properly, and the kinds of things that the hon. member mentions. There is no question about it. There are going to have to be conditions precedent to any final go

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ahead of this kind of thing. I appreciate the hon. member's concern, and I, too, share with him those concerns.

MR. CHAIRMAN: The hon. member for Eagle River.

MR. STRACHAN: The last point, the final point, I can assure the House Leader. Because I feel that Brinex corporation have been criticized in many ways too severely - I know for good reasons. I have got no argument about it. I wonder whether the minister - obviously what he is stating here is not going to get back to the community of Makkovik or Postville or Rigolet or Goose Bay - I wonder whether the minister would undertake to possibly explain some of these kind of things publicly or in some form so that people will start to realize that all companies that are carrying out development are not necessarily ogres, that they are not necessarily people who are going to come in and dispense with people in order to make profit? And I feel that sometimes - I have my differences of opinion with Brinex as other people do have, but at the same time it is a corporation which is in the vanguard in this Province in showing the way towards environmental legislation, and the working health of the people who are with them. And I wonder whether the minister would undertake to explain possibly later on publicly some of the positions that they have taken on this?

MR. PECKFORD: Yes, I would only be too happy to do that, Mr. Chairman. The big problem is that I do not want to say too much in a general way, because it can usually get misconstrued until you have some of the back-ups, specifics to go along with it. so that you are really talking a lot of good sense to the people who have those kinds of fears. But I am only too happy to do that. And during the Summer no doubt I will have ample opportunity to do just that.

Motion that the Committee report having passed the bill without amendments, carried.

MR. HICKMAN: Bill 87.

A bill, "An Act To Amend The Automobile Insurance Act.

Motion that the Committee report having passed the bill without amendment, carried.

MR. HICKMAN: Bill No. 89.

A bill, "An Act To Facilitate Metric Conversion."

On motion Clause 1 carried.

MR. CHAIRMAN: Shall Clause 2, carry?

The hon. Minister of Consumer Affairs and Environment.

MR. MURPHY: Mr. Chairman, I would just like to explain this.

Mr. Chairman, perhaps to explain to the House: This circular was issued earlier in the year with metric and we used 100 to bring it at the sixty mark. But since that time we have decided to make it ninety and it brings it down to approximately fifty-six miles an hour in keeping with the practice right across Canada and North America. But I am saying that this leaflet will be out because it is 100 on this, but it is the only change in the whole thing. So we have cut it back to ninety to conform to the North American speed standard.

On motion Clause 2 carried.

On motion Clause 2 carried.

Motion that the Committee report having passed the bill without amendment, carried.

MR. HICKMAN: Bill No. 85.

A bill, "An Act To Amend The Historic Objects, Sites And Records Act, 1973."

Motion that the Committee report having passed the bill without amendment, carried.

MR. HICKMAN: Bill No. 88.

A bill, "An Act To Amend The Livestocks Communities Sales Act."

Motion that the Committee report having passed the bill without amendment, carried.

MR. HICKMAN: Bill No. 106.

A bill, "An Act To Make Provision For Animal And Meat Inspection In Slaughter Houses."

Motion that the Committee report having passed the bill without amendment, carried.



MR. HICKMAN: Bill No. 108.

A bill, "An Act To Amend The Department Of Health Act."

Motion that the Committee report having passed the bill without amendment, carried.

MR. HICKMAN: Bill No. 97.

A bill, "An Act To Amend The Public Service (Pensions) Act."

Motion that the Committee report having passed the bill without amendment, carried.

MR. HICKMAN: I move that the Committee rise, report progress and ask leave to sit again.

On motion that the Committee rise, report progress and ask leave to sit again, Mr. Speaker returned to the Chair.

MR. SPEAKER: The hon. member.

DR. COLLINS: Mr. Speaker, the Committee of the Whole have considered the matters to them referred and have directed me to report Bills No. 51, 90, 87, 89, 85, 88, 106, 108, and 97, all without amendments, and ask leave to sit again.

