

PRELIMINARY
UNEDITED
TRANSCRIPT

HOUSE OF ASSEMBLY
FOR THE PERIOD:
FRIDAY, MAY 25, 1979
10:00 a.m. - 1:00 p.m.

The House met at 10:00 A.M.

Mr. Speaker in the Chair.

MR. SPEAKER (Otteneheimer): Order, please!

STATEMENTS BY MINISTERS:

MR. SPEAKER: The hon. Minister of Lands and Forests.

MR. MORGAN: Mr. Speaker, as members of the House of Assembly may be aware, one of the most frequent subjects of public complaints and criticism of government is the administration of Crown Lands, particularly the length of time it requires to process applications. Being acutely aware of this fact, the Lands branch of the Department of Forestry and Lands, in co-operation with the Department of Justice and the Organization and Management Division of Treasury Board, has recently completed a number of reviews, studies and other related activities in an effort to identify ways and means of improving the system and shortening the time required to get applications for Crown lands processed. As a result of these investigations it is generally agreed to affect substantial improvements requires a long term effort by government in terms of increased personnel, financial support and new policy direction. While government has already committed itself to the support of these long term objectives, I am today pleased to advise the House that Cabinet has now recently approved a number of activities and policy changes that will result in immediate and short term improvements.

I am pleased to inform this House that amendments to the existing lands legislation will be introduced which will substantially reduce the number of routine applications requiring approval of Cabinet, in other words, the approvals will be given by the minister. These amendments when affected will reduce a large number of minor but frustrating delays that occur during the latter stages when approving applications for Crown lands.

Mr. Speaker, I am also pleased to announce that effective immediately government will institute a new policy, a policy which will provide the option of applying for a grant pursuant to

MR. MORGAN:

a lease for residential purposes.

As a result of this change in policy, the present and future holders of fifty year residential leases for Crown land will now have the option of continuing the lease at an annual rental of \$25 per year, provided the development has been met, or they may convert the lease to a grant which prior to now they could not do. Consideration of such grants will be twenty times the amount of the annual rental fee, of course less any rentals already paid. Where the land in some cases would fall within an approved municipal plan, the grant will be unconditional, and of course where land is outside any approved municipal plan, the grant will contain a restriction that the land cannot be subdivided or used for purposes other than a residence without the prior approval of the minister concerned.

Mr. Morgan:

Also, Mr. Speaker, effective immediately government has instituted now the option of applying for a grant pursuant to a five year lease for either residential purposes or agricultural purposes, again, of course, provided that the development conditions of the lease have been fulfilled. Such leases were mandatory prior to 1974. Then there was a change made to The Crown Lands Act, and these leases were issued prior to 1976. Consideration for these grants will be \$1, plus the balance of any outstanding rentals due. This change in policy is based on both, in our view as government, a legal and moral obligation to those individual who received a five year lease for any land in the Province under the former legislation prior to 1974.

I am also, Mr. Speaker, pleased to announce the following changes in the departmental policy as it relates to those individuals who have built illegally on Crown land for less than twenty years prior to January 1, 1977. There was a deadline placed on these lands of March 31, 1978, whereby submission of applications by these individuals had to be placed with the department. That deadline is now removed. Individuals who have not already made application to the department are required to submit a Crown land application to the nearest Regional Lands Office and acquire a temporary permit to occupy. Legal action will not be taken against these individuals only in cases where their application is made to the department and then turned down by the department. Then if the individuals refuse to remove their buildings and refuse to carry out activity on that land, and refuse to remove themselves from the property, only then will they be prosecuted by the law and legal action taken.

However, in the meantime the department officials will continue to enforce the legislation as it relates to those individuals who initiate legal occupation - this case, illegal occupation - after January 1977. What I am saying, Mr. Speaker, is that rather than the situation which existed prior to today, rather than having

Mr. Morgan: legal action taken against those people who built on these lands and were there for a number of years prior to 1977, we are now saying to those people we will give you the opportunity to make an application,

MR. MORGAN:

and only if your application

is refused will we take legal action. However, if you built on the land since 1977 illegally, we have to prosecute you accordingly. I remind the public through the House that individuals found guilty of such action, by the way, of building since 1977 illegally on Crown property, the fine is a minimum fine of \$200 and it is up to the courts to go from there as regards to the amount of the fine.

Mr. Speaker, in addition to the foregoing policy changes, government has also instructed through a Minute-in-Council, the Cabinet, instructed the Departments of Health, Mines and Energy, Transportation and Communications, Tourism, Consumer Affairs and the Environment and Municipal Affairs and Housing to immediately prepare guidelines relating to the use and the development of Crown lands in the Province. When these guidelines are completed, they will then be provided to the Lands branch of the Department of Forestry and Lands and then be referred to the Regional Lands Offices and will be used by the Regional Lands Offices in processing Crown land applications. The use of these guidelines, coupled with the recent development of and now the introduction of what we call Regional Resource Atlases will enable the regional offices to process the majority, and I repeat, Mr. Speaker, the majority of applications for Crown land. In other words, prior to now the application would have to come into St. John's from the regional offices and be referred to the departments just mentioned - the Department of Health, the Department of the Environment, the Department of Transportation and Communications, the Department of Tourism, and Municipal Affairs. Now when these guidelines are established as ordered by a Cabinet Minute-in-Council these department guidelines will enable the application to be processed right at the regional office level in the Province, like in Corner Brook, Gander or in Clarenville or any other regional office, and this will substantially reduce the time required to get an application processed for a piece of Crown land.

MR. MORGAN:

Mr. Speaker, these are the new policies of the department and of the government but I want to say at the present time the lands branch of the Department of Forestry and Lands faces a temporary backlog of approximately 650 applications and these applications are waiting title preparation. The majority of these applications result from policy changes and deadlines that were established over the past two years. As a result for the past two months priority has been placed on applications in the following sequence: priority number one, going to applications for residential purposes; priority number two, for applications for

MR. MORGAN: for agriculture purposes, and number three, for commercial reasons. I can thus assure the House of Assembly that the majority of applications in the above categories for which acceptable surveys have now already been submitted to the department, that titles sent to the applicants for signature have all been processed in the last two months. To overcome the remaining backlog, though, Mr. Speaker, the government have to hire a number of temporary personnel and the government have now approved the hiring of a number of temporary personnel for a number of months, who will be taken on staff as soon as possible to make sure the total backlog remaining will be processed to the satisfaction of the applicants.

Recognizing that the present backlog will result in continued delays for a number of applicants, I have now instructed the regional staff to authorize limited development. For example, declaring and preparation of land only in the case of people applying for residential and summer cottage applications for which acceptable surveys have been submitted to the department. What I am saying, Mr. Speaker, is because of the backlog we have, to lessen the time of applicants, when a person applies in the future as of today for a piece of Crown land to build a home, as soon as the application is approved in principle and the person is asked to make a survey of his land, as soon as the land is surveyed, we will then through the ministry issue a permit to occupy the land to clear and develop the land for the purpose of building a home. However, the person will not be allowed to construct a new home because the legal aspect of it cannot allow us to give authority to build. But we can now and will now as of today, in the future, give authority upon receiving the survey from the applicant the permission to move on the land to clear the land in preparation for building a new home. That is a very significant change in dealing with future applications. We are doing that because we feel that in trying to overcome the backlog of applications we want to make sure the applicant gets fast service, as fast as possible.

Finally, Mr. Speaker, there are a number of miscellaneous items that affect the present and future operation

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MR. MORGAN: of the Lands branch of the department,
and I feel that the House of Assembly and the public should be aware of
these, which are outlined briefly as follows: The many application forms
used by the department, the

MR. J. MORGAN:

many and numerous application forms used, what we are doing now is looking at condensing these application forms, the different forms now used by department into no more than four, four basic application forms will be used in the future in making application for Crown land.

And number two, Mr. Speaker, to better inform the public, the Land Management Division of the department is now going to prepare a series of brochures, and these brochures will be giving full details to the public with regards to the leasing and granting of land. And number three, the Mapping Division of the department is now initiating a new long term mapping programme which will substantially improve our existing knowledge of land ownership in the Province, that is a very big question today in our Province is land ownership, and to determine land ownership this major mapping programme will be carried out so that we can have in our files identified land owners in the Province and throughout the Province.

Number four, the efficiency and affectiveness of the four regional land offices have substantially increased over the past year. And I must say, Mr. Speaker, the efficiency and affectiveness of the four regional land offices was increased by the work carried out by my predecessor, now the Minister of Industrial Development (Mr. E. Maynard), but the efficiency has increased substantially to the point where now this decentralization of authority has occurred in many areas involving Crown land. And this, of course, has been achieved by in-house training and by getting clearly defined policy and procedural activities through procedural manuals in these regional offices.

Mr. Speaker, while recognizing the need for continuing financial restraints, I am hoping that in the long term it might be possible to have certain additional staff to strengthen the weaknesses in the lands branch both here in the

MR. J. MORGAN: headquarters in St. John's, the Confederation Building, and out in the regional offices. I would like to announce, Mr. Speaker, that a recent appointment, Mr. Gordon Thomas, has recently now been appointed as Director of Research with the lands branch and he has been assigned responsibility also for the Geographic Names Board and also the Public Lands Registry. Both of these areas have been neglected over the past several years and as a result of Mr. Thomas' appointment I expect very rapid improvements in these areas, particularly taking into consideration the fact that Mr. Thomas was a former employee of the lands branch of the department with over twenty years of experience in dealing with land and land matters.

So, Mr. Speaker, finally we are presently also developing, which

MR. J. MORGAN: is a very important matter for the people who would like to go hunting and fishing in the Province, We are now presently developing a new government policy which when instituted will allow the construction of cabins and cottages in remote areas of the Province, areas which are now non-accessible by road. That new policy is now being developed and will be brought forward to the House of Assembly in a matter of weeks.

So, Mr. Speaker, in closing the information on this matter, the government is convinced that these changes hereby outlined in this statement will substantially improve the administration of Crown lands within the Province and will substantially improve the processing of Crown Land applications. In the meantime, the staff of the lands branch of the department is doing everything possible to bring about both short and long-term improvements to the present system. And government will continue to support the introduction of whatever modifications are feasible in enabling a department of forestry, resources and lands to realize its objectives to providing a better service to the public. Thank you, Mr. Speaker.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER (MR. OTTENHEIMER): Before recognizing the hon. gentleman to my right, I would like to welcome to the House of Assembly on behalf of all hon. members fifty-four Grade VII students from Grant Collegiate in Springdale who are accompanied by three of their teachers, Mr. Harold Tremblett, Mrs. Sheila Drover, Mr. Barry Jackman. There are also sixty students from Beothuck Collegiate in Baie Verte accompanied by two teachers, Mr. Bill Barkley and Mrs. Peg. Spurrell. I know hon. members join me in welcoming the students from Springdale and Baie Verte.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: The hon. member for LaPoile.

MR. S. NEARY: Mr. Speaker, I have a few comments on it. Unfortunately, the hon. gentleman did not have the courtesy, Sir, to let us have a copy of his Ministerial Statement before he made it in the House

MR. S. NEARY: so that we could study it and have a few questions ready for the hon. gentleman. This seems to be the style now, the policy of the administration to come in every Friday and make Ministerial Statements and expect us off the top of our heads to comment on major changes in government policy and procedures that we have not even seen. We just heard the statement for the first time.

I will try to deal with some aspects of it, Sir. I want to deal with the last part first about the cabins and cottages. This has caused an awful lot of trouble throughout the Province, people have applied for grants and leases to build Summer cabins and cottages. There has been a freeze on in many parts of the Province, in other areas the applications are still pending, have not been processed, even some of them are outstanding for four and five and six years. In one case, Sir, and I do not know if this is correct or not, perhaps the hon. gentleman could tell us, I am told there is a freeze on in the Deer Park down on the Salmonier Line and a large number of applications

MR. NEARY: have been made to build Summer cabins, cottages in the Deer Park and they have all been turned down because of the freeze, but I am told that the Cabinet last year overruled the decision of the departments involved and granted a Cabinet Minister approval of an application to build a cottage in the Deer Park and nothings sets the devil in people more, Mr. Speaker, than finding out that there are two laws in the Province, one for Cabinet ministers and one for ordinary Newfoundlanders who make applications to build -

MR. YOUNG: Did the same.

MR. NEARY: If the hon. gentleman wants me to tell him privately I would be glad to do it. I am also told, Mr. Speaker, that down here in St. John's East Extern another Cabinet Minister wanted to build a house and made an application to the Metro Board, which was rejected, appealed it, it was rejected, and now the hon. gentleman is going about trying to force a town council on the people in that particular area to try to get his application approved, another Cabinet Minister, down here in Middle Cove or Outer Cove, down in that area.

And so, Mr. Speaker, what we have seen today is the minister knuckling under pressure from the people of this Province and from members of this side of the House. Your Honour will remember that for the last couple of years we have been complaining in this House about the new policy that the government introduced of granting leases instead of grants. So what we have seen now is a reversal of a procedure that this government brought in two, three and four years ago. When the old government changed back in 1972, applications then were being processed at a fairly rapid pace even though it was too slow. And I submit that the policy just outlined by the hon. gentleman will not solve the problems either because there are too many government departments involved.

This government, Sir, this government caused the bottleneck and caused the frustration and caused the trouble

MR. NEARY: in the Province themselves. I suppose in the rural areas of this Province there is no other problem that causes more heartaches, that causes more controversy than Crown land applications and we have had petitions that we have presented on this side of the House to try to bring about a change. And we are glad to see now that the new minister is finally listening to the complaints of the people in Newfoundland who want to build a home and who have to wait two and three and four years before they get an application approved. I know in my own district one of the biggest problems I have is with Crown land, and a lot of my constituents were hauled into court last year by

Mr. Neary: the hon. gentleman's predecessor, convicted in court, and now we find out, lo and behold - we argued at the time that it should never have happened, that these people should never have been prosecuted, there should have been leniency, that they should have been given consideration - now we find out that the government is going to reverse its decision even though a lot of my constituents, and I am sure other members' constituents, have been dragged into court by the scruff of the neck convicted, fined, have paid their fines. Now what happens to these people? Will they be forgiven? Or will it be written from the court record? Or will the fines be refunded?

MR. F. ROWE: Not on your life.

MR. NEARY: No, not on your life, Sir; I would submit not on your life. Now the government has done a complete reversal after they have done the damage. And they removed an expediter from that department, one of the best men that we had in that department, Mr. Winsor, who was doing a magnificent job, he was whipped out of there.

MR. MORGAN: He is coming back.

MR. NEARY: He was whipped out, put over with this foolish Action Group that is costing the taxpayers a small fortune in this Province. The hon. gentleman says now, "He is coming back". Well I am certainly glad to hear that because at least that gentleman had a little compassion for people in his heart and he did a fairly good job as far as I am concerned and I had a lot of dealings with him as well as other members of the House.

Now as far as the land ownership mapping survey is concerned, Sir, I believe this programme was the subject of an agreement between the Provincial Government and the Government of Canada two or three years ago. And I believe the Government of Canada is paying 100 per cent - if not, 90 per cent of the cost of that survey - and the hon. gentleman made no reference to that at all. It is the Government of Canada who are the people who are paying for that mapping

Mr. Neary: survey that is being done here in this Province. As a matter of fact, Sir, they bought an aircraft last year, bought a Cessna aircraft, a special type aircraft -

MR. MORGAN: They gave it to us.

