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**VERBATIM REPORT**

**MONDAY, MAY 11, 1970**

**SPEAKER: THE HONOURABLE GEORGE W. CLARKE**

The House met at 3 P.M.

MR. SPEAKER: Order!

HON. J. R. SMALLWOOD (Premier): I know that I speak not only for every member of this House, but I think for every Newfoundlander, for every Newfoundlander in Newfoundland, and every Newfoundlander out of Newfoundland, when I say that no one could be more welcome in the Chamber today than Canada's Minister of Fisheries, the Hon. Jack Davis. And with him, his executive assistant, Mr. Molloy. Mr. Davis is the sixth Canadian to be Minister of Fisheries of Canada since we became Canadians in the last twenty-one years. I have known all of them personally, and I have admired and respected all of them. But I think I can say that Mr. Davis is not only the most popular Minister of Fisheries that Canada has had in our time, but deservedly so, an enormously interested man. And enormously determined to be a successful Minister of Fisheries and very intelligent and understanding that he could be a popular and successful Minister of Fisheries only by being a great Minister of Fisheries, and we are very proud that he is here with us in our Province today attending the great Conference of the Fisheries Council of Canada.

I understand that there are 600 persons enrolled, registered, that 450 of them have come into the Province from other parts of Canada, and that this is by far the greatest Conference I think in numbers in the life of the Council. That of course is very appropriate that in this great fishing province, I suppose the second greatest fishing province of Canada, the greatest in dollar value and so on I suppose, being British Columbia, the Minister's old native Province, that here in this Province on the Atlantic Ocean, the greatest conference in the history of the Council should be held. I want them to know that they are terribly welcome, that we have enormous respect for them, and pretty well all Newfoundlanders of all political faiths, of all opinions, are united in at least that one thing, that we all have affection and respect for

Canada's great Minister of Fisheries.

I want to say a word of welcome to three gentlemen who are here in the gallery today from Grand Falls. Two of the councillors of the Town Council there. Councillors Brown and Cardwell, and the town engineer Mr. Wilfred Maloney. They are in trying to see what kind of contribution they can make to the welfare of St. John's, and see if they can find some money in Grand Falls to contribute to the upkeep of this Capital City. I am sure they would not be thinking of any reverse of that, directing money from St. John's to Grand Falls, but if they are, I am sure that the member for that district the minister of Education, will expedite their purpose.

I want to say another word of welcome to some thirty-five Grade IX students from MacPherson Junior High with their teacher Mr. Riche. The Minister of Fisheries will find one little difference, at least one little difference between this House, and about the House which he knows much, that is the House of Commons. And that is that every working day of this House, we have students. So far there are close to 1500 students, about half of them from the City of St. John's, and half from outside St. John's, who have come here every working day. They sit in the galleries for two or three hours, and they go back to their schools and they report on what they saw and what they heard. And they go back enormously impressed by the dignity of the House, by the absence of temper, by the statesman like way in which we consider the affairs of the Province. In this way we are building up throughout our Province, a great respect for the people's House, and a deep seed of ambition in many of them to come back here, but not to the gallery. To come back and sit in these benches. And we believe we are inspiring in the course of the years, a number of thousands of young men and young women to come in and be the law-makers as well as those who so obediently obey the law. Now, normally - the Leader of the Opposition is not in his seat

at the moment, but normally I end this welcome to the students by issuing a stern challenge to the Leader of the Opposition, and the stern challenge is this, that I dare him to get up and contradict me when I say that these students are the brightest, the best looking, especially the girls, the most intelligent, the best-dressed, the brightest, the smartest-looking students we have in the whole Province. And he never yet has, not even once, has taken up my challenge. He gets up every day and agrees with me one hundred percent fervently, he agrees with me that these are wonderful young people. But I do not know who is going to speak for the Opposition today, but someone I have no doubt - they will not lose the opportunity to agree with me. It is the only chance they get. Every day, every work day, they agree fervently with me, if they never do any other time of the day. I welcome them warmly to the House.

MR. HICKMAN: Mr. Speaker, the hon. the Leader of the Opposition is off on a frolic of his own for a short while this afternoon, and it is my pleasure on behalf of the official Opposition to extend a very warm welcome to the students of MacPherson Junior High. I had a fairly close and long association with that school. It was part of the system of whose board I served as chairman for about eight years, and one of my children is presently a student there, another has gone through, and there are two others to come. So I dare not miss this opportunity to extend to Macpherson Junior High the very warm wishes of the official Opposition to the people's House, and not to go away from here with the impression that this is generally a slow moving, slow functioning group of men. In other years business is done with utmost dispatch. This year we seemed to have bogged down, but when they come back again in three weeks time Mr. Speaker, probably by then, the debate on the Budget will have commenced and they will find how much money their schools will receive during the next fiscal year. I think it is most appropriate that as a member for the district of Burin, which is the largest of the deep



sea fishing areas in this Province, largest in terms of production, that I have been given the opportunity to extend a very warm welcome indeed to the Federal Minister of Fisheries to this House. And by pure coincidence Mr. Speaker, there arrived on my desk this afternoon a very attractive brochure published today by the Burin Town Council, the municipality of Burin setting forth the history, included in that history is reference to the fact that one of the earlier representatives from the town of Burin in this hon. House was the grandfather of the hon. the Minister of Provincial Affairs. And then further in this brochure which will be of great interest I am sure to the Minister of Fisheries, a reference is made to the Frozen Fish Plant which is situated in Burin, operated by Fisheries Products. Three hundred and eighty men and women are employed Mr. Minister in that plant on shores, and another two hundred and fifty-five are employed on fifteen modern draggers operating out of the town of Burin.

The Minister of Fisheries has had the very good fortune I hope he considers it a very good fortune, certainly we on the Burin Peninsula consider ourselves fortunate in that he has visited that district and has I believe toured all four Frozen Fish Plants situated in Fortune, Grand Bank, Burin and Marystown. And I am in complete agreement with the hon. the Premier when I say to Mr. Davis, that his assumption of Portfolio as Minister of Fisheries, terminated twenty years of of planned neglect of the Newfoundland Fisheries by the Government of Canada.

I too join in welcoming the representatives from the Grand Falls Town Council, Quite recently I was in their new chambers in Grand Falls and the Municipal or the Town Hall or the Chambers used by the Town Council for its regular meetings Mr. Speaker, will do a credit to any municipality in Newfoundland. And I welcome them here.

MR. CROSBIE: Mr. Speaker, I would like to welcome Mr. Jack Davis, the Minister of Fisheries of Canada on behalf of the true Liberal Party in this House of Assembly. The Liberal Reform Group. And Mr. Davis, since he assumed the Portfolio of Fisheries in the Government of Canada, has become a tremendously well-known name in Newfoundland. And I think

it is almost universally felt here in this Province that he is the first real Minister of Fisheries that we have had in Canada since 1949, when we entered Confederation. So he is certainly welcome to this House of Assembly. Now Mr. Speaker, there is a matter of sealing, but even in a matter of sealing Mr. Davis has done his best to protect the sealing industry of Newfoundland from hysteria that swept the world.

Now there is an excellent article that has just been published in a local newspaper now, which doubtless Mr. Davis is getting, by Mr. Ralph Parker on the sealing voyage this year, on the Chesley A. Crosbie. It might be a good time now to point out to Mr. Davis that we would like to have back the gaff, not the guff. We get the guff in this House every day the House is open. But the gaff. We would like to have the gaff back for our seal fishery, and the season open a little earlier. We will be gaffing the guff when the next election comes Mr. Speaker, and we would like to have the gaff to use in the seal fishery also. But we certainly join in welcoming Mr. Davis to this House as an outstanding Canadian politician and statesman. And we hope that he is going to stay with Fisheries for awhile longer. Not too long, because undoubtedly Mr. Davis has a lot of ability and there are other perhaps, more senior portfolios to which he is destined. But he certainly left his mark in the Department of Fisheries of Canada.

We would also like to welcome the members of the Grand Falls Town Council and the Town Clerk, the town Engineer. And Mr. Speaker, the hon. the Premier mentioned that perhaps they were coming from Grand Falls to bring some money from St. John's, but I think it is far more likely to be the other way around today because since April 23, the leader of the Government has found \$2.55 million up his sleeve to help settle some salary claims that are being negotiated, and it may be that the Town of Grand Falls feels that they put the pressure on - that Mandrake the magician will produce some money for the Grand Falls area, or the Grand Falls Town Council. Well I hope that they will be successful if that

is their object.

And finally Mr. Speaker, I would like to welcome the pupils from MacPherson Junior High School. I have no children attending that High School, but it is on the outskirts of the district of St. John's West, and it is just across the street. Even if it was not of course, we still welcome them. I think we are going to have legislation again today. We get our information on these matters Mr. Speaker, from a certain radio station. And I believe that the order of the Business the day is going to be legislation, because the Budget Speech is of no importance. It was brought down April 23, and this is now eighteen days later, but I do not think we are going to be allowed to debate the Budget Speech, but I trust that we will have some interesting legislation to discuss, perhaps the Ombudsman Bill, or the NTA Bill, or the Trustee Act, or one of these other pieces of legislation that we hope changes are going to be made in. So they are certainly welcome and I hope they will gain something from this Session.

HON. W. R. CALLAHAN (Minister of Mines, Agriculture and Resources): Mr. Speaker, I join of course in welcoming representatives from Grand Falls and the students from Macpherson Academy. But my real purpose in rising is to ensure that the House does not forget or miss, or fail to be informed of the fact, that the hon. the Minister of Fisheries of Canada, also is the Minister of Forestry for Canada. And I think Mr. Speaker, if we had to stop and decide which of our resources in this Province, in terms of this renewability and its long life, and indeed at this point in time, its economic impact, we would perhaps have to say that that is the forest industry of this Province. Last year Mr. Speaker, the House is aware, faced a very serious crisis in the forest industry, in terms of the hemlock looper infestation, which had grown to its peak and which threatened the existence of some thirty million cords of merchantable softwood. And I think I have to say that without the intervention of the present Minister of Fisheries and Forestry of Canada,

Mr. Davis, we should not have been able to carry out the program that was carried out to protect those forests, and certainly to the degree, to the level at which it was in fact carried out, due very largely to the co-operation and assistance of the Government of Canada, which in turn enabled us to more successfully negotiate with the industry to persuade them to put in very large amounts of money. In this and in other ways Mr. Speaker, I can tell the House and assure the House that the minister who is attempting to do so much in respect of our fishing industry is no less cognizant of the importance of our forest resource, and is doing very much in that respect to I think, bring to bear, the interest, perhaps even the responsibility of the Government of Canada in respect of our forest resources than any previous minister with the responsibility he now holds. So Mr. Speaker, I draw this to the attention of the House and suggest that it is a very significant and very large reason why we should particularly welcome Mr. Davis, in addition to the Fisheries consideration and its forestry consideration so extremely vital to our Province. I do so Sir, welcome him and Mr. Mullaley who is with him, and hope that very shortly he and I can get together and do some more good work to help, to encourage, to expand the forest resource industries of this Province.

MR. WINSOR: Mr. Speaker, I rise for the purpose of making a ministerial statement. But before I do I would like to take this opportunity in joining the other hon. gentlemen in extending a very warm welcome to the Hon. Jack Davis who is visiting us today. I was privileged this morning to have breakfast with Mr. Davis at eight o'clock. And after flying all day yesterday and until eleven o'clock last night I found this gentleman very wiry at eight this morning. Very wiry and he has made many decisions some of them very unpopular ones since he has been the minister of Fisheries. And as I said this morning it took a lot of political courage to take the stand on many problems which the minister has done during his term. Again, I extend a very warm welcome to him and to Mr. Mullaley.

Mr. Speaker, when the policy for the introduction of the Labrador air subsidy programme was introduced it was designed primarily to encourage travel to and from Labrador and there has been a substantial degree of success. Eastern Provincial Airways have introduced special family plans incentives so that a family can travel to and from between Labrador and Newfoundland at special rates. These incentives together with group travel and other special rates now available from Eastern Provincial Airways <sup>demon</sup>strate that the government's policy was prudent and has produced beneficial results.

The Government have now decided on a new reduced policy to become effective May 14th 1970. This new Labrador air subsidy programme will limit air subsidy payments to residents of Labrador only. For the purpose of this programme a resident of Labrador will be considered as one who resides there permanently and or has permanent employment in Labrador. It will continue to cover residents of Labrador who travel for personal reasons from Labrador to the Island of Newfoundland and return, and will not cover anyone in anyway associated with or on behalf of the Armed Forces, Government, Industry, Business, Organizations or Groups of any kind, former or any purpose. Or to any person who is eligible for a comparable benefit or a reduced rate from Eastern Provincial Airways. Applications forms will be obtained only at the offices of the Department of Labrador Affairs, information leaflets will be available



to passengers at ticket counters advising the changing policy and explaining the general conditions of eligibility.

Presenting Reports of Standing and Select Committees:

HON. W.R. CALLAHAN(Mines & Resources): Mr. Speaker, I ask leave to table the latest bulletin of the Department of Mines, Agriculture & Resources Mineral Resources Division, which is an updated bibliography of the geology of Newfoundland and Labrador 1814-1868. The significance of this bibliography Mr. Speaker, is that there is very great demand and continuing and expanding demand for information as regards the geological resources of the Province. The geology of the Province and a surprisingly great library of material has been compiled dealing with every facet of the geology of the Province and I think every section of the Province and because so much material is being turned out it is necessary continually to upgrade even the listing of the works papers and documents that are turned out year by year and virtually month by month. So I table this bulletin Mr. Speaker, and I understand that copies are in the Clerks office for distribution to the House.

ANSWERS TO QUESTIONS:

HON. E. ROBERTS(Min. of Health): Mr. Speaker, I have the answers to a number of the questions standing addressed to me on the Order Paper. Question No.407 asked by the hon. member for St. John's West on the Order Paper of April 13.

(1) Yes.

(2) Yes. To expand upon that the Government have rejected the recommendation acting upon the advice we have received from our Medical Authorities. I might add Sir, that it is a matter of universal practise I am told. Persons suffering from mental disorders be they prisoners or not, are cared for and treated in institutions for the mentally ill not in prisons. Question No. 438, on the Order Paper of April 15, asked by the hon. member for Burin.

(1) Yes.

(2) None. I might expand upon that a little Sir, the Government have not made any contribution in any of the three years in question towards the deficits incurred in the operation of the St. Anthony Hospital. We have however made available funds for the use of the International Grenfell

Association and the provision of medical care throughout the area for which they have medical responsibility. The hospital at St. Anthony is one of the facilities used by the IGA to this end.

Question No. 502: on the Order Paper of May 6, asked by the hon. member for St. Barbe South.

- (1) No.
- (2) Not applicable.

Question No. 336: on the Order Paper of April 9, asked by the hon. member for St. John's West.

- (1) No.
- (2) Does not arise.

Question No. 317: on the Order Paper of April 8, asked by the hon. member for

(1) there are 36 persons employed in the direct housekeeping functions at the Hospital for Mental and Nervous Diseases.

(2) Yes, trained help personnel have traditionally been responsible for general housekeeping duties at the Hospital for Mental and Nervous Diseases and that was because it has been felt the patients should not be cared for in any way by untrained staff at any time while they are at the hospital. Recently however Sir, the medical advisers have been changing on this, and it has now accepted these functions can safely be carried out by a housekeeping staff instead of by nursing assistants as can be seen by the answer I gave to part one of this question the hospital has begun to adapt to this new type of operation.

Question No. 463, on the Order Paper of April 17, asked by the hon. member for St. John's West.

- (1) The cost of operating the Central Laundry was \$449, 557. 102 persons.
- (2) No the Government have publicly invited tenders from any party interested in providing for us the services as present being provided by the Central Laundry. When we have received these proposals we intend to evaluate them and decide whether we should continue to operate the laundry ourselves. I should add that we of course, which means the Government and includes in particular my colleague the minister of Supply who has actually invited the proposals.

(3) Yes,

Question NO. 359 on the Order Paper of April 10, asked by the hon. member for St. John's West.

(1) There are several wards for the treatment of dangerous patients at the Hospital for Mental and Nervous Diseases. As far as possible extremely dangerous patients are confined to one male ward and to one female ward. One of the wards still in use, the male ward has stone floors. It has heating facilities and in the view of the Government these are not adequate. Accordingly we are taking steps to improve them.

(2) There are 16 patients in ward 3C which is the male ward to which I have just referred. I believe Sir, that is one of the oldest wards in that hospital.

(3) Yes. The Government have both short range plans and long range plans. The short range plans are now being implemented, the long range plans look to the construction of new maximum security facilities which we in the Government believe are necessary at the Hospital for Mental and Nervous Diseases.

HON. J. R. CHALKER (Min. of Public Works): Mr. Speaker, I wish to table the answers to questions Nos. 480. 473.

HON. E. DAVE (Min. of Mun. Affairs): Mr. Speaker, in answer to Question No. 447 asked by the hon. member for St. John's West on the Order Paper April 15. There has been no allowed extras or additions to the original contracts in excess of 5 per cent.

ORDERS OF THE DAY:

Committee of the Whole on Items 3, 2, 14.

Mr. Speaker left the Chair.

Mr. Hodder, Chairman of Committees;

A. Bill, "An Act Further To Amend The Highway Traffic Act."

MR. CROSBIE: What clause are we on now?

MR. CHAIRMAN: Clause 9 and 13 are the two general clauses.

MR. CALLAHAN: Mr. Chairman, I would move an amendment to Clause 9 to delete (b) of clause 9 which is the sub-clause which refers to a person driving a vehicle shall have the speed of the vehicle under control. Mr. Chairman there has been a mimeographed amendment sent around I do not know if everybody has

copies I just managed to get one and in addition to deleting (b) there is some arrangement of (a) (b) (c) (d) of 1. which does not change the wording simply separates the elements of the sub-clauses and leaves it in fact with one small exception as it is in the principle Act. Section 130 in the principle Act has under (b) driving without due care and attention and without reasonable consideration for other persons. Those two elements are separated in the amendment now proposed and in addition to that (b) is deleted and I so move.

MR.CROSBIE: We have no copy of the amendment, I imagine we agree with it but we have not got a copy of the amendment yet.

MR.HICKMAN: Did the hon. minister say they were separated?

MR.CALLAHAN: The original Act has due care and attention and reasonable consideration for other persons together this is the principle Act 130. So what the final amendment would now be is simply separating those two and leaving and "as it was" in 130. Simply separating those two elements into two sub-clauses. So that essentially I think that the cleanest way to do this Mr. Chairman is to delete the whole of nine as it is there and substitute for it 131 as it is in the principal Act but separating due care and attention and reasonable consideration. They would be (b) and (c) that is the simple change now.

MR.CROSBIE: May we have a copy of what you have there so we can read it so we can see what you have there?

MR.CHAIRMAN: Shall the amendment carry?

MR.CROSBIE: No, we have not seen it yet.

MR.CALLAHAN: You sent it back because there is another amendment. I thought they had been circulated.

MR.CHAIRMAN: Shall the amendment carry?

Clause 13:

HON. W.J.CALLAHAN (Minister of Mines, Agriculture and Resources): Mr. Chairman, I am not sure what the amendments to clause (13) mean, but it appears that they are consequential in view of the amendment that has just been accepted by the committee, and they remove certain applications. In each case the application of penalties to particular sections is removed, and I think perhaps that what I had better do is send this over again, so hon. members on the other side can see it and we can either wait until they have had a look or come back to it. I have only one copy, I thought this was circulated.

HON. L.R.CURTIS (Minister of Justice): On the first page Mr. Chairman, where it starts the second paragraph from the bottom, 130-1-A-1, just omit the 1. Just cross out the 1.

MR. WELLS: Before driving imprudently

MR. CURTIS: Yes, before driving imprudently. No the last 1, it will now read 130-1-A. The next paragraph will read 130-1-B instead of A2 - B. Then on the next page 130-1-C instead of 130-1-A3. The next one 130-1-A-1D. So the effect is that these are numbered 130-1-A, B, C, and D. The last one comes out altogether.

MR. MYRDEN: That whole paragraph?

MR. CURTIS: The whole of 130-1B comes out, the quotation marks will then come after two months, the last line of the last paragraph but one.

MR. ROBERTS: Mr. Chairman, may I say that my colleagues speech was one of the most moving I have ever heard.

MR. CURTIS: We all heard it, not only the Opposition.

I would like to move, Mr. Chairman, that the clause which was put in, Section 14, that Sections (4), (5) and (6) of the Act would come in by proclamation. I think it was moved when the Bill was before the House before, but I will make sure.

On motion new clause, Clause 14, carried:

Motion, that the committee report having passed the Bill with some amendments, carried:



A Bill, "An Act to Provide For the Appointment of a Parliamentary Commissioner To Investigate Administrative Decisions And Acts Of Officials Of The Government Of The Province And Its Agencies And To Define The Parliamentary Commissioner's Duties And Functions."

MR CROSBIE: Mr. Chairman, when -

MR CHAIRMAN: We were discussing Clause 7, and 2 (a) is standing.

MR CROSBIE: Exactly. When we adjourned the debate on this section when last we were in committee on this Bill, an amendment had been moved to sub-clause (1) of Clause 7. The present law says: "On the recommendation of the members of the House of Assembly, the Lieutenant-Governor in Council may, at any time, suspend or remove the Commissioner from his office for disability, neglect of duty, misconduct or bankruptcy." And the hon. member for Burin moved an amendment, the effect of which would be that it would be changed to "on the recommendation of two-thirds the members of the House of Assembly the Lieutenant-Governor in Council may at any time rescind or remove the commissioner from his office, for disability, neglect of duty, misconduct or bankruptcy."

Now, Mr. Chairman, I believe that this amendment is right and proper. The parliamentary commissioner, if he is to be affective in his duties, is bound sometimes to be an irritant to the Government, to be recommending things that the Government does not want recommended or does not want carried out, and he should be in a position where he need have no fear of any chances of his being removed unless it can be shown that he is suffering from disability or has neglected his duty or has misconducted himself or, of course, has gone into bankruptcy. It is simple enough, you have either gone into bankruptcy or you have not. And at least I feel, Mr. Chairman, that it is not sufficient protection for him if he can be removed on the recommendation of a majority of the members of this House. There is always going to be a government in power and the government is going to be in power because it has a majority of the members of the House of Assembly. The government, to be a government, is always going to have, of necessity, a majority. And if this clause is left like it is now,

the parliamentary commissioner is going to know that any time the government wants to dispense with him, even if he is a borderline case, its majority in the House is bound to do what the government wants or else embarrass the government, and the government majorities in the House are not usually prone to embarrass the government by voting against it. So it is only logical, sensible and proper that it should take a vote of two-thirds of the members of this House. Then, if the government wishes or anyone wished or thinks that the commissioner should be replaced because of misconduct or whatever, they will have to satisfy two-third of the members of this House that he has misconducted himself or neglected his duties or whatever. Now if they can do that, if they can produce the evidence to do that, they need have no fear. They would probably get the unanimous approval of the House. But the fact is for us to amend the rules of this House now takes a two-thirds vote of the members of this House. That at least gives the minorities in this House some protection. The Government, in this present session, was unable to get the rules of the House changed because the Government was unable to get a vote of two-thirds of the members of this House. If the Government were able to bring into the House twenty-eight members, all at the same time, then they could change the rules. But the Government was not able to do that on this particular occasion. So that gives some protection to the minorities in this House.

I pointed out the other day that in three jurisdictions, one of which I think was Norway or Finland - it was Finland - that the ombudsman cannot be removed at all during his term of office, which is four years. No one can remove him. In Norway he can be removed by a vote of two-thirds of the parliament. And in Quebec he can be removed by a vote of two-thirds of the Legislative Assembly. In other provinces he may be removed on the vote of a majority. The point is, Mr. Speaker, that whether or not the auditor general can be removed by this House by a majority is hardly germane. If the situation is now that the auditory general can be removed by a vote of a majority in this House, then in my opinion that is wrong and he should have the same kind of protection. It should be a two-thirds vote for the House of Assembly to discharge the auditor general,

I would think. So that argument only means that the legislation governing the actions of the auditor general should be changed. It is not the Democratic principle, Mr. Chairman, that majority rule must always decide everything in a democracy. In fact it is exactly the other way around in the United States, where the majority rule does not always govern, where certain rights are entrenched in the Constitution, the Bill of Rights. The Constitution can only be changed by much more than a majority vote. The Constitution of Canada can only be changed, the custom is that at least two-thirds of the provinces should agree, having a majority among them in population etc. A bare majority does not always decide everything nor should it always decide everything in a democracy. In the British system a majority in parliament has always been able to change the previous law, change the Constitution and the rest of it, but that power has not been used, by the majority, to do that, because of the long history and traditions that lie behind the rise of British Parliamentary Institutions.

So I do not think that it can be argued that we are doing anything undemocratic if we decide that the ombudsman should only be removed if two-thirds of the members of this House assess that it is right and proper; that he has misconducted himself, for him to be removed.

The hon. member for Burin pointed out the other day, Mr. Chairman, that the select committee of this House that recommended the ombudsman legislation, recommended in their report that he can only be removable on the recommendation of two-thirds of the members of the House. So the amendment that the hon. member from Burin has moved is in accordance with the select committee report. And I believe the hon. minister who introduced this Bill was on that select committee, as well as other gentlemen opposite, and several on this side of the House, the hon. member, I think, from St John's East Extern, the hon. member for Burin. So this would just be putting back in the Bill what the select committee recommended.

I also agree with an amendment which is going to be moved in a few moments. I also feel that in connection with Section (7) it should not be left to the Lieutenant-Governor in Council to suspend the commissioner

when the House is not open. It should not be left that way, it should be a judge. An application should be made to a judge who should have to do it.

AN HON. MEMBER: That is not what is in the report

MR. CROSBIE: I am not saying that the judge is in the report, but the other matter was in the report I believe that I just mentioned. So Mr. Chairman, I think that for these reasons the amendment is a good one, a right and proper one, and I would support the amendment.

MR. CURTIS: Mr. Chairman, the motion is not seconded. Does it have to be seconded?

AN HON. MEMBER: No, no

MR. CURTIS: Mr. Chairman, I say that it is a funny thing that the majority of this House can repeal this Act altogether, wipe it out. The majority of this House can refuse to pay an ombudsman. They can refuse to give him the money yet my hon. friend wants a two-thirds majority to suspend him. What pure nonsense is that? If a Government wanted to get clear of an ombudsman, and they could not get two-thirds what would they do? They would either repeal the Act which the majority can do, they would either fire him and give him no money as the majority can do, or they would amend the Act to provide that the majority can do it. I think the amendment is silly and I oppose it.

MR. CROSBIE: Mr. Chairman, the hon. Leader of the House shows his expert knowledge of how majorities can dominate Houses of Assembly when he gets up with the argument he just got up with. Why bother with any of the legislation that goes through this House? Why bother with what is in any piece of legislation? Because if we adopt the argument that the learned Minister of Justice is making we are wasting our time because, the majority of the House can change that legislation or throw it out, or enact other legislation.

MR. CURTIS: What is wrong with that?