MR. SPEAKER: The Chairman of the Committee of the Whole reports that they have considered the matters to them referred and have passed Bills No. 51, 90, 87, 89, 85, 88, 106, 108 and 97, without amendment, and ask leave to sit again.

On motion report received and adopted.

On motion Committee ordered to sit again presently.

On motion the following bills were read a

third time.

A bill, "An Act To Amend The Housing Act,"  
(No. 51).

A bill, "An Act To Amend The Regulation Of Mines  
Act," (No. 90).

A bill, "An Act To Amend The Automobile  
Insurance Act," (No. 87).

A bill, "An Act To Facilitate Metric  
Conversion," (No. 89).

A bill, "An Act To Amend The Historic  
Objects, Sites And Records Act, 1973," (No. 85).

A bill, "An Act To Amend The Livestock  
(Community Sales) Act," (No. 88).

A bill, "An Act To Make Provision For Animal  
And Meat Inspection In Slaughter Houses," (No. 106).

A bill, "An Act To Amend The Department Of  
Health Act," (No. 108).

A bill, "An Act To Amend The Public Service  
(Pensions) Act," (No. 97).

MR. HICKMAN: Order 34, Bill No. 109.

On motion, a bill, "An Act To Amend The  
Registration (Vital Statistics) Act," (No. 109), read a second  
time, ordred referred to a Committee of the Whole presently by  
leave.

MR. HICKMAN: Order 35, Bill No. 102.

On motion, a bill, "An Act Respecting An  
Increase Of Certain Pensions," (No. 102), read a second time,  
ordered referred to a Committee of the Whole presently by leave.

MR. HICKMAN: Order 36, Bill No. 91.

On motion, a bill, "An Act To Patify, Confirm  
And Adopt An Agreement Made Between The Government And The Government  
Of Canada Respecting Reciprocal Taxation Of These Governments And Their

Agencies," (No. 91), read a second time, ordered referred to a Committee of the Whole House presently by leave.

MR. HICKMAN: Order 38, Bill No. 110.

On motion, a bill, "An Act To Amend, Revise And Consolidate The Law Respecting Social Assistance," (No. 110), read a second time, ordered referred to a Committee of the Whole House presently by leave.

MR. HICKMAN: Bill No. 44.

On motion, a bill, "An Act To Repeal The Refinery Agreement Act, 1973," (No. 44), read a second time, ordered referred to a Committee of the Whole House presently by leave.

MR. HICKMAN: Bill No. 115.

On motion, a bill, "An Act To Provide For The Closing Of Certain Shops On Holidays," (No. 115), read a second time, ordered referred to a Committee of the Whole House presently by leave.

On motion that the House resolve itself into Committee of the Whole, Mr. Speaker left the Chair.

COMMITTEE OF THE WHOLE:

A bill, "An Act To Amend The Registration (Vital Statistics) Act," (No. 109).

Motion that the Committee report having passed the bill without amendment, carried.

A bill, "An Act To Amend, Revise And Consolidate The Law Respecting Social Assistance," (No. 110).

Motion that the Committee report having passed the bill without amendment, carried.

A bill, "An Act To Provide For The Closing Of Certain Shops On Holidays," (No. 115).

Motion that the Committee report having passed the bill without amendment, carried.



A bill, "An Act Concerning An Agreement Between The Government And The Government Of Canada Respecting Peciprocal Taxation Of These Governments And Their Agencies," (No. 91).

Motion that the Committee report having passed the bill without amendment, carried.

A bill, "An Act Respecting An Increase Of Certain Pensions," (No. 102).

Motion that the Committee report having passed the bill without amendment, carried.

A bill, "An Act To Repeal The Refinery Agreement Act, 1973," (No. 44).

Motion that the Committee report having passed the bill without amendment, carried.

MR. HICKMAN: I move that the Committee rise, report progress and ask leave to sit again.

On motion that the Committee rise, report progress and ask leave to sit again, Mr. Speaker returned to the Chair.

MR. SPEAKER: The hon. Chairman of Committees.

MR. CHAIRMAN: Mr. Speaker, the Committee of the Whole have considered the matters to the referred, and have directed me to report Bills Nos. 109, 110, 115, 91, 102 and 44 without amendment and ask leave to sit again.