MR. NEARY: Yes, the Government of Canada gave it to the Province. It was brought up from the United States, an aircraft that was designed in such a way that you could put a camera -

MR. MORGAN: (Inaudible) lost.

MR. NEARY: - that you could put a camera on the bottom of the aircraft, and the aircraft cost a fair amount of money, and it was given as a gift to this Province and the Government of Canada is paying for the survey.

I think probably the main part of the hon. gentleman's statement was changing the policy from leasing to granting. Now that in itself, Sir, is a major factor, but it was this government that brought in the lease policy. Does the hon. gentleman realize that?

SOME HON. MEMBERS: Oh, oh!

MR. NEARY: Now they are changing it. Well, that is a good thing. The people can argue well, you know, you make a mistake and you change it, but you have to realize first of all that the mistake was made on that side of the House by the government, Mr. Speaker. You know, we are pleased on this side that they are now changing back to grants instead of leases.

I do not know what else I can say about it except that only time will tell. The minister has

MR. NEARY:

pious hopes apparently from the wording of his statement, but only time will tell whether or not it is going to be effective. It is not the first time, by the way, that a Ministerial Statement was made in this House in connection with the processing of Crown land applications for building homes. It is not the first time and it probably will not be the last. There are so many government departments involved, Mr. Speaker, that it is very difficult to get the co-operation of the various departments because of the jealousy that exists, because of the low priority that exists in the various departments - Health, Transportation and the Environment, Forestry and Agriculture and so on. So we do hope, Mr. Speaker, that it will work out for the sake of those people who want to build homes in this Province, who have been held up, hung up now for two or three or four years waiting for their applications even though they have made application for mortgage money at the bank, the bank has made the mortgage money available, and they cannot take advantage of the mortgage money until the application is approved by the minister's department.

CAPT. WINSOR:

They have to have a clear title to the land.

MR. NEARY:

And so as far as processing it in the regional offices is concerned, I believe that is happening now. It started a couple of years ago. The regional offices process the applications and the final decision is made in the minister's office.

MR. MORGAN:

It is still referred to the agency now.

MR. NEARY:

But his Crown land board will still exist, you will still have the bottleneck there. Who deals with them now, the minister direct?

MR. MORGAN:

Yes, the Crown lands committee.

MR. NEARY:

But anyway, Sir, we do wish

MR. NEARY: the minister good luck with this new programme. It is a godsend if it works. I have reservations about it myself, But let us hope that it does for the sake of these people who want to build homes in this Province.

ANSWERS TO QUESTIONS TO WHICH NOTICE HAS BEEN GIVEN

MR. SPEAKER: (Mr. Ottenheimer) Hon. Minister of Finance.

DR. COLLINS: Mr. Speaker, sometime ago, approximately a week ago, the hon. member for Burgeo-Bay d'Espoir (Mr. Simmons) asked me a question concerning the operations of the LaScie fish plant. I have reason to believe he is within earshot so I will give the information that I said I would get at that time. This referred to a matter that was brought up in the Auditor General's Report for the year ending March 31, 1978. It was pointed out that Newfoundland Quick Freeze owed the Province \$225,612, of which \$61,506 had been paid and the rest of the amount was outstanding. I have been informed by Justice now that the company also has a counterclaim in the amount of \$175,206 and

DR. J. COLLINS: there has been an agreement reached to exchange cheques which will settle both accounts in full.

ORAL QUESTIONS

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

MR. W. N. ROWE: Mr. Speaker, I wonder is the Premier due in today? Perhaps the House Leader (Mr. Marshall) could indicate.

MR. SPEAKER: The hon. the Government House Leader.

MR. MARSHALL: The Premier is downstairs engaged in an important meeting. He expects to be here pretty soon.

MR. W. N. ROWE: The Governor, I hope.

AN HON. MEMBER: Yes, Sir!

MR. W. N. ROWE: Mr. Speaker, in that case, in the absence of the Premier - not that I want to belittle the hon. the Minister of Mines and Energy (Mr. Doody), but I would have addressed these questions to the Premier since he made a statement yesterday - perhaps the Minister of Mines and Energy can respond to them as well.

Yesterday, the Premier mentioned that they are now going to start negotiating the takeover by this Province of 100 per cent ownership of the offshore resources, and the Premier indicated that some committees were going to be set up concerning the administration of the ownership by the Government of Newfoundland. Now, would the minister indicate to the Province what is envisaged from the Province's point of view with regard to the administration and the control and the surveillance and the patrolling and the general overall protection of our resource on the high seas? Is the government's position that this Province will assume the responsibility and therefore the expenditures necessary to administer controlled patrol exercises, surveillance and so on?

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

MR. DOODY: There are two very obvious areas of responsibility, Mr. Speaker. The Government of Canada quite obviously has responsibility for the patrol of the area, for the surveillance of the area, for the protection of the area. They have an environmental concern which we respect and on which we will work closely with them. The actual ownership of

MR. DOODY: the resource will be ours. We will have control of the licencing of the permittees. We will have control of the rate of production, control of the royalty rates. We will make arrangements with Ottawa to that effect. The actual parameters of responsibility are only in a general form as yet, and that is why these committees have been formed. We hope to get together with the appropriate officials in Ottawa as soon as possible. Obviously, we have to wait until the transfer of power takes place. When the Conservative Government is in office, we will make contact with the appropriate officials and then we will start setting forth the two areas of responsibility, as I have outlined in general terms.

MR. W. N. ROWE: Mr. Speaker, a supplementary question.

MR. SPEAKER: (Mr. Ottenheimer) A supplementary.

MR. W. N. ROWE: The Premier indicated yesterday that there were some delays, perhaps, envisaged in finally coming to a conclusion, decision or an agreement on these areas of responsibility. Presumably the Premier has been in touch with the Prime Minister Elect and undoubtedly

MR. W. ROWE: he has conveyed what information he has to the minister. Can the minister indicate to the House what is the time frame within which we hope to have these two vexatious areas, I would submit, these complicated and complex areas of responsibility resolved? I mean, what is the government here looking at in terms of a final conclusion?

MR. SPEAKER (Ottanheimer): The hon. Minister of Mines and Energy.

MR. DOODY: Well, we are looking at the shortest possible time imaginable, Sir. The day after the transition takes place would be admirable and delightful and certainly is what we would aim for. However, the facts of the matter are not quite as simple as that. Until such time as the new government leaves Jasper and moves to Ottawa I would assume that they are going to have to communicate with the officials in Energy, Mines and Resources and with the officials in Transport Canada, the environment people. We have been given every indication by the new government that they will give it every priority and put every pressure on to accommodate the commitment that has been made to this Province.

AN HON. MEMBER: Good government. Good government.

MR. W. ROWE: Mr. Speaker, a final supplementary on the subject.

MR. SPEAKER: Final supplementary.

MR. W. ROWE: Could the minister indicate - the Premier mentioned yesterday the setting up of some committees and something to do with the administration and transitional period and so on - can the minister indicate, not to the last cent, naturally, because we will have the budget coming down in two or three weeks but presumably some provincial monies are going to be laid aside for the administration, either the administration during the remainder of this year of whatever responsibility they may have for control, administration, surveillance and so on, can the minister indicate what expenditure is envisaged by the government during this financial year as a result of the responsibilities which the Province

MR. W. ROWE: will undoubtedly have to assume as sort of a going along with the responsibilities of ownership of this offshore resource? What amount of money are we looking at from the Province's point of view?

MR. SPEAKER (Ottenheimer): The hon. Minister of Mines and Energy,

MR. DOODY: For the rest of this year, Mr. Speaker, we are looking at a relatively modest amount of money. I am really not in a position to state what that amount is. As was pointed out by the Premier in his ministerial statement yesterday, the committee of Cabot Martin and Bill Porter, the Assistant Deputy Minister of Energy in the Department of Mines and Energy, and Steve Millan, who is the Ex-Assistant Deputy Minister and is now hired on a consultant basis -

MR. NEARY: What about poor old Groom?

MR. DOODY: - they are now currently working on the cost estimates of what will be necessary to put the Province's portion of this responsibility into effect. Since they were set up only a day or so ago, obviously they would not have had time to establish the exact amount but as I have indicated the amount that will be necessary for this particular year, this current year will be very minimal.

MR. STRACHAN: A supplementary.

MR. SPEAKER: A supplementary, the hon. member for Eagle River.

MR. STRACHAN: Mr. Speaker, for clarification, I believe that what the Province is now obtaining or asking for is ownership of the Continental Shelf, which obviously goes beyond the 200 mile limit, as far as oil exploration is concerned. My statement was that what you are claiming then is the ownership of the Continental Shelf as far as oil exploration is concerned which goes far beyond the 200 mile limit. Since Canada has only got jurisdiction, or stated jurisdiction to the 200 mile limit, and not beyond that because it is international waters then in essence,

MR. STRACHAN: what we are stating now is that this Province will own seabed over which the waters are international and therefore we have no jurisdiction over it and neither has Canada. Exactly what position does this put the Province in when we are claiming the Continental Shelf without any jurisdiction in the waters above it?

MR. SPEAKER (Ottenheimer): Hon. minister.

MR. DOODY: We have always taken the position, Mr. Speaker, that the Province of Newfoundland owned the minerals in the Continental Shelf, in the slope and in the margin, that whole particular area. Canada's management control of the fisheries and the 200 mile limit is an entirely different matter, one which we never have been happy about, one which we think was improperly done in the first place, one which should have extended to that same area which we just described. Indeed, many of the problems in conservation in fisheries right now are caused by that part of the Continental Shelf which is not included in that management zone. However, the fishery question is one that is not in this area of

MR. DOODY: negotiation. It is an entirely separate problem and one which will have to be dealt with separately.

MR. SPEAKER (MR. OTTENHEIMER): The hon. member for LaPoile followed by the hon. gentleman for Fogo.

MR. S. NEARY: Mr. Speaker, you have to hand it to the hon. gentleman, Sir, He can say all of that with a straight face even though he had a little smile there, I noticed.

MR. DOODY: It is not easy (inaudible).

MR. S. NEARY: No, it is not that easy for the hon. gentleman to give the answers he just gave with a straight face.

MR. DOODY: In the morning I just sit here and smile.

MR. S. NEARY: This seems to be the day for the Minister - How the hon. gentleman can look at himself in the mirror in the mornings, I do not know, Sir.

MR. DOODY: (Inaudible) day before.

MR. S. NEARY: - after giving the House that kind of information, Sir, and that political fancy footwork that is going on is incredible, absolutely incredible! My question for the minister is, since it seems to be the minister's day, was the minister aware that Mr. Charlie Bursey on behalf of Newfoundland and Labrador Hydro was going to make a major announcement that we are going to have a mini-hydro plant in this Province? Is the minister aware of this? Is this a fact? Can the minister confirm that we are going to have a mini-hydro plant built somewhere in the Province as indicated by Mr. Charles Bursey?

MR. DOODY: Does the hon. member want the answer to that?

MR. S. NEARY: Yes.

MR. SPEAKER: Hon. minister.

MR. DOODY: That is a many parted question and I will try to answer it with a straight face, Your Honour. Yes, we are aware that we are going to have a mini-hydro plant in the Province; as a matter of fact we have many mini-hydro plants in the Province. Some of the first mini-hydro plants ever constructed in the Western World

MR. DOODY: were constructed here in Newfoundland. The hon. member for Ferryland (Mr. Power) is well aware that some of the oldest and most efficient mini-hydro plants in the Western World are located in the hon. member's district. This is certainly nothing new and nothing strange and nothing startling. There is a very efficient mini-hydro plant in Seal Cove in the district of Conception Bay South. The fact that we are going to have another one built now in another part of the question through a joint agreement with the Government of Canada, is really not a major policy announcement.

MR.S. NEARY: The Liberal Government.

MR. DOODY: The ex-Government of Canada. That is a delightful thought, too, and I cannot say that with a straight face. So, yes, I was aware that Mr. Bursey, the Public Relations Officer with Hydro, was going to give some information to the public. It was not a startling, major development. As I say, we have mini-hydro plants in this Province, we have had them for a great many years. I am surprised that the hon. member opposite had not noticed it in his wanderings around the Province, from district to district looking for a place to run. Thank you, Sir.

MR. S. NEARY: A supplementary, Mr. Speaker.

MR. SPEAKER: (OTTENHEIMER) A supplementary.

MR. S. NEARY: Mr. Speaker, the only thing that Mr. Bursey did not tell us that he was very cautious about, he did not tell us where this mini-hydro plant was going to be located. Now the hon. gentleman is so anxious that the people should have information in connection with this mini-hydro plant, would the minister, before Mr. Bursey or Mr. Young upstages him, tell us the site of this mini-hydro plant?

MR. SPEAKER: Hon. minister.

MR. DOODY: Mr. Speaker, there are no less than thirteen different sites that are now being considered; some of them are being considered more carefully than others. When that particular site is chosen I am sure that the information will be forthcoming. If it is felt to be of significant news value, then I will attempt to deliver this astounding revelation myself. If, on the other hand, it is felt to be a matter of relatively minor interest, I will once again authorize Mr. Bursey to send forth the good tidings.

MR. S. NEARY: A supplementary, Mr. Speaker.

MR. SPEAKER: A supplementary.

MR. S. NEARY: Mr. Speaker, a couple of years ago when Mr. Crosbie was Minister of Mines and Energy, Sir Edmund de Rothschild came to Newfoundland -

MR. DOODY: I thought you called him 'Eddie'?

MR. S. NEARY: 'Eddie', yes. It was the closest time I have ever got, Sir, to big money.

AN HON. MEMBER: Since Panama.

MR. S. NEARY: No, that is not quite - well, probably since Craig or A.B. Walsh or some of that crowd. But they have since departed, they have gone flip-flop over with the hon. gentleman. But, Sir, since I attended that meeting downstairs with Mr. Crosbie and saw a slide presentation of what they call a lowhead hydro generator - it is underwater and it is the kind of a generator that you can use in the small rivers and streams in Newfoundland. I advocated in the House at that time that we should take a look at a pilot project that was going on in Switzerland in connection with this lowhead generator - would the minister tell us now if this is the policy that Newfoundland and Labrador Hydro is pursuing, the one they laughed at at that particular time, of utilizing the small waters and rivers and streams in this Province?

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MR. SPEAKER (MR. OTTENHEIMER): Hon. minister.

MR. DOODY: Some of that detail I am not all that familiar with, I did not have the advantage of knowing Eddie Rothschild on the same basis as the hon. member, nor was I aware of the fact that the people at Hydro laughed

MR. W. DOODY: I am aware of the fact that the people at Hydro laughed at that particular time, as to the low head -

MR. NEARY: Members of the House laughed.

MR. W. DOODY: Members of the House laughed. Well, that must have been a delightful day here, you very rarely get that opportunity. The prospect of a low head hydro development in the Province is, as I have explained a few minutes ago, we have many low head hydro developments in the Province now and we hope to have more. There will be a pilot programme going ahead on that basis within this agreement with the Government of Canada. In some cases these projects or programmes are quite efficient, particularly in areas that are now serviced by diesel. The capital cost of putting these facilities in place is relatively high but the operating cost in the long-term is relatively low. I would, quite honestly, expect to see quite a few low head hydro sites developed in the Province during the coming years particularly if the one that we are now talking about turns out to be as efficient and as economical as it appears to be.

MR. S. NEARY: Final supplementary, Mr. Speaker.