MR. CROSBIE: Why bother with the terms of any Bill, or any piece of legislation that comes before the House? What absolute tripe, the fact is that this Bill provides that we need a two-thirds vote to suspend the Commissioner, a Government will not dare expose itself to public odium by, when it fails to get a two-thirds majority to suspend him by abolishing his office or refusing to

pay him. The hon. Minister of Justice knows that it is much great protection for the ombudsman to have a two-thirds provision here. No Government if it wants to be re-elected, if a public is interested in democracy at all is going to allow a Government to come in here, charge the ombudsman with neglect, not be able to make their case, and they cannot get two-thirds of the vote in the House, and then bring in a Bill to abolish the ombudsman because it will only take a majority vote. What Government dare do that? I know one that would.

MR. CURTIS: Yes, and I know another one that would like to if it got in.

MR. CROSBIE: I know one that would, I know one that would and the hon. the Leader of the House has just shown us which one that is.

MR. CURTIS: Yes, and I know another one that would but they cannot get elected.

MR. CROSBIE: The argument is foolish. Give the ombudsman some protection. What this Government wants is the form of having an ombudsman, without the substance of having a really effective ombudsman. That is what is wanted. We want an ombudsman that is going to be able to accomplish something and have some independence.

MR. CURTIS: Hear, here. Make him Governor.

MR. CROSBIE: Make him King, make him Premier.

MR. HICKMAN: Mr. Chairman, in reply to the comment made by the Minister of Justice, that same argument could apply with equal validity to the Judge's Act which is a Federal Act. The Judge's Act has been amended from time to time by the House of Commons but, under the Judge's Act, a judge of a superior court in any Province in Canada, or a judge of the Supreme Court of Canada can only be, (in fact it is even more restrictive than what is proposed in this amendment) can only be removed on a two-thirds vote of a joint address to the House of Commons and the Senate, something which has been done only once in the history of Canada. It was threatened a second time, but only once since 1867.

The simple question that this House has to ask at this time is whether we want to have a truly and completely and absolutely independent, completely independent office of ombudsman or do we want an ombudsman that has to have an ear at all times to the wishes of the Government. This is the whole



point in appointing the ombudsman. He obviously is not going to come over and investigate departments of the Opposition, because, the Opposition has no departments to investigate. Rather, if we are going to get across to the small man in Newfoundland, that he has certain rights, that he is going to be protected against the manoeuvrings or the manipulations of the branches of Government that seem to be expanding every day and moving into practically every sphere of operations in this Province, as it is everywhere else, then obviously we have to convince our people that this ombudsman Act, and this person who occupies this office, and more important the office is far more important Mr. Chairman than the person who occupies it. He is completely independent, fearless, there can be no recriminations against him.

If the ombudsman Act does not work, if it is completely inoperative, if it does not serve the purpose for which it is intended, well then the Government can come in and repeal the Act. But as long as we have the Act let us make it a good one and let us make it the type of protection that the hon. the Minister who introduced this Bill would like to see afforded to our people. Let me remind the House that when this Bill was debated in second reading, the hon. the Premier said, that so long as this did not go to derogating from the principle of the supremacy of Parliament, and this does not, that any reasonable recommendations would be acceptable to Government.

Now what more reasonable recommendation, and what more reasonable amendment could be made, and it has the validity and the support of the select committee which was dominated by members sitting on the Government benches.

MR. BURGESS: Mr. Speaker, I would like to rise to support the amendment totally. The office of ombudsman is going to be an extremely sensitive position in the Province. The point made by the hon. member from St. John's West, that this gentleman will have to be psychologically secure in his position as ombudsman because at various times it will be necessary for him to attack, (if I may use that word) Government on some citizens behalf, and he has to be psychologically secure in the knowledge that it takes a certain per centage of the members of the House of Assembly to remove him from office if he happens to step on these tender toes.

Now the ideas and opinions announced from the Government side of

the House about just a simple majority ruling at all times, in practically every organization or institution that I know of, and particularly in the Labour movement, there are required on motions that are very important to the welfare and progress of the organization, it requires in lots of cases a two-thirds majority.

Now if we stop and talk about just simple majority ruling at all times Mr. Chairman, where do we stop when we look at our jury system of twelve people? If it just took a simple majority to convict a man you could possibly have lobbying in our jury system today. But it takes a decision of twelve people of accord to convict a man to jail. I say that psychologically the ombudsman has to have this confidence, and he has to be able to perform his duties with the sincere secure knowledge that if he does tread on these tender toes, that a lot of thought and consideration will have to be given to his removal by a two-thirds majority of the House of Assembly.

MR. BARBOUR: I am a little confused, In the past, mostly all the Bills presented in this House have been passed by a majority. Not two-thirds.....

MR. BARBOUR: not two-thirds. I think it was only once a little while ago that happened in this hon. House, I cannot see why an ombudsman should have to have two-thirds of the House to remove him, if it is necessary. If I can be elected in my district or a councillor can be elected by a single majority vote, that is just as democratic as having two-thirds of a majority. So I therefore, I can not go along with this amendment. I cannot support it, and I think it is a lot of belly-wash and we are wasting too much time on this. I think we should let it go as it has been going, and if there is a vote taken on him, then let us by a majority whether it is one, two or three, or five or six, seven, eight, nine or ten, as long as it is a majority. So I am afraid there is one person, who will not support the amendment.

MR. NEARY: Mr. Chairman, would it be in order to move the previous question?

MR. CROSBIE: Mr. Chairman, before we conclude debating, the debate on this amendment, I hate to have to differ with my hon. friend from Bonavista South. But, Mr. Speaker, just to take his example about being elected by a majority, if by some change there were three candidates or four ran in his district, and the hon. member did not get an absolute majority, but he had the greatest number of votes of the four who ran, he would then be elected to this House without having a majority in his district, but he would still be a member of this House. There is no magic in a numerical majority, the ombudsman is not an elected official. He is not out been elected in some district, he is a quasi judicial figure appointed by the Government, who is suppose to be independent and look into complaints that are made by people who have come into contact with the Government service and have complaints and want them investigated.

Now if that official realizes, even if he is threatened, if he knows that he can be dismissed by a simple majority, the members of this House, he knows that any Government has the simple majority of the House, and that is not much protection to him, if he treads on any toes in the Government while he is going about his duties, so we say he needs a bit more protection than that. We should require a vote of two-thirds of the members of the House. It

MR. CROSBIE: has nothing to do with elections, it has to do with a quasi judicial official if he is doing his job properly, making a nuisance of himself putting in reports like they have done in New Brunswick and the rest of it, and who needs more protection than a simple majority in this House.

MR. CURTIS: Mr. Chairman, an amendment to the amendment, I do move 7(1) to read as follows; On the recommendation of the House of Assembly, (I do not know why they put in the words, "members of", it seems to be very silly) On the recommendation of the House of Assembly, that is an amendment to the amendment.

MR. CROSBIE: The amendment the hon. minister moved is exactly the same as the original clause. On the recommendation of the House of Assembly would still mean a majority of the members of the House of Assembly.

MR. CURTIS: I will put it in a separate amendment, if you like?

MR. CROSBIE: Yes, I would prefer a separate amendment.

MR. CURTIS: We will repeat yours first all right.

MR. CROSBIE: Let us vote on the Amendment.

MR. CHAIRMAN: Those in favour of the Amendment please say "I", contrary minded "nay". I take it that the nays have it.

MR. CURTIS: Mr. Chairman, there is an amendment, that we leave out the words, "the members of". So this section now reads, "On recommendation of the House of Assembly".

MR. CHAIRMAN: Shall the Amendment carry?

MR. CROSBIE: Before the Amendment is voted on, Mr. Chairman, I just want to point out that it is not in my view, I presume the hon. minister agrees, that the only difference there is that by taking out these words, the position is still the same, the recommendation of the House of Assembly, is a recommendation made by a majority of the members of the House.

MR. CURTIS: Yes, but certainly not as members.

MR. CROSBIE: Right. But it does not mean an unanimous vote of members of the House of Assembly.

MR. CURTIS: Oh, no.

MR. CROSBIE: The hon. minister would not consider unanimous votes.

MR. CURTIS: That is what that fellow wants over there.

MR. CROSBIE: You do not want that.

MR. CURTIS: You would not get much business done here if you had to have unanimous consent.

MR. CROSBIE: This is just for the ombudsman now.

MR. HODDERA: Shall the Amendment carry? Carry.

MR. CROSBIE: Nay, Nay.

MR. CHAIRMAN: The "Ayes" have it. Shall the clause as amended carry? carried. Shall Clause 8 carry?

MR. HICKMAN: Mr. Chairman, we have only dealt with 7 (1) of the - oh! no, no we have been dealing with 7 (1) and it was during the debate in committee on Clause (7) suggested by some hon. member on the Government side of the House that we deal with 1 and 2 separately. And the motion was that 7 (1) be amended and that is the motion that now has been defeated. There is 7 (2) Mr. Chairman, to provide at anytime when the legislature is not in session, the Lieutenant-Governor in Council make suspend the commissioner from his office for disability and neglect of duty, misconduct or bankruptcy. Proved to the satisfaction of the Lieutenant-Governor in Council, but the suspension shall not continue in force beyond the end of the next ensuing session of the legislature. Now, Mr. Chairman the practice that is followed, at least in New Brunswick, is that should the Lieutenant-Governor in Council decide, when the House is not in session, that there has been neglect of duty or disability, the commissioner becomes ill or incapacitated or he goes into bankruptcy or he is guilty of misconduct, then in order to remove him an application has to be made to a judge, not to the Supreme Court, but a judge of the Supreme Court of New Brunswick. And the theory behind that and the reasonableness behind that must be apparent to all hon. members.

In the first instance the Lieutenant-Governor in Council comes to the conclusion and will say that the commissioner is disabled, that he is no longer competent to carry on the duties of an ombudsman. And the House has just terminated its session and may not sit again for another nine months.



MR. HICKMAN: Having done that instead of placing on the shoulders of the Lieutenant-Governor the responsibility and the right, the Lieutenant-Governor in Council to dismiss this man for the rest of the session and to appoint someone to succeed him, the Lieutenant-Governor in Council having gathered the facts and having arrived at the conclusion that indeed there is no alternative but to suspend this ombudsman, this gentleman, it must then come to make a simple application to a judge of the Supreme Court. There is nothing onerous about that, there is nothing difficult about it, not taking away any rights of the majority of the House, because remember, Mr. Chairman, the House is not involved in this issue, this is not an issue for the House, this is an issue that is decided on by the Cabinet. And we were told and very properly so by the hon. the minister when this Bill was introduced that this ombudsman is <sup>a</sup>servant of the House and no one else. And a servant of the House presumably means he is a servant of the people. And this simply means that the Lieutenant-Governor in Council cannot tamper with the wishes of the House unless it is absolutely certain that there is no choice open to it, and at the same time it gives to the occupant of this office the right to be heard, and the right to be heard by an impartial member of someone outside the House, someone outside the Legislative Assembly and someone outside of the Cabinet.

Mr. Chairman, I move that 7 (2) be amended by substituting after (2) by deleting the words in (2) commencing with "in any time" and ending with "the session of the Legislature, and substituting therefore the following; "When the House of Assembly is not in session, a judge of <sup>the</sup> a Supreme Court of Newfoundland may suspend the ombudsman from his office for cause or incapacity due to illness or any other cause upon an application by the Lieutenant-Governor in Council". That is seconded by the hon. member for Fortune Bay.

MR. HODDER: Those in favour of the amendment,

MR. CROSBIE: Mr. Chairman, before you put the motion, I would like to speak in support of the Amendment. Under the present section the Lieutenant-Governor in Council has far too much power if the parliamentary commissioner is to have any real meaning. Now section 7(1) the committee refuses to change, so that

MR. CROSBIE: a majority of the members of the House can suspend or remove the commissioner, if the House is in session. Now what happens if the House is not in session? If the House is not in session, the Government proposes in this Bill, that the Cabinet, that the Lieutenant-Governor in Council can itself suspend the commissioner from his office for disability, neglect of duty, misconduct or bankruptcy proved to/satisfaction of the Lieutenant-Governor in Council. And the suspension is not to continue in force beyond the end of the next session of the legislature.

Now Mr. Chairman, once the parliamentary commissioner is suspended by the Lieutenant-Governor in Council his inducement is gone no matter what happens in the next session of the House. So here is a parliamentary commissioner who is suppose to be investigating any complaints against any members of the executive branch of Government, yet he knows that in this Bill the Lieutenant-Governor in Council can suspend him at anytime for disability, neglect of duty, misconduct or bankruptcy.

Now it is a question of opinion what neglect of duty is, or what disability is, or misconduct, so he would be at the mercy of the Lieutenant-Governor in Council all the time he is in office, when the House is not in session, they may suspend him. They can say, in our view you have misconducted yourself, or you have neglected your duties, or you are suffering from disability and therefore we are going to suspend you. That is wrong, Mr. Chairman, it is wrong for the Lieutenant-Governor in Council to have that power, if this ombudsman is to mean anything here in Newfoundland. If you are not just passing an Act, so the Government can say, we believe in civil rights, we have got a parliamentary commissioner in Newfoundland, we got an ombudsman, we passed it. If the Government is not just passing it for that purpose, then these kind of sections are very damaging to this commissioner's effectiveness. He is going to know, he can be suspended.

Now the amendment suggested by the hon. member for Burin is certainly the correct procedure. If there is anything wrong the Government would apply to a judge of the Supreme Court, they would have to satisfy a judge of the

MR CROSBIE:

Supreme Court that in fact the parliamentary commissioner was disabled or, in fact, he had neglected his duty or, in fact, he had misconducted himself. They would have to prove to an impartial, independent, outside person, outside of the Government all together, a judge of the Supreme Court, that this is so. And if they can show the judge, if they produce the proof to the Judge of the Supreme Court, then the judge suspends him. Surely that is a much better way than just the Lieutenant-Governor in Council making his own decision, whatever the Lieutenant-Governor in Council decides. They may be right or they may be wrong but the ombudsman would not have had any kind of a hearing and people are going to think, and rightly so, that there is something wrong with the Cabinet suspending the Commissioner. Now this is a much better way to go about it. We have heard the advancement of views as to why this should be changed and as to why the Lieutenant-Governor in Council, here in this Province, wants to retain this power over the ombudsman. If this ombudsman is to have in substance any independence then this subsection (2) should be amended in the manner suggested by the hon. member for Burin. I certainly support the amendment.

MR BARBOUR: Mr. Chairman, if the House is not in session and the Cabinet wants to dismiss this man, it only means notifying the Speaker and within a day or two the House can meet, and this can be ruled on by a majority and not by the Lieutenant-Governor in Council.

MR HICKMAN: Mr. Chairman, what the hon. member has overlooked is this: The position is, in New Brunswick, that when a application is made by the Cabinet to a judge of the Supreme Court and that judge comes to the conclusion that the ombudsman, for cause, has to be dismissed or must be suspended, the judge of the Supreme Court has to maintain this impartiality and this complete independence. He is then given the right to appoint a man to fill that vacancy until the next session of the House. But that man, Mr. Chairman, only stays in that position until the House next sits. When it does, then the House appoints, on the recommendation of the Government, obviously, a new person to fill the position of ombudsman. And it is obvious, what was intended in this Act and what was intended in

in  
MR. HICKMAN: this Act and to what is intended/other Act where. they do not have that same provision with respect to a judge at the same time ~~to~~ make a suspension only until the opening of the next session of the House. And it must be clear to the hon. member for Bonavista South, and I know he above all other members, and I have heard him say it in this House a dozen times, knows what is to run into the frustration of rigid enforcement of sometimes silly rules and regulations. Obviously, if his constituent is being jeopardized, has been prejudice, has been discriminated against, and quite often the evidence when it comes out it shows that there has been no discrimination, the fact is that you will have some man walking the street of Bonavista thinking that he has been discriminated against, and he wants to be sure that the man who is going to decide whether or not he has gotten his rights is a man who is completely free and independent from any pressures at all, because the members of the House of Assembly will have no greater right than the man in the bottom of White Bay. And this is what this ombudsman Bill is all about, and when it was introduced, when the hon. the minister introduced and other speakers including the hon. the Premier referred to the main principle of this Bill, it was the principle of the freedom and independence of the ombudsman. That is why to the knowledge of the hon. minister and to my knowledge and to the knowledge of the members of the select committee, we could not find any evidence, for instance, of any former politician having ever been appointed to the position of ombudsman. And the reason for it is that this man is in the same position, he has to be, as a man who is appointed to the bench of the Supreme Court or to any other judicial body. This one here does not offend against the majority of the House rule at all. We have heard the debate on the two-third majority and the two-third vote and why we must have the majority of the House, this is quite a different issue entirely, this is an issue to keep this gentleman completely independent and to protect his rights, because he may not be mentally incapacitated; he may not have committed any offence or he may not have gone bankrupt or any other cause which might warrant his being dismissed. So surely, everyone else in Newfoundland has the right to be heard, any other citizen of Newfoundland whose rights have been trampled on, has access to the Supreme Court or some and the court of the Land in/protection that, that affords. Why take it away from

MR. HICKMAN: an ombudsman?

MR. NOLAN: We are not taking it away.

MR. HICKMAN: Of course, you are taking it away from an obudsman, and this is why this -

MR. FRECKER: Could the hon. member give us a reason for it?

MR. HICKMAN: Yes, there is a reason for it, because this give the absolute right to the Lieutenant-Governor in Council to suspend the commissioner.

MR. CROSBIE: On what grounds?

MR. HICKMAN: On what possible grounds are there? The only grounds you could have would be if the Lieutenant-Governor in Council exceedd its authority, and that is the very authority we are giving right now. And what I say to this House, it is up to us whether we are going to make this a functioning Bill because a simple passage of the Bill as it now stands means that we have wasted our time, and the ombudsman Act will never function in this Province.

MR. CROSBIE: Farcial.

MR. BARBOUR: What kind of a man are we going to appoint as an ombudsman? Are we going to appoint a weakling? Somebody who is going to make mistakes every minute of the day?

MR. HICKMAN: I hope not.

MR. BARBOUR: Surely, surely when this man is appointed he will be an intelligent and practical man.

MR. EARLE: Mr. Chairman, I think without this amendment the whole purpose of this Bill is useless. The hon. member for Bonavista South asked the question; what type of man are we going to appoint to this position? I say this is the complete danger, if you do appoint the right type of man, and a person who can stand on his own feet, as I well know from personal experience, that the influence from Cabinet may well be used to have this person removed. If you have a persuasive leader a vindictive leader, and he wishes to use his influence this can be done. And I think that this



that this Clause is absolutely essential and necessary for the protection of this office.

MR. NOLAN: Mr. Chairman, the first ombudsman ever to be appointed in the Commonwealth was in New Zealand and in the New Zealand legislation, it provides for the self-same administrative functions pretty much as we have in the legislation as we have before us now. The legislation in New Zealand provides that, indeed, when the House is not in session that the Lieutenant-Governor in Council can remove the ombudsman for causes and such as those listed in our Bill. The exact same thing applies in the Province of Alberta and there are many debates. There are 1001 arguments that you can use on ombudsman schemes for example in Sweden, the ombudsman can go after the judges in the courts, perhaps, the hon. member for St. John's West would like to have that, too, or the hon. member for Burin.

In Sweden the ombudsman can correct the judges in court. Also it can be expanded, too, where he has jurisdiction in municipalities and so on and I would not be surprised :but this will happen eventually, perhaps, and here in other areas of Canada. But that is not the argument at the moment. The fact is that the legislation we have here now pertaining to the removal of the ombudsman, obviously, is working and very successfully in the first country in the Commonwealth to adopt the ombudsman concept, New Zealand from contacts I had just the other day, where I checked this matter with some people I know in Alberta. They have had no problems, indeed, this question has never been raised, and no one that I know of has ever approached the idea that this man, who after all has to be a real man to do the job and his position is not to get anyone, that must be clearly understood. If anyone is appointed whose sole function is to get someone, you can forget it, because he will end up as an absolute useless functionary, as far as, I am concerned and it cannot work - no more than it can work with the appointment of a policeman or any other Civil Servant. If that is his only function to get

any one - in Sweden and so on, it has been stated and quite properly by the ombudsman that they refuse to become a tool of government of of the opposition - the same in Finland and other areas. As far as I am concerned at all the Clause we have here is a perfectly good one, not questioned in New Zealand, working very, very well and it has worked now over a period for a number of years since, I believe, 1962 when the ombudsman was first appointed. I think you will see similar legislation, and I am not sure about this, but the proposed legislation for the House of Commons for Canada, I believe, borders on pretty much the same thing, Mr. Chairman, and I would certainly speak against the amendment and suggest we go on with this Bill as prepared.

MR. BURGESS: The introduction of this Bill to the House of Assembly was a wonderful step forward. It is to the benefit of this Province, as far as I am concerned and I can see what the hon. member for Burin and the hon. member for St. John's West are getting at! They feel, unless the amendment, which they have suggested is introduced, what we will be doing is creating a strawman. Let us stop and think about how many months of the year that this House is out of session, normally, in the normal course of events, except this year, this House has sat for somewhere in the reason of two and a half, three and a half months, which means that for a period of nine or eight months of the year, this ombudsman will be subject to an opinion, to an opinion of one man and this is the Lieutenant-Governor in Council, and this House, I am sure, by virtue of the fact that the Bill was introduced at all. They want to create an effective ombudsman. Some one is effective and somebody who is strong within himself and somebody who is secure in the knowledge that when he is defending the public's interest or an individual's interest that he can do it without fear or favour or jeopardizing his own position, and I feel, Mr. Speaker, that the inclusion or the acceptance of an amendment on this Clause can only but strengthen, psychologically the position of this ombudsman, and it would mean that he would be much more effective in the operation of performance of his functions and duties, which this Bill

is essentially designed to bring about.

MR. WORNEEL:    Mr. Chairman, I wish to say a few words on this amendment. While I can appreciate the misgivings from the gentlemen on the Opposition, I still feel that we are wasting quite a bit of time on this Bill, because the Government, in its wisdom to appoint an ombudsman or a commissioner, will certainly look for a man with the highest integrity commensurate with high educational qualifications and such a man will certainly take on that post with the full knowledge of what is to be expected of him. He certainly will not be a political stooge, because a man who can fill this office will be a man of dignity and a man whom everyone should respect on both sides of the House.

Now if repercussions or if recriminations were to be taken against such a public official, surely that man would have recourse to the court of public opinion and surely it would be disastrous to any government in power to mistreat such highly, respected public official, and when we say as the hon. gentleman, my learned friend the member for St. John's West has said that the Lieutenant-Governor in Council could remove a man for political purposes or political spleen. I do not think that we should really be so suspicious of governments - the Lieutenant-Governor in Council. I really do not think so and I believe that we are wasting a lot of time. I have to vote against this amendment.

MR. CROSBIE:    Mr. Speaker, the hon. member opposite, the hon. member for Hermitage said he believes that we are wasting a lot of time - wasting a lot of time on what? Is it not the function of this House to discuss the legislation or the business that comes before it. In the House of Commons at Ottawa a Bill may be months going through committee. There may be 100 or 200 amendments. Are we just to sit here because if we open our mouths at all, we are wasting the time of the House? We are trying to improve this legislation and we are advancing the arguments why it needs to be improved?

MR. NEARY: Now the hon. member knows why we cannot get on with the Budget debate.

MR. CROSBIE: Oh, is that correct. Well the order of business - for the information of the hon. minister, is called by the Government and the Government today has called legislation again. The eighteenth day following the Budget Speech the Government has called business, other than the Budget Speech.

MR. NEARY: Who is procrastinating?

MR. CROSBIE: The procrastination is on the side of the Government which does not wish to discuss the Budget or the Estimates until they can get certain other matters out of the way. That is where the procrastination is. In the meantime the Government has called legislation, and we are trying to get this Bill improved. The Government does not want it improved, Mr. Chairman. There is no time being wasted here. It is not a question - oh, the hon. gentleman wants to have the right of veto now. He calls question, when somebody is in the middle of his speech and then a thing must be voted on. We are not allowed to speak in the House now, is that what the hon. minister wants?

AN HON. MEMBER: If you hesitate, he becomes speechless.

MR. CROSBIE: Is that what happened. Well I am not speaking baby talk this afternoon, Mr. Chairman, and that is causing some trouble with the hon. minister. Mr. Chairman, the government at Alberta - we are not too much concerned about what the government of Alberta has done. We know the Government of Newfoundland and that is the Government we are familiar with and if this House is going to appoint a parliamentary commissioner, who is going to feel safe and secure in that position, then this Clause needs to be changed, because we know the Government of Newfoundland that will

be in office until the next election, and he will need some protection, the protection that is suggested by the hon. member for Burin. The government of Alberta and this Government are two different governments. It is not a question of the ombudsman getting anyone. It is a question of, can the ombudsman..

MR. NOLAN:    You are the one who said "go for the jugular," we did not.

MR. CROSBIE:    Just listen to the hon. minister. Just listen to him.

MR. NOLAN:    It is a vampire you want, not a man.

MR. CROSBIE:    Watch out for the old jugular and for Achilles heel, too.

Here is the third report of the ombudsman, Mr. Chairman, of New Brunswick. A very fine report in the Province of New Brunswick and this gentleman is doing a lot of work there and his report is really excellent: The parliamentary commissioner can mean a lot if he is setup in the right circumstances. He does not have to get anyone. He has to investigate complaints against members of the executive branch of the government as to injustices that may have be done to them.

But, Mr. Chairman, if he knows that he is at the mercy of the Cabinet, that the Cabinet at any time can suspend him for alleged misconduct or alleged neglective duty and so on, he is going to be stymied, and he is going to know. We are not going to get the right type to accept appointment, if he has to accept appointment under these kind of terms. How can we? That is what is at stake here. If the parliamentary commissioner is to be a judicial figure then he should have some type or kind of judicial independence and surely a requirement that the Lieutenant-Governor in Council have to prove to some outside body that there has been an neglect of duty or misconduct, is only reasonable, otherwise this man is entirely in the control or under the control of the Lieutenant-Governor in Council and if he does anything to annoy those that are in power, he will not be a parliamentary commissioner very long. We have had ample evidence of that kind of spirit in this House.

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Mr. Chairman, I certainly am going to vote for the amendment.

MR. HICKMAN: Mr. Chairman, if I may. The hon. member for Hermitage says that he is sure that the Government will not appoint a gentleman except someone of absolute integrity and complete independence. May I remind, the hon. member for Hermitage that this man is a servant of the House, to be appointed by the House, when it is in session. This is the first principle of the Bill. The main principle of the Bill is that the ombudsman is the servant, not of the Government, but the servant of the House.

Now you have a situation which can arise when the House is not in session and the principle of the Bill is to guard against anything which will take away from the House its absolute right and what I say to the hon. minister who introduced this Bill and I remind the House again that the hon. the Premier stated categorically that anything could strengthen this Bill, that the Government would not be indifferent to such an amendment and this obviously strengthens this Bill. Of course it strengthens it. It means that before you take the very awesome step of removing a man who has been appointed by this House, before Cabinet decides to over-rule the House that it has to be very careful of its grounds and having arrived at a conclusion - it would be a very difficult conclusion to arrive at, and having decided that because of the forecause that they must take this step, then surely the very fundamental right of having to apply to a judge of the Supreme Court of Newfoundland should apply. The comment that was made earlier that the ombudsman would have the right of access to the courts is a lot of nonsense, because the Lieutenant-Governor in Council, under the present section would be acting within the rights if this House conferred on it, if it suspended him and in any event, may I remind hon. members that the only <sup>way</sup> you can take action against the government is by petition of right and in petitioning Her Majesty through the Lieutenant-Governor for the right to sue Her Majesty, you would have to show that the Lieutenant-

Governor in Council acted beyond its powers, but the powers are conferred right in the section 7(2) that is presently before this committee and what I say to the hon. minister who introduced this Bill; if this section strengthens the Act, if it improves on the Act, which it obviously does, then how in the name of common sense, if you want it to work, how could you possibly vote against this amendment.