MR. SPEAKER: The Chairman of the Committee reports that they have considered the matters to them referred, have passed Bills Nos. 109, 110, 115, 91, 102 and 44 without amendment and ask leave to sit again.

On motion report received and adopted, Committee ordered to sit again presently by leave.

On motion the following bills read a third time, ordered passed and title be as on the Order Paper,

A bill, "An Act To Amend The Registration Of (Vital Statistics) Act", (Bill No. 109).

A bill, "An Act To Amend And Revise And To Consolidate The Law Respecting Social Assistance". (Bill No. 110).

A bill, "An Act Providing For The Closing Of Certain Shops On Sundays". (Bill No. 115 ).

A bill, "An Act To Ratify , Confirm and Adopt An Agreement Made Between The Government And The Government Of Canada Respecting Reciprocal Taxation Of These Governments And Their Agencies". (Bill No. 91)

A bill, "An Act Respecting An Increase In Certain Pensions". (Bill No. 102).

A bill, "An Act To Repeal The Refinery Agreement Act, 1973". (Bill No. 44).



MR. HICKMAN: Mr. Speaker, Bill No. 119.

Motion, second reading, a bill, "An Act To Amend The War Pensions Act."

MR. SPEAKER: Is the House ready for the question? Those in favour "Aye", contrary "Nay", carried.

On motion, a bill, "An Act To Amend The War Pensions Act, read a second time, ordered referred to a Committee of the Whole presently by leave.

MR. HICKMAN: Motion 41, Bill No. 103.

Motion, second reading, a bill, "An Act To Amend The Local School Tax Act".

MR. SPEAKER: Is the House ready for the question? Those in favour "Aye", contrary "Nay" carried.

MR. HICKMAN: I move second reading.

On motion, a bill, "An Act To Amend The Local School Tax Act", read a second time, ordered referred to a Committee of the Whole presently by leave.

On motion that the House resolve itself in Committee or the Whole, Mr. Speaker left the Chair.

COMMITTEE OF THE WHOLE

A bill, "An Act To Amend The War Services Pensions Act, 1975" (119).

On motion Clause 1 carried.

On motion bill carried without amendment.

A bill, "An Act To Amend The Local School Tax Act".

On motion Clauses 1 through 5 carried.

On motion bill carried without amendment.

MR. HICKMAN: I move that the Committee rise, report progress and ask leave to sit again.

On motion that the Committee rise, report progress and ask leave to sit again, Mr. Speaker returned to the Chair.

MR. CHAIRMAN: Mr. Speaker, the Committee of the Whole have considered the matters to them referred and have directed me to report Bills Nos. 119 and 103 both without amendment and asked leave to sit again.

MR. SPEAKER: The Chairman of the Committee reports that they have considered the matters to them referred and have passed bills Nos. 119 and 103 without amendment and asked leave to sit again.

On motion report received and adopted, Committee ordered to sit again presently.

On motion bills read a third time now by leave.

On motion the following bills read a third time, ordered passed and title be as on the Order Paper.

A bill, "An Act To Amend The War Services Pensions Act, 1975 (Bill No. 119).

A bill, "An Act To Amend The Local School Tax Act). (Bill No. 103).

MR. HICKMAN: Mr. Speaker, before I move the House adjourn, may I very sincerely thank the hon. gentlemen opposite for their co-operation today, It has been a long day. We have had legislation now for ready ten hours. There has been some very good debate on the important bills, and the ones that were purely routine went through very quickly, as is desirable. Hopefully with a bit of luck and if the Good Lord is willing, and hon. friends opposite if they are co-operative tomorrow as they have been today, I would think by this time tomorrow night there will not be enough left to be said that it is worth listening to.

I move that the remaining orders of the day do stand deferred and that this House at its rising to adjourn until tomorrow, Tuesday at 10:00 o'clock and that this House do now adjourn.

MR. SPEAKER: It is moved that the House adjourn until 10:00 A.M. tomorrow.

On motion the House stands adjourned until tomorrow, Tuesday, at 10:00 A.M.