MR. SPEAKER: (Ottenheimer) Final supplementary, hon. member for LaPoile.

MR. S. NEARY: Would the hon. gentleman indicate to the House if Newfoundland Hydro, if the Minister has instructed Hydro to take a look at this new process for generating electricity, the one that they have apparently approved in Finland where they are now firing up power plants with peat fuel. We have a large quantity of peat moss in this Province. If there is anything we have an abundance of, it is peat moss. Is the Minister looking at utilizing peat moss to generate electricity in some of the power plants of the future around Newfoundland and Labrador?

MR. SPEAKER: Hon. Minister of Mines and Energy.

MR. W. DOODY: Well, I could refer the hon. gentleman to last evening's CBC Here and Now show which -

MR. S. NEARY:
do my homework.

I do not get time to watch. I have to

MR. W. DOODY:
himself to the outside world from time to time. It might broaden
his horizons.

The hon. gentleman should expose

The fact is that a rather intensive study is being done right now on the possibility of using peat to fuel generating stations. There is an abundance of peat in the Province as the hon. member has stated. There has never been any question about that. The problem is in Newfoundland the areas that have the highest concentration of peat, the Burin Peninsula, the Avalon Peninsula, the Southern Avalon and so on, are also the dampest parts of the Province. Digging the peat is really not a problem, drying the peat to a level that makes it usable as a commodity in terms of burning for generation of electricity is a major problem - the economics are somewhat dubious in that particular regard - and so experiments are now being carried on to see if a way can be found to overcome that major problem. If that can be done than certainly peat will be used to generate electricity in some of the thermal stations.

MR. SPEAKER: (Ottenheimer)

Hon. member for Fogo.

CAPT E. WINSOR:

Mr. Speaker, I direct a question to the hon. Minister of Fisheries (Mr. W. Carter) and my question is this; Since the Federal Department of Fisheries extended the herring fishery along parts of the Northeast coast, herring appear to be in abundance there now and fishermen are having a problem selling their catches. As late as Wednesday evening or Wednesday night, I believe, fishermen were at the Beothuk Fisheries with line-ups of trucks and boats waiting and the plants could not take the herring. Is the minister aware of this fact and is there anything that he can do to sort of alleviate this problem?

MR. SPEAKER:

Hon. Minister of Fisheries.

MR. W. CARTER: I am aware, of course, of the extension that has been granted on the herring fishery in that area but I am not aware of there being any glut problems at this time. Certainly I will take the question as notice and look into it this afternoon.

MR. SPEAKER: (Otteneheimer) Hon. member for Baie Verte - White Bay followed by Stephenville, Terra Nova and Eagle River.

MR. T. RIDEOUT: Mr. Speaker, my question is for the Minister of Labour and Manpower (Mr. J. Dinn). The minister and the House will recall that last year we passed in this House an Occupational Health and Safety Act. The main provision of that act was for the consolidation of a number of Government agencies related to occupational health and safety in this Province. I wonder if the minister could tell me whether or not all that consolidation has yet taken place and if not, what outstanding agencies have still not moved into his department under the umbrella of that act?

MR. SPEAKER: (Otteneheimer) Hon. Minister of Labour and Manpower.

MR. J. DINN: Mr. Speaker, most of the consolidation the hon. member talks about is complete right now. We have one or two areas with respect to personnel that have not been completed. It looks like we are going to be needing some more personnel to look after several particular problems in the Province. I announced only a week or so ago the fact that we were going to hire a mines inspector, for example, and another technician for the Labrador West area. So for all intents

Mr. Dinn: purposes the transfers have taken place. We have had two seminars to this point in time with all the personnel together, and these personnel have talked about their various areas of responsibility, and we have more or less laid out a plan. We are currently attempting to get space, or we have space designated in the J. E. M. Holdings Building over on the other side of or next to the N.T.A. Building, it is just up behind there, and at that point in time, of course, most of the staff will be physically in one place. So it is moving along very well, and we hope to have it done, just about totally complete, within the next month.

MR. RIDEOUT: A supplementary.

MR. SPEAKER (MR. OTTENHEIMER): A supplementary.

MR. RIDEOUT: Mr. Speaker, I thank the minister for his answer. I wonder if the minister could tell me when the Act was passed last year-- and up until a few months ago I think there was some disagreement over a timetable for the moving of the Mines Inspection Branch from the Department of Mines and Energy into the minister's department, could the minister tell me whether or not now that, in effect, has taken place and the Mines Inspection Branch is into his department and under the Occupational Health and Safety Authority?

MR. SPEAKER: The hon. Minister of Labour and Manpower.

MR. DINN: The answer to that question is, yes, Mr. Speaker, the Mines Inspection Branch has moved into Labour and Manpower.

MR. RIDEOUT: A supplementary, Mr. Speaker.

MR. SPEAKER: A supplementary.

MR. RIDEOUT: Mr. Speaker, again a question to the same minister. A year or so ago when the Selikoff report was presented to his predecessor there was a tripartite committee set up of government, union and company to study the recommendations of that particular report. Could the minister give the House some sort of status report on that committee now? Is it meeting? Has it made any recommendations to government yet on the implementation of the recommendations of the Selikoff report? And when the minister is answering, he might be

Mr. Rideout: able to tell me whether or not his department intends to station one of those mines inspection technicians on the Baie Verte Peninsula?

MR. SPEAKER (MR. OTTENHEIMER): The hon. Minister of Labour and Manpower.

MR. DINN: Mr. Speaker, that would require a fairly detailed answer, and I will be willing to get it for the hon. member. With respect to the announcement that I made a couple of weeks ago, in the Labrador City-Wabush area there was a mine technician up there, and we had sent in mines inspectors from St. John's on an almost monthly basis. This we found was not adequate at the time and, of course, we have since hired an individual for up there and another technician. I will look into the possibility of sending a permanent technician over to the Baie Verte area. I am not even aware if there is not one over there, but I will certainly check it out for the hon. member and provide him with the information.

MR. SPEAKER: The hon. member for Stephenville.

MR. MCNEIL: Mr. Speaker, my question is for the Minister of Industrial Development (Mr. Maynard). In November 1978 Mr. James Corcoran resigned from the chairmanship of the Harmon Corporation, could the minister indicate when this vacant position with the Corporation will be filled?

MR. SPEAKER: The hon. Minister of Industrial Development.

MR. MAYNARD: I cannot give the hon. member an exact time, Mr. Speaker, but we are in the process now of reviewing the whole role of the Harmon Corporation, and I would think that within the next week or two weeks at the most we will be able to announce or give some indication of the new structure and who is going to be appointed chairman.

MR. MCNEIL: A supplementary.

MR. SPEAKER: A supplementary.

MR. MCNEIL: Would the minister indicate if it is government's intention to provide a development officer for the Corporation? And will this new development officer, be it senior or junior, serve in a dual capacity as a development officer and chairman of the Board of Directors of the Corporation?

MR. SPEAKER (MR. OTTENHEIMER): The hon. Minister of Industrial Development.

MR. MAYNARD: No, Mr. Speaker, the development officer will be a staff member of the Corporation. There is presently an Acting Chairman, Mr. Don Powell. We hope that we will be able to appoint a full-time chairman within the next several days.

MR. SPEAKER: I had indicated that I would recognize the hon. member for Terra Nova next, followed by the members for Eagle River and Burgeo-Bay d'Espoir.

MR. LUSH: Mr. Speaker, I have a question for the President of Treasury Board (Mr. N. Windsor). Yesterday in response to questions from me respecting the status of contract negotiations with Public Service employees the minister informed the House that the pilots employed by the Department of Forestry, particularly the pilots operating the water bombers in the Province, had yesterday called in sick and the minister indicated his concern over that matter in the House, and indicated that he was going to look into the matter a little further. So I am wondering if the minister has any new information that he can report to the House on that development, as I understand contract negotiations were going on. So can the minister comment on that situation and what he has found out about it?

MR. SPEAKER: The President of Treasury Board.

MR. N. WINDSOR: Yes, Mr. Speaker, I can report that the co-pilots are back on the job this morning, the operation is back to normal, although to this point in time they have not had any call-outs. As understand it, there are no major fires burning that require the water bombers. As far as the negotiations are concerned, nothing has changed from yesterday. We have made an offer to the negotiating

Mr. N. Windsor: committee, they have agreed to take it back to the membership, ballots have been sent out and I understand the committee is recommending acceptance, and this is why we were most surprised yesterday when these people did not show up for work.

MR. LUSH: A supplementary, Mr. Speaker.

MR. SPEAKER: (Mr. Ottenheimer) A supplementary.

MR. LUSH: Yesterday, also, I questioned the minister with respect to the teachers' negotiations in the Province. The minister indicated that the teachers had been made an offer. Now I was not quite clear whether he was talking about the original offer or whether there had been made a second offer since the teachers rejected the first offer.

MR. SPEAKER: The hon. minister.

MR. N. WINDSOR: Mr. Speaker, there has been another offer. The executive are now considering our latest offer and, I think, shall be taking that to the teachers again for a vote.

MR. LUSH: A supplementary, Mr. Speaker.

MR. SPEAKER: A supplementary.

MR. LUSH: I understand that the teachers have also taken a strike vote. This is very serious at this particular time of the year when we are nearing the end of the school year, and I am concerned about how - this was my understanding, so I want the minister to indicate whether this is so. My understanding was that they have taken a strike vote and I wonder whether the minister can verify this or whether it was simply a rejection of the salary offer.

MR. SPEAKER: The hon. minister.

MR. N. WINDSOR: No, Mr. Speaker, there has not been a strike vote, this is just a rejection of the offer that was made. They are in a position to take a strike vote if they wish. They have not done so at this time, and a strike vote would be required before the teachers could go on strike, of course. But I would hope that this latest offer we have made to them will be again considered as an acceptance or a rejection vote.

MR. LUSH: Mr. Speaker, a supplementary.

MR. SPEAKER: A final supplementary.

MR. LUSH: Within these negotiations, particularly the two that we talked about this morning, the pilots and the teachers, what is the hang-up in these negotiations? Is it purely salary or are there other matters concerned?

MR. SPEAKER: The hon. minister.

MR. N. WINDSOR: In the case of the pilots, I am not sure there is a hang-up. As I have already indicated to the House this morning, the negotiating team have indicated they will recommend acceptance. The ballots were sent out two days ago and they are to be returned to the executive by June 5th. So hopefully on June 6th or June 7th, we will have a reply from them and we would hope it will be a positive one, that the contract or proposal has been accepted.

As far as the teachers are concerned, salary is one issue - there may be one or two others - salary is the big issue. But I think the latest offer we made to them was fairly generous and I hope it will be accepted.

MR. SPEAKER: (Mr. Ottenheimer) The hon. the member for Eagle River.

MR. STRACHAN: Mr. Speaker, there has been a break-up on the Labrador Coast again this year and the Twin Otter service which has been operating all Winter is now being curtailed because the Twin Otters have to come off the skis, off the wheels. It takes two weeks for conversion to floats, and, of course, in many communities there is not sufficient water - the ice has not broken up sufficiently to allow the aircraft to land on floats - so many communities are going without mail. We had twenty-four days earlier on without mail, now we are having another period of eleven, twelve, thirteen, fourteen days without mail and fourteen days without passenger aircraft and so on. I wonder if the Minister of Transportation (Mr. Brett) can indicate to us - because we are deeply concerned that the airstrip programme on the Labrador Coast, which is the only way to permanently solve this problem, is slowing down. We had two airstrips built last year at Nain and Malukovik, this year there is only one at Mary's Harbour and there have not been any more indications of any speeding up. And we suggest that there should be a speeding up of this over a two or three year period because it is uneconomical and the communities which have airstrips cannot now be served by the Twin Otter because most of the other communities do not have airstrips and therefore demand the aircraft must be on floats rather than wheels. I wonder if he can indicate exactly the situation and whether if there is a change in government in Ottawa there will be some pressure from

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MR. STRACHAN: his department and whether there can be discussions to speed up this construction?

MR. SPEAKER: (Mr. Ottenheimer) The hon. the Minister of Transportation and Communications.

MR. BRETT: Mr. Speaker, to the best of my knowledge, there is no slowing down. There was some problem with land, I think, where the airstrips were built

MR. BRETT: in that the land was not transferred to the provincial government. However, I think that has been overcome and to the best of my knowledge everything is proceeding on schedule.

MR. STRACHAN: Mr. Speaker, a supplementary.

MR. SPEAKER: (Mr. Ottenheimer) A supplementary.

MR. STRACHAN: Mr. Speaker, there was supposed to be, this year, two further airstrips constructed, one at Mary's Harbour which is going ahead - tenders are called - and one at, hopefully, Port Hope Simpson - Charlottetown which has been changed to Davis Inlet. It seems, even at the rate of two per year, that that is still too slow to make it economical for the operators of the carriers to get in with a twin otter service. So what we are asking here then is can there be an increase? Two last year, one this year and maybe two next year and maybe one the year after, because of administrative land problems, is far too slow. On the whole extent of the Labrador Coast, 1000 miles, twenty major communities, it is far too slow a programme. Can there be possible pressure to speed up the whole thing and squeeze it into a two or three year period of time?

MR. SPEAKER: The hon. minister.

MR. BRETT: Obviously, Mr. Speaker, that is a matter for the federal government. But I certainly agree that two a year is rather slow. I think there was an agreement to build something like fourteen. Was it thirteen or fourteen?

MR. STRACHAN: Fourteen.

MR. BRETT: So we are looking at seven years and I agree with the hon. member that that certainly is a long time. I do not know if the new government will make any difference or not but it is reasonable to assume that in our negotiations if it is possible to get them built at a faster rate then certainly we will be putting on some pressure.

ORDERS OF THE DAY

MR. SPEAKER: (Mr. Ottenheimer) Before I recognize an hon. member I should point out that the Orders of the Day from two to eight indicating third readings should not, in fact, be on the Order Paper, they were completed yesterday.

On motion, that the House resolve itself into Committee of the Whole on Bill No. 15, Mr. Speaker left the Chair.

MR. CHAIRMAN: (Mr. Cross) Order, please!
Bill 15 Clause 3.

MR. SIMMONS: Before we vote on Clause 3, I wonder would the Minister of Finance (Dr. Collins) take the opportunity to answer some of the questions that I have put to him, that the member for Eagle River (Mr. Strachan), the member for LaPoile (Mr. Neary) and the Leader of the Opposition, the member for Twillingate (Mr. W. Rowe) have put to him in committee during the past day or so, some of the financial detail which I fully expect, Mr. Chairman, is readily available to the minister, some of the financial detail on the Labrador Linerboard operation? Perhaps he could take a minute to do so. Yesterday we had hoped he would stand in his place but we got instead a rather characteristic speech from the member from St. John's East (Mr. Marshall) who managed in a half hour or so to say a lot of things but not too much of substance in terms of the answers we were looking for. And what we need, and this is the place to get it in committee, Mr. Chairman, is some answers to the questions which we four and other members of the Opposition for that matter, have raised in the last day or so in committee. I wonder would the Minister of Finance (Dr. Collins) address himself to these particular questions before we vote on this particular clause? Certainly this is his opportunity to do so if he would like to do so. I understand he has the information we have been asking for and if there is some particular reason why he cannot

MR. SIMMONS: give us the information well then the very least he could do as a courtesy is stand in his place and tell us why he cannot give us the information. I do know he has the information. He has not been known in this House as a man who has been hard to get along with or a man who deliberately sits on information. So if he is not giving the information, as he is not at this point, Mr. Chairman, and he has had a number of opportunities during the past few days, if he is not giving the information there may well be a good reason and I will be charitable and allow that possibility. But if there is a good reason, Mr. Chairman, I believe the minister, in all fairness, should stand up and tell us what the reason is.