MR. HICKEY: Just a couple of questions I have, Mr. Chairman, before the amendment is voted on. My understanding of the amendment is that as my hon. colleague would prefer to have the courts suspend the ombudsman. I was of the opinion that the only way a Government can be sued is if the Government elects to be sued. In other words, if a person wishes to sue the Government or the Cabinet, if that Government does not wish to enter into a case in court, they can elect not to.

Now, Mr. Chairman, if that is the case, I will certainly have to support this amendment, because it is my feeling that if we are going to empower the Cabinet, the Lieutenant-Governor in Council, to suspend this person, we are taking away from him the very right that we are protecting of the average citizen. As I understand it and I have the honour and pleasure to serve on the committee to inquire into the setting up of an ombudsman and I might add that I am very much in favour of such an individual, but as I understand it, Sir, the very purpose of this Act is to give to all our citizens the right of appeal, a recourse to a person or a body, if they feel that they have been unjustly treated. Are we now saying that we are going to give this right to every other citizen, but we are not going to give it to this man himself. Now surely, surely this is not too consistent, and if it can be agreed that if the Cabinet should decide, after the ombudsman were to appeal his case, that they have made a decision on the man and will not go any further, then certainly, certainly we are not being quite fair to this individual and a proper

place for his case to be heard would be in the Supreme Court, which this amendment covers and which in fact, we are saying, if we are going to suspend the ombudsman while the House is not in session, then let us do it through the courts.

MR. BURGESS:    Mr. Chairman, a few words of reference to what the hon. member from Hermitage said and I believe he was quite correct. He said, "Surely the office of an ombudsman would be filled with a man of integrity, education and with complete dignity." But I respectfully submit, Sir, that the man with great integrity, I am sure, that this ombudsman will be, but this completely irrelevant to the fact of whether he holds the job or not if he tread on somebody's toes and as far as dignity goes, some of the most dignified people in the world have had their throats cut from ear to ear - the more dignified you are, the easier it is too happen, apparently and naturally education will be very helpful, A man who is highly educated in this job, it will be very helpful to him in the performance of his duties, but I respectfully submit, Sir, that education is not going to hold his job down for him either, if the Lieutenant-Governor or if this House of Assembly decides, the majority of this House decides that he is not going to remain in the job for any reason, and I am in complete accord with the hon. member from Burin when he said that any amendment that would lend any degree of strength to this Bill, because the concept of this Bill is tremendous, but any amendment that would lend any degree of strength to this Bill should be automatically and considered by this House instead of rejected, because of the fact that it was presented by people in Opposition.

MR. CHAIRMAN:    Those in favour of the amendment please say "aye" Contrary "nay." I take it that the "nays" have it.

MR. CROSBIE:    I want to move an amendment. The amendment was defeated. In view of the fact, Mr. Chairman, that this amendment has not been accepted

by the House, I would like to move that subsection (2) of Section 7 be deleted from the Bill altogether. It is my feeling that if this is to be left - if suspension is to be left in the hands of the Cabinet, it is far better that the parliamentary commissioner that he not be able to be suspended at all, while the House of Assembly is out of session rather than leave this power with the Cabinet. If subsection (2) stays as it is

MR. CROSBIE:

stays as it is the Cabinet has the powers to suspend a commissioner at any time, and it is better for no-one to have that power and I therefore move that amendment.

MR CHAIRMAN: Shall the amendment carry? Those in favour please say "aye, contrary "Nay". I take it that the "Nay's" have it.

On motion Clause 7, as amended, carried:

Clause 8:

MR. CROSBIE: Mr. Speaker, this is an important piece of legislation and we want to discuss these various sections. Now here is a section here, Mr. Chairman, sub-section (3) of Section (8) states that if any vacancy occurs in the office of Ombudsman while the Legislature is not in session the Lieutenant-Governor in Council may appoint a commissioner to fill the vacancy and unless his office sooner becomes vacant the person so appointed holds office until his appointment is confirmed by the House of Assembly.

Mr. Speaker, my feeling is that only the Legislature should be able to appoint this official and the Lieutenant-Governor in Council should only be in accordance to the wording of (2) of Section (4) should only be able to appoint them on the recommendation of the House and I believe that sub-section (3) is wrong. If the Legislature is not in session then the office should remain open until the House of Assembly meets again when the House of Assembly can recommend the Lieutenant-Governor in Council who to appoint not to have the Cabinet appoint the official in the meantime.

Mr. Chairman, here is a Cabinet, the Government composed of sixteen or eighteen or ten or twelve people who are going to be appointing this Parliamentary Commissioner whose job it is to investigate any alleged injustices that may happen throughout the administration for which the Cabinet or Lieutenant-Governor in Council is responsible for and in control. Yet this sub-section also suggests that the Lieutenant-Governor in Council should appoint him and then, of course, once he is appointed the House of Assembly is just going to have to ratify him, well what else are they going to do, or to confirm him. The whole procedure is wrong.

Mr. Chairman, I suggest that the Government consider deletion of sub-section



MR. CROSBIE:

(3) of this clause. Therefore I will move that sub-sections (2), (3) and (4) of Clause (8) be deleted.

MR. BURGESS: In the last section we dealt with the Lieutenant-Governor removing him and now we are dealing with the Lieutenant-Governor appointing another individual. I am in accord with the hon. member for St. John's West. If an appointment is made by the Lieutenant-Governor in Council as he has pointed out all that remains for this House to do would be to ratify this appointment at the next session but supposing the set of circumstances arose where they did not, for reasons best known to the Government, did not ratify this temporary appointment it would create a very embarrassing set of circumstances between the Lieutenant-Governor in Council and the House of Assembly or the Government. I think that ~~it~~<sup>it</sup>/more or less creating problems which will be tracked from the effects of this Bill and I support the amendment by the member for St. John's West.

MR. HICKMAN: Mr. Chairman, if the present sub-sections stand as they are now this House is leaving itself wide open to the type of unfortunate debates that we have been witnessing in the Congress of the United States concerning the confirmation of nominees of the President to the Supreme Court of the United States and no matter what you may think of that countries institutions of Government I do not think that it is the type of judicial process that we would ever like to see implemented in Canada. Mr. Chairman, we will find ourselves in this unfortunate situation that the Lieutenant-Governor in Council has decided in its wisdom or otherwise to nominate a person or appoint a person to fill a vacancy. This becomes public knowledge. The gentleman so appointed assumes office and functions with the same rights as if he had been appointed by this hon. House. He knows that after the next session of the House commences that within two months his appointment has to be confirmed. That is the only difference but he continues to function on, it could be eight or nine months, appointed solely by the Lieutenant-Governor in Council. Then his name comes before the House for confirmation or otherwise, this is when you get into, the danger is that you could get into real political partisanship. This is when the danger would arise if we would have debates arise similar to what they had in

MR. HICKMAN:

the Congress of the United States over the nomination of Judge Carswell to the supreme court of that country.

This surely is the very thing that any Government bringing in a Bill if it wants it to work, if it wants a Bill to do something more than window dressing surely goodness this is the sort of thing that it wants to avoid. This is an open invitation to have the very thing that no-one I hope in this House wants to see implemented here may follow if this section stands as it does right now. May I remind hon. members that it is most unlikely that the Ombudsman will be appointed by this session of the House, most unlikely unless this session continues longer than is anticipated. So this very likely opens the probability of the first Ombudsman in Newfoundland being appointed by the Cabinet and then coming to the next session of this House for confirmation within thirty days and so ad infinitum and we may never reach the stage. Well the Ombudsman of Newfoundland will ever be appointed in the first instance by this House and surely as the hon. the member for Bonavista South and the hon. the member for Hermitage said, this is the real principle behind this Bill that he is to be an appointee of the House not of the Government, so what is going to happen.

The legislation is passed, the Ombudsman is obtained in August or September appointed by Cabinet, next session in the House comes up to be confirmed unless he is a man of very disreputable character it is most likely that the House will then confirm it but the House is not appointing, it is simply confirming. The appointment has been made and then five years later this man retires or he is removed or he dies or he becomes ill or a dozen other reasons and again between sessions, this House will never get a chance to appoint an Ombudsman if this section stands as it is today. This is not an attempt to defeat the principle of the Bill at all. The comments that I have heard from the Government side of the House would almost suggest that the principle of the Bill is at stake here. It is not at stake. All these amendments have been to strength this and this amendment here, Mr. Chairman, I am sure you will agree that the amendment that we are now debating, the amendment to remove from the sections which is designed to take away from the House the

MR. HICKMAN:

rights that we believe to be imposed on the House that this amendment is a good one and again it strengthens the Bill and this is why I have to support it and I would be very disappointed if hon. members on the Government side of the House did not.

MR. SMALLWOOD: Mr. Chairman, I did not intend to participate in this debate but ever I have heard arrogant nonsense I heard it now a moment ago. The appointment of the Ombudsman is in the hands of the Government -

MR. HICKMAN: Of the House.

MR. SMALLWOOD: Of the Government.

MR. HICKMAN: Of the House.

MR. SMALLWOOD: Of the Government.

MR. HICKMAN: Well then you can read it again.

MR. SMALLWOOD: I have read it. It is the Government that appoints the Ombudsman not the House. The Lieutenant-Governor in Council appoints the Ombudsman on the recommendation of the House. The House does not appoint the auditor general. The Government appoints the auditor general and the Government appoints the Ombudsman on the recommendation of the House. The House recommends it does not appoint, the Government appoints the House recommends.

Now when this House session prorogues or takes a long adjournment which ever it happens to be the Government gets round to finding the right man to be Ombudsman. The Government appoints him if the House is not in session and when the House then meets the name is put before the House and if the House does not recommend him he goes out because he can only be appointed on the recommendation of the House but he is appointed by the Government. Now suppose a man is appointed on the recommendation of the House and takes office and the House prorogues or adjourns, it is in session three months and out of session nine months and anytime during the nine months the man dies, the Ombudsman dies, the Ombudsman gets cancer, the Ombudsman gets hopelessly crippled, the Ombudsman has a stroke, the Ombudsman is completely incapable of doing his work or the Ombudsman breaks out drinking or the Ombudsman gets into serious legal trouble, anything happens, any of the causes for his removal crops up when the House is out of session for nine months. Do we do without an Ombudsman? Do we do without

MR. SMALLWOOD:

one? No, we do not do without one. We call the House together to appoint, to recommend one, not necessary. How do we get an Ombudsman?

MR. HICKMAN: Appoint someone to fill the vacancy until the next session of the House.

MR. SMALLWOOD: That is what the Act says, that is what the Bill says. The Bill says that in the case of a vacancy the Government appoints a Lieutenant-Governor in Council which is a long way of saying the Government. The Government appoints the man and he holds office until the Legislature next meets. His appointment is good only until the Legislature next meets and when it meets the Government puts that name forward. Remember that the name that will be put forward will be put forward by the Government to the House. If the House by simple majority recommends then the appointment is good. The same exactly as with the Auditor General, exactly the same.

Of all the trashy nonsense and I have heard a lot in my time and maybe I have uttered some too but I certainly have heard a lot and this is about as bad as any I have heard. Of course, we will, I am sure we will vote against this amendment.

MR. CROSBIE: The Premier says that the Government must appoint the Ombudsman. In the natural order of things this is like the selection of the fittest or Darwin's theory, "The Evolution of the Fittest". Just looking at this third report of the Ombudsman of New Brunswick, Denmark appointed by whom? By Parliament and after every general election. Finland appointed by whom? Elected by simple majority of Parliament.

MR. SMALLWOOD: That is what we will do.

MR. CROSBIE: The elections have been influenced by partisan and consideration. Generally two or three candidates nominated, at least that is being honest about it. New Zealand appointed by the Governor-General on the recommendation of the House who represented it.

MR. SMALLWOOD: Same as here.

MR. CROSBIE: That is right, exactly. I can understand English and I am glad to see the hon. the Premier can. Norway appointed by Parliament -

MR. SMALLWOOD: I can also speak.

MR. CROSBIE: Ah, he is a great orator.

MR. SMALLWOOD: I can also speak English.

MR. CROSBIE: Imagine and double Dutch.

MR. SMALLWOOD: Yeah, what an accomplishment.

MR. CROSBIE: And double Dutch.

MR. SMALLWOOD: What an accomplishment.

MR. CROSBIE: And double Dutch.

MR. SMALLWOOD: But the hon. gentleman cannot.

MR. CROSBIE: When the hon. gentleman is on VOCM that is when we hear the double Dutch and the English too.

Norway appointed by Parliament after every general election.

MR. SMALLWOOD: And this one will appoint.

MR. CROSBIE: Sweden elected by Parliament, committee composed of forty-eight members, twenty-four members of Parliament from each Chamber based on the proportional strength of the parties in the two Chambers, generally an unanimous election. Quebec, Canada, on motion of the Prime Minister the Legislative Assembly makes the appointment which to be valid must be approved by two-thirds of the members. That is the appointment in Quebec must be approved by two-thirds of the members. Hawaii, appointed by both Houses in joint session by a majority vote at each House.

MR. SMALLWOOD: That is all they did here. It is done here the same way.

MR. CROSBIE: Mr. Chairman, I will sit down if the Premier wants to speak and then speak when he has concluded or I will continue with the speech that I am making now, the comment that I am making now. The comment is this that in the majority of these places this official is appointed by Parliament itself. Now there are some places such as Alberta appointed by the Lieutenant-Governor in Council on the recommendation of the Legislative Assembly which is what is suggested here.

But what is suggested in this Bill, Mr. Chairman, is not the only way in the world how an Ombudsman is appointed. In most jurisdictions particularly in the ones where he is being most affective and particularly in Scandinavia he is appointed by Parliament and not by the Lieutenant-Governor in Council. In this particular section here, Section (8) the Ombudsman can be appointed by the Lieutenant-Governor in Council and this House will never get a chance to



MR. CROSBIE:

appoint him or dis-appoint him.

MR. SMALLWOOD: Nonsense.

MR. CROSBIE: Now the hon. gentleman will listen. He will learn. Now Section (8) (1) if the Commissioner dies, retires, resigns or is removed from office the vacancy thereby created shall be filled in accordance with this section, (2) if any vacancy referred to in (1) occurs while the Legislature is in session but no recommendation is made by the House of Assembly before the close of that session sub-section (3) applies as if that vacancy had occurred while the Legislature was not in session. Now mind you there is going to be no recommendation made by the House of Assembly unless the Government makes it, unless the Government brings it in and has it passed through this House because the Government is going to control the majority of the votes in the House. (3) if any vacancy occurs while the Legislature is not in session the Lieutenant-Governor in Council, that is the Cabinet, that is the gentleman opposite on the front benches all eighteen of them, that is the Lieutenant-Governor in Council, those are the people who control this Province and the affairs of the Government of this Province, the Lieutenant-Governor in Council may appoint a commissioner to fill the vacancy and unless his office sooner becomes vacant the person so appointed holds office until his appointment is confirmed by the House of Assembly. So now he has been appointed, the House is not in session and he is being appointed by the Cabinet.

(4) if an appointment under sub-section (3) is not confirmed within two months after the commencement of the next ensuing regular session of the House of Assembly the appointment lapses and there shall be deemed to be another vacancy in the office of commissioner following which the Lieutenant-Governor in Council can make another appointment to the office which will be good until two months after the next House meets or they can appoint the same man. Under this section they need never have the House of Assembly approve their recommendation. That is the effect of that section and that is why the amendment is that the sub-sections (2), (3) and (4) be deleted because it is not satisfactory. If there is a vacancy occurs in that office while the House is not in session, in my view it is better to wait until the House is in session and have the House

MR. CROSBIE:

appoint the replacement, not to have the Government appoint the replacement. The whole emphasis is wrong. He is supposed to be an official of Parliament, the Legislative branch not an official of the executive of the Cabinet, the judiciary, the legislative and the executive, in the United States the three powers are separated. In Canada unfortunately the executive and the legislative are not separated. The executive today controls the legislative. It is just as well to forget this fiction about the great independent Houses of Assembly and Parliaments, that is nonsense. They are controlled today because of our party system by the executive, the Cabinet controls this House and it is no good trying to fool anyone and say this is the peoples House and the House controls the Government, that is malarkey. The House is controlled by the Government because the Government controls a majority of the members of the House. That is what is happening in the last fifty years and this official should be appointed by this House not by the Lieutenant-Governor in Council. They should have nothing to do with him and that is why the amendment is moved.

MR. HICKMAN: Mr. Chairman, if I may continue this arrant nonsense for a few minutes, as the hon. Premier referred it. May I refer this Committee back to Section (4) and there is a very vital distinction between Section (4) and Section (8). Section (4) provides for the appointment by this House by the Lieutenant-Governor on the recommendation of this House. The Lieutenant-Governor in Council has no discretion. The Lieutenant-Governor in Council shall appoint the Commissioner on the recommendation of the House of Assembly. If this House recommends Tommy Toe the Lieutenant-Governor has to appoint him Ombudsman but then we come to Section (8) which is a horse of another colour. This talk in Section (8) is not appointment, it is confirmation and that is a horse of another colour altogether. There the appointment has been made when a vacancy occurs, the appointment is now made by the Lieutenant-Governor in Council and then this House is called upon to confirm or otherwise. The original appointment if the House is open is made by the Lieutenant-Governor in Council on instructions from this House. You appoint, do not question it, none of your business, we have told you to do it, you must do it but the reverse applies in so far as Section (8) is concerned and this is why Section (8) as it now stands can destroy the whole

MR. HICKMAN:

Ombudsman principle and this is why this amendment is not arrant nonsense, this is why this amendment makes good sense otherwise we are wasting our time passing this Bill at all as we will have destroyed the Ombudsman before he is ever appointed.

MR. BURGESS: The hon. the Premier when he was talking about this section became very emotional. He dealt with the reasons why the Ombudsman can be removed, misconduct, bankruptcy, disability, neglect of duty and he quite rightfully stated that if the House is out of session nine months of the year well then somebody has to have the authority to appoint somebody for this period of time that the House is not in session but -

MR. BURGESS: But then, when I looked into that kind of an argument Mr. Speaker, I cannot reconcile it with Sub-section (2) of Article 8 where it stated that any vacancy referred to in Sub-section (1) occurs while the Legislature is in Session, but no recommendation is made by the House of Assembly. Now I cannot see any reason for the inclusion of those words - no recommendation by the House of Assembly. If the House is in Session a recommendation should be made and we are presuming and allowing that the House could be in Session and an ombudsman - the Province could be without the services of an ombudsman and we are allowing that the House need not necessarily make a recommendation. And I do not see any reason at all where this Sub-section (2) of Article 8 should be in the Bill at all.

MR. CROSBIE: Clause (9) Mr. Chairman, states that the Parliamentary Commissioner be paid an annual salary of \$20,000 and that there shall be paid to the Commissioner in respect to time spent in travelling and the exercise of his functions, such travelling allowances and expenses may be prescribed by the Lieutenant-Governor-In-Council again. So here is another avenue where the Lieutenant-Governor-in-Council are going to control the Parliamentary Commissioner. They have to prescribe what his travelling allowances and expenses are going to be. Now Mr. Chairman, what has happened in other Provinces in this respect? And other jurisdictions? How big a staff should he have? Alberta has had a Parliamentary Commissioner for some time now, and according to the report on the New Brunswick ombudsman, Mr. McLellan who is the ombudsman in Alberta, wrote him and he said my staff at the moment consists of a full-time solicitor, two investigators, my secretary and three stenographers. We have recently added a complaint analyst whose function will be to screen all in-coming complaints against the Act and ensure that there is jurisdiction to consider discretions, and to establish that the complaint is one with which the ombudsman may deal. Now Mr. Commissioner that is Alberta. How many are there in New Brunswick? In New Brunswick is a

full-time solicitor, a bilingual secretary - a part-time legal advisor and a bilingual secretary. In Quebec there is a staff of eight with a possibility of sixteen. In Hawaii, three. One of whom will be the executive secretary. So if this ombudsman is to do very much here in Newfoundland, as the hon. the Leader of the Opposition said, when this matter was being debated a week or two weeks ago. He is going to have to have a Budget. He is going to have to have at least part-time legal advice. He is going to have to have a staff of probably two other people, and it is going to cost this Province seventy or eighty thousand dollars a year to do it properly. Around \$100,000 by the time this matter really gets going. Now it is interesting Mr. Chairman to note in the report of the New Brunswick ombudsman, the third report for the period ending December 31, 1969, Page 30. He says, that his experience dealing with the grievances of individuals has lead him to agree with others in the importance of two principles which are not new, but need from time to time to be emphasized and restated, and these principles apply here in Newfoundland Mr. Chairman. The principles are (1) Fair procedure rules must be followed by persons exercising statutory power granted by the Legislature when the use of such power involves the personal rights, duties and privileges of New Brunswick residents. (2) Appeals should be provided from the decisions of persons exercising statutory power when such power involves the personal rights, duties and privileges of New Brunswick residents. These are the two principles. If you have those two principles Mr. Chairman, you hardly need the ombudsman. The trouble is that we do not have these two principles in full force here in this Province, as many other Provinces do not. And one avenue where we do not have them is an avenue that has often been mentioned, and that is in connection with the Newfoundland Liquor Commission, where there is no appeals and no procedure rules at all. And it is also interesting to note Mr. Chairman, that Mr. Flemington, the New Brunswick Commissioner, said that he discussed with Mr. Wishart, that is the Attorney General of Ontario, the Legal Aid System in Ontario, and he concurred with his



comment that social ills can be and sometimes are more important to individuals than physical ills. And then he goes on to describe the Ontario Legal Aid system, which costs about one dollar for Ontario residents per annum, and points out and recommends the system of Legal Aid for New Brunswick. This is what the ombudsman has found in the Province of New Brunswick - important matters that should be dealt with, Legal Aid, the right to appeal from government agencies where they have power to affect the private rights and duties of ordinary citizens, and fair procedural rule, followed by those persons. If you have that, then you hardly need the ombudsman. Now Mr. Chairman, the ombudsman if he functions properly in Newfoundland is going to cost us at least sixty or seventy thousand a year. That is being modest saying that, including his own annual salary. But number two; if he is really to be effective, how can his travelling allowances and expenses be prescribed by the Lieutenant-Governor-in-Council. Once again the Cabinet is deciding how much travelling he is going to do and what his expenses will be. So I would move Mr. Chairman, that Sub-section (2) of Section (9) be amended by deleting the words "as may be prescribed by the Lieutenant-Governor-in-Council." And replacing them with the words "as are properly incurred in the exercise of his duties." So that the Sub-section will then read, "there shall be paid to the Commissioner in respect to time spent in travelling and the exercise of his functions, such travelling allowances and expenses as are properly incurred in the performance of his duties." This should not be a matter prescribed by the Lieutenant-Governor-in-Council Mr. Chairman.

MR. SMALLWOOD: I do not want to delay, but obviously the payment of the salary to the ombudsman and the payment of any money he is to receive for his travelling expenses must be voted by this House. The only authority there can be for his receiving money is the authority that this House gives. The Government will bring estimates of expenditure

before the House for everything including his expenses. His salary can be made statutory. That can be made a statutory salary, in fact it is statutory, it is in the Bill, and the Bill will become an Act, and so his salary is statutory. And the House will not vote it each year, it is automatic. It will be in the Estimates and not voted, because it is automatic. It is statutory. But his expenses Sir, will have to be voted each year by the House, and the amount that will be voted will be the amount put in the Estimates by the Government. And who else can put in the amount? A private member of the House is not permitted under the law, under the Constitution to move that it be increased. He can only move that it be decreased. The money to pay the costs of the ombudsman's expenses, travelling or office or any other expenses, must be entered in the Estimates. And must be voted by this House. Now who decides what will be entered in the Estimates? The Government, and no one else. And once the Estimates are brought here, we will be debating the Estimates shortly, and no member of the House except a member of the Government, no member of the House may move that that amount be increased, that is against the law. It is against the Constitution. But any member may move that it be decreased. It is the same thing with the expenses of the ombudsman. They will be entered in the Estimates. They will be put before the House to vote for it, and the House can either vote for it or against, but cannot increase, cannot increase it except on motion of the Government. That is the Constitution and I did not make that up. I did not invent that system. So this clause in the Bill which provides that the Lieutenant-Governor-in-Council shall say what the expenses shall be, or how much money shall be voted for the expenses. It is the same right that the Government has with everything. For instance the Auditor General's office. This House, the Auditor General's own salary is a statutory salary, but the expenses of his office you will find, are voted by this House. And unless they are voted by this House, he will not have any money. All he will have will be his own salary, but the expenses of the Auditor General's Department must be entered in

the Estimates and voted by this House or you get no money. The House has to vote the money, but who determines how much money will be put in the Estimates? The Government. Who can move that the amount be increased? Only the Government. Who can move that the amount be decreased any member of the House. That is why it is that members of the House, private members, members of the Opposition will frequently move that a minister's salary be reduced to one dollar. But they cannot move that it be increased by one dollar. They cannot put a dollar on, but they cut it all out except one dollar. They can reduce it to one dollar. The same thing applies to the Auditor General's expenses, and the same thing will apply to the ombudsman's expenses. The only thing that will be statutory will be his own salary. The same as with the Auditor General.

MR. CROSBIE: Whether there is anything said in the Bill or not, the ombudsman apart from his salary would not be able to spend a nickel if the Estimates were not brought before this House to authorize it. This is not what this Clause says. This clause could say such travelling allowances and expenses as may be voted by the House of Assembly. But it does not say that. It says, "such travelling allowances and expenses as may be prescribed by the Lieutenant-Governor-in-Council." Now this House can vote Estimates. The Government puts the Estimates before the House for any department, or for the Auditor General's department or for whatever. But that does not mean to say that that official or that department is going to spend all that money, because the Lieutenant-Governor-in-Council, the Cabinet can decide during the year, they do not want them to expend the money, or they want to have the money transferred from that vote to use in another vote. It is the Cabinet who controls the money. We could vote \$100,000 under the heading of Expenses for the Parliamentary Commissioner, and the Cabinet could prevent them from having a cent of it, or could let them have \$5,000 of it, and transfer \$95,000 somewhere else and so on. So - By the way there is nothing in this year's Estimates as far as I know, at least I saw no heading, nothing in this

year's Estimates at all for the ombudsman or Parliamentary Commissioner. At least I have not seen any section of the Estimates where his salary, or any expenses of his office are provided for. So it is the House that should vote the ombudsman money for his travelling allowances and expenses, not as prescribed by the Lieutenant-Governor-in-Council. An amount should appear in the Estimates, it should be voted and the Lieutenant-Governor-in-Council should not have any control over it afterwards, to reduce it or whatever. It should be a matter between this House and the Parliamentary Commissioner.

MR. SMALLWOOD: Mr. Chairman, the hon. member does not seem to understand that when the House, when the Government brings before the House each year as it does, its Estimates, the Government's Estimates of what money it will need to spend in the coming year, and ask the House to authorize these expenditures, that it is not then mandatory upon the Government to spend it. Anyone who is not an ignoramus knows that. Anyone who is not an ignoramus knows, because evidently somebody needs to learn it.

MR. CROSBIE: I just said it. I just explained it to the House, not the hon. gentleman is getting up and pretending he discovered it.

MR. SMALLWOOD: I discovered it just now, just while the hon. gentleman was speaking, he educated me to this. I did not know it before. Every single dollar in the Estimates this year, except for the statutory amounts are only the Government's Estimates of what it will need to spend in the coming year and asking the House for authority to spend it. But it is not mandatory upon the Government to spend one single nickel, except what is mandatory. Are you going to make that different? You do not make it different for the Auditor General. You do not make it different for the Lieutenant-Governor. Well they do not, and we will not. It is not mandatory upon the Government to spend money on the establishment of the Lieutenant-Governor. It is not mandatory upon the Government to spend money on the establishment of the Auditor General. And it should not be mandatory upon the Government to spend money on the ombudsman, but what the Government ought to do and does very rightly is come to

the House and ask the House, first of all present the House with its estimate of what the Government wishes to spend on the Lieutenant-Governor's establishment, what it wishes to spend on the Auditor General's establishment, what it wishes to spend on the ombudsman's establishment, and get authority from the House to spend it. That does not make it mandatory that the Government shall spend it, anymore than it makes mandatory any single item in all the estimates of the thousands of items that are in the Estimates. The Government only comes in with an estimate of what it will spend and ask authority to do it. But it is not mandatory that the Government shall do it, except words where it is statutory. For instance, the salary of the Auditor General is a statutory salary, the payment of interest on the public debts is a statutory expense. The provision of money for a sinking fund is a statutory provision, and the salary of the ombudsman would be a statutory provision. And it is only what is statutory that the Government must spend. The rest is permissive. Its authority to spend it provided the Government can find the money. The Government cannot always find the money that it has these legislative authority to spend. The House gives it the authority to spend always provided you have the money, when the Government for instance during the year, runs short of money for a given purpose, the House has not voted money for that purpose. The Government then can move the Governor to issue his warrant for the spending of that money, and the Governor then issues his warrant upon being moved to do so by the Cabinet. But the mere issue by the Governor of his warrant to spend, does not create any money. All that does is give the Government the authority to spend it in the absence of the House, when the House is not in session and they run short of authority, they can go to the Governor and get the authority from the Governor. But getting authority from the Governor does not create money, anymore than giving authority from the House creates, neither creates money, both give the authority to the Government to spend it. It is completely primitive and elementary information about public finance, and yet we get here and suggest that it shall not be left to the Estimates. It shall not be left to the Budget. It shall



not be left to the general scheme of public finance to settle how much money the ombudsman may have for his expenses. Oh yes, settle for his own salary but in addition to that, settle for his expenses. How? Who is going to settle it? You just leave it to the ombudsman? No member, no private member may move that any money be spent that is unconstitutional. Only the Government, only the Queen's ministers can move in this House that money be spent. A private member may move that money shall not be spent. Or when the Government moves that it be spent and names the amount, a private member may move that that amount be less. He cannot move that it be a nickel more. Who therefore, is going to settle the amount that will be put to the House to vote for the ombudsman. Who is going to propose it to the House? Private members cannot. It is unconstitutional. Only the ministers can do that, and the way to do it is the way they do it in the Estimates. It is done every year. The ministers come to the House and propose that the House give the ministers, give the ministry, give the Queen the authority to spend X amounts of money for X things. And you must include in those X things, the expenses of the ombudsman. There is no other way to do it, and you will find it is not done in any other way anywhere under the Union Jack in the world, nowhere in the world.

MR. HICKMAN: Mr. Chairman, may I give you two citations under the Union Jack where it is done? One is in New Zealand and the other is in the Province of New Brunswick. Both under the Union Jack. Now as I understand the function of payment for the ombudsman in the Province of New Brunswick, they follow a slightly different method insofar as the appointment of the approval of his salary is concerned. There, he is paid the same salary as a judge of the Supreme Court of New Brunswick which in effect means that the Parliament of Canada fixes the salary of the ombudsman in New Brunswick, because the salaries of the judges of the Supreme Court of New Brunswick is paid by the Government of Canada, and is fixed by the House of Commons, not by the Legislative Assembly of the Province of New Brunswick. But that it does give a certain degree

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of certainty to it, because there may be a change - the ombudsman's salary may be increased between one Session of the House and the next in New Brunswick, but still he gets the increase if the House of Commons votes it. In New Zealand they have, and the debate here is on the word "describe" for travelling allowances. In New Zealand they have an Act called, the "Fees and Travelling Allowances Act," passed in 1951. And without going to the Lieutenant-Governor-in-Council in New Zealand at all, the ombudsman in New Zealand can spend any amount he sees fit, provided he stays within the Act. He does not have to go to the House of Parliament in New Zealand and have this voted for in advance. He does not have to go to the Governor General in Council and ask for approval. He is in the same position as provided in the Fees and Allowance Act, 1951. And that includes travel

MR.HICKMAN: It is called the fees and travelling allowance Act, 1959. If hon. members take a look at the New Brunswick Act there is no prescription no restriction on the travelling allowance of the ombudsman at all.

MR.ROWE: Not in the Act.

MR.HICKMAN: In the Act

MR.ROWE: What about somewhere else?

MR.HICKMAN: I do not know, there could be but, section, the next section which we will deal with when we come section 11 of this Act indicated to me that there is no restriction on the travelling allowance of the ombudsman, in the province of New Brunswick at all.

MR.SMALLWOOD: The restriction is the amount that the legislature votes, that is the restriction.

MR.HICKMAN: It could be but I again, when we get back to what the legislature votes. Mr. Speaker, let us deal with the question of the Auditor General and the Comptroller. This House will vote an estimate of what the travelling expenses of these gentlemen will be. But this House does not, the Lieutenant Governor in Council does not prescribe that because if the Comptroller General or the Auditor General during the fiscal year finds himself in a position where he has to incur reasonable legitimate travelling expenses over and above that voted in the estimates he is going to do it but this section says not that the House will have to vote the money but that the Lieutenant Governor in Council will prescribe, and that is the horse of another colour. Mr. Chairman, that means that the Cabinet can say to ombudsman, "look you are not to go down to Labrador City and investigate a situation or a complaint that has arised there because we are not going to approve of your travelling expenses." So what is the point of having the ombudsman, this Bill as it stands now will defeat the ombudsman before he ever gets started.

MR.SMALLWOOD: Mr. Chairman, the Government will bring a budget before the House before the Committee.

MR.CROSBIE: Mr. Chairman, who has the floor? Mr. Chairman, the hon. the Premier is never more loquacious and when he is trying to confuse the situation. Now just a few moments ago I was up and explained that this House voted the

estimates so that the Government did not have to spend them and when I was finished explaining that and sat down the hon. the Premier jumped up to give up a startling revelation, that great constitutional principle we did not know before that although the House had to vote the estimates the Government did not have to spend them. It was not mandatory for the Government to spend them. Well that is something that we had already clearly understood in the House that is not the point, <sup>by</sup> the way the Union Jack, the Union Jack, there is two places now under the Union Jack where the Hon. the Premier was wrong about. And I do not doubt that if we searched a little further we would find many other places under the Union Jack where he is equally wrong. All that has to be done is that estimates come before this House for the office of ombudsman, a certain amount for travelling allowances and expenses. How do they get there? The ombudsman by this Bill is supposed to report to the Minister of Justice. He asks the Minister of Justice . He said: "I need \$10,000 next year, based on my past experience, it is going to cost us \$10,000 for travelling and other expenses in connection with my office, Would you please put the \$10,000 in the estimates in your department?"

MR.SMALLWOOD: Would you please, that is the key word?

MR.CROSBIE: He uses please just because it is politeness.

MR.SMALLWOOD: That is the key word. Will you please do it?

MR.CROSBIE: Right the Government does not have to put a nickel in.

MR.SMALLWOOD: Right.

MR.CROSBIE: But then the House will know that the Government is not putting a nickel in.

MR.SMALLWOOD: Right, right.

MR.CROSBIE: And that the Government is strangling the ombudsman.

MR.SMALLWOOD: Right.

MR.CROSBIE: But, the way that the Government has got it now in this legislation we can vote the certain amount of money for the travelling allowances and expenses of the ombudsman it is in the estimates. But the Government chokes them off afterwards and will not prescribe this spending any of it. That is what can happen if this is left. The amount is passed by this House and it

should be a matter between the House of Assembly and the ombudsman. We should be asked to vote a certain amount of money for the ombudsman. He should then be at liberty to spend that if he needs to up to the amount of the expenditure. He simply requests the minister of Justice to put the amount he needs next year in the estimates and the minister does so. That is all, there is no great mystery to this. There is no great new constitutional principle involved in it none at all, except that if he is an official of this House the ombudsman should be in direct relationship with us not hampered and with the Government at his throat controlling his every move and action. As may be prescribed by the Lieutenant Governor in Council that is what is objectionable. It should be as may be voted perhaps I do not care about the amendment it can be changed. Such travelling allowances and expenses as may be voted by the House of Assembly.

MR. SMALLWOOD: Who determines that?

MR. CROSBIE: That would be determined by what is in the estimates presented to the House.

MR. SMALLWOOD: And who determines that?

MR. CROSBIE: The Government determines that.

MR. SMALLWOOD: Well then that is what -

MR. CROSBIE: Ah but then ..... where we are with the Government. If the Government requests nothing we will know that they do not want the ombudsman. Right here you can secretly prescribe what expenses the parliamentary commission is going to be allowed and if he wants to go to Labrador West or if he wants to go to Joe Batts Arm, the Lieutenant Governor in Council can say no we are not giving you money the <sup>furthest</sup> ~~such as~~ you can go is to the Waterford River Bridge, we want you to restrict your activities to St. John's. That is what you can do which is wrong. The Government should not be able to prescribe how active the ombudsman is going to be if he is to be an independent worthwhile official.

MR. SMALLWOOD: Mr. Chairman, the Government prescribes how much money the auditors general may spend.

MR. CROSBIE: Yes and there has been a dispute about that.



MR.SMALLWOOD: And every Government on the face of the earth does it. The Government prescribes, by putting it in the estimates and bringing it before the House. And the House makes the final decision but the Government prescribes. And provided the House votes the money that the Government prescribes then the money is voted. It is so with the Auditor General the Auditor General in his report never fails to complain that the Government did not give them enough money. He always complains about it. In the current report of the Auditor General there is a complaint that he has not got enough money for staff, he has not got enough/for travelling, but who is to determine how much money he shall have? He himself, obviously not. This House must determine. But how does the House determine? By voting for the estimates. But who prepares the estimates, the Government. So therefore the Government with the consent of the House determines how much money may be spent not shall but may be spent on any given item. Now, let us take the two points of the member, the hon. member for Burin. Completely specious, completely false, completely unsound what he said.

MR.HICKMAN: Completely true.

MR.SMALLWOOD: And completely untrue. What he said was true. Sure. But what did he say? He said that the legislature of New Zealand and the legislature of New Brunswick decide how much money shall be spent. That is all he said. All He quoted. And it cannot be any other way under the British -

MR.HICKMAN: Completely opposite, you did not listen.

MR,SMALLWOOD: I did listen very intently and I am well able to listen. There is no part of the British Commonwealth and Empire with the British system of Government no one, anywhere on the earth, not one where anybody but the legislature decide how much money the Government may spend. There is not on spot on the earth, not one, it does not exist, nowhere. New Brunswick, New Zealand in every spot in the British Commonwealth and Empire the authority to spent money originates right in the House. Add cannot originate or be used anywhere else, it can originate in the House and it can be authorized in the House. It must. It cannot come from outside, even the statutory amounts are statutorily made, they are made by statute. What is the statutory amount that we do not vote each year? We do not vote when we come to, may I have the

estimates I saw a copy of the estimates there to illustrate my point. To illustrate my point when we come to the estimates, when we come to the estimates of expenditure for the coming year or the year we are now in. A number of pages in the front we just passed, we do not vote on them we do not pass on them they are just statutory. But what made them statutory? This House did. By passing a statute. So that every single cent that a Government has authority to spend, it got the authority from the House. And there can be no other way under the British system. If in New Zealand, expenses are incurred by the ombudsman, if in New Brunswick they are incurred the authority to incur the expense and to spend the money to provide the money must come from the legislature, there is no other source, unless somebody dies and leaves an ombudsman some money out of his private fortune. Public money must be voted by the House. It may do it annually. It may do it statutorily, for instance, we will not have to vote annually this \$20,000 a year salary.

But we are voting it today if we pass it. So who gave the authority for the \$20,000 a year for the ombudsman? This House, and instead of doing it annually it does it once and makes a statute of it. It makes a statute of it. So it is a statutory salary. Before Confederation the salaries of the three judges of the Supreme Court was statutory. The salary of the C & AG., -that is the Controller and Auditor General - was statutory. The only statutory salaries we will have if this Bill becomes law will be , the only statutory salaries are the Controller of Finance and now the ombudsman and the Auditor General. Three. At present there are two statutory salaries which, unless we amend the legislation we pay, the Government has been given the authority to pay and not only authority but it has been made mandatory on the Government to pay it, the Auditor General's salary and the salary of the Comptroller of Finance, that is all, now we will add a third. The ombudsman, that is another, but not his expenses, the Auditor General's salary is not voted it is statutory, but his expenses are voted annually. Who asks the House how much to vote? The Government, How does the Government arrive at that figure, by means of a budget? The Auditor General will sit down with the Minister of Finance or with the deputy-minister of Finance or with the controller of Finance and he will talk about the budget for the coming year he will try to edge it up he will try to get the minister or the deputy-minister

make it larger. The deputy-minister or the minister of Finance may make it larger or may even make it smaller depending on the general state of the budget, for the whole Province. Everybody comes, the deputy-minister of Justice will go to his minister and he will plead with his minister to get the amount up and the minister will say, "well I do not know, you had better go and talk to the minister of Finance, you better go talk to the Treasury Board." And so from all directions men descend upon the Treasury Board trying to get this increase, or that increase or the other increase and finally the budget is evened out and presented to the House. It will be the same with the expenses of the ombudsman. And it can be no other way. Well there is one other way to do it, you can make it statutory.

Now this would mean, just as you have put in, in this section 9 that we are now debating Mr. Chairman, The Commissioner shall be paid an annual salary of \$20,000. Now you can go on and you can insert another statutory clause that we would not be voting each year, it would be automatic, you could say, and he shall be paid in respect of his expenses at \$20,000 a year. Or \$21,000, or \$19,000, or \$29,000 or \$7,000 or \$92,000 or \$150,000. You can fix an amount and put it in. And then it is statutory just as the salary is statutory. But if you do not do that the only other way is to vote it annually in this House. You have voted now in passing this Bill or you make it an annual vote just as all the other expenses in the estimates are put before the House for debate. Is there anything in between?

What is there in between? You might the House might pass its authority over, say to the Supreme Court. The House might put a clause in here, reading something like this. 9 (1) the commissioner shall be paid by monthly installments an annual salary of \$20,000. (2) there should be paid to the commissioner in respect of time spend in travelling in the exercise of his functions, such travelling allowances and expenses as may be prescribed by - now it says Lieutenant Governor in Council - but you strike out those words, prescribed by the Supreme Court of Newfoundland. You can even say by the St. John's Municipal Council. You can say by the Parliament of Canada. You can say by anyone you like, other than the House. What you are saying is by the House. That is what you are saying. But you can

change that and put the authority to determine how much money the ombudsman shall have, that he must have and he is going to have that no matter what happens you can give that authority to somebody other than this House.

But what body? Now the House can exercise it in one of two ways. As a statute putting it in. He shall have \$20,000 a year for expenses. Or you can vote it annual in the estimates. Now what other way is there which does not involve this House yielding up and giving away its control of the purse? What other way? Either this House shall determine what the expenses shall be and how much money he may have, either this House will do it or someone else will. Now who is the someone else? I would like to hear someone tell me that. Who is the someone else, if it is not this House?

MR. ROWE: Mr. Chairman, I do not think the hon. member for Burin was serious just now when he drew the inference from what he read about New Brunswick and New Zealand, that there, any official whether of the Government or of the Legislature has in effect a blank cheque for expenses, that is what he said, he certainly gave us that impression. I say now Mr. Speaker, I have not read, I have not seen that document he has there. I say now there is no legislature in the democratic world that has ever given any official whether it is a judge of the Supreme Court, whether it is an ombudsman, or whether it is a stenographer down in some office in any government department. There is no legislature that has ever given an official a blank cheque on these matters somewhere, somewhere there is a control no matter what the control is. The hon. member said that our Auditor General could if he wants to go somewhere he has not got the money there in the travelling it was not voted for him he can still go he can do nothing of the kind.

MR. HICKMAN: Of course he can.

MR. ROWE: He might go and take a chance the Treasury Board will validate what he has done, which is often done, as he knows, and as I know, But nevertheless, theoretically he cannot do it, anymore than any official. My deputy minister down there cannot he is given so much, allocated so much for travelling expenses. He cannot exceed that. And then the general office cannot exceed that without the authority of Treasury Board and Treasury Board

gets its authority from the Government and the Government gets its authority from this Legislature there is still the control there. Now that is one point that I want to make.

The other one is this: I was interested when the hon. member for St. John's West was speaking earlier on the same Bill and on this clause and one of the others. When he, let slip a word, I think he might have let slip it, he drew attention to the difference between the American system, that is the United States system and our system, now



MR. ROWE (F.W.):

I think every member in the House knows that the Americans have a tri-part right division of power and we have a dual system. In this sense, in the United States you have the executive. You have three arms of government. You have the executive, with the president and his cabinet and his machinery. You have the judiciary, the Supreme Court and all their attachments and then you have the legislature, made up of two Houses, the House of Representatives and the Senate. That is three and there is a clear and distinct, written, specified, separational power - everybody knows that. Under our system, we do not have three. We have two, and we have the judiciary, which is separate, but the executive, the Government that is and the Legislature are not, certainly, they are not divided in the sense that it is so under the American system and that it is so on some under presidential system as well.

On the other hand you have presidential systems, and you have monarchical systems where they have precisely the same, and I am not thinking under the British system or Commonwealth. You have countries in Europe, a dozen or more where they have the same system as ours is. The hon gentleman said, "in Canada, we do not have the distinction between the executive and the legislature." And then he said and this is where, I think, he said, "unfortunately unfortunately, we do not have the same as they have in the United States."

Now what he really said was this: that he preferred, and he has the right to do it, not to be criticized for this, but he prefers the American system, because every word he said here today, to some extent, this is true what the hon. member for Burin said. What they are really saying is that they do not like our system, which means that the Government controls, in effect if it has a majority in the Legislature, controls the Legislature. They are saying that they do not like it. They prefer the American system, where the administration does not in practice control the legislature. You can have a democratic congress and a republic and executive or president and it often does and vice versa, too.

If my hon. friend - what my hon. friend is really saying, almost every

argument he has made, almost every point he has made this afternoon that I have heard here this past hour on this Bill comes back to that. He does not like the control that the Government exerts in the House. That is really what he is objecting too. The control that the administration, the executive, the Government exerts and has and possesses under our system in this Legislature.

Now he has a right to dislike that, but I suggest to you, Mr. Chairman, I am one as these two hon. gentlemen are, we both studied political science and we both studied the political systems that are in vogue and have been in vogue in different parts of the world and if I had my choice, I would take the system we have, the British system to the American system. There are a lot of countries in the world and a lot of other jurisdictions where they have shown their preference. It has its weaknesses. It has its defects, but I prefer it to the American system. If I had a choice between living under these two systems, I would take our system and with all its defects and all its shortcomings. This is essentially what the hon. gentleman from St. John's West has been arguing this afternoon that our system is wrong and we should really have the American system and all the subdivisions that go with it, separations of powers and the controls and the checks and balances on both sides to see that nobody can get away with very much and over and over again - it happened in France, my hon. friend knows this just as well as I do. It happened in France where that system eventually led to chaos.

MR. HICKMAN: Mr. Chairman, I know why the hon. minister does not favour the American system, because he is long since past the point where he can have a Kennedy haircut, but a part altogether from that, Mr. Chairman, within the British system, let me read now so that there will be no inaccuracy in what happened in this great British system of New Zealand. This is the exact wording of their Act: "There shall be paid to the commissioner in

respect of time spent in travelling..

MR. SMALLWOOD: What is the hon. gentleman quoting from?

MR. HICKMAN: The New Zealand Act.

MR. SMALLWOOD: An Act of the Parliament of New Zealand?

MR. HICKMAN: Of the Parliament of New Zealand.

MR. SMALLWOOD: Made by the Parliament of New Zealand?

MR. HICKMAN: Made by the Parliament of New Zealand.

MR. SMALLWOOD: Right.

MR. HICKMAN: Where they have a great British system of government.

MR. SMALLWOOD: Right.

MR. HICKMAN: No division of power similar to the United States..

MR. SMALLWOOD: Now what did the Parliament pass?

MR. HICKMAN: IF ~~the~~ hon. Premier will listen..

MR. SMALLWOOD: I would <sup>like</sup> to hear.

MR. HICKMAN: "There shall be paid to the commissioner, in respect of time spent in travelling in the exercise of his functions, travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act, 1951, and the provisions of that Act shall apply accordingly as if the commissioner were a member of the Statutory Board and the travelling was in the service of a Statutory Board."

Now obviously, Mr. Speaker, what they have in New Zealand is simply this: they have an Act which on the face of it, I suspect, is a very good Act. It sets statutorily what the travelling expenses of the Civil Service...

MR. SMALLWOOD: In mileages - the mileages.

MR. HICKMAN: It sets the mileages.

MR. SMALLWOOD: The mileages.

MR. HICKMAN: Right, the rates. It sets the rates. Right. It sets the rates.

This is precisely the point that I am making. The rates of the ombudsman in New Zealand are set, but not the amount. The Governor General in New Zealand

does prescribe..

MR. SMALLWOOD: Now would the hon. gentleman allow me..

MR. HICKMAN: He does not prescribe the amount..

MR. SMALLWOOD: Would the hon. gentleman answer a question? Will the hon. gentleman answer this question?

MR. HICKMAN: All right.

MR. SMALLWOOD: There is an Act which gives mileages. There is an Act which says that shall be an ombudsman. Two different Acts in New Zealand, and for his expenses, the rates of expense - if he travels ten miles, so much a mile, if he travels a thousands miles, so much a mile, that is set in another Act. Now in the Ombudsman Act, he is to get according to that scale, but where does the money come from? Who votes the money? Where does the money come from?

MR. HICKMAN: Obviously it is voted by the House of Parliament.

MR. SMALLWOOD: Exactly. That is all I am saying.

MR. HICKMAN: But, no! no! no! no! no!

MR. SMALLWOOD: There is where the control is.

MR. HICKMAN: No! no! This Act goes further than that. It says that the Lieutenant-Governor in Council shall prescribe and that is quite different. In New Brunswick, where they have the British system of Government - I was leaving this for another debate, but the <sup>hon.</sup> Minister of Education brought it up. This is New Brunswick; " the ombudsman may appoint such assistants and employees as he deems necessary for the efficient carrying out of his functions, under the Act."

MR. ROWE (F.W.): But he would have to get authority, would he not?

MR. HICKMAN: Of course, he gets authority. But he does not go to the Lieutenant-Governor in Council in New Brunswick and say, can I spend x number of dollars on travelling expenses ...

MR. SMALLWOOD: Can I have so much for the coming year?

MR. HICKMAN:     Can I appoint so many officers?     He makes up his mind. He says, I need an assistant, I need a solicitor. I need three stenographers. Because the whole principle of the Bill that we seem to be missing here is to maintain the absolute independence of this man that he does not have to go to the Government on his knees..

MR. SMALLWOOD:     But the Auditor General does.

MR. HICKMAN:     That he does not have to plead..

MR. SMALLWOOD:     But the Auditor General does.

MR. HICKMAN:     He does not have to plead to Government.

MR. SMALLWOOD:     But the Auditor General does!

MR. HICKMAN:     This ombudsman, Mr. Chairman, is..

MR. SMALLWOOD:     Is he higher than an Auditor General?

MR. HICKMAN:     This ombudsman, Mr. Chairman, is a man to investigate everybody, but everybody.

MR. ROWE (F.W.):     Would my hon. friend permit a question?

MR. HICKMAN:     All right.

MR. ROWE (F.W.):     Would my hon. friend permit a question?

MR. HICKMAN:..     Yes.

MR. ROWE (F.W.) :     I am not trying to be a smart aleck. I want to ask a simple question. Under that, what my hon. friend has just read out there now, what he has just read out there now, under that, is he telling me that if tomorrow, the ombudsman in New Brunswick, say, decided that he wanted, that he would like to have an army of 500 investigators, private detectives and what not that he could go ahead and appoint them, without reference to anyone?

MR. HICKMAN:     No! no!     Look, you do not get..

MR. SMALLWOOD:     Well how about money to pay them.

MR. MURPHY:     You never listen.

MR. SMALLWOOD:     Who would authorize the money to pay them.

MR. HICKMAN:     If the Government benchers would only listen, they would learn



something, but they will not listen, Mr. Chairman. "As he deems necessary for the efficient carrying out of his..."

MR. CURTIS:    There you go again.

MR. SMALLWOOD:    If he needs 200 detectives..

MR. HICKMAN:    Obviously, he is not going to need 200 detectives.

MR. SMALLWOOD:    But if he needs that.

MR. HICKMAN:    If it was absolutely necessary for the efficient operation of the Act, the answer obviously would have to be, yes. Would it not?

MR. SMALLWOOD:    No.

MR. HICKMAN:    If it were for the efficient operation.

The hon. Minister of Health, I am sure he concurs with what I am saying, because he was a member of the select committee that recommended the

New Brunswick Act.

MR. ROBERTS:    The Minister of Health/<sup>better</sup>check the New Brunswick Act to see who pays / under the New Brunswick Act.

MR. HICKMAN:    If you look at page (3) of the New Brunswick Act and if the hon. minister - personally, I direct his attention to the salary, even the salary on subsection (2 4) of the ombudsman, the salary that is fixed by the House of Commons, not by the House of Assembly.

MR. ROBERTS:    Well that is the same here.

MR. HICKMAN:    No!

MR. ROBERTS:    Of course it is.

MR. HICKMAN:    Here we fix it at \$20,000. That is the end of it.

MR. ROBERTS:    If it has to be changed, it has to be changed by Act.

MR. HICKMAN:    Right.

MR. ROBERTS:    Is that not fixing it by the House?

MR. HICKMAN:    No! no!

MR. ROBERTS:    Of course it is fixing it by the House.

MR. HICKMAN:    The difference is that these other Acts that we are referring to

do not give the Lieutenant-Governor in Council - this is the one that we are debating now, section 9 (2), subsection (2) of our Act does not give the Lieutenant-Governor in Council the right to prescribe the travelling expenses, because it is so easy to restrict the functioning and operations..