MR. SIMMONS: Or much better still, I would hope he could stand up now and give us some of the information that I have asked for, my colleagues from Eagle River (Mr. Strachan), from LaPoile (Mr. Neary) and the Leader of the Opposition (Mr. W. Rowe), we four have been asking for during the last few days, since this bill came into Committee stage. I would hope the minister would see fit to provide us with some of the answers or alternately tell us some good reason why he cannot give us the information which he has in his possession right now, Mr. Chairman.

MR. CHAIRMAN (Cross): The hon. Minister of Finance.

DR. J. COLLINS: Mr. Chairman, I do not know if I can add much to what the hon. member, and hon. members opposite already know. My understanding of the issue is this, that a considerable amount of money has been expended by the Province over the Labrador Linerboard mill, and that the hon. members opposite are wondering that by getting the return we are getting under the present bill that we are considering, whether this is a good return in the circumstances. And the implication is that some of the money that may have been expended on the mill may have not gone, shall we say, directly into the mill or whatever, and that therefore this would have an impact, this would have an implication for the value we get out. I do not quite follow that argument quite honestly, because if it is said that all the money went into the mill, surely that would mean that our equity in the mill is less and therefore what we got out would be proportionately a better percentage of that equity. But anyway that argument aside, I do not think that one can say that any evidence has been put forward that all the money did not go into the mill. I think in any operation of that size, clearly, and this would not be in any way unusual in my view, clearly not every cent would be the most wisely spent there was. I think in any operation, big or small, there is going to be some expenditures that one person will say, "You did not spend that well." Another person will say, "You spent it very well." There could

DR. J. COLLINS: well be differences of opinion there and it would not be surprising to me if even, say, the sum of \$1 million or whatever out of a total expenditure of \$600 million was not to everyone's liking. This I do not think would be surprising.

On the other hand I do not know of any solid evidence that has been put forward indicating that even that has occurred. I would be surprised if it did not occur. But I do not think any evidence that has been put forward that one can firmly point to and say that this did occur.

In terms of the information given, my understanding is that all that is available in a readily understandable form, I am quite sure that if an accountant looked at all this information he might say, "Well I need a bit more here, a bit more there," whatever, but all that is available in a readily understandable form that could be put forward has been put forward and that anything that has not been put forward is just minutiae, or it is information that would compromise the legitimate interests of the Abitibi people who are now purchasing the mill.

I would think that if there are any particular matters that need to be gone into on this, that the consideration of clause by clause can go forward as we are doing and we will get this bill passed through the various stages and that those other questions can arise at another time, perhaps in the Throne Speech or in other debate and I am sure that the information that is requested at that time can be researched and brought out.

MR. CHAIRMAN (Cross): The hon. member for LaPoile,

MR. NEARY: How naive, Sir, does the hon. gentleman think we are? I will give the hon. gentleman credit for one thing, he did have the courage to get up and make some kind of a statement on behalf of the government who have been stonewalling for the last several years on giving the Opposition and the people of this Province any information at all in connection with the operation of Labrador Linerboard at Stephenville from the time the government

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MR. NEARY: took it over until the time they
closed it. At least the minister had the courage to get up on
his feet, maybe in

MR. NEARY: his simplicity, maybe in his newness as Minister of Finance, but the hon. gentleman did say something even though it was wishy-washy. In actual fact, the gentleman said before he took his seat that we could debate this in the Throne Speech. Mr. Chairman, we have been asking questions since 1973 in connection with the operation of Labrador Linerboard. Three ministers of the Crown were on the board of directors of the Crown company set up by the Newfoundland Government to operate Labrador Linerboard. They were not always the same ministers, they changed over the years, so over a period of four or five years you probably had eight or nine or ten ministers who served on the board of directors of the Labrador Linerboard mill. And these ministers answer to this House, and these ministers have stonewalled and refused to give the House the annual reports of Labrador Linerboard. They refused to give us Minutes of meetings of Labrador Linerboard that we have asked for. I have asked for them time and time again. They have refused to tell us what the RCMP -

MR. MARSHALL: You have an audited statement there now.

MR. NEARY: Mr. Speaker, we have an audited statement which tells us nothing. If the hon. gentleman believes in fair play, if the hon. gentleman believes that the people of this Province should have information, why does he not send in the Auditor General and a team of accountants from the Auditor General's department? The hon. gentleman has always professed that he wanted to see the House get information, the people get a fair deal. Why does not the new Minister of Finance (Dr. J. Collins) send the Auditor General in? This House can order the Auditor General to go in and check the procedures and to audit the accounts of Labrador Linerboard during the time the government had it under their control. Would the Minister of Finance consider doing that instead of just brushing us off by saying, 'Well, why do you not bring it up in the Throne Speech or some other debate in the House?' So what? We get up then and all we do is make statements, debate back and forth, the government will get up and answer, continue to stonewall. But now, Mr. Chairman, we have the door open, we have the Minister of Finance up on his feet. Would the Minister of Finance inform the House now if he has had a thorough review done of the \$300 million that was approved by this House and given the Labrador Linerboard?

MR. NEARY: He says there is no solid evidence put forward yet that there was any wrongdoing. That is what the minister just said - no solid evidence. Well, I will remind the gentleman in a few moments of a bit of solid evidence, but I want to ask the hon. gentleman first if he would consider - he is such a fair-minded gentleman, the only man so far who had the courage to get up and say anything about this. Will the hon. gentleman send in the Auditor General and have an audit made by the Auditor General and a team of accountants from the Auditor General's department?

Now, about the solid piece of evidence.

AN HON. MEMBER: There he goes again!

MR. NEARY: No, Mr. Chairman, I am not going again, I am going to talk about an affidavit that I tabled in this House from Mr. Alan Miller, who was a gentleman who was used by Mr. Bobby Kraft, who said that Mr. Ingram was installed as manager of that mill by Mr. Bobby Kraft down in Boston, the man who was given the exclusive right to market the linerboard, and that his taxes were paid from EGRET and from International Forest Products, that they were in collusion, that there was a conspiracy to defraud the Linerboard mill. That evidence is solid. It has been put on the table of this House. How can the hon. gentleman get up and make a statement that we have no solid evidence before us? We have the Stirling International transaction that to say the least is of a very suspicious nature. That is solid evidence, the documentation laid on the table of the House, the transaction, an internal memo advising the comptroller of the company to pay \$55 a ton to a mysterious company called EGRET in Bermuda. Does the hon. gentleman consider that to be solid evidence? Is that solid evidence?

SOME HON. MEMBERS: Oh, oh!

MR. J. COLLINS: It depends on your frame of mind.

MR. NEARY: It depends on your frame of mind.

AN HON. MEMBER: Yes.

MR. NEARY: Well, all right, let me ask the hon.

gentleman this - the hon. gentleman, I can see, wants to be fair about this - the Linerboard mill got \$320 a ton for that shipment of linerboard that went

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MR. NEARY: to Ghana. I know somebody who knows
the salesman with Stirling International, a man by the name of Shareen.
Mr. Shareen was the gentleman who sold that particular shipment of linerboard.

MR. NEARY: Okay? Is the hon. gentleman following me? Mr. Shareen was the salesman for Sterling International. Mr. Shareen sold that Linerboard for \$320 a ton. There was an agreement between the company, the middleman, and Linerboard, that they would get \$320 a ton. But International Forest Products who were marketing the product for the Newfoundland Government and for Linerboard said nothing about the \$55 a ton that was being skimmed off and put in the account of EGRET, a mysterious dummy offshore company in Bermuda. Does the hon. gentleman not think that that is hard evidence of wrongdoing of a possibility of a crime being committed? Is that evidence hard enough for the hon. gentleman? And if that was a pattern, if International Forest Products who were marketing the product for the Newfoundland Government and for Labrador Linerboard, if that was a pattern, if that was a policy in Europe and in the United States for marketing Linerboard, that \$55 a ton over and above the price paid the Linerboard mill in Stephenville had to be put into an offshore account, and another \$55 a ton for the middleman, \$110, should that \$110 have not gone to Labrador Linerboard?

MR. MARSHALL: On a point of order, Mr. Chairman.

MR. CHAIRMAN (Cross): A point of order has been raised.

MR. MARSHALL: Very weakly on a point of order once again, look we are on clause (3) which relates to the ratification of the principle agreement and I had understood Your Honour to have indicated, even when we were doing clause (1) where there was a broader debate allowed in Committee stage, that matters pertaining to operations of Labrador Linerboard are not the subject of this bill itself. What we are talking about is ratifying a principle agreement to provide jobs for people in Western Newfoundland and, as I say, we have already passed this in principle. The point of order is that the hon. member is being irrelevant in going into these matters. He is being repetitious. He is repeating them over and over again. One can only

MR. MARSHALL: wonder whether the purpose of his bringing them up is really for any purpose other than an attempt to filibuster this act because it has been before the Committee now, it has already been determined in the House, and has been before the Committee in three days. Now surely, Mr. Chairman, I think that the hon. gentleman is transcending and going beyond the areas that this clause contemplates.

MR. NEARY: To that point of order, Mr. Chairman. I think Your Honour probably realizes that I am in order, that the hon. gentleman is merely trying to silence me, trying to muzzle me with a point of order. The hon. Minister of Finance (Dr. J. Collins) was giving the House some very valuable information. I believe the hon. Government House Leader should leave him alone.

MR. STRACHAN: He was in order.

MR. NEARY: The hon. Minister of Finance was in order, Sir, when he made these statements that I am now answering, looking for additional information. I am sure Your Honour realizes that once we pass this bill we rescind, we automatically rescind the 1972 Labrador Linerboard agreement to take over the mill. Your Honour realizes that. We pass one, we rescind the other. It is automatic. So therefore, Sir, we cannot do one without the other. We have to talk about the past and we have to talk about the future. There is no way we can get around it, Mr. Chairman.

MR. CHAIRMAN (Cross): To that point of order, in Committee certainly the thing that is done is that there is a clause by clause analysis and members may ask for more detail or ask to bring in amendments and so on. Certainly what the hon. member was doing a moment ago, it is this particular agreement that we have to deal with here now, Bill 15, "The Ratification And The Sale Of The Linerboard Mill And The Conversion To A Paper Mill." For the past few minutes I realize that the hon. gentleman from LaPoile (Mr. Neary) has been reverting to past agreements that have taken place under the Labrador Linerboard and in that sense he was out of order. He has to stick to the clause by clause

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MR. CHAIRMAN (Cross):

detail in his deliberations.

MR. NEARY:

So I will just go back to my hon. friend, Sir, the Minister of Finance again, and ask the hon. gentleman if he would consider the very reasonable proposal that I have made, and that has been

MR. NEARY: made from this side of the House that the minister send in the Auditor General.

MR. MARSHALL: (Inaudible) in this House (inaudible).

MR. NEARY: Mr. Chairman, the Auditor General was not allowed to audit the accounts of the Labrador Linerboard. The hon. gentleman knows that.

MR. DINN: Auditors were.

MR. NEARY: Auditors were but not the Auditor General. The Auditor General is answerable to this House. Three hundred million dollars of taxpayer money was spent on that mill. One hundred million dollars passed through the hands of the Board of Directors of Labrador Linerboard in connection with the sale of the product. Four hundred million dollars handled by the Board of Directors of Labrador Linerboard who are refusing to answer to this House for \$400 million. Now let me go back to the hon. gentleman again. The hon. gentleman says that everything seemed to be order. Well has the hon. gentleman taken the trouble to find out why the shipping contract was cancelled and then renegotiated? Did the hon. gentleman take the trouble to find out why International Forest Products was given the exclusive right to market linerboard and incorporated down in the United States, South of the border? Is the hon. gentleman satisfied that all the equipment purchased for Labrador Linerboard was necessary or was a lot of it purchased through sweetheart deals for political patronage, for reasons of political patronage? And if so, has the hon. gentleman made any effort to find out if this is so, if the equipment was purchased and never used, left to rust on the tarmac in Stephenville and Gocse Bay? Is the hon. gentleman satisfied that that did not happen? And is the hon. gentleman satisfied that Mr. Ingram and Mr. Kraft, Mr. Ingram being the manager of the mill and Mr. Kraft being the man who was marketing the product, were not in collusion? And how did

MR. NEARY: they get on the Board of Directors of Labrador Linerboard? Now these are fair and reasonable questions and the hon. gentleman being a fair-minded man I am sure will give me some answers that will allay any fears that I may have in my mind that there was an awful lot of skulduggery involved and mismanagement involved with the operation of that mill when the government had it under their control.

Is the minister going to answer the questions? Is the minister going to give me some answers? The minister is not going to answer. The minister is going to take instructions from the Government House Leader who just slipped up and said, "Ignore him. Do not give him the information. Stonewall. The hon. gentleman is now going to become a part of the stonewalling and we are not going to get any information.

Well, Mr. Chairman, what else can I say or do? The only thing that I can hope now is that the RCMP will do a thorough job of investigating this whole matter. What about this RCMP investigation that we are told is 99 per cent complete? What about it? What was it all about? People all around the Province are asking questions. What was this all about and is the report in? At least the minister can tell us that. If the report is in and what action has been taken on that report.

Mr. Chairman, I can tell hon. gentlemen that I have no intention of giving up on this, no intention of giving up. They can pull the plug. They can have an election. They can go to the people if they want to.

MR. MORGAN: Filibuster.

MR. NEARY: There is no filibuster, Sir. I laid this document on the table of the House some time ago and the hon. gentleman did not want it tabled,

MR. NEARY: he had it passed back to me. The hon. gentleman should take it and read it, if he wants to see the history of the takeover of Labrador Linerboard, evidence, testimony that was accepted by the United States court.

MR. MORGAN: Given by whom?

MR. NEARY: I do not care who it was given by, it was accepted by the United States court.

MR. CHAIRMAN: (Mr. Cross) Order, please!

MR. NEARY: And, Mr. Chairman, the hon. gentleman should read it and if it is 50 per cent exaggerated - let us say it is 50 per cent exaggerated, which I doubt because I have proven a lot of it. Hon. gentlemen should be ashamed of themselves by stonewalling and not asking the Auditor General to go in and audit the reports of Labrador Linerboard. Send the police in and send the courts in the United States in to get the records of International Forest Products and send the FBI into Stirling International offices. Instead we are told the investigation is going on in Canada. What are you going to find out in Canada? The action was South of the border. And that was the whole idea of putting International Forest Products South of the border, so that they could be manipulated, so the rip-off could take place in the West Indies. That was the whole idea of it, Sir. What are you going to

Mr. Neary: find out in Canada? My hon. friend knows what I am talking about. The biggest scandal in the history of this Province and probably of this country, of this nation. It took ten years for the RCMP to find out about scandal involved in a Linerboard out in Western Canada, and I hope it does not take them as long to find out about this scandal that took place. And the hon. gentleman had it sent back to me. He said, "No we do not want it." Do not want to read it. Do not want to find out the truth. Wants one side of the story.

MR. MARSHALL: The Auditor General has (inaudible).

MR. NEARY: Mr. Chairman, I will put it back on the Table of the House for the benefit of the hon. gentleman. And I would suggest that the hon. gentleman take it home and read it. Because, Mr. Chairman, seven years of political persecution - a decision was made on seven years of political prosecution in Washington, in the United States Court in New York, a couple of weeks ago based on that testimony. And it is not for me to argue whether it is true or not. It was given under oath and it was accepted, the testimony was ordered by the United States Court. I can only verify the fact that the testimony was given. But I suggest the hon. gentleman read it and then see if an investigation is necessary, if a royal commission of enquiry plus a police investigation is not necessary into this whole sorted affair that took place in connection with the takeover of Labrador Linerboard.

MR. CHAIRMAN: (MR. CROSS): Shall Clause (3) carry?

On motion Clause (3) carried.

On motion Clause (4) carried.

MR. CHAIRMAN: Shall Clause (5) carry?

MR. MARSHALL: There is an amendment to Clause (5), Mr. Chairman. Clause (5) relates to the agreement entered into with respect to the stumpage charges. And Clause (17) of that agreement has an omission, a typographical omission, between the words "Province" and "As" appearing on the third last line of Clause (17), and I move that the words "And located in the Province of Newfoundland" be inserted.

On motion amendment carried.

On motion Clause (5) as amended carried.

On motion Clauses 6 and 7, carried.

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

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

MR. SPEAKER (MR. OTTENHEIMER): The hon. Chairman of Committees.

MR. CHAIRMAN: Mr. Speaker, the Committee of the Whole have considered the matters to them referred and have directed me to report having passed Bill 15 with amendment and ask leave to sit again.

On motion report received and adopted.

On motion amendments read a first and second time,

Motion, that Bill No 15 be read a third time now by leave, carried.

On motion, a bill, "An Act To Provide For The Ratification Of The Sale Of Labrador Linerboard Mill And The Conversion Of The Linerboard Mill To A Newsprint Mill", read a third time, ordered passed and title be as on the Order Paper.

On motion that the House resolve itself into a Committee of the Whole on Bill No. 33, Mr. Speaker left the Chair.

COMMITTEE OF THE WHOLE

MR. W. MARSHALL:

Order 3, Bill No. 33.

MR. CHAIRMAN: (CROSS)

Bill No. 33.

MR. S. NEARY:

Mr. Chairman.

MR. CHAIRMAN:

The hon. member for LaPoile.

MR. S. NEARY:

Mr. Chairman, since we had second reading of the bill I have had an opportunity to do a little research. I am not going to speak on it I just want to ask the Government House Leader a few questions. My research indicates, Sir, that the House was misled. When the Minister of Justice (Mr. Hickman) - and I do hope, Sir, that the minister who is presently in hospital is all right and will recover quickly and be back with us again.

AN HON. MEMBER:

He is fine.

MR. S. NEARY:

Well, I am glad to hear the hon. gentleman is fine. I meant this morning to rise at the opportune time and ask the House to send off a little greeting to the hon. gentleman, good wishes that he recover and be back again with us very soon. Perhaps the hon. Chairman might pass that on to the Speaker of the House. But, Sir, the Minister of Justice, the Premier and to a certain degree the Government House Leader (Mr. Marshall), misled the House, whether it was deliberate or otherwise, Sir, I do not know, as far as the Ministerial Association having input into the bill is concerned. I had an opportunity to do some homework, to do some checking on this and some of my colleagues also checked into it and they can speak for themselves, and we discovered Mr. Chairman, to our amazement, even though statements had been made to the contrary in this House by the Government House Leader, by the Minister of Justice and the Premier himself that the Ministerial Association had input into this bill, we find that that is not so. That is untrue. We do not know how many other misleading statements were made in connection with this bill by hon. gentlemen. I would like for the hon. Government House Leader now to indicate whether or not there are going to be any major amendments made to this bill as a result of

MR. S. NEARY: representation made to the government by the heads of the churches and by the Ministerial Association and others. Will the government now backtrack on some of the things that they said they are going to ram through this House? The hon. Premier told us it did not make difference what we thought about certain clauses of this bill, that the government were going to ram it through anyway. Now are we going to have any major amendments? If so, we are going to be into a big debate again, we are going to be into almost a second reading situation because as Your Honour knows amendments are debatable. I would like for the Government House Leader to indicate as a result of protests from the church, from the Ministerial Association, from other groups if we are going to have any major amendments to this bill and if so the hon. gentleman should indicate it now.

MR. CHAIRMAN: (CROSS) The hon. Government House Leader.

MR. W. MARSHALL: It is quite clear that I did not and I am sure the hon. Premier or the Minister of Justice (Mr. Hickman) did not mislead the House intentionally or otherwise or in any size, shape or form. We are getting off on another great foot when it comes to consideration of this bill, There will be amendments made but before I get into that I say that the hon. member for LaPoile (Mr. Neary) is just merely, as far as my ears discern what was said, he is just twisting the references that were made to the Ministerial Association. They may not have been in in the actual drafting of the bill but the Ministerial Association was well aware and had made comments with respect to the bill itself. We think the bill, as it has been passed by the House, represents a very good balance as this government always does, it balances the views of everybody in an effort to bring the best and strongest type of legislation to the people of the Province. So perhaps we can put the debate and the considerations of this on a higher plane.

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MR. W. MARSHALL:

Yes, there will be amendments. There will be amendments that will be made as a result of remarks that were made during the second reading that we looked at. We thought the bill was all right and I still think it could carry without

MR. MARSHALL: risking some of the problems that were brought up. Put in order to make it more clear and to perfectly assure, for instance, that there will be no application retroactively of this bill to settlements that have already been made by virtue of this bill itself with respect to the matrimonial home, we will be bringing those in and I suggest that we will get to those shortly as the clauses are called. I hope that they will be able to be called and that we can go through them very carefully in the spirit of co-operation instead of in the way in which the member for LaPoile (Mr. Neary) has entered already into this debate, making allegations of misleading the House intentionally or otherwise.

MR. CHAIRMAN (Cross): Shall the short title carry?

MR. W. ROWE: No, Mr. Chairman, not for the moment. Perhaps the hon. the House Leader (Mr. Marshall) might be able to give some general idea now while we are debating whether the very title to the act will pass, what is the general nature of the amendments which he proposes. I realize we will come to them and so on, Mr. Chairman, but there are members who are not here at the moment who have a personal interest in, you know, an interest from the point of view of what they represent in certain of the amendments which may be proposed. For example, I understand that there may be an amendment proposed to this idea of an automatic division of the title between a husband and a wife. No matter who the title may be in now the bill itself at the moment, of course, makes that a non-negotiable, non-agreeable part of the legislation, that no matter when a marriage took place the matrimonial home will be deemed to be jointly owned by both spouses. And this, of course, at the present time has two effects. One, it destroys the legitimate intention of, say, a husband and a wife where a husband, as we mentioned earlier without getting into detail, a husband gives title to his wife so that the matrimonial home can be protected. That is one case, no matter what

MR. W. ROWE: happens to him in business or otherwise, and the other case, of course, is a situation where a husband and a wife come to a conclusion that they will take the risk of allowing the matrimonial home to be used for collateral in a business, or with respect to a business and a bank or a financial institution has in good faith stacked up, say, a \$60,000 home as part of its collateral in giving a loan of \$40,000 or \$50,000 to the husband to go into business. Now what would happen, of course, if the bill stands as it is now in that case, a deliberate decision having been made, in that case the bank or the other financial institution in good faith, having made this decision in good faith, would find itself with one half of its collateral divested from it, because the husband who, say, has signed a document guaranteeing personally the repayment of the money that has been borrowed by his business, for example, the bank now finds that they can only go after the husband to the tune of one-half of the value of, in most cases, the equity in the House. That is a position, of course, that many bankers would now be startled to find themselves in.

I understand from casual conversations with the various members on the other side that the situation now is likely to be that the government will propose, by way of an amendment, that the matrimonial home itself can be subject to agreement just as all other matrimonial property can be subject to agreement.

MR. NEARY: It is not compulsory. It is not mandatory.

MR. W. ROWE: It is not mandatory. It is not an automatic consequence of marriage.

MR. NEARY: I see. Well sure that changes the whole bill completely.

MR. W. ROWE: That is right. That is why I asked the hon. House Leader in the spirit of co-operation and in the spirit of efficiency, efficient operations -

MR. NEARY: Let us see the amendments in advance.

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Tape No. 1531

NM - 3

MR. W. ROWE:

- let us have an idea so that we can
have a look at them and see - For example, I throw this out for
consideration now with respect

MR. W. N. ROWE:

to the matrimonial home.

As the hon. the House Leader (Mr. Marshall)

knows, being a practicing lawyer, there are situations where one person can be considered to be in a trust position, a fiduciary - I hope the hon. the House Leader is listening now because I think it is of some importance - a situation can be in existence where both parties are considered to be in a fiduciary relationship one to the other, a trust relationship. For example, I think an example I gave during second reading was where certain people, say, a lawyer who is in a position to unduly influence a client - if a lawyer enters into some kind of an agreement with a client that turns out to adversely affect that client's position, that client can go to court and have that agreement - as the hon. House Leader well knows - in certain circumstances can have that agreement rescinded on the basis that the lawyer in a particular case may have used undue influence to the disadvantage of the client to get him to enter into the agreement. That is a possibility. The same thing applies to other relationships. Trustee relationship, for example, is also considered to be a fiduciary relationship.

Now, the way that the lawyer or the other person in a trust position or a position of undue influence can have the validity of that agreement upheld in court is to prove, to show by the introduction of evidence that the client or the other person, the person who might have been unduly influenced, that that person had independent advice from a good source when that person, client or otherwise, entered into the agreement with the person who might be considered to have exercised undue influence.

Now, what I am suggesting to the hon. the House Leader is that if we should not - and it may be unduly complicating the issue and so on, but I am thinking that we should not throw out the baby with the bath water.

MR. NEARY:

Right.

MR. W. N. ROWE:

What I am saying is this, that by allowing the matrimonial home to be subject to agreement as with the other matrimonial property, you will get a situation where one spouse or the other - and in most cases it will be the husband, we might as well call a spade a spade -

MR. W. N. ROWE: will be in a position, especially at the beginning of a marriage, perhaps, or during the course of a marriage, to unduly influence his wife - it can happen in reverse as well, but I am talking about a normal situation - can unduly influence his wife into giving up a right which she may have. For example, he comes home with some brilliant business concept and says to his wife after a course of talking to her for a number of weeks, saying, 'We can get this brilliant business concept underway if only I could put up the home as collateral to get the money.' The wife, subject to that kind of undue influence, that kind of persuasion, may be persuaded to agree to the title to the home being in the husband's name and therefore allowing the house to be put up as collateral for some business concept which may turn out to be totally stupid or useless. She may have had undue influence used on her by the husband, persuasion and so on, in the context of the matrimonial home without any other advice coming from any other source. The same thing could happen with regard to a wife and a husband, but since at the present time most husbands are out into the world of affairs and many wives are at home and are not involved in the world of business and so on - although that is fortunately changing to a great degree - it is usually the husband who may be in a position to do this.

Now, what I am saying to the hon. the House Leader (Mr. Marshall), throwing out for his consideration, is that perhaps we should consider the position of a husband and wife with respect to the matrimonial home as being sort of a fiduciary relationship and that where a wife or a husband is persuaded to give up a right which exists under the Act by way of agreement that it should be considered that the spouse who gets the benefit of that agreement should have to prove, should have to show that the other spouse - in most cases the wife - knew what she was doing at the time, had all the elements, the ramifications

MR. W. ROWE: and the consequences brought home to her at the time, knew she was giving up a legal right which she would have under the bill, unless an agreement is signed passing title one to the other, and the best way of course to show that, as in any fiduciary relationship where a trustee may act in a way that may redound to the disadvantage of the cestui que trust or the client in some cases and so on, the best way of showing that is to show that the wife or the spouse who is giving up the legal right had independent advice and that all the ramifications of his or her act were spelled out to her or him, and then, if he or she wants to do it, sign away her rights, say, to the matrimonial home in order to accommodate a business enterprise of her husband or the reverse, as long as she had the matter spelled out to her, or him, all the ramifications and consequences were spelled out to her or him, and she knowingly gives up what she would have otherwise, half title to the matrimonial home, then she does it with her eyes open and nobody is hurt in any way. Now I just throw it out and that is why I mentioned to the House Leader that it might be interesting now for the House Leader to give us an indication of what amendments he proposes so that we can think about it and make sure that this act, which we have already said goes far towards the right direction in equalizing the property and the other rights of the sexes, make sure it is the best possible act which our joint ingenuity and intelligence and experience and wisdom can bring to bear on it here now. The act does not come into effect until January 1st. anyway. We have lots of time. Let us discuss the thing sensibly and sanely, make sure that we do not fall prey to any particular fanatic interest group. What we are trying to do is protect equitable, equal, fair-play arrangements between a husband and a wife with regard to the matrimonial home and the matrimonial property and make sure that nobody is adversely or advantageously affected including third parties who may have

MR. W. ROWE: acted in good faith with regard to matrimonial property. Let us discuss it and perhaps the hon. House Leader can give us an idea as to what other amendments he proposes.

MR. CHAIRMAN: (Mr. Cross) The hon. Government House Leader.

MR. MARSHALL: Mr. Chairman, the observations made by the Leader of the Opposition are well taken and they certainly, all of them, have been considered and some of them he will see in the form of amendments. Now generally speaking, the amendments that are envisaged are—the major, there are two major amendments. One I have already spoken of for the purpose of avoiding any doubt that this act will not apply to existing arrangements, separations agreements that have been entered into or divorces that have been brought into effect. The other major amendment, as well, will be the deletion of Clause 35(2) of the bill which precludes as it presently stands, which would have precluded the parties from conveying their interest in the matrimonial home. In other words, the act as it there existed had a statutory prohibition against people dealing with their home as they wish, husband and wife. In that connection, with respect to that we have also considered the matter brought up by the Leader of the Opposition and the point is well taken and is a matter of weighing things again. Really, what, in effect, he is talking about is a letter of independent advice. We have not implemented this and I would prefer if I could to make these comments as we come to the sections. But those are the major ones and I will certainly deal with the points that were brought up by the Leader of the Opposition as we come to them. I think that probably the committee might find that a little bit more efficient.

MR. NEARY: It depends on the cohabitation.

MR. MARSHALL: Cohabitation. There will be an amendment on that. There will be deletion of the words. It was

MR. MARSHALL: just merely a slip of the draftsman's pen I believe. At the end of it when they are talking about a cohabitation agreement, "May adopt the provision of the act and upon such an adoption of this act applies to the man and woman as if they were married." I think this was probably the draftsman attempting to cover all bases at the time but we sort of feel that the words, "As if they were married," were redundant and really have no place in that particular section itself. But, of course, that is a matter, I would suggest now to the hon. members of the House, that we might well debate as we come to the sections themselves.

MR. CHAIRMAN: (Mr. Cross)

The hon. member for

Eagle River.

MR. STRACHAN:

I agree that we

could get down to the clauses and when we get to the clause by clause we could debate, but I am still very confused by what the House Leader has stated to us. The Leader of the Opposition has put forward some very valid points concerning ownership of the home. And in trying to, for instance, sit at a telephone and explain to my wife at Nain how the ownership of our home is affected by this act and also affected by our business I am still no clearer. I am not in the slightest bit clearer.

MR. MARSHALL: In clause by clause the hon. gentleman can ask questions.