MR. ROBERTS:    Oh! that is not worthy of you.

MR. HICKMAN:    Of course it is.

MR. ROBERTS:    Of course it is not.

MR. HICKMAN:    And this is why the other Acts do not contain and this is why the amendment - the hon. the Premier says, "how do we get around that." Very simply by saying that the ombudsman or the commissioner shall be paid all legitimate travelling expenses necessarily incurred in the performance of his duty under this Act.

MR. SMALLWOOD:    And he prescribes - he settles how much.

MR. HICKMAN:    Otherwise..

MR. SMALLWOOD:    He settles how much. We do not even give the Auditor General that.

MR. CROSBIE:    I do not like to interrupt the hon. Premier, but I would like to say a word in reference to the hon. Minister of Education, with his usual acumen has zeroed in on the essence of the question but he has zeroed in on the wrong essence. We realize, Mr. Chairman, that we have a different system than the United States and it is not a question of whether we prefer their system. We have to live in the system that we have in this Province and in this country and knowing that there is no separation of powers in Newfoundland, that is what this afternoon's debate is about, because we have no system of the division of powers in Newfoundland, the executive is not separate from the Legislature, the executive and our system today really control the Legislature. We have to build in some safe-guards for this Parliamentary commissioner, recognizing the fact of our

system as we have it now.

Now whether I thought that some other system would work better or not is irrelevant. The system is not going to be changed here in any event, and I do not know whether I would prefer the American system or not. It may suit the United States because of historical reasons where it would not suit us now or the rest of us. But the fact is that this House is controlled by the Executive Council, the Lieutenant-Governor in Council, by the Government, and therefore, we need to give the Parliamentary Commissioner more protection than this Bill allows him. Therefore, that is why this amendment is moved.

MR. ROBERTS: In New Brunswick, he is not paid any expenses according to the Bill.

MR. CHAIRMAN: Those in favour of the amendment please say "aye" Contrary "nay." I take it that the "nays" have it.

MR. MURPHY: Mr. Chairman, this is the only clause that I am interested in and that is the money that it is costing this Government. Clause (9). I wish the hon. Premier and the rest of the ministers would listen to what is happening in this House, please. I cannot - I think everybody knows my feelings on this ombudsman. I cannot do anything about it.

On motion that the Committee rise, report having passed Bill no. 7, Mr. Speaker returned to the Chair.

Mr. Speaker, the Committee of the Whole have considered the matters to them referred and have directed me to report having passed Bill no. 7 with some amendments.

On motion report received and adopted, Bill ordered read a third time on tomorrow.

On motion Committee rise, report progress and ask leave to sit again, presently.

MR. SPEAKER: I do <sup>now</sup> call it 6:00 p.m. and I do leave the Chair until 8:00 p.m.



**PROVINCE OF NEWFOUNDLAND AND LABRADOR**

**HOUSE OF ASSEMBLY**

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**VERBATIM REPORT**

**MONDAY, MAY 11, 1970**

**SPEAKER: THE HONOURABLE GEORGE W. CLARKE**

MR. SPEAKER:

\$21,046,985.00 and in accordance with the provisions of the British North America Act of 1867 as amended, I recommend these supplementary estimates to the House of Assembly.

Signed,

E. John A. Harnum,  
Lieutenant-Governor.

MR. JOHN C. CROSBIE: Mr. Speaker, to a point of order, is it the intention of the Leader of the House to go ahead with supplementary supply?

MR. SPEAKER: Obviously, yes.

MR. CROSBIE: Well, Mr. Speaker, we have had no indication that supplementary supply would be considered today or tonight and no notice of it at all. And as far as we knew it was legislation today, and surely the House Leader is going to give us at least one day's notice that we are to move into supplementary supply.

MR. SPEAKER: I do not know if the hon. member is raising this as a point <sup>not</sup> of order, but this is something for the Chair at all, this is a matter which has to be settled between the various groups and parties. All I can say is that the item has been on the Order Paper for sometime.

MR. CROSBIE: Mr. Speaker, I know that Your Honour can deal with this matter, I am just now asking the hon. President of the Council or Minister of Justice to leave this matter over until tomorrow, so we can get our notes together for supplementary supply. We have not had any advance notice that it was to be debated tonight, so can we continue with legislation tonight, and go on with supplementary supply tomorrow?

MR. SMALLWOOD: Go on.

MR. CROSBIE: Does the hon. Premier realize that we have not been given any notice, that supplementary supply was going to be on here tonight. Is there not any courtesy at all? What is wrong with this House at all? What is this..



MR. SPEAKER: I will have to tell the hon. member there is no motion before the Chair, and we cannot have a debate on how the House Leader calls the Orders, that is not the business of the Chair at all. The motion is that, I do now leave the Chair for the House to go into Committee of Supply. Those in favour "aye" ...

MR. CROSBIE: The motion is debatable is it not, Mr. Speaker?

MR. SPEAKER: It is an Item on the Order Paper and we just call it now, I do now leave the Chair.

MR. CROSBIE: It is now being moved that Your Honour leave the Chair, and I believe that that motion is debatable. And that on the motion that Your Honour leave the Chair to go into Supply that can be debated and any grievances can be presented to the House. Mr. Speaker, I have a grievance to present to the House on this motion. My grievance is this, that there has been no indication from the Leader of this House, the Minister of Justice, the member for Twillingate district, that this House was tonight to go into Committee of Supply to debate Supplementary Supply. It is the custom, Mr. Speaker, in every House of Commons or Parliament that I have ever heard of in the British Commonwealth including at Ottawa, and in every one of the provinces that the Government at least has the courtesy and common decency to indicate to other parties or groups in the House ahead of time what the order of business is to be. And my grievance tonight is this, Mr. Speaker, that without any indication at all, with no knowledge at all, we have not been consulted, we have not been told in advance that tonight we are to go into committee of supply on supplementary supply. It is an unheard of abuse of the power of a majority or of the Government in a House of Assembly. That is my grievance. We are not told today what business is going to be conducted in this House tomorrow, we are given no advanced knowledge at all. Just a week ago or ten or twelve days ago, I ask the hon. the Minister of Justice, the Government Leader in the House whether he would indicate to us at least a day beforehand what the business of the next day would be, and he indicated that he would. Yet, here tonight we come back after being in Committee of the Whole and on legislation all afternoon, to learn by the hon. minister's moving the motion

MR. CROSBIE: that we are now going into Committee on Supplementary Supply without any advance notice of it whatsoever.

MR. SPEAKER: The hon. member has made his point very well, it is something over which the Chair has no control, the only thing is now that I have to put the motion and that we go into Committee of Supply. Those in favour 'aye'.

MR. CROSBIE: You admitted, Mr. Speaker, that the motion, Your Honour leave the Chair, is debatable. So we are allowed to speak on that motion.

Beauchesne says, that on a motion for Your Honour to leave the Chair, to go into Committee of Supply, we can debate, we can introduce matters of grievance to be debated, that is what I am doing now. Is Your Honour ruling that we cannot?

MR. SPEAKER: I understood that the hon. member was raising this as a point of grievance which is brought up of course in an entirely different way other than on a debate that the Speaker leave the Chair.

MR. HICKMAN: May I draw the House's attention to the fact, that I can only speak for three sessions of the House, but in each session of this hon. House, <sup>on</sup> the passed three years a motion for supplementary supply the Bill has been circulated amongst all members of this hon. House for many days in advance for the very obvious reason to give hon. members of both sides of the House, particularly hon. members on Government side, who are not members of Government and members of the Opposition an opportunity to discuss, to consider the items that are being asked for, the supply that is being sought, the Supplementary Supply that is being sought in this type of Bill. And here we are tonight for the first time, after the notice has been given, after the orders have been called, the Bill is circulated asking for \$21 million bucks. And this is the first we have heard of it, and we are suppose to debate this tonight? Mr. Speaker, if precedent means anything, if courtesy means anything, if financial responsibility means anything, then I would hope that the Government will not persist in this motion to proceed with this debate tonight. And I for one will vote against the motion.

MR. CROSBIE: Let us divide.

MR. SPEAKER: The motion is now, that I do leave the Chair, those in favour "aye" contrary "nay". Call in the members.

Those in favour of the motion, please stand: The Hon. the Premier, the Hon. the President of the Council, the Hon. the Minister of Municipal Affairs, Mr. Smallwood, the Hon. the Minister of Labrador Affairs, Mr. Hodder, Mr. Strickland, the Hon. the Minister of Education, the Hon. the Minister of Public Works, the Hon. the Minister of Mines, Agriculture, and Resources, the Hon. the Minister of Provincial Affairs, Mr. Barbour, the Hon. the Minister of Supply, Mr. Saunders, Mr. Wornell.

Those against the motion, please rise: The Hon. the Leader of the Opposition, Mr. Earle, Mr. Hickman, Mr. Crosbie. I declare the motion carried, Chairman of Committees.

MR. SMALLWOOD: Mr. Chairman, the practice has been down through the years for the committee to decide or hon. members of the House, and of the committee to decide whether they wished to have the details debated in committee where there is much greater freedom of debate, and where hon. members might speak as often as they wish and ask as many questions as they wish, and ministers may speak as often as they wish or to have the more formalized kind of debate at Second Reading. And at that stage only one speech is permitted and questions and answers are not permitted. I would assume, though I do not know, that hon. members would wish to have the detail debate in committee, on the resolution treating the Bill as <sup>an</sup> adjunct of the Resolution. It has never been the practice to debate twice, to have a debate at Second Reading and also a debate at Committee, if, we could have the consensus of the committee as to whether they want the debate on the detail in an informal way in committee at the resolution stage or the more formal kind of debate, could we have some expression of opinion on that.

MR. HODDER: Is it agreed that we have the debate now in committee?

MR. MURPHY: I presume that when the Bill is being introduced that some explanations will be given, and it will be thoroughly debated at committee stage, I presume as formerly.

MR. SMALLWOOD: What I was trying to ascertain with the will of the House as to when they want the detailed debate to take place, now in committee where it can

MR. SMALLWOOD: be informal and members may speak as often as they wish and ask questions and conduct the discussion in a very informal way under the rules or to have the debate at Second Reading. Now I am prepared to give explanations for the whole amount here, item by item, and we might debate them, item by item, and adopt them item by item. In that case the resolution before the committee and the Bill, as a supplement to the resolution could all be taken together and we could have our debate informally in Committee of Supply. Is this the way the Committee would like to have it?

MR. CROSBIE: Mr. Chairman, as far as the Bill is concerned, I have no Bill, all I have is a resolution here.

MR. SMALLWOOD: The Bill has been distributed.

MR. CROSBIE: The Bill has not been distributed to me. I have no Bill, all I have is a resolution giving an amount of \$21,046,000.00. As far this business about whether we debate in detail in the Committee, I am in accord with the debate in the detail in the committee, but, Mr. Chairman I want to debate the whole principle of this supplementary supply and this is also the proper time for that. So as far as I am concerned, as long as we can debate everything the principle of the supplementary supply on the details that is all right with me. Well, I have got a copy of the Bill here now, it is the first time I have seen it. This is supplementary supply for last year, and as the debate is to commence, it is the first time that I have seen the supplementary supply Bill for last year, with so-called details.

MR. SMALLWOOD: Mr. Chairman the resolution of course has been before the House for a week or two, and the amount is \$21,046,985.00 that information has been before the House for a couple of weeks or so?

MR. CURTIS: No the resolution has not been before the House.

MR. SMALLWOOD: The resolution has been before the House.

MR. CROSBIE: The Bill, the resolution, we just received the resolution now.

MR. SMALLWOOD: Mr. Chairman, I think I am capable, certain I am willing, and I believe I am capable of explaining these items that make up the total of

MR. SMALLWOOD: \$21 million. Now I ought to explain this, this is not

MR. CROSBIE: Mr. Chairman, on a point of order, just before the Premier starts, is my understanding quite correct that when my turn comes to speak, I can speak on the whole \$21 million Supplementary Supply and on the principle of this resolution that is now before the committee, in addition to the details clause by clause? Because I am quite prepared to speak on the principle of it now, and then go into the details. But I want to be able to discuss the principle of this resolution, whenever we agree the principle is to be discussed, is it to be discussed now or at the end of the schedule or how is it to be done?

MR. SMALLWOOD: Mr. Chairman, the normal way of doing it is this, that in Committee of Supply the details are discussed, item by item, the explanation is given, supplementary information is desired and given if possible, and debate on it, item by item, and each item is adopted and then we move on to the next item. And when all items, item seven



MR. SMALLWOOD (J.R.): Item (17), Highways \$17,000. is passed and adopted and then the total is passed and adopted \$21 million. When that is done the Committee rises, having taken as long as it desires to debate these items - item by item. Then the resolution is adopted and the House meeting as a House, not as a committee can debate the principle, but the details have been passed in committee. The purpose of committee is to have a detailed discussion on each individual item of these heads of expenditure.

That having been done, this is recommended to the House by the committee and the House then meets and discusses the matter in principle. Whether there should have been any supplementary supply or not. That is the normal procedure and I do not propose that we should depart from that, it is a perfectly normal procedure. There will be ample opportunity now to discuss each individual item individually and separately. Having done that adopt it and then move on to the next item and do the same thing.

Mr. Chairman, I take it that it is understood that we, after the explanation, I propose to give a general explanation, then I propose to give an explanation of that item (2), Legislative \$11,000. When that has been debated and discussed, and all the information asked and given, then a motion put and that item carried.

Then we move on to item (3), head (3), Executive Council \$41,000. I would explain what that is and after that is debated and discussed and adopted we then move on to the next one, Finance and so on. When they are all discussed seriatim, one by one, all discussed, individually and adopted individually, and the last one is adopted, and then the total is adopted the committee rises, passes the resolution of which this Bill is an adjunct, passes it and recommends it to the House. The House then debates it in principle anyway it wishes.

Now I want to make it clear that we are not asking for \$21 million more than was voted by the House one year ago, or one year and one half ago. In the last Budget Speech that was brought down here last year, the amount of expenditure voted by the House was \$272 million. \$272 million. The Government actually spent \$279 million, so this was \$6,697,000. more than the House voted. The actual over-expenditure for the year was \$6,697,000. not \$21 million. So, in asking the committee to pass the \$21 million, we are not asking to pass \$21

million more expenditure than was authorized for last year. The actual over-expenditure last year was \$6,697,000. \$6.75 million was the amount, rounded out as \$7 million spent more, or one-third of this \$21 million.

I want to make that clear, we are not asking the House to authorize us to spend \$21 million more than the House authorized us to do in the budget last year. We spent \$7 million more in fact, but we took in \$8 million more than we estimated. We had a surplus of more than we budgeted for. Now then, what are these items for? These items are to have the authority of the committee and the House for the warrants that were issued by the Governor during the year.

The first item is head (2), Legislative \$11,000. The explanation of that is that during the year temporary transfers of funds were made from sessional allowances into office and book and binding. These transfers were to meet expenditures not envisaged at the time of the preparation of last year's estimates, respecting the installation of a new system of Hansard reporting. When the estimates of last year were prepared and passed by this House, nothing was provided for the new Hansard reporting and this \$11,000. covers that.

MR. MURPHY: In other words, last year we voted \$503,700. Legislative and the total was \$514,700.

MR. SMALLWOOD: Not necessarily so, but in this particular case that is so. It is not necessarily a net increase, no. It was not authorized, so we had to get a Governor's warrant, the Governor gave his warrant, we had the money, we spent it, we provided a service and now we have to ask indemnification, we have to ask the authority that the House did not give us a year ago, but the Governor gave us in the meantime, but we have to report it to the House, we are now reporting it to the House \$11,000. that the House did not authorize last year. I have told the committee what we spent it on.

MR. MURPHY: Yes, well in other words we spent \$11,000. more than we were voted. Am I right in that?

MR. SMALLWOOD: More than was voted

MR. MURPHY: Right, so that makes an extra \$11,000.

MR. SMALLWOOD: Not necessarily more than was voted, \$11,000. that was not voted. Therefore, we could not spend it without a Governor's warrant. So we

got the Governor's warrant and we spent it on his warrant, but having done so we now must be indemnified by the committee and the House.

MR. MURPHY: This is very difficult to follow. We voted \$503,700. last year for Legislative. Now we vote through this another \$11,000.

MR. SMALLWOOD: It is not necessarily another \$11,000. It is not necessarily an additional \$11,000. It is \$11,000. that was not voted last year. We might have had that amount in that we saved, and we could have spent it, that is probably where we got it to spend, but we had to have authority to spend it. The House did not give us authority to spend it last year, so we got it from the Governor. The Governor issued his warrant. When the Governor issues his warrant, we have to bring it in here and get authority from the House post facto.

MR. EARLE: Mr. Chairman, this is a simple explanation of this. In all of these votes as we herald them special warrants were issued to cover these amounts. These special warrants covered additional expenditures for which there was no provision in any vote in last year's estimates.

MR. SMALLWOOD: Not necessarily additional expenditure, because, the total is \$21 million and we did not have \$21 million additional expenditure. We had only \$7 million.

MR. EARLE: That is not correct. For instance, there is an amount in here I know for the ERCO subsidy. This was an amount which was not provided for in the estimates of last year \$1,350,000. Each of these special warrants were to cover votes which were not fully covered in last year's estimates.

MR. SMALLWOOD: Either not covered or not provided at all one way or the other.

MR. EARLE: Oh yes, but not covered.

MR. BURGESS: It is strictly a heading that was not in the estimates at all.

MR. EARLE: Yes, but it is additional expenditure

MR. SMALLWOOD: Not necessary, no. Cannot the hon. gentleman see this, that if the total that we are asking to be authorized is \$21 million. That is what it totals here \$21 million, and in actual fact we only spent \$7 million more than was authorized, this means \$14 million we spent that was not authorized,

by the House but was subsequently by the Governor. That did not mean, that was \$14 million not additional spending, but, spending that had not been authorized. That is all it means.

MR. EARLE: Yes, but there were certain over estimates on other items.

MR. SMALLWOOD: There were savings that is right, it is a net over-expenditure of \$7 million not \$21 million. Therefore, these items do not represent necessarily an additional spending. If they represent for the most part, \$14 million of the \$21 million represents money that we had that we spent on the authority of the Governor, and having done so we now have to have it indemnified, we have to be indemnified by the committee and the House.

MR. CROSBIE: Mr. Chairman, this is supplementary supply, these are the supplementary estimates for last year, and the Government is asking the House to authorize the Government to spend \$21 million that was not authorized that they expended last year. Now,

MR. SMALLWOOD: Authorized by the House.

MR. CROSBIE: Now where the Government got the money for it of course is another matter. Some of the money may have come from additional revenue that the Government got in last year that it did not expect to get. Some may come from savings from other heads that were not expended. It does not necessarily mean that the Government spent \$21 million extra last year. Nevertheless, it is \$21 million more the Government is asking to be voted for last year no matter where the money came from.

MR. SMALLWOOD: We did not spend \$21 million more.

MR. CROSBIE: Well in the estimates for last year there was \$21 million not authorized by the estimates for last year which the Government now asks for authorization, and have spent.

MR. SMALLWOOD: That is right

MR. CROSBIE: That does not mean to say that they have spent \$21 million more

MR. SMALLWOOD: That is right. We spent \$7 million more, and took in \$8 million more.

MR. CROSBIE: That is right, but it is very confusing

MR. SMALLWOOD: It is not confusing at all

MR. CROSBIE: It is confusing, to even such a brilliant genius as I it is confusing. Confusing to the Leader of the Opposition, it is confusing almost to every hon. gentleman across the House. It may not be confusing to the hon. the Premier, because, he has been bringing it in for twenty-one years. Still there is \$21 million that was not authorized in the estimates last year, which have to be authorized now.

MR. SMALLWOOD: Right.

MR. CROSBIE: Now Mr. Chairman, let me refer to Beauchesne for a moment and see what he says about supplementary estimates. Page 202, supplementary estimates when treated as customary, and as a matter of course, instead of being restricted to occasion of unforeseen contingencies, do more to destroy effectual parliamentary control than any other indirect method that could be devised. They are however, for one service or another annually recurring necessities. They may be presented either 1), for a further grant to a service already sanctioned and voted for, or 2), for a grant for a further occasion of expenditure arising where the estimates were presented (a) for expenditure newly imposed on the executive by statute, (b) to such an unexpected emergency.

It is extremely difficult to make a close forecast of the amount which will have to be provided. Then he goes on to say Mr. Chairman, the introduction of supplementary estimates of any considerable amount is really a breach of contract between the Government and Parliament. For when this is done, the budget statement is destroyed and in effect, the supplementary budget is set up. Now Mr. Chairman, this is what this really is for last year, it is a supplementary budget, and since we are going to discuss the details here on the principle in second reading of the Bill, I think that is how it has been arranged, I will just speak now on the legislative.

Now the Premier said that the extra amount of \$11,000. was in connection with - primarily with the new Hansard. On this item Mr. Speaker, I suggest to the Government or to the House, that it is time now for the House and the Government to give some consideration to this legislative vote, including what was voted last year. For example, it is time that there was some better system arranged, some better vote arranged for the office of the Leader of the Opposition, and more money voted for his staff and assistants. This should be



done because, the Leader of the Opposition's function is an important one, and he should be put in funds to employ capable research staff to help him in his duties. But an even more necessary thing Mr. Speaker, this Province is not always going to have a two party system. Forgetting Independent Liberals, other Reform Liberals or whatever, there is always going to be in the future in this Province an N.D.P. Party, and a P.C. Party and a Liberal Party. This House is not set up to function for anything other than two parties, a Government and the Opposition and this is wrong.

Here are we, there are four of us in the Liberal Party Reform Group, there is one Independent Labrador member. We Mr. Chairman are left without an office on this floor, or on the ninth or tenth floor of this building. We have no vote at all to help us with staff or with research, we have no office at all even to put our files into. I am talking about these two floors. In the rules of this House there is no provision made for any right of the leader of any party other than the Leader of the Opposition.

Under the rules of this House the Premier and the Leader of the Opposition can speak an unlimited time on every question, on every question where the rest of us are restricted to ninety minutes unless we move an incompetence motion, or we are a Government Minister replying to one, we are restricted to ninety minutes. Why should not the leader of any other group in the House, under the rules be entitled to the same time as the Leader of the Opposition or the Premier? They should be if the proper procedure and rules were gone over and revised to suit modern times and modern conditions.

Mr. Chairman, there should be a lot more thought given to this legislative vote, and Mr. Chairman, the Leader of the Opposition in my view should receive the same salary as a Cabinet Minister. There is no one today can be a proper Leader of the Opposition unless he spends full time at his duties, and if he spends full time at his duties he should receive exactly the same pay as a member of the Cabinet. It is time that that was corrected in this House. I think the Leader of the Opposition now gets a total of \$13,000. The hon. Leader can correct me if I am wrong. \$13,000. a year and it should be at least \$20,500. the same as a Cabinet Minister with expenses.

If this \$11,000. went to set up Hansard, I certainly agree with that expenditure, because I think that is a worthwhile expenditure and it is working well this year. Mr. Chairman, I am certainly not opposed to this particular item if it is in connection with Hansard. I am certainly opposed to the way supplementary supply is being brought on tonight but I will not belabour the point.

MR. HICKMAN: Mr. Chairman, may I enquire of the hon. Premier the increase in Hansard. Last year the amount voted for the editor of debates and chief librarian was \$6,500. the amount that is voted or that will be asked for in this year's estimates is \$8,500. Last year we had Hansard set up - true it did not work with the same sophistication as it works this year, but we were getting back within a reasonable time Hansard, about three days or four days after the debate. The work I am told has been done, Mr. Speaker I think played a very important part in preparing some of the back issues in other debates for publication and will the hon. Premier advise the committee as to how much of the \$11,000. additional \$11,000. was required over and above the \$6,500. that was voted in last year's estimates, and secondly, we had been led to believe that the Hansard of last year has been edited by the new editor of debates and is ready for publication.

There was an announcement last year by the hon. the Minister of Mines, that the editor of debates was going to work backward and forward at the same time picking up the next year following the last publication which was I think in the early fifties, and last year's and hopefully be able to publish two or three or four volumes per year. As of now we have seen no publication and what has happened to the '52 or '53 report I do not know. I am told that last year's has now been edited and is ready for publication.

MR. SMALLWOOD: It is edited but it is not ready for publication. It has to be edited all over again. It was a job that if I put it kindly I would describe as inadequate.

MR. CROSBIE: While we are discussing Hansard Mr. Chairman, the record that we are getting now of course as you look through it, you can see typographical errors and words misspelled and not the word that you said. While this session

is proceeding, of course you do not have time to go through your own speeches anyway and make any corrections. What is going to be done there before this become permanent form, is there any time to make corrections?

MR. SMALLWOOD: Certainly the Hansard will not be put into permanent form until each individual member of the House has been given ample opportunity to correct his own speeches as to grammar and spelling and punctuation and the like. If there is some error in reporting, if a member is reported as having something that he did not say he has the right to make the correction. The rules are pretty clear as to what corrections, what kind of degree or correcting a member may do. Until he has had opportunity for that the Hansard will not be put into permanent form.

Item (3), is Executive Council \$41,200., most of this went to Government House, in fact all of it went to Government House. There was \$30,000. spent to provide a new electrical service and a partial heating system, electric heating for Government House. Then there was \$11,200. spent on additional furnishings and ornamentation for Government House during the year.

The situation there Mr. Chairman is this, that all former Lieutenant Governors with the exception only of Sir Albert Walsh were I think admittedly men. The present Lieutenant Governor is not a wealthy man. The las three Lieutenant Governors before the present one being wealthy men, and having the opportunity to do so, the capacity to do so, proceeded to move a lot of furniture into Government House in paintings and ornamentations at their own expense because, they moved in their own furniture. When they left each of them took away the furniture and fittings that he had brought in. Then each of the three brought in additional and removed when he left. When the present Governor occupied Government House he did not find a bare building, but he found one that was uncomfortably close to being a bare building and so the Government spent this additional money to put Government House - \$11,000. worth of furniture and so on to make it look a bit presentable. The \$30,000. was spent as I say to provide a new electrical service and a partial electrical heating system for Government House.

I may say Mr. Chairman, and this is something that I never knew until the new Governor took over. He conducted me on a tour of Government House, and I

had often been through Government House before, but the present Governor took me on a more extended tour than I had ever had, and I discovered to my horror that two bedrooms on the top floor that had been occupied by maids, by domestic females were unheated, completely unheated, no kind of heat whatsoever in them. They must have had many and many a cold night. I may say too, that the beds on which they slept were an absolute scandal. Nothing short of a scandal. The new Governor was quite indignant about it and drew it to my attention and I came back to the Cabinet and the Cabinet authorized the spending of this amount, not a particular amount. We authorized the spending of a reasonable amount for furnishing and heating the building and that came to \$11,200. for furnishings and \$30,000. for heating.

MR. EARLE: Mr. Chairman, Government House expenditures are not normally ones that should I do not think be questioned, the expenditures comparatively small. I am just wondering, as a matter of public information, in the selecting of furniture and paintings and so on in Government House, was this done by his Honour himself or was it done by some group or how was this selected, was it at his own particular choice and taste or was it done by some other individuals on behalf of the Government, were they bought locally or in some other market? We could do with some further explanation as to how these particular furnishings were acquired.

MR. SMALLWOOD: This is entirely a personal matter of His Honour, the Lieutenant-Governor and I dare say, I do not know, I dare say between himself and Mrs. Harnum and maybe members of the family, maybe relatives or maybe personal friends, between them I dare say they made the choices. I do not know, the Government know nothing about that. We authorize the Governor to proceed and he did and how he did it is his business.

MR. NOLAN: Mr. Chairman, what the hon. Premier in this regard I have some knowledge of and I do know that Mrs. Harnum, in fact, did select some of the, not all, of the items involved. There is one thing about this I must say that, I am speaking personally, that seems to disturb me and that is that if Government House is to continue and this residence is to continue and whether the man who holds this office is rich or poor to me should not be a matter to be discussed in this House frankly. I think sometime, somewhere we should take it upon ourselves to really do a job on Government House, I am not suggesting this year now I do not want someone jumping up and say we are going to spend more money, but I do think I would very much as a Newfoundlander like to see some real thought given to Government House so that the proper furniture, the proper paintings and whatever done by someone who is expert in that field, properly inventoried and so on so it is a permanent parts of the Government House residence and frankly I hope that I will never again see this discussed in the House whether a man is rich or poor.

MR. EARLE: Mr. Chairman, I thank the Minister for the explanation, this is what I was trying to get at. It was with deference to the establishments which we all honour and respect but I think it is deplorable that any future Governors



MR. EARLE:

would have to go through the same exercise and certainly the items that are purchased for that place, the standard of them, the quality of them and the decor and everything else should be very carefully looked into. Maybe not every Governor will have the same taste but at least it should be on a standard that everybody going there, the Governor himself who occupies it and those who visit there with respect.

MR. SMALLWOOD: And, of course, furniture does wear out.

MR. HICKMAN: Mr. Chairman, I would like to direct the Government's attention to another feature of Government House that I believe is worthy of consideration. Representation, I believe, has been made from time to time by the Veteran's Organization that the guard duty at the Government House which has been carried on for a hundred years or more, I guess, by the Newfoundland Constabulary could be carried on by the Corp of Commissioners. This would serve a twofold purpose, it would relieve three members of the Newfoundland Constabulary for police duty and secondly it would provide employment for these veterans of World War 11 in particular who are eminently suited to do this work and I would draw that to the attention of the committee. I believe the hon. Minister of Justice would concur that this is a very desirable thing. From notes that I have seen from meetings at the Canadian Legion and that sort of thing, Colonel O'Driscoll, I think, has raised it in this House long before I was a member, when he was a member for Bell Island and I do believe that that has some merit.

MR. SMALLWOOD: Grants, \$358,600. Provision for the payment of insurance premiums on the Grace Hospital extension and the Grace Hospital Nurse's Residence and the boiler house there was not sufficiently voted by the House, it fell short by \$6,600. and we spent that. That is the payment of insurance premiums on the Grace Hospital extension, Grace Hospital Nurse's Residence and the new boiler house and then additional funds of \$60,000. were required to pay bills presented by the Royal Commissions on food and drug prices and on family law study and on cost of home construction and on labour legislation. These four Royal Commissions presented bills for additional amounts of \$60,000.

Then there was an amount of \$180,000. needed more than was voted to replenish the air passenger subsidy boat to Labrador that is, to and from

MR. SMALLWOOD:

Labrador. This over amount needed was caused in part by the strike in Labrador City and Wabush, this strike resulting in a considerable increase in the amount of air travel to Newfoundland from Labrador, that is to say when the strike was on there was a much larger number of persons travelling back to Newfoundland during the period of the strike and of course the Government had to pay the subsidy on their fares. That accounted for \$180,000.

Then there was \$10,000. used to meet the payroll requirements and other accounts payable at Brigus Knitting Mills before we decided to close the plant and then the creation of the Newfoundland and Labrador Computer Services Corporation required additional funds of \$102,000., additional amount of \$102,000. to enable us properly to establish the operation of the corporation. Some of the additional requirements were for power, messenger services, administrative services and pension contributions in this corporation. These additional costs were previously provided by the Government on behalf of the computer facilities in the Department of Finance but as the committee knows the Governments computer system in the Department of Finance and the Universities computer system at the University had been merged into one under the title of this new corporation and where previously we voted it in that way we now vote it to the corporation.

Then in addition to all that the whole computer system was expanded to meet the growing demands for its services and incidently, Mr. Speaker, I do not know how many hon. members have been down to see the computer services of the Computer Corporation. It is one of the most fascinating activities in this Province today. It is a tremendous sight, it is a tremendous fact and I think the number of persons down there working there is, the number is up something I think between one hundred and two hundred, perhaps closer to one hundred than to two but it is a large number and the latest news I hear is that the Salt Cod Fish Corporation, The Canadian Salt Fish Corporation are going to use the computer services of the Computer Corporation. Hon. members who have not visited the premises of the Computer Corporation ought certainly to do, while the House is open or after.. That explains the \$358,600.

MR. HICKMAN: That is the heading under data processing in the estimates, is it?

MR. SMALLWOOD: Yes.

MR. CROSBIE: Mr. Chairman, these votes that the Premier has been indicating, the extra votes there now, the Premier says that \$60,000. extra was required to pay bills for the Royal Commissions, food and drugs, home construction, labour which is still continuing and for the family law studies of Dr. Gushue. \$60,000. extra is required on those accounts. Now the Labour Commission, of course, has not finished its work yet but the family law is finished or pretty near finished as far as I know. The report of over a year ago on the cost of home construction and what might be done about it and the food and drugs commission that was chaired by Major Adams submitted its report I guess two years ago, yes, over two years ago and we have seen very little action taken in connection with those Royal Commissions all of which cost us an extra \$60,000. now in the supplementary estimates for last year. As a matter of fact there is the Division of Consumer Affairs that was provided for in the Department of Provincial Affairs last year has not been activated as yet.

Now, Mr. Chairman, it is very obvious that most of these commissions are a waste of time unless there is immediate action taken to implement some or all of their recommendations but in these instances here there is nothing being done in family law, nothing obvious anyway, on that commission or the food and drug commission and I do not think that legitimately the Government can say that this was unexpected expenditure that could not be foreseen. It was not an unforeseen contingency that there were these Royal Commissions who had to have their bills paid, it could not be unforeseen that insurance premiums would have to be paid for the Grace Hospital Extension Corporation. Now the air passenger subsidy vote if that extra \$180,000. was caused by the strike, yes it would come within the meaning of an unforeseen contingency because nobody could foresee there would be this strike in Labrador costing a lot more travel between Labrador and the Island. That would be a legitimate use of supplementary estimates, you could not foresee it but most of these other items are not. Computer services, well, I imagine this whole thing was changed during the year and it cost extra money, that could be unforeseen.

I do not know if the hon. the Premier knows, I think this Computer Services Corporation is down in the Elizabeth Towers building, it would be interesting to know how many square feet of space they are occupying down there and what rent

MR. CROSBIE:

they are paying Elizabeth Towers Limited for the space? I do not know if the Premier has that figure.

MR. SMALLWOOD: Yes, it has been tabled earlier in this session.

MR. CROSBIE: No it has never been tabled. There was a question asking what Government agencies are renting space in Elizabeth Towers and how much space and at what rate per square foot but that has not been answered yet. There was a question answered saying that Government agencies were renting space there and the rates were varying from \$3.00 to \$6.00 a square foot but a more detailed question has not been answered yet. So of this \$102,000. some of that is for rent that was paid Elizabeth Towers last year, it would be interesting to know how much.

In connection with Computer Services I understand that the manager of that corporation, of the Governments Computing Services activities has resigned and has left the Province, Mr. Gordon Scott, some three or four weeks ago or longer. Could the Premier tell us whether he has been replaced or who is now managing this Computer Services Department of Government activities? So some of these expenditures are unforeseen. The other thing is the Brigus Knitting Mills, Mr. Chairman, \$10,000. of this amount was used in connection with Brigus Knitting Mills. Well, what is the situation with respect to Brigus Knitting Mills now? Apparently it is not functioning and nobody currently has taken it over. If this \$10,000. was used to wind up any activity out there, what is the position of Brigus Knitting Mills now today?

MR. SMALLWOOD: I am afraid I do not know the answer to the first of these two questions as to who is now the general manager or president or whatever the title is of the Computer Corporation, I just do not know. I did not even know that the man who was president had resigned and left the Province and must say I could not possibly be very much less interested in anything than I am in the name of the personell down there. I know it is a fascinating activity, I think it is highly efficient and if the president is left and gone they will undoubtedly find somebody else. The corporation has very able people, able directors and I am quite content to leave it to them.

With regard to Brigus Knitting Mills we are now presently in negotiation with a large company to take it over, the company is Italian, at least the



MR. SMALLWOOD:

parent company of the company is Italian in Italy but the company that we are negotiating with is in Canada. It is an important Canadian company who are owned by Italian parent company in Italy and they are excellent in this field and we are hoping that they will take it over and not only carry on but greatly rejuvenate it. We are hopeful but we are not sure.

MR. BURGESS: Mr. Chairman, I would just like to make a few comments on this vote in Finance and the amount of money involved and it is based mainly on the statements of the hon. the Premier as to sums of money, I am dealing strictly with the amount of money that is needed to defray the costs of paying for these Royal Commission reports. Now the hon. member for St. John's West put it very succinctly as to why are we paying this money for these Royal Commission reports if in fact no action is being taken on the basis of these reports after they are submitted to the House.

Now the hon. the Premier mentioned that certain sum of this money was going to pay for this Royal Commission on food and drugs. As far as I am concerned this amount of money for this is money thrown down the drain because as this House and every member in it is very well aware this Royal Commission on food and drugs established certain facts that exist in the Province relative to the cost of food and drugs in this Province and I have not heard one comment as to any action being taken on the part of this Government to rectify what was established to be an obviously exorbitant cost to the consumer relative to food and drugs. Now in this Royal Commission on food and drugs it was established that the people in Labrador essentially on the whole were paying on an average, on an average, Mr. Chairman, of fifteen per-cent higher for their food and their drugs than were the people in St. John's and it is already a well-known fact that the people in St. John's are well above, somewhere in the region of fifteen per-cent also to Central Canada, to Ottawa or Toronto. Now that means that in Labrador we are in the range of thirty per-cent higher and this report submitted and no action been taken on the basis of this report I feel that it is money that is thrown down the drain and it should be excluded from this



MR. BURGESS: And then the other reference to the sum of \$180,000 that was needed Air Fare subsidy to Labrador, and I asked the question Mr. Chairman, why do we need this subsidy at all? Now the very reason that that subsidy of approximately twenty-five percent is needed, is that the air charge per mile of travel into Labrador is completely unreasonable, compared to air miles charged by Air Canada in the rest of Canada. Now why do we have to appropriate monies to instituted subsidies to the people of Labrador when all that would be necessary would be for this Government or to the Federal Government, or to make sound representation to the Federal Government to ensure that we get the same rate as anybody else in Canada does. And then we would not need to look for this kind of money to subsidize the people who are required to travel outside of Labrador. And now we are told today in a ministerial statement on this issue also, that it is going to be reduced further. That business men and armed forces Government, people in Government, business organizations or groups of any kind, are not to get this subsidy in future. Now this money as far as I am concerned is a waste of time to appropriate it, because it should be this Government's job and the Federal Government's job to ensure that the people of Labrador are not discriminated against as it applies to air travel. And I think this money is a waste of time.

MR. EARLE: Just a few comments on these expenditures. I was fairly familiar with some of them. The \$180,000 Air Passenger Subsidy was certainly not entirely due to the fact that there was a strike. But the fact of the matter was, in this particular case that this whole program was conceived rather hastily. I think it was thought to be a very popular move, and the authority was split between the Department of Labrador Affairs and the Department of Finance, which resulted in a very haphazard inefficient way of checking on the thing. I know my officials were driven completely crazy as to how to actually see if they were doing the right thing, and whether their figures were accurate. And they felt that the amount was much underestimated at the beginning of

last year, and this proved to be the case, there had to be \$180,000 additional provided. But I think that this was mainly due to the fact that the program was instigated hastily. It was divided between two departments, and there was no accurate check, and I am very pleased to know that this afternoon the hon. minister of Labrador Affairs has now been given authority to plug some of the holes in this, because this is really what should have been done from the start, and he is now cutting down the point that people who should not get these services free will not get them in future. On the computer service, this was installed during my term of office, and there is no question about it being an excellent acquisition of the Government, the fact that the University, Medicare and the Department of Finance go together on this. I think the proof of that lies in the fact that when Medicare came in and was instituted in a comparatively short time, that this complete service was functioning efficiently to the point that very, very errors were made. And Medicare has worked smoothly. The payment of bills, the tabulation of all the necessary data and so on has gone very smoothly. It is a great credit to the people in the Department of Finance who set this up. My only question is, and it was a question that I asked at the time - this is its located in the basement of Elizabeth Towers, and while we are invited to go over there and see it. I was there when it was opened. I was there at the official opening of thing and held the first directors' meeting in the basement of Elizabeth Towers. And in my candid opinion, rabbit warren. I wish members would go over to see it, because it is in a basement to begin with, has all artificial lighting. There are all kinds of passages and by-ways and offices all over the place, and while the staff there seem to feel that it will do the service, I question very much that for many years, if this thing grows, that that will be a suitable location. I anticipate that some time in the future, we will have to go to very heavy expense to move that somewhere else. And in the case when it was located on a much smaller scale in the Department

of Finance, there was already an unreasonable and quite expensive expense for air conditioning. These are very sensitive machines. They are subject to great need of control of variation of temperatures and so on, and this is doubly difficult to do in the basement of a building. Now I hope that the move that has been made over there will not result in a great deal of additional expense for the Government at some future time, because I question very much if that location is ideal.

MR. CROSBIE: Mr. Chairman, in connection with a computer service, the Premier has told us that the amount of supplementary supply is \$102,000 for computer services, and I note that in this year's estimates, which show the revised estimates for 1969-70, that the Computer Services Corporation - the total amount revised for last year is \$102,000. In other words when the Estimates came before this House at the last Session, there was no money voted in the Estimates at all for a computer services co-operation. Now, how or why that should be, I cannot understand it. I mean the Government obviously knew that there were going to be computer services and it was going to cost money, yet there was no provision made in the Estimates last year for that purpose. Now if that kind of loose estimating is permitted, and it has been permitted by the Government for a number of years, you cannot trust the Estimates that come before the House - the Estimates that are before the House this year may be widely inaccurate, and next year there will be a supplementary Bill for another twenty-five or thirty million dollars. If the Government is not including in the Estimates expenditures they know must be made, and in this vote here the Government knew that Royal Commissions had to be paid for last year, insurance premiums that the Air Subsidy was too low, and computer services had nothing in the Estimates for it. And this is the kind of thing that should be avoided so that the House knows we are getting real estimates of what the expenditure for this year is going to be, and not with things left out so that the Budget may look more balanced this year, and then afterwards turns out to be.

MR. SMALLWOOD: Mr. Chairman, there are two things you can do when you are making up the Budget for twelve months ahead. And you have to provide for money that you will spend eleven months from now and twelve months from now, and 360 days from now, when you are making up that kind of Budget. You can put down what you know for a certainty you are going to have to spend. And what you do not know for certainty, you can put in an estimate, a rough estimate, a guess, not much better than a guess, or just leave it out, and bring it in in Supplementary Supply. Now with regard to the computer services, I do not know whether when the Estimates were made up of last year which would have been in the Fall of the year before last. I do not know. I do not remember whether at that time we knew that the computer corporation was to be formed and expenditure thereby incurred. I do not know. I do not remember. I would think we did not know. And if we did not know, then there would be nothing in last year's Estimates to cover, because we did not know that there would be anything to cover. That there would be any need of money, so we did not put it in. But that is not too serious, because any man who thinks that you can estimate our expenditure this year will be between \$300 million and \$400 million - it will be closer to \$400 million than to \$300 million. And that is tens of thousands of separate individual items. Tens of thousands, and anyone who thinks that we are so smart in this Government, or that the Civil Servants are so smart, or that the experts in the Finance Department are so smart, or that the members of the Treasury Board are so smart, that they can sit down and for 365 days in advance, more than that, because when they are making up the Estimates the year began April 1. But these Estimates were made up in the Fall of the previous year, and that you can therefore estimate 400 days ahead what you are going to spend, and estimate it pretty precisely. It is just silly. Nobody on earth does it. That is why in every house in every one of the ten Provinces, and at Ottawa, and at Westminster in London, and in all Parliaments, that is why Supplementary Supply has to be brought in. It has to be brought in when the year is over to get legislative

authority to spend what you did not get legislative authority a year or fourteen or fifteen earlier. You take this year's estimates that we will be debating in this House, not last years but this years that we have not looked at yet. You take those Estimates. They were prepared in the months of October and November last. And the year begins April 1, and in the Fall of last year and up as late as January this year, about the middle of January, the Treasury Board were wrestling with the Estimates for the year that began on April 1, 1970, and ends March 31, 1971 - and they are doing that back last Fall. Now that is every year, it is the same thing every year, and it is just silly for anyone to pretend that you can foretell exactly or fairly exactly what your expenditures are going to be for the next 365 days and do it for ninety days before the 365 days even begins. To begin with you do not know what emergency will crop up. You do not know what repairs you have to do. You do not know what crisis will arise. You make an estimate of what a certain thing will cost you and you put it down in your Estimates, and it turns out it costs you twice as much, or half as much again, or quarter as much again, or ten percent more. Other items cost you a lot less than you figured and it is what you save on the swings that you make up on the round abouts. That is why it is that tonight we are asking the House to authorize the spending of \$21 million when in fact, we only spent \$7 million more than we budgeted for. \$7 million. That is \$14 million over authority, but over spending. Well that is not too bad. \$14 million on \$350 million, when you are estimating a year ahead. For a year ahead, a year that is going to begin ninety days from now say. You are sitting down now to estimate a year, and that year begins ninety days from now, and it goes on for 365 days. Why the average individual cannot budget for his own personal affairs that closely. I do not know that I have anything to add. I think I have covered these points.

MR. HICKMAN: There are a couple of things. First on this computer. I asked a question earlier, whether date of <sup>processing</sup> in last years estimates and computer services were one and the same thing, because we did vote



\$438,000 last year for date of processing. I note that in this year's Estimates there is no vote for date of processing, but a vote for computer services \$304,300. Maybe the hon. the hon. the Premier can explain to the House whether the amount that is now being asked for the computer service of \$102,000 is to be added to the \$438,000. I suspect it is. My understanding is Mr. Chairman, that the computer services now being operated by Crown Corporation and whilst it may not be a money-making organization, yet Medicare and the University, and presumably the Salt Cod Fish Corporation, will have to pay for the time used in the computer system. Mr. Chairman, the thing that concerns me is the fact that we have now been called upon to vote \$60,000 for the payment of costs of certain Royal Commissions, and some of these Royal Commissions completed their studies a great many months ago. One that I was very interested in, and one that met the approval of this House I think was the study undertaken three years <sup>ago</sup> in Family Law by Dr. Raymond Gushue. He completed his study in various stages and hon. members will recall during the last Session of the House and the Session before, some of his reports were tabled in the House, and the hon. the member for St. John's West says I should give him credit for it. He is a great reformer, becoming more liberal every day, he tells me. The Family Law recommended in Volume 11 that legislation be enacted to provide for marriage counselling. This hon. will recall came hand in glove with the first recommendation, and that was that divorce jurisdiction be conferred on our courts. And the Federal Act provides and indeed imposes on a Newfoundland judge sitting in divorce an obligation to first send petitioners if the judge feels there is any hope for reconciliation to a marriage counsellor. But unfortunately in this Province, we do not have any marriage counsellors. This project too Volume 11 of the Gushue Report, makes a very sophisticated and very novel recommendation, so much so that the Report attracted the interest of many organizations outside Newfoundland, particularly the Vanier institute, and again the Government of Canada. And I believe

Mr. Chairman, that if the Report on marriage counselling was implemented, and the necessary legislation passed by this House, that Ottawa who impose the obligation on the Provinces to provide this, could be persuaded to make certain financial contributions. In fact this is not supposition on my part at all. It would be most ironic if we find that a new idea, a new law reform that originated in the Province of Newfoundland before any other Province, is implemented by legislation enacted by other Provincial legislatures before we do so. Now the hon. the Minister of Justice disappeared from the House, but I have been urging him since the House opened to implement the Family Law project to study. I told him that there is no work involved. I have assured him that all he has to do is take the Bill. It is all drafted and give it to the printer and we can have it before the House during this Session. It is a very forward piece of legislation, and it is one Study that I think we can get our money's worth from if we were prepared to implement it now. I cannot see anything partisan about it. I cannot see any hon. member of this House who would be at all opposed to it. And more than that, we are then living up to our obligations as we assumed when we unanimously passed a Resolution in this House three years ago, calling on the Lieutenant-Governor-in-Council to ask the Governor General in Council to transfer jurisdiction, or confer jurisdiction on our courts. The Speech from the Throne Mr. Chairman, indicated a new marriage Act, a new solemnization of marriage Act would be introduced in this Session of the Legislature. And that is nearly, at least two months ago, since the Speech from the Throne was delivered, and as of now no notice has been given of this Bill. Again I can assure this House the Bill has been drafted. It was legislation or very carefully drafted. The Report was very carefully prepared, and it was prepared in consultation with groups and organizations who would at all had any views on it, and is one, both that one, the Marriage Act and Project 11 on Family reconciliation and Marriage Counselling, evoked a great deal of public support from the

various religious denominations in Newfoundland, and I know particularly in respect to project 11 that this time last year, they were urging that this be implemented. The cost of that Report and the cost of housing deals primarily with matters that come under the jurisdiction of the Hon. the Minister of Community and Social Development, and he has indicated that legislation on condominium housing will be brought before this House, and that was recommended. There is another recommendation in that Report that I believe is worthy of self-consideration and implementation at this time, and again it is not really a cost item. The Report found that the Registry of Deeds, Companies and Securities was becoming rather cumbersome all under the one head or the one branch, and the recommendation as I recall it was, that as in other Provinces there should be a registrar of securities and companies and a registrar of deeds who would also assume responsibility for the registration of conditional sales which has temporarily, but temporarily has now gone into six or seven years, and taken over by the Department of Provincial Affairs. This would involve some legislation. We have a very competent over-worked and under-paid registrar of securities, deeds and companies. In most Provinces, you have a registrar of securities, a registrar of deeds, and a registrar of companies, all separate and apart. This was not envisaged in the cost of that Report, but two branches of that department were recommended. Securities is becoming a far more difficult, and I think a far more dangerous and onerous job from the point of view of administration. Every year we find more and more fly-by-nights attempting to get into this Province and promote the sale of shares in stocks and bonds cannot stand careful scrutiny. We have imposed on one man technically - it is imposed on the Minister of Justice, but we have asked one man and he has done a pretty fair job of scrutinizing and trying to protect the public. But as this type of work increases and the job becomes more difficult and more onerous, I think the time for the implementation of the cost of that Report in respect of the Registry of Deeds and Securities is now. Mr. Chairman, in this year's Estimates I see no vote for Royal Commissions.

MR. CROSBIE: Yes there is. It is \$40,000. \$150,000 last year.

MR. HICKMAN: Well that \$40,000 will have to recover the expenses of the Labour Commission that is still going on with no indication as to when it is going to be completed. The Royal Commission

Commission on radiation in the mines at St. Lawrence and compensation to victims of lung cancer, completed their work and their final report was made public sometime in September. There have been no - there is a question on the Order Paper, concerning the cost of that commission, which is not been answered and there is nothing in the Supplementary Supply Bill or nothing has been indicated to cover that cost. Government probably does not know what the cost is yet, but obviously, it has to be taken into account in this year's budgeting.

My big concern with that Royal Commission on St. Lawrence is that we have now waited since September for the implementation of that report. Some of the recommendations in the Royal Commission Report on St. Lawrence are very technical, but the main recommendations that..

MR. SMALLWOOD:    Mr. Chairman, point of order. We were supposed to debate, pretty thoroughly, what is in Supplementary Supply, but surely not what is not in it and surely we are not supposed to debate what is in the Estimates or what will or will not be in the main Estimates for this year. We are supposed to debate what is in the Supplementary Supply.

MR. HICKMAN:    Mr. Chairman..

MR. SMALLWOOD:    Not what is not in it.

MR. HICKMAN:    Mr. Chairman, on that point of order. In the sum of \$60,000 Royal Commission, some of it has been itemized, food and drugs, family law, cost of housing, the on-going study in Labour relations. There is nothing to say that that some expenses, surely some expenses for the Royal Commission on St. Lawrence must be in there..

MR. SMALLWOOD:    No, none in Supplementary Supply. None.

MR. HICKMAN:    There must be postage or telegrams that were paid for...

MR. SMALLWOOD:    Not a dollar in Supplementary Supply for that.

MR. HICKMAN:    I say subject to your ruling, Mr. Chairman, that when you are talking about Royal Commissions, under the heading Royal Commissions, you can talk about any Royal Commission past or present.



MR. SMALLWOOD: No, Mr. Chairman, you can talk about what is in Supplementary Supply that is all.

MR. CROSBIE: Mr. Chairman, on that point of order. I submit that in Supplementary Supply, when an item comes before this committee on Supplementary Supply, we are now on "iv- Finance" that we can discuss any item at all that is in the Estimates for the Department of Finance last year. The Government is not asking us to vote the \$358,600 divided into a whole lot of items on Finance. The Premier has given an explanation of what he says is included in that figure, but it is quite clear, in my submission that we can discuss under Finance, any item in the Estimates last year that is for the Department of Finance and one of these items are Royal Commission and, therefore, the hon. member for Burin is entitled to discuss any matter at all that is in the Estimates for the Department of Finance for last year.

MR. SMALLWOOD: Mr. Chairman, I submit to your Honour, if you will look at Head IV..

MR. CROSBIE: Finance.

MR. SMALLWOOD: Head IV - Finance, \$358,600 is what we can debate. Not last year's Estimates, only this amount - this is the amount the Government are asking the House to authorize - \$358,600, and I say that anything else is completely irrelevant and is out of order.

MR. CROSBIE: Mr. Chairman, the hon. the Premier is rising on a point of order. Does the hon. Premier intend to cite some authority. He is not accepted himself, in this House, as an authority. When he refers to Beauchesne or the Standing Orders or some other learned Parliamentary authority to support his assertions, while he is attempting to cut down on what we can debate, where is his authority? He gives no authority, Mr. Chairman. I submit that we are quite in order to discuss what is being discussed.

MR. MURPHY:    Mr. Chairman, I believe myself that the hon. member is in order. We are talking about Royal Commissions, and I believe that when he is discussing Royal Commissions, he can discuss any Royal Commission that was set up and for which was needed this amount of \$60,000 to pay for them. We were never told what any Royal Commission was going to cost. It is only a guesstimate, when they set them out. I believe myself that the hon. member is entirely in order to discuss Royal Commissions, because this is what we are discussing at this time.

MR. SMALLWOOD:    Mr. Chairman, the Royal Commissions that may be discussed are those that are included in the \$358,600. There may be ten other Royal Commissions. There have been, at least, twenty other Royal Commissions. Why not just - if the words "Royal Commission" two words, if these are mentioned, does this mean that it is then in order to discuss any Royal Commission that ever was or only those that are involved in the \$358,000?