MR. W. MARSHALL: and in my own humble way I will attempt to answer them and if my knowledge is not full enough to answer I know I can get assistance from the Leader of the Opposition (Mr. W.N. Rowe) or from other members here as we go on.

The general principle of the bill is, if I may, I know I am interrupting, the general principle of the bill is that now there is a recognition that where persons are married the wife contributes equally with the husband to the matrimonial assets and they will be divided equally between them. That is the general principle of the bill. There are certain exceptions there as the hon. member already knows, gifts or inheritance or personal injury awards or what have you but by and large that is the general principle of the bill. Now, the hon. gentleman or, we will not say the hon. gentleman but any person who happens to be in business and husband and wife, they wish to put the house in the name of one or the other in order to protect against the creditors, to keep it beyond the reach of creditors, they may do so. That is one aspect of the bill that we are now assuring. We thought they could do it before but we are deleting that particular clause to assure that they will be. They can also deal with their business assets jointly together for the purpose of pledging them for collateral. So really, in effect, if one were advising one's wife or vice versa it is a 50 per cent distribution but, of course, it really does not come into effect to any great degree. It has certain applications throughout matrimony but it has its biggest effect in a separation or dissolution of the marriage itself. It will have an immediate effect in marriage because when one wishes to mortgage a home now in the future, no matter in whose name the title is, the other spouse will have to sign. But, really, that is no different than a lot of the practice that has been adopted by financial institutions for a long period of time where they would require the spouse of the borrower to sign as well.

The hon. member for Eagle River.

MR. I. STRACHAN: Mr. Chairman, maybe I am thick in the head or something on this matter but I am slowly starting to understand because it seems to me that there are almost two titles to a home. There is a legal, in a sense, business title. What you are saying is, I can transfer my home, for instance, for argument sake, to my wife or my wife if she is getting into business could transfer it legally to me, in a business sense which would, therefore, remove that home arms length from our business if that business goes bankrupt to creditors and so on. That is one aspect of it. That still stands, we can still do that.

This act here states that the home is owned equally, really, in the case of separation or divorce or breakdown of the marriage.

MR. W. MARSHALL: Unless the parties agree. The way it is going to be, a law says that husband and wife will own equally but it is still competent for husband and wife to enter into an agreement as between themselves to the effect that the provisions of this act will not apply to them, in which case, one can own all of the assets or part of the assets or what have you.

DR. J. COLLINS: Amended.

MR. W. MARSHALL: I beg your pardon?

DR. J. COLLINS: The amendment will allow it.

MR. W. MARSHALL: That is what we are going to need.

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

MR. I. STRACHAN: I do not know if that helped me either because I am really way off beam. Really I am! But I think it is really important because it is something that is very serious, I see it as very serious. It gets at the very framework of what marriage is and what homes are all about and I do not mean to belabour the point. We have belaboured a lot more points in this House with a lot less interest and a lot less importance and so if it is in the wrong clause and so on I hope these points of order do not really matter

MR. I. STRACHAN: because I think it is fundamentally important we understand and not only I understand, if I am slow-witted about it, that the people outside in the Province understand exactly what we are stating here.

AN HON. MEMBER: (Inaudible)

MR. I. STRACHAN: It would seem to indicate now that what you are stating is that there will be a provision in this act as we get down to it in the clause in which a husband and wife can deem to opt out of this as far as equal sharing of

MR. STRACHAN: matrimonial property. In other words in order to make it legal for a business, or legal in such a way that a business cannot be attached to that home in the case of bankruptcy a husband and wife - for instance in my case we own our house equally, if we decide in business arrangements that I have to put up some personal guarantees and securities and so on and I do not want the home included or I do not want my home included in my business then I, in the legal sense, I can transfer my home to my wife. So my wife now becomes total owner of the home. That is done for a business sense. That in no way to me relieves me of the responsibility in a matrimonial sense, that my home belongs equally to us both.

So what I am stating is that in a business sense, in order to satisfy the business sense I can opt out of this but in opting out of this I therefore am opting out of the very purpose of this bill which is to share equally. Now maybe I am still being confused but to me there seems to be two sort of titles and forms of titles here, a legal business title and a -

MR. MARSHALL: No, there is not. You cannot have your cake and eat it too.

MR. STRACHAN: No, but the point is if I can opt out of this then what I am doing, either my wife or I opting out, is that we are removing the sense of equality in a marriage.

MR. MARSHALL: Well that depends on you and your wife you see. What you are doing is you are removing the statutory imposition that we are now doing. We are saying in all cases where there has not been agreement to the contrary there is going to be this equal distribution. What you are opting out of is the statutory obligation cast upon the married couple to do it. Now whether or not that is the fact - whether that does pertain - I mean that still does not preclude you afterwards from making agreements as between one or the other, wills or what have you, or indeed giving one's wife everything or taking it back

MR. MARSHALL: or whatever you do now, whatever one does now. I mean the point of the matter is you can only control a certain amount by legislation, you know, and by statute. And you cannot have it, you know, for the purpose - for one purpose you convey it and at the same time it is joint title, you know as between both of you.

MR. STRACHAN: Yes. Yes.

MR. MARSHALL: You follow what I mean? But you can make your own arrangements with respect to that as between you per se.

MR. STRACHAN: Yes. Agreed. Okay.

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

MR. STRACHAN: That is fine put in that sense, you know, because obviously what you have been giving me is a legal description of exactly where title will rest. My argument basically is that I will understand that as an intelligent, reasonable individual who will sit down and because of business interests and getting into business will analyze it very carefully and because my wife is also reasonably intelligent, probably more intelligent than I am possibly -

MR. MARSHALL: Most wives are.

MR. STRACHAN: - that she will go through this, I can guarantee you, with a finetoothed comb, and will understand exactly where her position is. What I am arguing about is that in most cases -

MR. W. ROWE: You want to know about your position.

MR. STRACHAN: - in my cases most people will enter into marriage and will enter into business and enter into situations without understanding or knowing exactly what this does. So I mean it is fine for us who have access to lawyers, I wonder if somebody in Black Tickle can understand -

MR. MARSHALL: I realize that.

MR. STRACHAN: - you know, who gets into business, and I wonder if somebody in Baie Verte who gets into business, or I

MR. STRACHAN: wonder if somebody else in other places who get into business really understand what is occurring? Because for us it is very easy, we have access and we will make the necessary agreements, wills, documents, to protect all interests, or protect our own interests. I am wondering how the people outside will - elsewhere, outside of this House and so on, and outside of the legal profession, will be able to know these kinds of things, that this is a very serious act and a very serious piece of legislation which I totally agree with by the way. I have no argument at all.

MR. MARSHALL: I know that is a difficult - you know that is always a difficult situation in order to make people aware of their rights and their positions without having them have to have recourse to outside advice. The only thing we can say is the government is going to take every possible means to bring this to the notice of the public by publishing a brochure or what have you, and I think for the present time, once it is put indelibly in the public's mind - I mean you can get messages, as the hon. member knows, through more simply, probably. if the message is more concise, if it was borne in mind that now the Legislature says for all intents and purposes husbands and wives own property equally. Now anyone going into a business and usually when they are going into a business they usually seek some advice somewhere along the line, but they should be well aware that they ought to seek advice when they are going in as they would normally anyway. But really what we are doing is we are making a situation where the general application is of the major benefit. And there are certain specific problems that may come up, where people may want to change or alter the situation and in that case, you know, we will do everything we can, in other words, to make the position known to the public. But we cannot sit down and force them to understand it.

MR. CHAIRMAN (Cross): The hon. member for Terra Nova.

MR. LUSH: Mr. Chairman, I just want to echo a few concerns about

MR. T. LUSH: the bill. I also can appreciate the concern of my hon. friend and colleague for Eagle River (Mr. Strachan).

I think what he is trying to say is that certainly the public need to be educated about this bill. The government certainly have to do a tremendous amount of work to disseminate the information, the details about this particular bill so that the general public, so that the people out there will know just what their rights are. I know that is rather difficult. This is a complicated and complex bill and there are a lot of people who do not understand all of the implications and all of the ramifications of this particular bill. So there is certainly going to have to be a tremendous job done of disseminating in simple terms, in language that is understood by the general public, just what the rights and privileges are.

I am particularly delighted that the government have agreed to change the aspect of the matrimonial home respecting the transfer of ownership to one spouse or the other. I think that is a good move. And a question to the minister and it is purely a question. I am just wondering whether or not the minister or the government have received any complaints or any kind of flack respecting the situation where the home and I was going to say matrimonial home but, I suppose, it is purely in this sense the home was acquired before marriage? I know the act says it does not matter how or when the home was acquired. The minute the marriage is legally processed then if there is an existing home it becomes shared equally between the two partners in the marriage. So I am just wondering whether the minister has received any kind of complaints about this particular incident. I believe too in Ontario, I am not sure about this but I believe in Ontario that there is provision for this, that the matrimonial home is the home that was acquired during the marriage and not before, now I may be wrong on that, but certainly in some jurisdictions. So maybe the minister could comment on that.

MR. CHAIRMAN (CROSS): The hon Government House Leader.

MR. W. MARSHALL: I am not aware personally and in view of the remarks made by the member for LaPoile (Mr. Neary) today I emphasize that I am not aware personally of any such flack along that nature. As a matter of fact, the bill has been universally, generally accepted and acclaimed by everybody. The point that the hon. member is making is very well taken and certainly merits consideration but in all of these things it comes down to the matter of weighing as one against the other. And I think really what he is mainly concerned about are situations with respect to second marriages when children are involved.

We have considered that aspect of the matter but we feel that it is a practice when a lot of people enter into second marriages, particularly when there are children by the first marriage that they usually, very carefully consider their rights at the particular time before entering into the marriage itself. Now that the act has changed, any people who do not like the consequence of the act with respect to the matrimonial home acquired prior to the marriage now will be perfectly competent to be able to enter into an agreement so that it does not apply and they can do what they wish with the home itself.

What we are very concerned about is really the protection of the majority of the people and the protection of as many people as possible who are not likely to take the steps to protect themselves. So for that reason we make the law a general application bearing in mind that these specific situations which occur may not suit the individuals themselves but we are making the machinery in the act there to enable them to avail of it in order to do as they wish with the property. Okay?

MR. CHAIRMAN: The hon. member for LaPoile.

MR. S. NEARY: The hon. gentleman made a statement, Sir, that he personally was not familiar with any protests or any complaints about this bill. That was not the question that my hon. friend put to the Government House Leader. The question put to the Government House Leader (Mr. Marshall) was ..did the government have any protests or any flack or any complaints about this bill? That was the question. The hon. gentleman skirted around the answer by saying he was not personally but the hon. gentleman is aware of protests. The hon. gentleman is misleading the House again.

MR. W. MARSHALL: No, that is not so.

MR. S. NEARY: That is so, Mr. Chairman.

MR. W. MARSHALL: The hon. gentleman sees ants crawling up the wall down by day - he is getting paranoid.

MR. S. NEARY: Mr. Chairman, let me put a question to the hon. gentleman. Did the Minister of Justice (Mr. Hickman), the Premier or anybody in the government have any strong protests about certain aspects of this bill and if so would the hon. gentleman indicate what the protests were all about. He does not have to tell us where they came from. The hon. gentleman is aware of the protests just the same as I am and the hon. gentleman is aware of it. Give us the answer.

MR. CHAIRMAN: (CROSS) The hon. Government House Leader.

MR. W. MARSHALL: Mr. Speaker, there is no change that has been made on this earth but people are going to disagree with it. I was addressing myself to the hon. member for Terra Nova's (Mr. Lush) specific question of

MR. MARSHALL: whether I was aware whether any protest against the aspect of the Act which included within the ambit of the Act, homes that were acquired prior to marriage, specifically to that. The hon. member, you know, he seems to be concentrating on looking for things that do not exist. Certainly, there are people who make certain representations with respect to the bill, and particularly one affecting their own personal relationships from time to time. I would not call them in the nature of protests, as such, I would call them in the nature of inquiries, particularly, most of them related to the position with respect to the matrimonial home and the situation where the Act had previously been when it will not, hopefully, when it comes out of Committee, if all members agree, that you could not contract out of the matrimonial home. But I would not want to give the impression that they were protests - they were observations that were heard and that were appreciated and that have been acted on.

For the information of this House, there are few bills that have gone through in the House of Assembly - and members know that there are many important bills that go through this House that from time to time the public do not even know about - but there are few bills that have gone through the House that have met such public acclaim as this particular bill, itself, as a dramatic and a very real and reasonable piece of reform legislation that is needed.

Now that is all I can say. I mean, I am not presuming to say that, you know, 100 per cent of the people were enthusiastically endorsing it. There obviously are going to be people who for their own reasons do not like the bill, itself, but they certainly were not protests. The doors were not being battered down. As a matter of fact, if anything, in actual fact what happened, as I say, was a matter of great public acclaim. It is a piece of legislation that this government has a great deal of pride in, and will have a great deal of lasting pride in. And I know the members opposite can only join in the acclaim and the praise of an Act of this nature.

MR. NEARY:

Mr. Chairman.

MR. CHAIRMAN: (Mr. Cross)

The hon. the member for LaPoile.

MR. NEARY: Obviously, Sir, the government have knuckled under pressure and they should not be ashamed of it, they should be prepared to admit it. I would say it is a good thing. If the Premier had his way last week, that bill would have been rammed through the House before the House adjourned for the four or five days that we recessed for the federal election. That bill would have gone through that day, Committee of the Whole and everything else, and it was only through the fact that the Opposition were able to prolong Committee of the Whole on the bill that these amendments are now surfacing, and they appear to be major amendments. The government should not be ashamed to admit that they are knuckling under pressure because that is exactly what is happening. And the minister in a shameful way -

MR. MARSHALL: No, not at all.

MR. NEARY: - got up and said that it was because of the stroke of a pen of a lawyer down in the Justice Department, a legislative draftsman - a slip of the pen, the hon. gentleman said. Well, the Minister of Justice (Mr. Hickman) communicated that message to one of the heads of the churches when he was talking to him. He said, 'We did not know.' How shameful can you get? We did not know because two of our more competent -

MR. MARSHALL: Four or five words -

MR. NEARY: - legislative draftsmen - and I do not believe either one is sitting around this table, by the way - drafted the bill and we just took it for granted that it was acceptable, that it was all right. The Minister of Justice told the head of one of the churches - the man who brought the legislation into the House, who was supposed to have read it, studied it, gone over it with a finetoothed comb - a major reform - made a statement outside this House that the blame was on the shoulders of two legislative draftsmen in whom he had confidence, whom he thought would do a good job and he thought it was all right. He did not even bother to read it before they brought it in - that is how major they think it is.

MR. MARSHALL: Now, look, the hon. gentleran - now be serious.

MR. NEARY:
it is shameful -

I am serious, Mr. Chairman. I think

MR. MARSHALL:
little words.

It is very puerile, five

MR. NEARY: - to pawn the blame off on the legislative draftsmen for making this goof, this blunder, and now they have to retract and the government has to knuckle under - nothing to be ashamed of. I am glad the democratic process is prevailing and that the government in its wisdom can see the need for these amendments and these changes. The hon. gentleman need not try to do some fancy figure skating and hold the government, hold himself up as a hero when in actual fact the whole world knows now that they are knuckling under and they are knuckling under for very good reason. But, Mr. Chairman, if they are making major amendments, what my colleagues are arguing is this, that the whole principle of that bill is going to change. The government rushed into the House with the bill, no sooner off the printing presses, did not even bother to

Mr. Neary: read it, rushed into the House, once the word got out in the countryside that this bill was before the House there was an uproar the likes of which you never heard from one end of the Province to the other.