MR. CHAIRMAN:    Hon. members will confine their remarks to the Royal Commissions that were mentioned - that money is involved here.

MR. HICKMAN:    Mr. Chairman, there are none mentioned. No Royal Commission is mentioned. I am obliged to appeal your Honour's decision.

MR. CROSBIE:    If your Honour is ruling that we can only discuss what the Premier says we can discuss, when he gives a breakdown of these alleged amounts, then we must appeal to the Speaker to decide the matter.

MR. HICKMAN:    Appeal now. There is no point of order here.

MR. HODDER:    Mr. Speaker, during your absence we were debating Item (4) on the Supplementary Supply and certain parties disagreed with my ruling which stated that they were not allowed to discuss commissions for which no money was allocated in this grant.

MR. CROSBIE:    May we speak to this appeal and this is an appeal, I understand, to the House, not to the Speaker.

MR. SPEAKER:    We have heard the statement given by the Deputy Chairman of Committees and if there is any disagreement with regard to what the ruling is, the House should be made aware of it, but if the facts are, as stated by the Deputy Chairman of Committees, well there is nothing further that we can do except put the motion that the ruling be sustained. We cannot have a debate on this issue. It was here in the committee that the Deputy Chairman of Committees made his ruling, and I can only put the motion that the ruling of the Deputy Chairman of Committees be sustained without any debate or comment from me or from anybody else.

MR. CROSBIE:    I am not clear on what the point of order is. Has the Chairman reported to you, the point of order in writing as required on page (32) of our Standing Orders. Standing Orders say that: "An appeal may be made to the House, however, but the Chairman shall report the point of order in writing and the Speaker shall put the question, that the Chairman's ruling be maintained. Could we hear what the point of order is in writing?"

MR. SPEAKER:    This is what I have already stated. If there is any difference of opinion, as to what the point of order is, obviously the House would like to hear it. The Deputy Chairman of Committees has read to me his statement so I presume he has it in writing and if he would be good enough to pass it to me, I will put it to the House.

MR. CROSBIE:    Has your Honour now received the point of order in writing from the Chairman of Committees, because I am not clear..

MR. SPEAKER:    I have not been passed a printed piece of paper, but he has read to me his statement. If he wishes to read it again, I can have it read for the House. Would the hon. Deputy Chairman of Committees please state the disagreement on this point of order?

MR. HODDER:    Disagreement, Mr. Speaker, arose over the fact that we were discussing Item IV of Finance and the items mentioned were commissions - Royal Commissions, cost and expenses of Royal Commissions and certain members were reverting back to commdsions for which no money was allocated in

this vote, and I advised that they were out of order to be doing this. We were discussing money that had been spent and not on specific items and ones they were mentioning were not included.

MR. SPEAKER: As I understand then that the point of order that was raised, it was on a matter of relevancy, and there were matters being discussed which were outside the ambit of what should be discussed under this particular item. That it, as I understand it.

MR. MURPHY: Mr. Speaker, I would like to get it straight. In the budget it was \$90,000 last year for commissions, and we spent an additional \$60,000 for Royal Commissions. The Premier gets up and states three or four names, but are we positive that some of these were not spent on commissions such as mentioned by... ?

MR. SPEAKER: Well now this is debating the issue and not the point of order. The ruling was that this was outside the ambit of what should be discussed in committee and ..

MR. HICKMAN: Point of order. If we have a rule, and the rule sets forth the procedure that has to be followed, surely it is not in the discretion of this House to deviate from it. The rules state quite clearly, not that the Chairman of Debates shall get up and give his impression as to what the point of order is, but that he shall submit to your Honour, in writing, the point of order and when that is done, then the motion is simply put that the Chairman's ruling be maintained and no discussion is allowed. Now that has not been done.

MR. SPEAKER: That is quite correct and I would prefer to have the point of order on which we are supposed to vote, as to whether it be that his ruling be sustained or not - I would prefer to have it in writing so that the House could find it clear as to what they are voting on.

Would it be the wish of the House that we recess for five minutes, while the Deputy Chairman puts his - agreed. This House stands recessed.

MR SPEAKER: A report has now been handed to me. It reads as follows: "In Committee of Supply, under Heading IV, of Schedule, Bill No.57, the subject of additional expenditure for certain Royal Commissions was being discussed. Certain members wished to discuss Royal Commissions for which no monies were allocated under the said heading. I ruled that such discussion was out of order. My ruling was challenged." The question before the House now is that the Deputy Chairman's ruling be sustained. Those in favour of the motion please say "Aye, contrary "Nay". In my opinion the "AYES" have it.

MR. CROSBIE: Divide, divide.

MR. SPEAKER: Call in the members.

MR, SMALLWOOD: While we are waiting for the members to come in, I am very happy to announce that a great Liberal Sweep in Prince Edward Island.

MR. SPEAKER: Order, Please. Those in favour of the motion, please stand. The Hon. the Premier, The Hon. the President of the Council, The Hon. Mr. Lewis, the Hon. the Minister of Highways, the Hon. the Minister of Municipal Affairs, Mr. Smallwood, the Hon. the Minister of Labrador Affairs, Mr. Strickland, the Hon. the Minister of Education, the Hon. the Minister of Public Works, the Hon. the Minister of Mines, Agriculture and Resources, the Hon. the Minister of Provincial Affairs, the Hon. the Minister of Public Welfare, Mr. Barbour, the Hon. Mr. Hill, the Hon. the Minister of Supply, Mr. Saunders, Mr. Wornell, Those against the motion, please stand: the Hon. the Leader of the Opposition, Mr. Earle, Mr. Crosbie, Mr. Abbott, Mr. Myrden, Mr. Burgess.

MR SPEAKER: I declare the motion carried:

Committee of the Whole:

MR MURPHY: Mr. Chairman, are we still debating Item IV?

I would like, Mr. Chairman, on behalf of the Committee, to have a breakdown of that \$60 thousand, the amounts that were needed for the different royal commissions that the Premier mentioned. I think it would be of some interest for us to know what the Food and Drug Commission cost extra, etc. It was surprising too that \$180 thousand for Air Subsidy was exactly the amount by which we budget last year. From \$300 thousand down to \$120 thousand. I think someone had mentioned that some of these estimates



were made to make the budget look good. So that this \$180 thousand brings the estimate of the year before up even with the \$300 thousand. We only budget for \$120 thousand last year.

There is another question I would like to ask with reference to the Brigus Knitting Mills. There was an auction held four or five weeks ago, down at Torbay Airport, of surplus stocks that were left from over there. I was wondering to whom the proceeds went and who ran the auction?

MR SMALLWOOD: The proceeds were to go to the Governemnt but I do not know who held the auction.

MR MURPHY: Does the hon. minister have a breakdown?

MR SMALLWOOD: No, I do not have a breakdown.

MR. CROSBIE: Mr. Chairman, before we leave this item I would like to refer again to Beauchesne. "Supplementary Estimates, when treated as customary and as a matter of course, instead of being restricted to occasion of unforeseen contingencies do more to destroy affectual parliamentary control than any other indirect method that could be devised..."

Now, MR. Chairman, that is what is happening here. These supplementary estimates are not being restricted to the occasion of unforeseen contingencies, they are being treated as a customary thing, as a matter of course. Now this Item IV here, Department of Finance for last year, \$358, 600. We are told by the Premier there is an item of \$60 thousand, which he says was spent in connection with four royal commissions. But the House is not given a breakdown of what of that \$60 thousand went to each royal commission. In other words; last year, Mr. Chairman, when the estimates went through this House, that amount of \$60 thousand was left out of the vote for royal commissions.

Now during last year, according to this Supplementary Supply Bill, in excess of \$21 million was spent by the Government, without this House having the opportunity to see how it was going to be spent, in any detail whatsoever. It does not matter what cash this amounts to. The fact is that the Government spent \$21 million on items which this House did not approve last year in any detail.

Now the House has been asked tonight to vote it, and it is not getting any details on how the \$21 million was spent. We are told that \$60 thousand was for those four royal commissions but we are not told how much of that went to Family Law, how much went to the Causask Home Construction Commission and we were not told how much of it went to the Labour Commission, which is now with Professor Cohen and we are not told how much of it went to the Food and Drug Commission. Nor are we told, for example, when this Labour Commission is going to cease activities. Nor is it explained nor will it be explained when we get the estimates for this year why only \$40 thousand is placed in this year's estimates for royal commissions, when there is the Phelan Royal Commission that has not reported yet, there is the Frazer Royal Commission on the City of St John's, which has not reported yet and the Aylward Royal Commission, at St Lawrence, which has reported but no money has been paid to it, as far as we know, yet. And there are other royal commissions still underway - and there is just \$40 thousand allowed in the estimates for commissions.

So, Mr. Chairman, what this means is that we are going to get precious little detail on this \$21 million and on how it was spent last year. Our questions are now going to be ignored. The Government is now asking this House to vote supplementary supply, yet when the Leader of the Opposition asked how that \$60 thousand was spent last year he was told that the hon. the Premier does not have the information.

Well, why does he not have the information? Surely there are officials in the Department of Finance that should be present in this House tonight. They are present here usually when the estimates go through the House. There are officials of the Department of Finance available, to give the Premier the information that we are asking for. They are here when the estimates come through. Why are those officials not here when supplementary supply goes through, to give the details of what we ask about?

This is \$21 million that has not been approved by this House before. When Public Works comes up and questions are asked about

Public Works, are we to be told that the minister does not have the information? I submit, Mr. Chairman, this item should stand over until the hon. the Premier can get hold of his officials and get the information. We are here on behalf of the people of Newfoundland, the taxpayers of Newfoundland, to find out why the Government spent this \$21 million that we did not appropriate last year, and which they are now asking us to appropriate, having spent it. And we would like to know and the hon. Leader of the Opposition would like to know how much of the \$60 thousand went to Family Law, to Housing, to Dr. Cohen and to Food and Drugs.

Your Honour has just made a ruling that we have to restrict ourselves to debating, discussing the item under these block votes. Well, if we are going to discuss these items, we must expect the Government Minister responsible to give us the exact details that make up these items, so that we may know at the start of each item just what we are permitted to discuss on that item. Now, Mr. Chairman, unless we can get more information I, for one, will have to vote against this Item IV.

MR SMALLWOOD: Mr. Chairman, the hon. member who just sat down tells us that the committee are being asked to vote this money, that the Government spent last year, without getting any details. The first item we passed was for \$11 thousand, and there was only one item of detail and I gave that. The second item was for \$41 thousand, and there were two items only that made up that, and I gave those and there was no other detail to give. I gave all there was.

The next item, which we are now debating, is \$358 thousand, and it is made up of five different items, and I have given the five. Now they are asking for a breakdown of one of the five, \$60 thousand additional funds to pay bills presented by the Royal Commission on Food and Drugs, Family Law and Costs of Home Construction and Labour Legislation; four royal commissions that presented bills for additional expenses, of \$60 thousand.

Now we spent it. The money has been spent. We paid the bills. And we are asking the House to authorize us to pay those bills which have in fact been paid. If the committee wants details, then put a question on the Order Paper and have that breakdown on it; and I will be glad to present it. But I have not got it tonight. We paid the bills. The bills are paid. The bills were presented to the Government by those four royal commissions and we paid it. We are asking the House to authorize us to pay what we already paid, and any further detail that is wanted I will be glad to present; but I have not got it tonight. Do we hold up the Province's business and the Government's business for that?

MR HICKMAN: Mr. Chairman, may I direct the Committee's attention to two facts. (1) There is a total amount of \$60 thousand plus. That is not the total amount spent during the last fiscal year on royal commissions.

MR SMALLWOOD: Mr. Chairman, I said "additional".

MR HICKMAN: The total amount is \$150 thousand plus \$60 thousand

MR SMALLWOOD: Right.

MR HICKMAN: And it was the Government that brought on this Bill this evening, without any notice, and not the Opposition. If the Government is not ready with the answers, if the Government has not had the time to prepare all the answers and bring the information before us, how can we be expected this evening, without any notice, without any precedent, without any indication at all that tonight we were going to discuss this Supplementary Supply Bill that comes before the House? Then the hon. the Premier stands in the House and says we are going to hold up the Government's business.

This Supplementary Supply Bill, presumably, could have been brought down the day the House opened, the day that this session started, but we get it tonight. And I point out to you once again, Mr. Chairman, that this is without precedent in the history of this session of the House, in the history of this House. Never before have we had a Bill for Supplementary Supply brought in and debated forthwith.

MR SMALLWOOD: Nonsense!

MR HICKMAN: And I say to you, Mr. Chairman, this will go down as Black Monday in the history of this House, beyond any doubt. Never before have the Government tried to ram this down the throats of hon. members. Then the hon. the Premier stands up and complains and says we are going to hold up the business of the House. Well, we are not going to let it be rammed down our throats.

MR CROSBIE: Mr. Chairman, I move that the Chairman leave the Chair without making any report.

MR. HODDER: Shall the motion carry? Those in favour please say, "Aye" contrary minded "nay". The motion is lost.

MR. CROSBIE: I move that the vote under Head of Expenditure 4, Finance be reduced by an amount of \$60,000.

MR. HODDER: Shall the motion carry? Those in favour please say, "Aye", contrary minded "nay". The motion is lost.

MR. HICKMAN: There is a vote, we are told included in the vote for \$358,000 is the sum of \$10,000 for Brigus Knitting Mills. Now last year there was a sum of \$10,000 voted on capital account. This House is entitled to an explanation as to whether the \$10,000 that is now being sought, the \$10,000 extra that has been spent this year was to meet the indebtedness by way of Government guarantee or was it to meet operating losses or was it to pay salaries of men and women who were working there earlier this year or what is it for. And more than that this House is entitled to know what the total financial lost to the Province of Newfoundland has been, to this date, on account of Brigus Knitting Mills, for the payment of payroll.

MR CHALKER: What payroll?

MR HICKMAN: Brigus Knitting Mills Payroll.

MR EARLE: Mr. Chairman, we were told when this debate opened that the \$21 million was not spent but approximately \$7 million was. This would indicate that under each one of these headings there was a saving on certain votes. I am wondering if the Premier can advise us, under Item IV, Department of Finance, what items and what amounts were saved on each vote?



MR SMALLWOOD: No, I am afraid I cannot. I do not know. And the saving, Mr. Speaker, was not on the items. The savings made were on thousands of other items. These are the items on which more money was spent than was authorized by the House. When the whole budget is taken, as I have already told the House, we spent last year \$7 million more than we budgeted for but on the other hand we took in \$8 million more than we budget to take in. So the actual, the nett over-spending was \$1 million less than budgeted for.

MR CROSBIE: MR. Chairman, this supplementary supply and these amounts were prepared by officials of the Department of Finance or by the Treasury Board. I would like to ask the Premier if the Government is prepared to have these officials here in the Chamber or somewhere so that we can get answers to the questions when we ask them? They must have all the details of how this money was spent and to whom it went and so on. They have all the details. Surely this House is entitled, Mr. Chairman, to get that detail if we ask for it.

MR SMALLWOOD: I am giving the details. I have given all the details so far.

MR CROSBIE: We do not think so.

MR CHAIRMAN: Item V:

MR SMALLWOOD: Mr. Chairman, Item V is Provincial Affairs, \$12 thousand. For the Museum Building the House did not authorize us last year to spend enough, so we spent \$3 thousand more than was voted for repairs and maintenance of the Museum Building

and then another \$9,000 more than was voted by the House was required to provide kitchen facilities and to make major repairs to the swimming pool and shower room equipment at the Torbay Physical Fitness Recreation Centre so nine and three make twelve thousand dollars. Now if a breakdown is wanted of the \$12,000 that we spent additional money of \$9,000 rather, to provide kitchen facilities and to make major repairs to the swimming pool and shower room equipment at the Torbay Physical Fitness Recreation Centre I have to say to the committee I have not got it. But if anyone wants it, ask for it and I will get it, but I cannot get it tonight. So that is \$12,000.

MR. CROSBIE: My question Mr. Speaker, was which museum is this amount of \$3,000 spent on, is this the old House of Assembly building on Military Road, known as the Colonial Building, or what is it

MR. SMALLWOOD: The Museum. The Museum.

MR. CROSBIE: I do not care if it is THE MUSEUM. I am asking the question which building is it, is it the Colonial Building on Military Road or is it the building at Hearts Content, or what museum?

MR. SMALLWOOD: The Museum

MR. CROSBIE: Where is THE MUSEUM?

MR. SMALLWOOD: Go find out. That is right, go find out. Where is THE Museum?

MR. CROSBIE: That is excellent. That is not arrogance at all, that is not? A Government that comes before this House and wants to whistle through \$21,000,000 Supplementary Supply tonight and will not answer any questions it is THE Museum. Well it might be THE MUSEUM to the hon. the Premier but to the people of this Province they would like to know which museum it is and what building this <sup>\$3,000</sup>~~\$300,000~~ was spent on. Arrogance. What a demonstration of arrogance. The majority having the power, that is what we see here tonight. A Government that thinks it can just bully this past us, well we are not about to be bullied. Now, Mr. Chairman, I asked the question again. If the Premier is too ignorant to answer it perhaps the hon. Minister of Provincial Affairs would answer the question. On what building was this \$3,000,000 spent, the museum building? Would the minister let me know?

MR. FRECKER: The question has been answered, Mr. Chairman.

MR. CROSBIE: The Museum, what building is that?

MR. MURPHY: Mr. Chairman, the museum that I am thinking of, and I will not disclose any secrets to the hon. member for St. John's West. Could we be informed as just how far we have gone with repairs on this building, is it just about complete or -

MR. SMALLWOOD: Well, an additional \$3,000 have to be spent for repairs and maintenance on it and I would think that every year as long as it lasts money will have to be spent on repairs and maintenance and keeping it in good condition. Every year, I do not think it will ever end. Like this building, like any building, maintenance, repairs go on endlessly. This \$3,000 is not for renovations, it is for repairs and maintenance. This \$3,000 that we are asking the committee for, was not for renovations.

MR. CROSBIE: Mr. Chairman, who are in the estimates of last year that I can see under Provincial Affairs any item headed. The museum, or in fact any item headed Museum. There is an item investigation, maintenance and preservation of historic sites and monuments, that vote can be used of course to maintain Russwood as an historic site after the next election, because it will not be an active site thereafter. But there is no vote in here under <sup>was</sup> the museum so where ~~want~~ the \$3,000 expended in the estimates last year, where is the item under which this amount was spent?

MR. SMALLWOOD: What is before the House Mr. Chairman is supplementary supply and the \$3,000 was spent on the museum.

MR. CROSBIE: Mr. Chairman, what is before this House is the attempt of a power mad Government to continue what it has been doing for the last four or five years if not longer, and to slam through \$21,000,000 worth of estimates that this House has not voted before. And we are now asking for where this \$3,000 was expended last year, under what head in the estimates was that \$3,000 spent? In 1964, just to look at past history, the Government wanted \$10,567,000 in Supplementary Supply, that was in 1964. In 1965, it was \$12,831,400 and in 1966 they wanted \$14,553,700. That was only warming up getting ready for 1967, when supplementary supply was \$53,609,300. That is some supplementary supply. In other words the estimates that come before this House are nothing but bluff. \$53,609,300. In the year 1968, Supplementary

Supply \$54,454,665, in 1968. And then this year \$21,000,000 and when a question is asked under what head of the estimates is the money spent the Premier says it is \$3,000 on a museum building and \$9,000 for kitchen facilities in a showroom at Torbay, when he is asked what item under the estimates he refuses to answer, what kind of bluff is that? Why is the Premier trying to get supplementary supply through this House if he will not answer these questions? And he will not permit his ministers to answer have not got the good manners to answer a simple question. And because the Premier is an ignoramus he forces everyone else to be the same. Now under what item in these estimates does this come, this \$3,000?

MR. SMALLWOOD: Head 5 Provincial Affairs. Subhead 531-09-03.

MR. HICKMAN: Mr. Chairman, the second part of this \$9,000 for kitchen facilities at Torbay, in this year's estimates there is no vote under Provincial Affairs for that but I notice there was an expenditure vote last year, which now have been transferred to the Department of Education. And under that vote of Physical Education and Youth there are two items, one is miscellaneous and recreational projects, for which this House voted \$128,000 last year, and there is another for the operation of provincial recreational centres which the House voted last year \$10,800 and we will be asked to vote a similar amount this year.

Now I would like the House to be advised under what heading was this may be the hon. Minister for Provincial Affairs under whose jurisdiction this came last year can give us the necessary information. The \$9,000 that was spent over and above that which has been voted, what heading does that come under, were tenders called for the improvements of the recreational facilities at Torbay, if tenders were called, was the lowest tender awarded and what was the amount of the tender?

MR. SMALLWOOD: Subhead 532-09-03.

MR. HICKMAN: Mr. Chairman, that does not answer the question, 532 was transferred, and is now part of vote subhead -

MR. SMALLWOOD: It was that vote in last year's estimates which this supplements.

MR. HICKMAN: But in last year's estimates are now contained under subhead 668 and that is broken down into miscellaneous fitness and recreational project operational cost for provincial centre, what are we talking about? Which vote was exceeded this year, which expenditure was exceeded, which vote -

MR. SMALLWOOD: Not this year last year,

MR. HICKMAN: I know it was last year, Mr. Chairman, the one we are talking about. Which one was it, and the other

MR. SMALLWOOD: 532 -09-03.

MR. HICKMAN: There is nothing in 532-09-03 that says Mr. Chairman, whether or not tenders were called whether the lowest bid was awarded and to whom? And that is the question that is before this committee.

MR. SMALLWOOD: The answer is so far as I know tenders were not called for to provide kitchen facilities and to make major repairs to the swimming pool and shower room equipment. I think that \$9,000 was let to some contractor who I do not know I can find out.

MR. SMALLWOOD: Item 6. Head 6 Mr. Chairman, is Education, \$1,885,300. In the estimates last <sup>year</sup>/inadequate provision was made for expenditure for teachers salaries subhead 612-02-01. inadequate provision by \$734,000. This was about 2.3 per cent of the original vote last year \$32.250 million. Counter-vailing savings help to provide some of the additional requirements and \$328,000 was provided by special warrant. Then again an additional \$507,000 was provided on account of maintenance grants and school fees to assist school boards in meeting their obligations of last year. This additional amount was originally to be provided in 70-71, but was in fact paid in March of the 69-70 financial year. That was subhead 612 -02-04. Then additional funds of \$385,000 in connection with school bus transportation were provided to cover unforeseen expenditures during the year the need arose for additional money for school bus transportation and so the Government provided, paid over to school boards \$385,000. for that purpose for school buses. Then again to provide the necessary funds for the construction of various temporary buildings on the campus of Memorial University \$390,000.



temporary buildings on the campus of Memorial. Then finally \$275,000 was required to renovate additional buildings at Stephenville for classroom use. there. And to renovate the glove factory at Carbonear for teaching purposes and similarly to renovate the building at Happy Valley. And finally to equip the three buildings accordingly, those three buildings that total was \$275,000. So when it is all put together \$734,000 for teachers salaries \$507,000 for maintenance grants, to school boards, and \$385,000 additional money for school bus transportation during the year, and \$275,000 for the additional buildings the renovations of the additional buildings at Stephenville for classroom use. Renovation of the factory at Carbonear for teaching purposes and renovating a building at Happy Valley and equipping the three buildings, when it is all added up it comes to \$1,885,000 not authorized by the House to be spent but nevertheless spent by the Government and we now ask this committee to authorize us for doing it.

MR. FARLE: Mr. Chairman, on these very heavy items of over expenditure some question in my mind about the necessity of \$500,000 approximately on maintenance grants. I always understood that in the department of Education maintenance which is based on the number of classrooms and number of students and so on could be very very carefully estimated well in advance there seems to be a tremendous overrun there of \$500,000. The teachers salaries also when the teachers are employed and the grades which they go into and which are qualified for adjust their salaries there must have been a tremendous change, there must have been a lot more teachers of a higher grade employed than was originally thought or this particular vote would not be so substantially out \$328,000. actually \$734,000 but part of that was saved under expenditure under some other items.

The temporary buildings at the University I recall that the University was putting up continuous pressure for space not on a temporary nature but on a permanent nature and I believe these temporary buildings were only something that were taken as a last resort to accommodate students that flowed into University but surely the estimate which the University gave to the department

of Education must have taken that into account certain heavy expenditure before the estimates were drawn up last year. The upgrading at Stephenville and at Carbonear this is something which I think I can understand because the upgrading courses came into being during the course of the year and no Government could make provision for these. They were something quite unexpected and the Provincial Government had to find money to meet its share of the cost on these upgrading schools. The bus transportation is somewhat in line with the maintenance grants only this is a more serious problem because bus transportation, bus contracts, are normally let I think about ten or twelve months, they are approved long before the school year and there is a shut-off point in which no additional bus transportation is supposed to be approved.

There must have been a very bad miscalculation on the bus transportation because this is something which is generally known six to eight months in advance. All of these items with the exception of the upgrading schools seem to me to be very badly miscalculated. I recall that from the time that I spent as Minister of Education the officials of that department always felt that they hit the nail on the head. Well there is something gone very badly awry in this last year because either the money which was asked for was not granted or somebody miscalculated very badly in all of these votes.

MR. SMALLWOOD: Mr. Chairman, it is a little amusing to hear the hon. gentleman criticizing the estimating that was done by the Government last year. When in fact he did the estimating. It was his budget. He was Minister of Finance. He is now criticizing the inaccuracy of the estimating. When in fact he did the estimating it was his budget. But Mr. Chairman, there was no misestimating, there was not bad estimating. Now in Opposition he would like to say there was. He knows in his heart there was no bad estimating. This estimate for school purposes was made in, say October, for a year that began in September of the next calendar year. The school year began in September and the estimate was made in the October of the year before. So that is eleven months before the year began the estimate was made, on what would be spent on school buses and school maintenance. Eleven months after the estimate was made the year for which they made it began. The

estimate was made in October by my hon. friend, and it was made for a year that began eleven months later than that. Now how was it possible to make an accurate estimate. How could you sit down today and make an estimate for September next year, for the year that begins September next year, for the year that begins September next year. It just cannot be done. You go as close as you can, knowing that when the year is over, what you have had to spend extra you come back and get indemnified for. That is what supplementary Supply is. You cannot make an accurate estimate. You make the best you can. And then if that is not accurate you spend what you must spend and when the year is over you come back to the House and say well we did not ask you for enough last year, we did not ask the House for enough last year, we underestimated what we would spend, we spent this much more, in the case of Education we spent \$82, millions. Eight-two million dollars we spent in the year just past, that we are now talking about. Eighty-two millions for Education. There was one point eight of that that we did not ask authority to spend. But we spent it. Now we are asking for authority. And it is divided into one, two, three, four items. The biggest single one is teachers salaries. Three quarters of a million or \$734,000. We paid it the teachers got it. We paid it. We are only asking the House to authorize us to pay it although we have actually paid it. Through the year we paid it. And half a million maintenance grants and three hundred and eighty-five nearly four hundred thousand for school bus transportation, and finally \$275,000 to renovate buildings for classrooms and so on.

Now we did it, we did it, I think we had a right to do it. I do not think it was possible for my hon. friend who have estimated in September of the year before last. I do not think it was possible for him or anyone else to estimate anymore closely than he did estimate.

MR. FARLE: Mr. Chairman, I was hoping the Premier would bring up this discussion because I am familiar with this, I know what the facts are. To accuse me of poor estimating at that time is strictly incorrect. Because what actually took place in this particular vote and I know,

MR. SMALLWOOD: Now no cabinet secrets.

Mr. EARLE: No cabinet secrets.

MR.CROSBIE: No cabinet secrets at all, he has been charged with poor estimating he is entitled -

MR.SMALLWOOD: Oh what a crime! Oh what a crime! He has got to defend his honour now,

MR.CROSBIE: Sure have, cabinet too.

MR.EARLE: This is not for, I can state here Mr. Chairman, that the estimates of the department of Education last were calculated within practically a few thousand dollars of what they actually turned out to be. But at the time the budget was brought down the estimates were brought into the House there was an overall directed to the department similar as the answer is this year in order to get money for these raises in salary. To cut off 2 per cent on the estimates. Well the 2 per cent on \$82 million is very close to this \$1,800,000 that is why the department of Education estimates are gone not because of these things this was just slapdash deduction on boats which the department knew it had to spend before it started.

MR.CROSBIE: Mr. Chairman, you know really it could almost drive you to tears to be in this House and hear the nonsensical stuff that the Premier brings up to obscure the issue that the hon. member for Burin is a bad estimator, not a bad estimator he says you are responsible for, the hon. member for Burin has just explained what happened, for Fortune Bay, explained what happened. Artificial reduction in the estimates in the department of Education. The hon. Minister of Education knew last year when he presented those estimates that he was going to have to spend at least two per cent more because he had gotten an artificial directive from the cabinet that he must cut his estimates two per cent and it had to come out of somewhere because the Government wanted to make things look a bit better last year than they really were. And we can take it now, anybody in the Chamber can take it now, the estimates presented to this House this year are probably five per cent artificially or artificially reduced on the same basis.

MR.ROWE: How do you explain the outcome, if that is true, how do you explain the outcome?

MR.CROSBIE: The outcome of your two per cent is the extra \$1,885,000 .

MR.ROWE: ..... total outcome of the budget for last year.

MR.CROSBIE: The total outcome of the budget last year is that the Government spent \$21 million more than was authorized.

MR.ROWE: The total -



MR. CROSBIE:

The only reason the cash position is not the same is that revenue unexpectedly was up \$7. million or \$8. million last year otherwise you would have had a cash deficit of \$16. million or \$17. million where you have one of \$7. million or \$8. million. The hon. the Premier said, Mr. Chairman, no bad estimating, he is right. It is not bad estimating, it is deliberate cutting of good estimates in other words it is no estimating, it is false estimating, it is not giving the House the right picture. That is what it is, not bad estimating because any Government, Mr. Chairman, with any degree competence, and this Government has competence in its officials in the Department of Finance and the various departments, can estimate what it is going to spend in the next year.

MR. ROWE: Would my hon. friend permit a question?

MR. CROSBIE: I do not know, the hon. Minister looks so pleased that it is going to be a deadly question I would think.

MR. ROWE: Has my hon. friend ever heard of a practice in the United States when a budget has been submitted that a directive has gone out from the President of that budget, that estimate of budget has to be cut by five per-cent or eight per-cent or ten per-cent as much as ten per-cent? The entire budget of the United States in the hundreds of billions of dollars has to be cut, every department is instructed a cut by eight per-cent or three per-cent. Has my hon. friend ever heard of other budgets across Canada having being cut that way, are we unique in this? There is no crime to that. We have not committed a criminal offence by cutting the budget by two per-cent.

MR. HICKMAN: No, before the budget this was brought down.

MR. CROSBIE: Mr. Chairman, I have heard the President of the United States issue these directives and so on and they have to cut the budget by eight or ten per-cent, they do not present it to Congress pretending that they cut off eight or ten per-cent when they have not cut off the eight or ten per-cent. The eight or ten per-cent gets cut off. What is wrong with this here is that the estimates can be very accurate but the Government pretends to the House that the estimates are going to be quite a few million dollars less than the Government knows they are going to be during the year so that the picture when the budget speech is brought down will look rosier. That is what has been happening.

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MR. CROSBIE:

Now the hon. Minister last year knew he could not get through the year without having that \$1.8 million or \$2. million, he had to have it, but because of this artificial directive he cut it out of his estimates where it had to go back in. Now let us look at some of it. Teacher's salaries, the people of the Department of Education know full well, they can estimate certainly to the \$10,000. or \$20,000. mark, what it is going to cost for teachers salaries this year. They can do that.

MR. ROWE: No, that is not true.

MR. CROSBIE: Well within \$50,000.

MR. ROWE: No, that is not right.

MR. CROSBIE: They can do it.

MR. NOLAN: Tell us how they do it?

MR. CROSBIE: Why should I tell the hon. Minister how they do it, is he not on the Treasury Board? He should know himself how they can do it. The hon. Minister should take the opportunity while he is in the Government to learn a few things. He went to Rocky Harbour and got egg on his tie the other night. The Rocky Harbour roosters chased him right out of Rocky Harbour the other night. There is a couple of hon. members, one member of this House and one of the Federal House, who were not invited to turn up because they were afraid it would be too forbidding and the hon. Minister would have nothing to say if they turned up and the hon. Minister was run out of Rocky Harbour with egg all over his tie.

Mr. Chairman, if I might get back to the education sum here. Maintenance grants - the maintenance grant is a grant paid to school boards in lieu of school fees, \$507,000. the Premier tells us. Mr. Chairman, last year the Government attempted to squeeze the school boards of this Province by cutting down what they were paying them in lieu of school fees. This great revolution that took place in the fall of 1966 when the speech from the Throne announced that from henceforth the Government of Newfoundland is going to pay all the operating expenses of schools, school fees were abolished and all the rest of it, that all had to be reversed. The grants in lieu of school fees last year were cut to the school board, they were squeezed till the pits popped the school boards were and this \$507,000. had to be advanced to them or to some of them or they would have had

MR. CROSBIE:

to shut their doors, they would have had to shut their doors before the end of March last winter and it said that this was originally money for 1970 - 1971 that had to be given them last year. Well, let us look at the grants this year for the maintenance grant, where is it?

MR. HICKMAN: It is under something else.

MR. CROSBIE: Yes, it is under something else that is quite true. When you look at these estimates look in the place where you least expect to find the estimate and that is where it will be.

MR. ROWE: Operational grants , \$9. million.

MR. CROSBIE: Where is that, page twenty-six?

MR. ROWE: Yes, twenty-six.

MR. CROSBIE: Operational grants this year - last year the total revised amount \$8,819., this year \$9,095., that is up, let us see, that is up about \$300,000. Now will the hon. Minister tell us is this \$507,000 here coming out of this vote of \$9, 095. this year because that is the impression the Premier gave. The hon. the Premier said that this amount was originally scheduled to be paid the boards in 1970-71 but had to speeded up and advanced them last year.

MR. ROWE: No it did not have to be at all.

MR. CROSBIE: Well, would the hon. Minister of Education explain what was the emergency that caused that amount of \$507,000 to have to be spent? Was it not so that certain school boards were so scrapped for funds that to meet their operating expenses that the Government had to come to their rescue and that is what the \$507,000. is? I would like to have the hon. Minister answer that if he is permitted to?

MR. SMALLWOOD: Mr. Chairman, when we decided in the Government to ask the House to agree with us to do away with school fees in Newfoundland, the ordinary operation of the schools, when we did that all the schools together in the whole Province had been collecting something between \$1. million and \$2. million a year in school fees. It never reached \$2. million altogether for the whole Province. It was closer to \$1. million than to \$2. million but it was something between \$1. million and \$2. million the peak that it every reached in our history.

AN HON. MEMBER: From all sources?

MR. SMALLWOOD: From all sources school fees in this Province never reached as much as \$2. million. Now we abolished school fees for maintenance of schools, the operation of schools, we abolished them by law and in lieu of school fees we began to pay the school boards money, this House began to pay money to the school boards out of the proceeds of the tax we put on of one percentage point on the S.S.A. The first year we paid \$5. million. The school boards that had never reached anything near \$2. million altogether the very next year received \$5. million from the Government and that rose rapidly to \$8. million a year. Well over 400 per-cent increase in two or three or four years.

Now last year in our budgeting we cut back. I think we cut back \$1. million or slightly more than \$1. million when we presented the estimates to the House. Last year we ask the House to vote something more than \$1. million less to be given to the school boards and during the year instead of giving them \$1. million less we gave them \$500,000 less. Not \$1. million less we gave them \$500,000 less but we had voted \$1. million less but we did not give them \$1. million less we gave them \$500,000 less and we gave them \$500,000 more than was voted and that is the \$500,000 we are asking the House to vote now.

MR. BURGESS: Mr. Chairman, just one point I want to bring up on this vote. If I am wrong I would like to be corrected in the breakdown of this total amount given by the hon. the Premier. For teacher's salary there was \$734,000, for maintenance grants \$507,000, for school bus fees \$185,000, for the temporary buildings at Memorial \$390,000 and for establishment at Stephenville, Happy Valley and Carbonear a total of \$275,000. I think that is correct as the Premier has stated. Now the total vote for the Department of Education is \$1,885,300. Well I am not surprised that supplemental supply has to come before this House because if you add up the figures that was quoted to us by the hon. the Premier it comes to \$2,291,000 so I am not surprised that supplemental supply is before this House if this is the way the finances of the Provinces are run. Now if anyone would care to check that you will see that it comes to \$2. million, there is missing \$405,700. So I am not a bit surprised at all at supplemental supply being here.

Now, Mr. Chairman, I would like to know where this money is number (1) and

MR. BURGESS:

number (2), Mr. Speaker, on the matter of the amount of money of \$385,000 for school buses, I would hope that a portion of this or this money is going to the subsidization of the school bus transportation in Labrador City. Now I have spoken in this House on a number of occasions about the need of involvement from the Government and the Department of Education in Labrador and in the Act itself it is specified that if you live within a radius of one mile of the school that there is no subsidy for bus transportation but I think that every hon. member in this House will agree that based on the climatic conditions that the people of Labrador West are faced with that there is a dire need for bus transportation for the children to attend school no matter how far because you can freeze in a distance of one hundred yards let alone a mile. The weather up there is nothing like the Bahamas or Nassau I can assure you of that, Mr. Chairman, and when it is not freezing it is raining and I feel that, I sincerely hope that there is a decision somewhere made in this Government that some of this money that is being appropriated here will go towards the subsidization of the bus transportation in Labrador City and Wabush.

I would like to know, Mr. Chairman, on the first item that I brought up what the mistake is?

MR. SMALLWOOD: Mr. Chairman, it is a pity the hon. gentleman does not listen when explanations are being given. He has bowled us over, caught us redhanded in a terrible arithmetical and financial error. We are nearly \$400,000. out. He has added it up and if you do not listen you can do that sort of thing. Now I will read it again what I read before. What I read before I will read it again not for the first time now but for at least the second time I will read it. Head (6) education \$1,885,300. Inadequate provision of \$734,000 was made in the estimates last year for teachers salaries, this under-provision which amounted to two point three per-cent of the original vote. Countervailing savings helped provide some of the additional requirements and \$328,000 was provided by special warrant. Add it up and it will be seen if the figures are added up \$328,000, \$507,000, \$385,000, \$390,000, \$275,000 is exactly \$1,885,000

MR. HICKMAN: Mr. Chairman, the second item is the item on maintenance grants, school fees etc. paid to schools \$507,000 and I think that is under Head



MR. HICKMAN:

612 (02) (03) now known as Operational Grants and I would direct the committees attention to sub-head ...

MR. SMALLWOOD: It is 612 (02) (04)

MR. HICKMAN: Well there is nothing under 612 (02) (04)

MR. SMALLWOOD: Last year, we are talking about last year.

MR. HICKMAN: Last year maintenance repairs and supplies, we do not have the figure that was voted last year because in this years estimate it is now all under operational costs and this includes maintenance, school fees and school supplies and parent subsidies. Mr. Chairman, there is something not coming out right here. The total amount voted last year which included maintenance repairs and supplies 612 (02) (04) which is now 612 (02) (03) the operational grants etc. came to \$8,819,500 to which we add now \$507,000 for a total of \$9,326,500

MR. ROWE: No, No, No.

MR. HICKMAN: \$8,819,500

MR. ROWE: No, no, that \$500,000 is in that \$8.8 million.

MR. HICKMAN: I beg your pardon.

MR. ROWE: That \$500,000 has to be in the \$8.8 million

MR. HICKMAN: No, it does not.

MR. ROWE: Yes.

MR. HICKMAN: Oh, that is the revised estimate, I am sorry.

MR. ROWE: You are wasting your time.

MR. HICKMAN: No, I am not wasting my time.

MR. SMALLWOOD: You are wasting the House's time.

MR. HICKMAN: Well I may be wasting the House's time but let me direct the House's attention to one thing that we know that last year because of the vote of \$8,819,500 that schools had to cut back on their programs, the schools were not being maintained the way they should have been. We heard a principal of one of the largest high schools in Newfoundland say that last year he was reduced to appropriating only chalk for his teachers. This was the maintenance supplies that he had for his school in the fiscal year that we are now talking about.

Mr. Chairman, what I say is this that the figures that are coming before this House on education obviously these amounts, these requests, these legitimate

MR. HICKMAN:

requisitions were in the hands of the Minister this time last year when the budget was brought down. This did not have to be estimated in October or November and I would ask the hon. the Minister of Education if he would tell this House what the deadline is for the signing of bus contracts for the ensuing school year and I think that the hon. Minister will have to admit that there is no speculation. Right now the hon. Minister should know within less than half of one per-cent, within \$50,000 what it will cost him next year, what it will cost the Government next year for bus transportation. He should know right now and he should also know right now, Mr. Chairman, -

MR. SMALLWOOD: He does not know.

MR. HICKMAN: Well, if he does not know he should know.

MR. SMALLWOOD: No, he should not.

MR. HICKMAN: Well, if he does not know right now all he has to do is check with his officials in the Department of Education -

MR. SMALLWOOD: No, that is not all he has to do.

MR. HICKMAN: And he will know as well what the teachers salaries are going to be next year because he will know what the annual increment is going to be, he will know very easily by checking with the Department of Education at Memorial as to what new grades will be coming out, he will know how many teachers, pretty well every teacher he should know and if he cannot get it from his department the Newfoundland Teachers Association can give it to him so that again would eliminate any speculative budgeting on the part of the hon. the Minister of Education. So this coming in and saying that this was a miscalculation is a lot of nonsense, Mr. Chairman. It was not a miscalculation at all. It is a very simple thing, if you look in last years estimates at the very end of each departmental estimate it was less two per-cent and surely this is what we are talking about now. If the Government cannot find the two per-cent come in and tell the House they cannot find it but do not come in and talk about unanticipated emergency. Do not tell me that the emergency had not existed at Memorial University or the contracts were not called more than a year ago and contracts awarded to J.J. Russey and Lundrigan's and Necco for the direction of the temporary buildings at Memorial. They have been there a year, they were there

committee, Mr. Chairman, that no new construction had been started on the campus of Memorial University 's temporary buildings since this House last met and since the budget was last brought down, and I further submit that firm contracts had been signed long, long before the estimates were calculated for the Department of Education. I would like to know what this \$390,000 extra, because, obviously, it has to be extra, because presumably in the budget all known costs were included. What is the extra? <sup>If</sup> the contracts were firms, the contractors would not be entitled to extras; particularly, that type of building. What is the answer?

MR. CROSBIE: Mr. Chairman,

MR. SMALLWOOD: Item (7) , Mr. Speaker - Department of Justice.

MR. CROSBIE: On the same. Item (6).

MR. SMALLWOOD: Item (6) is passed.

MR. CROSBIE: I am sorry, Mr. Chairman. I was getting up to speak..

MR. SMALLWOOD: I thought your Honour carried it. Did your Honour not carry it? Item (7), Justice, \$39,000..

MR. CROSBIE: Mr. Chairman, on a point of order. I submit that I am entitled to speak on Item (6).

MR. SMALLWOOD: Bully Boy! Never mind the Chairman. Never mind the rules.

MR. CROSBIE: I heard the hon. member for Burin today refer to the great grandfather of psychosis and this is another example of it.

Mr. Chairman, we are going through Supplementary Supply..

MR. SMALLWOOD: Mr. Chairman, what is the hon. gentleman talking about.

MR. CROSBIE: Your Honour..

MR. SMALLWOOD: What is the point of order?

MR. CROSBIE: Your Honour called Item (6) and asked was it carried, and I was getting to my feet, when your Honour said, "Item (6) carried." Item (6) is not carried, because we never had a chance to vote on it, and I want

to speak against Item (6).

MR. SMALLWOOD: It was carried.

MR. CROSBIE: No one here voted for or against Item (6). It has not been carried, Mr. Speaker.

MR. SMALLWOOD: Shall the item carry? Carried. That is the procedure.

MR. CROSBIE: That is my point of order, Mr. Chairman..

MR. SMALLWOOD: That is the procedure, nothing unusual.

MR. CROSBIE: I ask for your ...

MR. CHAIRMAN: Please refer to ~~ITEM~~ (6).

MR. SMALLWOOD: No! Mr. Chairman. No! Your Honour has carried it and that is that.

MR. CROSBIE: That is not that. It is the Chairman's prerogative to revert back to Item (6).

MR. SMALLWOOD: No it is not, except with the consent of the committee.

MR. CROSBIE: Mr. Chairman, this vote..

MR. SMALLWOOD: Mr. Chairman..

MR. CROSBIE: This vote of \$390,000 - I am quite in order. We are now on Item (6) and I am ...

MR. SMALLWOOD: We are not on Item (6).

MR. HICKMAN: Mr. Chairman on this point of order. The point of order that the hon. member has raised is that Item (6) has not been carried and there is a great deal more..

MR. SMALLWOOD: The Chairman declared it carried.

MR. HICKMAN: There is a great deal more to the carrying of an item than the hon. the Premier saying, "carried, carried." This committee is entitled..

MR. SMALLWOOD: The Chairman said it. I did not say it.

MR. HICKMAN: This committee is entitled to vote on. There was no vote on it, and we were not given the opportunity to vote.

MR. CHAIRMAN: The other items were carried by saying, "carried."

MR. HICKMAN:      They were carried. We were given an opportunity...

MR. SMALLWOOD: Shall the item carry?

MR. HICKMAN:      No!

MR. SMALLWOOD: Shall the item carry?

MR. HICKMAN:      No!

MR. CROSBIE:      No!

MR. CROSBIE:      No! Item is not carried, because we are not finished discussing Item (6) yet. Now I will continue discussing Item (6). The vote of \$390,000, Mr. Chairman..

MR. SMALLWOOD: Is he going to defy your Honour?      Is he going to defy your...?

MR. CROSBIE:      The vote of 390,000..

MR. CHAIRMAN:      Order! I gave the ruling.

MR. CROSBIE:      Yes, you reverted to Item (6), and I am speaking..

MR. SMALLWOOD:      No!

MR. CROSBIE:      Mr. Chairman, I would like to appeal your ruling. It is unheard off in any Parliament for members to be treated in this disgusting way, that you are going to rush of Item (6) because of bullying by the hon. the Premier, and I appeal your ruling. I appeal your ruling on the grounds that the Item is not properly carried.

MR. HICKMAN:      There was no vote.

MR. CROSBIE:      And there was no vote on it, and we wish to have a chance to vote against it.

AN HON. MEMBER:      It was carried.

MR. SMALLWOOD:      May I go on, Mr. Chairman, to Item (7).

MR. CROSBIE:      I appeal your ruling that we should now proceed to Item (6). I wish to appeal it.

MR. MURPHY:      Mr. Chairman, the hon. member has asked permission to revert, I am quite prepared to give him permission to revert to Item (6). Well, it



is out of order.

MR. HICKMAN: I understand that the Chairman has ruled that Item (6) was carried. Right, and we are appealing the Chairman's ruling on the grounds that there was no vote. You cannot carry anything, if there is no vote..

MR. CROSBIE: There was no vote on Item (6). Let us get this settled now this little carrying business - omitting \$800,000.

MR. HICKMAN: Hari-kari.

MR. CROSBIE: Hari-kari.

AN HON. MEMBER: He raised no fuss.

MR. CROSBIE: Oh! what arrogance, what sweet arrogance. That great majority there - that great crushing majority. Listen to who is speaking, "pot calling the kettle black." "The Rocky Harbour Rambler."

the  
On motion that a committee rise, Mr. Speaker returned to the Chair.

MR. HODDER: Mr. Speaker, in committee my ruling that Item (6) had been carried was challenged. I put the Item and said, "carried," as we did in all other items and I maintain it was the same as the others, and it should be upheld.

MR. CROSBIE: Mr. Speaker, with all do deference, I do not agree to the summation of the facts on this appeal. The question at issue, Mr. Speaker,..

AN HON. MEMBER: Is this a point of order.

MR. CROSBIE: Are you the Speaker? The hon. minister is also the Speaker, is he? Mr. Speaker, the point is this that the Chairman, while in Committee of Supply dealing with Item (6) said, "is it carried?" Then he said, "carried." Before we could vote on it or anybody could rise to speak on Item (6), the Chairman ruled that the Item was now carried, and we had no opportunity to vote on it and our submission that we should be given the opportunity to vote on it. An item cannot be carried, if we wish to have a vote on it, by just saying, "carried."

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MR. SMALLWOOD:    Mr. Speaker, I would like the same privilege. Every item that has passed the committee tonight has passed in the same way - no variation. The same way tonight and the same way every other time for many years past. The Chairman says, "shall the item carry?" Then he pronounces, "carried." This is the way this one was carried - Item (6). After discussion ranging for over half an hour, everyone had ample time to speak and everyone spoke frequently, not everyone of those who spoke, spoke frequently and the Chairman put the motion, shall the item carry? Carried. That is the way he did every item before no 6, including no. 6.

MR. MURPHY:    Mr. Speaker, if I may, I think, we will agree to some extent with the Premier, but I think anybody that is in committee in this House - there are certain people that all they say for the day is carried. The Chairman says, will Item (7) carry? From that side you said, carried.

MR. SMALLWOOD:    Nobody said, carried, except the Chairman.

MR. MURPHY:    The Chairman says carried and before the hon member could get to his feet to speak on it, it was carried, and he asked permission to revert to the Item and it was denied. In my opinion, he was not given a fair chance to speak on it, and it is a matter of courtesy of this House to give him a chance to speak.

MR. SMALLWOOD:    There were a half dozen times to speak.

MR. HICKMAN:    Mr. Speaker, the hon. the Premier put his finger right on it. He said, "nobody said carried, except the Chairman."

MR. SMALLWOOD:    Right.

MR. HICKMAN:    Now how can the Chairman simply say, carried..

MR. SMALLWOOD:    Shall the item carry? Carried.

MR. HICKMAN:    Unless there is some vote, some indication as to what the members of the committee want to know.

MR. SMALLWOOD:    No that is not so

MR. SMALLWOOD:      That is not true.

MR. HICKMAN:      Whether they are for this or against it.

MR. SMALLWOOD:      Not true.

MR. HICKMAN:      Well it is true.

MR. SMALLWOOD:      It is not true!

MR. SPEAKER:      We are now debating the very thing that took place in the committee. As I see it now,..

MR. SMALLWOOD:      They need to be told. Mr. Speaker, the hon. gentlemen are violating the rules..

MR. SPEAKER:      No, may we have order please. The situation is this, as I see it that the written report that I have here: "In committee, my ruling that Item (6) had been carried was challenged." That is putting the matter very simply and actually as far as the Deputy Chairman of Committees is concerned. They way I understand it is this: that he named the item and he said, " Shall Item (6) carry?" In accordance with custom and in accordance with procedure, there is a hesitancy for a few seconds, and he says, "carried." In his opinion, the item is carried.

Now this is what is being challenged, the Chairman of Committees, in his opinion, the item has been carried. You can only refer to it by leave and here I am entering the debate, which I had no intention to do. He says that the item is carried and that was his opinion. The other members of the House say that that was not correct and they are challenging his ruling in saying that the item was carried, and we had to have leave of the House to revert to it again. Now leave of the House to revert to it again is another entirely different matter, which has very little bearing on the legality of what the Chairman said. The Chairman feels that the item was carried, and he said so.

The motion is that the ruling of the Chair, in committee, be sustained. Will those of the motion please say "aye." Contrary "nay." It is my opinion that the "ayes" have it.

MR. CURTIS: Mr. Speaker, I move that the remaining orders of the day do stand deferred and that the House at its rising to adjourn until tomorrow, Tuesday at 10:30 a.m.

MR. SPEAKER: It is moved and seconded that this House at its rising to adjourn until tomorrow at 10:30 a.m. Those in favour "aye." Contrary "nay." It is my opinion that the "ayes" have it.

MR. CROSBIE: Divide on this adjournment at 10:30 a.m.

MR. SPEAKER: Call in the members.

MR. CROSBIE : Mr. Speaker on a point of order, without any consultation with this side of the House, the Government is now attempting to force us to meet three sessions a day from 10:30 a.m. If this is what the people of Newfoundland recognize as democracy, I do not think that they will go along with it.

MR. SPEAKER: I have told the hon. member once already today - actually, the House is dividing, and we are not going to debate any other issue. It is a grievance that must be taken up at a different time and it is not a point of privilege or point of order that can be raised at this particular time. It is a grievance, and there is a place for it, and the hon. member knows where that place is or what time that is.

Those in favour of the motion please stand - the 10:30 adjournment.

The hon. Premier; the hon. President of the Council; Mr. Lewis; the hon. Minister of Highways; the hon. Minister of Municipal Affairs; Mr. Smallwood; Mr. Hodder, Mr. Strickland; the hon. Minister of Education; the hon. Minister of Public Works; the hon. Minister of Mines, Agriculture and Resources; the hon. Minister of Provincial Affairs; the hon. Minister of Public Welfare; Mr. Barbour; the hon. Mr. Hill; the hon. Minister of Supply; Mr. Saunders; Mr. Wornell.

Those against the motion please rise:

The hon. Leader of the Opposition; Mr. Earle; Mr. Hickman;  
Mr. Crosbie: Mr. Myrden: Mr. Burgess.

I declare the motion carried.

MR. SPEAKER: It is moved and seconded that this House do now adjourn.

Those in favour, "aye."    Contrary "nay."    Carried.

MR. MURPHY:    On the motion to adjourn Mr. Speaker, I would like very seriously to speak against the motion to meet in the morning.

MR. SMALLWOOD:    It was carried on division.

MR. MURPHY:    Because, in my opinion it is not fair.

MR. SPEAKER:    This is a matter which has already been decided. The judgment of the House has been given on this and I point this out to the hon. member that the judgment of the House has been given on this matter, and to raise it again, is not, in my opinion, the best form of doing this. The motion before the House now is that we adjourn.

MR. SMALLWOOD:    It was carried on division. Your Honour leaves the Chair now. It was carried on division.

MR. SPEAKER:    The motion is that this House do now adjourn. Those in favour "aye."    Contrary , "nay."    I declare the motion carried.

This House stands adjourned until tomorrow at 10:30 a.m.