MR. MARSHALL: Ah come off of it! Come on!

MR. NEARY: Oh yes, Sir, I have not seen such an uproar about any - yes I did once before about a bill that had to do with salmon rivers, fishing in salmon rivers. I remember once a minister brought in a bill and he had to withdraw the bill, I happened to be in the House. It was Bill Smallwood, I believe at the time who raised the objection to the bill and pointed out the weaknesses in the bill and the bill had to be withdrawn.

And, Mr. Chairman, when you bring in a bill of this magnitude, a major reform, and it is a major reform, and going into Committee of the Whole you change the principle of the bill then the obvious thing for the government to do is to withdraw the bill, have it redrafted and introduced in the House again. That is the obvious thing to do. Because my colleagues, Sir, rightly pointed out that now we are going to have major amendments made to this bill that we still will not have time to study, that the people of the Province will still not have time to look over to see whether or not they approve of it. And that is what my colleagues are arguing they want a little time to study the amendments. We should have been given copies of the amendments in advance -

MR. MARSHALL: Yes. Sure.

MR. NEARY: - as a matter of courtesy, to study the amendments to discuss them with various people outside of the House including the clergy. I would like to have an opportunity, now that we have caught the government cheating a little bit by telling us that the approvals had been there when they were not there at all. When the Ministerial Association, indeed, did not have any input in that bill, the hon. gentleman tried to shrug that off by saying, the Ministerial Association

Mr. Neary: did not draft the bill. Well, we know they did not draft the bill. We know where the bill was drafted, down in the Justice Department by a couple of lawyers. So the Ministerial Association would not have any input as far as the drafting is concerned. But they were not allowed to have any input period, and that is what we are arguing about.

And so, Mr. Chairman, I believe in all fairness if the government feel that this is such a major reform that is going to affect every householder, every family in this Province then the hon. gentleman should let us withdraw the bill, and that is what I would suggest, withdraw the bill, redraft it, not confuse the issue any further, take it back to the legislative draftsmen, have it whipped into shape then send it down to the printers, and then redistribute it in the House.

MR. MARSHALL: Sure.

MR. NEARY: That is the obvious thing to do.

There is no hurry, unless the hon. gentleman is going to call an election on Monday and he wants to try to ram it through today, and I do not think there is any fear of that after the results of the federal campaign that we just came through, where the Tories are third in the popular vote in the Province. And the Premier tries to brush that off by saying, "Oh I got my own poll to indicate that we are in great shape provincially."

Mr. Chairman, I know they are anxious to have an election. And I know why they are anxious to have an election. There are two or three reasons for it. Number one is they are afraid that their own party is going to fall apart. She is cracking at the seams. They are after each others throats in the party.

SOME HON. MEMBERS: Oh, oh!

MR. NEARY: And the hon. gentleman can laugh all he wants, but do not be surprised, Sir, do not be surprised if you see a few bailing out pretty soon who cannot stomach it any longer, who cannot take it any longer.

MR. YOUNG: Are you speaking about your own party now?

MR. NEARY: There is that possibility. That is one reason they want to have an early election. The other reason is that they are afraid of all the scandals and investigations in the Mahoney Commission. They are afraid of the reports coming in. They are afraid the EPA takeover is going to leak out. They are afraid that is going to leak out, the real truth about that, and that will be a source of embarrassment to him.

MR. MARSHALL: You have driven your leader up in the gallery, look.

MR. NEARY: And therefore they are trying to ram a bit of legislation through the House like this particular bill we are on.

MR. MARSHALL: The hon. gentleman is about to hang himself, look. Jump over the balcony.

MR. NEARY: So that they will be able to go out into the country and hang their hat on a few odds and ends of legislations that they managed to ram through the House.

Now, if that is what they are trying to do well why do they not say so. They are trying to get this through so that they can call an election and get that through so they can call an election, call an election before she falls apart over there. If that is what they are up to let the minister say so. But, Mr. Chairman, if they are genuinely sincere in bringing in a major reform, in bringing in this piece of legislation, and other pieces of legislation, well then do not rush. There is no hurry. If we are going to have a Budget in a couple of weeks time we have got plenty of time.

MR. NEARY: There are no other bills on the Order Paper that are going to consume very much time in this House, so why not give us the amendments or withdraw the bill and redraft it and then circulate it again. Or give us the amendments so we can take the weekend to have a look at them. What is wrong with that, Mr. Chairman? That is a reasonable request is it not? What is the hurry? Let the hon. gentleman call another bill today.

MR. MARSHALL: Who says there is any hurry?

MR. NEARY: Well, we have asked the hon. gentleman to give us the amendments so we can look them over over the weekend, before we come back into Committee of the Whole again. Now if the hon. gentleman is not in a hurry would he not agree to that request?

MR. MARSHALL: Sure the hon. gentleman cannot keep you quiet anyway. If he could he would have long ago.

MR. NEARY: I know, Mr. Chairman. I know the hon. gentleman would have liked to keep me quite long ago.

MR. MARSHALL: Everybody else would too.

MR. NEARY: But unfortunately for the hon. gentleman the people of this Province have seen fit to do otherwise and I will hope they will continue to do so, that I can continue watching over the Public Treasury and watching over the hon. gentleman.

MR. MARSHALL: Campaign speech now is it?

MR. NEARY: No, that is not a campaign speech, Sir. If the hon. gentleman thinks now that I am up trying to make leadership points I have got news for the hon. gentleman.

Mr. Chairman, I believe, Sir, it is incumbent upon the hon. gentleman and the government to take their time. Do not rush into this. If we are going to change the principle of the bill then recirculate the bill. That is the thing to do.

MR. W. ROWE: A good point.

MR. NEARY: A sensible thing to do.

MR. W. ROWE: An excellent point.

MR. NEARY: In any other jurisdiction, in any other Legislature they would withdraw the bill, say "We are sorry. We admit we made colossal blunders. We did not examine the bill before we brought it into the House. We did not read it. We did not go over it with a finetoothed comb. We left it up to the Legislative draftsmen and now we can blame it on them, I suppose, to a certain degree. But I think that is shameful to do that. We have made a mistake. We have had strong protests. We have had members who disagree on moral grounds and so forth and so on, so we withdraw it and bring the bill in again on Monday." Now what is wrong with that, Mr. Chairman? I ask the hon. gentleman to tell me what is wrong with that?

MR. W. ROWE: It is too reasonable for him.

MR. NEARY: It is too reasonable for the hon. gentleman.

MR. MARSHALL: Mr. Chairman, you know there really is no need to answer the hon. member for LaPoile (Mr. Neary). We started off considering clause by clause on this bill. I was asked to give a resume of the type of amendments that were to be given and have given them, it resulted in the usual type of tirade from the member for LaPoile (Mr. Neary). I mean he does not even know the text of the amendments yet. I mean they are in simple language. There are no more than one or two syllables in each word and I am quite sure the hon. member for LaPoile (Mr. Neary) if he strives he possibly can understand them. But there is no intention to ram anything through at all. There is no reason for us to ram anything through. We just take our time. We govern the Province without getting in a flap or anything like that. All we are doing is just bringing legislation up in the normal course of events. We are not by any means ramming things through, but neither are we in the habit either, Mr. Chairman, of allowing the member for LaPoile (Mr. Neary) to run the government as well. What I suggest we might do now, I think we could validly and very profitably do it, is get on clause by clause so we can get

MR. MARSHALL: into the amendments and discuss them and if it takes ten years it takes ten years, or ten hours or however long it takes. Very sensible.

MR. CHAIRMAN: Shall clause 2 carry?

MR. MARSHALL: There are two amendments in clause 2. Clause 2 (1) B(3), now for the member for LaPoile (Mr. Neary) that is 2, 4, 6, 8, 10, 12, 14, 16, 18, 20, 22, 24 lines down from the top, there is a word there "includes a former spouse" as it presently reads

MR. W. MARSHALL: and I move that the word 'former' be amended and be deleted and the word 'surviving' appear. And the reason for the amendment is that as it presently existed the former spouse could have involved, really, somebody who had been divorced. What is intended is to give the same benefits to a surviving spouse to make it clear that the act applies when one of the partners dies. A simple amendment, a reasonable amendment. Question?

SOME HON. MEMBERS: Carried. Carried.

MR. W. MARSHALL: There is another amendment before clause 2 carries. It was stated, and misinterpretation, that the act would apply to existing dissolved marriages or marriages where there had been separations entered into. We did not believe that this was the import of the act but in order to make it absolutely sure we wish to put in a new clause, a sub-clause, sub-clause (3) and I move the inclusion of sub-clause (3) which reads as follows: "For the avoidance of doubt it is hereby declared that this act does not apply to (a) persons who have received a decree absolute of divorce or (b) spouses who have entered into a separation agreement before the first day of January, 1980." Now that is a simple amendment as well and what it does, as I say, is it relieves any doubt that this act will apply to existing separation agreements and existing divorces. I should add though for the information of the committee, that with respect to people who are divorced it is always competent under the divorce act itself for one spouse or one party to apply to the court for a change in the maintenance provisions if there is a change in the circumstances, a material change in the circumstances of the spouses themselves.

However, this right rests upon the divorce act itself and we do not wish this particular act which deals with marriages that are presently existing to apply to dissolved marriages or to marriages where they have entered into separation

MR. W. MARSHALL: agreements. This amendment is just merely for the purpose of assuring this result.

On motion, amendment carried.

On motion, Clause (2) as amended carried.

On motion, Clause (3) carried.

MR. CHAIRMAN: Shall Clause (4) carry?

MR. I. STRACHAN: Clause (4)?

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

MR. I. STRACHAN: A person may have more than one matrimonial home? Could he explain exactly what we mean here? I understood we were talking about just a matrimonial home where people are living? The interpretation of this is a person or his or her spouse may have more than one matrimonial home. Certainly -

MR. MARSHALL: A person may have more than one matrimonial home, I suppose, that is when they are sold?

MR. W.N. ROWE: Country home, I suppose.

MR. MARSHALL: Country home, yes.

MR. I. STRACHAN: So it is a country home. I have a home here where our family generally resides and a couple of months during the Summer we may reside in that home. That means that all, that whole package is the matrimonial property.

MR. MARSHALL: That is right!

MR. I. STRACHAN: That is not just the home in which the main of the family life is carried out? Could it include fishing cabins?

MR. MARSHALL: Yes.

MR. I. STRACHAN: These are all part of the matrimonial properties?

PREMIER PECKFORD: A house in Panama.

MR. I. STRACHAN: My other one is in Black Island which is far, far removed from Panama. It is about twenty-five miles northeast of Nain. Not many people would want to go there anyway but I enjoy it very much.

MR. W.N. ROWE: Does your wife like to go there?

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MR. STRACHAN:

My wife loves it! In fact it is her home, it is not mine, it really is hers. But, however what I wanted to indicate is

MR. STRACHAN: in our interpretation what we are saying is everything which is part of the package -

AN HON. MEMBER: The whole thing.

MR. STRACHAN: the garden shed -

MR. MARSHALL: Actually that sub-section does not have the same import now when we take out the reference to the matrimonial home because all of these assets are jointly held anyway.

MR. CHAIRMAN: (Mr. Cross) Shall Clause 4 carry?
On motion Clause 4, carried.

MR. W. ROWE: Mr. Chairman.

MR. CHAIRMAN: Leader of the Opposition.

MR. W. ROWE: There are going to be some additional amendments with regard to the matrimonial home and I realize that anything said here in this House will not be taken into account by any judge who makes a decision with regard to the matrimonial home. He will make his decisions based on the law as it exists and his own judgement and so on - but what is the intention of the government? If there is a country home on thirty acres of land is it intended by the government that, assuming it is not designated and so on under Clause 7 which comes a little further on is it the intention of the government that all the real property of whatever nature associated with a home becomes part of the matrimonial home? If that is the intention, okay, no problem; but if it is not the intention it should be stated as such. I do not know how it would be stated. It would be difficult, I agree. If it is their intention perhaps that should be stated as well because, as many lawyers have probably told the hon. House Leader already, this act appears to be a bonanza for the lawyers. It is nice to have it all set out in almost layman's language and declaratory and very general in its tone and so on, but we have to realize that there are going to be some acrimonious disputes as a result of this act. We cannot bury our heads in the sand on that. Therefore,

MR. W. ROWE: where possible the act itself should set out with clarity what is intended by the act. I would like to hear the House Leader on that. If a house is on a piece of property, just outside of St. John's, on the Topsail Highway, associated with ten or fifteen acres of land, which would be worth its weight in gold now, is that supposed to be the matrimonial home - all of that land as well as the home itself? It is an interesting point to say the least.

MR. MARSHALL: I think Sub-section 2, Mr. Chairman, answers most of the question of the Leader of the Opposition and it reads, I quote, "Where property that includes a matrimonial home is used for other than residential purposes, the matrimonial home only includes that portion of the property that can reasonably be regarded as necessary for the use and enjoyment of the family residence." But I say with respect to this particular section here, while it is necessary to have the matrimonial home defined, it does not really have the same import as it did before when the matrimonial was treated on a much different basis than the other assets of the marriage itself. Before the deletion that is going to come up in Section 35 the matrimonial home was set aside as a special and a specific asset that the arrangement of equal sharing could not be altered even by agreement. Now it can be altered by the agreement so it does not really have the same import. But all of the assets, except those that are set forth, as we will see, further on in paragraph 16, are considered to be matrimonial assets anyway.

MR. W. ROWE: That is right. It does not have the same importance now as it had before because everything would be included in matrimonial property unless there is an agreement to the contrary with the exception of the exceptions listed. But assuming there is no agreement - and in 99.999 per cent of the cases there will be no agreements -

MR. MARSHALL: That is right.

MR. W. ROWE:

-let us be as frank and candid about that as we can - how many members of this House have wills drafted up? It is often said that the wife of a doctor is the one who goes without medical treatment most, or the children of a doctor, and the same thing applies to lawyers. The greatest authority on wills, who wrote great big tomes on wills and estates and successions and so on in Great Britain was the one whose death gave rise to one of the most complex legal cases ever heard on the question of wills and intestate succession because he had neglected to draft up a proper will for himself. And this is going to happen, Mr. Chairman. So what we are talking about here is where there are no agreements and we are going to have

Mr. W. N. Rowe: marriages dissolving, and we are going to have acrimony and disputes over the property, so one assumes that if this amendment which the minister has indicated will be passed that will get rid of some of the problems because if there is a house on thirty acres of land that all is included in the matrimonial property. If, on the other hand, an agreement says, the matrimonial home is listed as jointly owned, or not jointly owned as the case may be, in an agreement, and the actual property is not delineated, then we are going to have some real problems; the court will have to decide what is reasonably regarded as necessary for the use and enjoyment of the family home if the matrimonial home is given over to one of the spouses in an agreement.

I do not know; maybe it could be clarified a little bit better. Maybe it should be called that a matrimonial home should be a home plus a normal building lot or something, I do not know.

MR. MARSHALL: It is pretty difficult, you see.

MR. W. N. ROWE: I suppose it is difficult, but we should be aware when we pass this, Mr. Chairman, that we are creating problems as well as solving problems and there is going to be, as somebody said, a bonanza for lawyers in this. I notice the hon. House Leader is not unduly disturbed at that prospect, without impugning his motives or attributing base motives to him, in passing this Act. But there will be problems as far as interpretation is concerned.

MR. CHAIRMAN (MR. CROSS): Shall Clause (4) carry?

On motion Clause (4) carried.

On motion Clauses (5) through (6) carried.

MR. CHAIRMAN: Shall Clause (7) carry?

MR. STRACHAN: Mr. Chairman, Clause (7). Basically then the point that I brought up earlier with the matrimonial home and the exact property, this is what is classified in Clause (7), that if by agreement we decided to designate only one of our homes and remove the others, then it is by this agreement we go through this by registering

Mr. Strachan: it in the Registry of Deeds, and therefore only that one property becomes our matrimonial property.

MR. MARSHALL: That is right.

MR. STRACHAN: The rest, whatever way we want to agree on it we share it out. So that one has got to make a conscious decision, that is what I am trying to get at, one has got to make a conscious decision on an agreement to take out of the matrimonial property, properties which one would say are mine, or theirs, or his or hers or whatever way one would work it. This is the correction of that point there, right?

MR. CHAIRMAN (MR. CROSS): The hon. Minister of Finance.

DR. J. COLLINS: Mr. Chairman, my understanding there would be that say there were two houses involved, and it was decided that the couple would agree that this house would be regarded as the matrimonial home, they could do that, but the other house then becomes part of the matrimonial assets; it does not pass out of the assets of the marriage, they become part of the matrimonial assets then.

MR. MARSHALL: That is correct.

MR. STRACHAN: That is correct. So in other words the matrimonial home then will be 50-50, and the assets would be depending on the court order.

AN HON. MEMBER: Yes.

MR. CHAIRMAN (MR. CROSS): Shall Clause (7) carry?
On motion Clause (7) carried.

MR. CHAIRMAN: Shall Clause (8) carry?

MR. W. N. ROWE: Briefly, Mr. Chairman, on Clause (8).

I mean, are there consequential amendments as a result of the amendment that the hon. minister says he is going to introduce regarding an agreement on the matrimonial home? Clause (8) here talks about a disposition. If there is an agreement, if a house is registered downstairs in somebody's name, in one spouse's name, and if there is an agreement between the spouses which may or may not be registered, I do not know if the hon. House Leader intends that that agreement be registered.

MR. MARSHALL: I do not think you can require it to be registered. I think in practice they would.

MR. W. N. ROWE: Yes. The thing is that -

MR. MARSHALL: If a couple has real estate, in practice you will find it will be registered, you know.

MR. W. N. ROWE: In Clause (8) here, Mr. Chairman; "No spouse will dispose of or mortgage any interest in a matrimonial home unless the other spouse consents by signing the instrument of disposition or mortgage; the other spouse has released all rights to the matrimonial home by separation agreement." That is okay. "The disposition or mortgage is authorized by court order; or the property has been released." Should not the hon. House Leader think in terms of putting in here as well, unless there is an agreement similar to the other spouse has released all rights to the matrimonial home by separation agreement, but you may be able to release all rights to the home by the other agreement he has been talking about, he is going to introduce as an amendment. Should that not be included there as well?

MR. MARSHALL: No, I do not think so. If the hon. gentleman will permit, you know, the scheme of the Act now is that this

MR. MARSHALL: will apply unless the parties agree to contract out of the Act, in which case this will not apply. But if they have not contracted out, you have to have a provision in there prohibiting any person or any one party from mortgaging the house to the hilt and taking the money without the consent of the other.

MR. W. N. ROWE: There is no argument there. What I am saying is that -

MR. MARSHALL: You know, that is superfluous. We also have to have a provision in it, in the event of one spouse deserting another and going away, allowing them to apply to court and for the court to have the right to be able to say, 'Okay, the mother or the father' - whoever it is - 'may sell the house in their own right.'

MR. W. N. ROWE: Yes, I am not -

MR. MARSHALL: It is not necessary to be there, but I do not really see the need of any consequential amendment right there or with respect to the other aspects of the bill, and we have checked this because of the amendment that is going to be made to 35(2), you see, because the way that is, then you can take yourself out completely from the operation of the Act.

MR. W. N. ROWE: Mr. Chairman.

MR. CHAIRMAN: (Mr. Cross) The hon. the Leader of the Opposition.

MR. W. N. ROWE: I have no complaint with what is there. What I am talking about is what is not there. If one of the spouses -

MR. MARSHALL: I will tell you what - if I may, it just occurred to me, perhaps we could add to Subsection (b) - and I move this amendment, that at the end of Section 8(b) after the words, "separation agreement" we put "or marriage contract", you know, that the other spouse has released all rights in the matrimonial home by separation agreement or marriage contract. That perhaps should go in there, and I thank the hon. the Leader of the Opposition for drawing it to my attention.

MR. W. N. ROWE: I should never have been in politics, I should be practicing law.

On motion, amendment, carried.

On motion, Clause 8 as amended, carried.

On motion, Clauses 9 and 10, carried.

MR. CHAIRMAN: (Mr. Cross)

Shall Clause 11 carry?

MR. STRACHAN:

Mr. Chairman, on Clause 11, it is quite straightforward. All I am stating is that here, in simple language, what happens if a mortgage is taken on a matrimonial property, a matrimonial home? Then, obviously, if the matrimonial home is used for collateral or used for anything else, then there has to be an agreement reached. I am wondering in situations where this does not occur, where a home is put up by one of the spouses, for instance, or is attached and so on, exactly what happens here? Because here on a mortgage sale you are quite clearly stating the rights and so on and advise that most mortgage companies and banks and so on would be notified and would know of this law coming into effect and would say, 'Look, we need this situation to be cleared up, we need both spouses to be involved in the mortgage sale or subsequent actions.' I am suggesting that for not quite some time though will this occur in many mortgage sales. And I can certainly say in Labrador, a great deal of sales and so on do not occur that way, do not go through any formal channels. You know, when you think that it is not only - never mind banks, there are no banks, you do not mind the legal services - we only get Isaac Mercer coming in once a week and Ed Hearn coming over from Labrador City once a month. You are talking of situations which are terribly involved. I mean, regarding this section here whether there is - this is made quite clear, I think, in the publicity form, if you are talking of a brochure and so on, that nobody can enter into these kinds of things without the absolute agreement of the other spouse.

MR. MARSHALL:

Mr. Chairman.

MR. CHAIRMAN: (Mr. Cross)

The hon. the Government House Leader.

MR. MARSHALL:

Financial institutions, of course, will be aware of the provisions of this bill, and unless they have the signatures of both spouses they do not have a good security except in cases where they have a document indicating that they had contracted out of the provisions,

MR. MARSHALL: in which case one person could sign the mortgage. But this specifically states that before a mortgage sale can take place that both parties have to be given a notification of the sale regardless in whose name the property is registered. Okay?

On motion clauses 11 through 15, carried.

MR. MARSHALL: Perhaps I could -

MR. W. ROWE: Well, I just have a question, Sir.

MR. MARSHALL: I just have an amendment, a small amendment.

MR. W. ROWE: I will ask a question, a frivolous one, perhaps. What about Loto Canada winnings? Is that going to be exempted? I am hoping, Sir, that I may win Loto Canada one of these days. On June 2nd. I am going to be a millionaire, my hope, or my wife may be.

MR. NEARY: What about that what-do-you-call-it there I just sold you a ticket on?

MR. MARSHALL: No, that would not be exempted.

MR. W. ROWE: That is right. Should there not be something about that? Do they become matrimonial assets? I notice one woman, for example, in a very barbaric jurisdiction, a jurisdiction that does not have the same progressive attitudes as us and did not have one of these acts into effect, one woman, who was a slave to her husband all her life, won Loto Canada, \$1 million, and the next day, Sir, she booted her husband out, and he was there living in a shack somewhere and she was set up up on the hill living in splendour and grandeur and she would not give him a cent and that was the end of the marriage; she was just waiting for her chance and she got it. Now what I am wondering is, should we not deal with that type of thing that is likely to arise in the future?

MR. CHAIRMAN (Cross): The hon. Government House Leader.

MR. MARSHALL: Mr. Chairman, I do not really see -

MR. MARSHALL: I mean, it is property acquired in a marriage. We cannot be of any help to the fellow on the hill at the present time, unfortunately, but when this act goes through the other person is in the same position. It will be part of the matrimonial assets.

MR. W. ROWE: Are you sure?

MR. MARSHALL: Well, you know, it says "includes all real and personal property acquired" by either of the spouses, and it is not a gift or inheritance or personal injury award or personal effects or any of the others. My interpretation would be -

MR. W. ROWE: It is an asset.

MR. MARSHALL: Yes, a matrimonial asset.

AN HON. MEMBER: It is not a capital gain.

MR. MARSHALL: In my view that would be personal property acquired during the marriage.

MR. STRACHAN: It would be personal property.

MR. MARSHALL: Yes, acquired during the marriage and part of the matrimonial assets. Sure it would. Yes. Sure. So it should be.

But I have a slight amendment here in I move the amendment of clause 16 (b) between the words "by" and "both" appearing in the fifth line the words, "either or", so it will now be "enjoyed by either or both spouses." That is to assure that the matrimonial assets will not be those that are joined and brought in by each person.

On motion clause 16 as amended, carried.

On motion clauses 17 through 19, carried.

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

MR. STRACHAN: Clause 20, I understand, has to do with the division of the matrimonial assets; that is not the home, the matrimonial assets. What I understand is that these would be on a

MR. STRACHAN: fifty-fifty, on an equal split, except where there are cases where one would argue that through work and so on this would go to the court and a judge would - family court, I would understand, and the judge in the family court would make decisions based on a seventy-thirty split, or a sixty-forty split.

MR. MARSHALL: It gives a discretion for the reasons outlined, you know recognizing the fact that you cannot make blanket rules to apply to everybody at every time, that there may be extenuating circumstances that may well be - you know, for instance, in the event that the standard of living enjoyed by the spouses before breakdown of marriage was materially different, or the age of the party, considering all of these factors, then in that event it gives a judge a discretion to make other than an equal distribution. This is to take the unusual cases where the fifty-fifty split would be an injustice and it sets forth the criteria, that on the basis of those factors the judge may consider

MR. CHAIRMAN (MR. CROSS): Shall Clause (20) carry?

On motion Clause (20) carried.

MR. CHAIRMAN: Shall Clause (21) carry?

MR. MARSHALL: Clause (21), there is a small amendment,

Mr. Chairman. I move the deletion of the words - it is very minor.

The way the section now reads is, "The court shall not take into account any allegation of misconduct on the part of either or both of the spouses in varying a division of matrimonial assets under section 20."

And we remove the deletion "of varying a division of matrimonial assets under section 20", and replace them with the words dealing with an application under this Act, "they shall not take into account allegations of misconduct on the part of both spouses with respect to the Act itself."

MR. STRACHAN: It has nothing to do with the disposition of the assets.

MR. MARSHALL: It has nothing to do with the disposition of the assets.

MR. CHAIRMAN: Shall Clause (21) as amended carry?

MR. W. N. ROWE: Mr. Chairman, just before you go on, I understand the humane and civilized impulses motivating the government in this regard, we are talking about, remember all the dum casta rule and so on, a wife as long as she remained chaste had certain rights, if she fell by the wayside she did not have certain rights and so on and so forth, you know, stupid rules like that. The words "misconduct on the part of either the spouses" may be interpreted a little more broadly than even the hon. House Leader means it to. Now I realize that you can go to court and have the division of the assets varied in certain circumstances, but if a spouse deserts a family and so on, takes off - if the hon. House Leader is listening, I am not thinking in terms of morality now, I am talking in terms of moral misconduct, I am thinking in terms of conduct that pragmatically has a very adverse affect on the family. Now is the hon. House Leader saying that if one spouse, say a husband deserts wife and family and takes off, that that conduct should not have any affect on the division of the matrimonial property, including, perhaps, the matrimonial home? I realize that in that case the wife could probably go to

Mr. W. N. Rowe: court, but, mind you, the judge would be bound under the law by this statement, in Clause (21) "The court shall not take into account any allegation of misconduct on the part of either or both of the spouses in varying a division of matrimonial assets under section 20." "Misconduct" can mean anything.

I know what the hon. House Leader is getting at; he is getting at moral misconduct or conduct that might have been considered misconduct under Victorian norms and mores. I understand entirely what he is getting at. What I am saying is that there is misconduct which does not come under that, those sort of antiquated and Victorian notions of morality. There is misconduct which has a serious pragmatic, financial effect on the family -

MR. NEARY: Right. Right on.

MR. W. N. ROWE: - and I am wondering if that should not be taken into consideration. The court here is enjoined from taking it into consideration. Why should they be? As I said, if somebody takes off, leaves a family in the lurch, a family that was depending on the husband, say, in this case financially, I mean, why should it not be taken into consideration?

MR. CHAIRMAN (MR. CROSS): The hon. House Leader.

MR. MARSHALL: We can deal with this perhaps later, but I would like to move now that the Committee rise because His Honour The Lieutenant-Governor is here to give assent to the bills.

AN HON. MEMBER: Dissolve the House.

MR. NEARY: Now is the Premier's chance.

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

MR. SPEAKER: (Mr. Ottenheimer) The hon. the Chairman of Committees.

MR. CHAIRMAN: (Mr. Cross) Mr. Speaker, the Committee of the Whole have considered the matters to them referred and have directed me to report progress and ask leave to sit again.

On motion, report received and adopted.

Committee ordered to sit again on tomorrow.

SERGEANT-AT-ARMS: Mr. Speaker, His Honour the Lieutenant-Governor has arrived.

MR. SPEAKER: Admit His Honour the Lieutenant-Governor.

May it please Your Honour, the General Assembly of the Province has at its present session passed certain bills to which in the name and on behalf of the General Assembly I respectfully request Your Honour's assent.

A bill, "An Act To Provide For The Ratification Of The Sale Of Labrador Linerboard Limited And The Conversion Of The Linerboard Mill To A Newsprint Mill." (Bill No. 15).

A bill, "An Act To Amend The Increase Of Pensions Act, 1961." (Bill No. 2).

A bill, "An Act To Repeal The Teachers' Loan Act." (Bill No. 7).

A bill, "An Act To Amend The Interpretation Act." (Bill No. 12).

A bill, "An Act To Amend The Income Tax Act." (Bill No. 27).

A bill, "An Act To Amend The Securities Act." (Bill No. 30).

A bill, "An Act To Enable Gaden's Limited And Labatt Breweries Of Newfoundland Limited To Become Federal Corporations." (Bill No. 31).

A bill, "An Act To Amend The Maintenance Orders (Enforcement) Act." (Bill No. 20).

LIEUTENANT GOVERNOR (Hon. Gordon A. Winter): In Her Majesty's name I assent to these bills.

MR. SPEAKER: (Mr. Ottenheimer) Pursuant to Section 29, Sub-section 1 of the Parliamentary Commissioner Ombudsmans Act, the Fourth Annual Report of the Parliamentary Commissioner ^{was} received in my office just a short while ago and will now be distributed to hon. members.

Hon. minister.

MR. MARSHALL: Mr. Speaker, it is now almost one o'clock. I move that the House at its rising do adjourn until Monday at three o'clock and that this House do now adjourn.

On motion, the House at its rising adjourned until Monday, May 28, 1979, at three o'clock.