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**VERBATIM REPORT**

**Monday, April 30, 1973**

**SPEAKER: THE HONOURABLE JAMES M. RUSSELL**

The House met at 3:00 P.M.

Mr. Speaker in the Chair.

MR. SPEAKER: Order please!

HON. G.R. OTTENHEIMER(MINISTER OF EDUCATION): Mr. Speaker, I have something to inform the House about, which will be of interest to all members no doubt and of particular interest to the honourable member for Labrador North, and that is the commencement as of today of a twelve week course in sawmill operation, at Northwest River, Labrador. It is being conducted as an extension programme of the Stephenville Crossing District Vocational School, the forestry section of that school. The programme is being carried out for the Department of Rehabilitation and Recreation, the Labrador services division, It is intended to train twenty-four male members of the Indian community at Northwest River for work in a sawmill which is located in the community. The class will consist of twenty-four students with two instructors from the Stephenville Crossine Vocational School and one assistant instructor-interpreter who is a local person living in Northwest River.

The programme is being offered in co-operation with Canada Manpower and the students will receive manpower training allowances while attending this twelve week course. They will be trained in various operations, sawmill operations as well as related woods work such as kantar, sawer, planer operator, skidder operator and chain saw operator.

PETITIONS:

MR. E. W. WINSOR: Mr. Speaker, I beg to present a petition from the residents of Change Islands in Fogo District. The prayer of the petition is that we, the undersigned, the taxpayer of Change Islands request that the Notre Dame School Tax Authority give consideration to the school tax now being levied and that the present tax be reduced. The petition is signed, Mr. Speaker, by 207 citizens of that community and as far as I can gather there is

much discontentment toward the school tax authority of that region. Number one, the feeling is that the tax is too high. Number two, the feeling is that through no fault of the citizens involved they had been assessed for two years assessment, namely for 1971 there was no assessment and in 1972, so this year they received assessments for the two years which, of course, is a little heavy financially for the families to pay.

So I think, Mr. Speaker, the problem there lies that the people involved wonder why they should pay assessments although legal but not levied against them in 1971 or if levied against them, why they were not billed or assessed for that year and that carried over for a two year period. Now I think the honourable Minister of Education, if I can catch his eye over there, is familiar with this problem they have with the school tax authority, the two year assessments in one year. I trust that he will intercede and try to resolve the problem.

In supporting the petition, Mr. Speaker, I ask that it be laid on the table of the House and I would refer it to the department to which it relates.

MR. H.W.C. GILLET: Mr. Speaker, it gives me pleasure to present a similar petition with the exact same wording, with the exception that the words "Change Islands" is not on this one, naturally, but Twillingate. I think this was a joint effort between Twillingate and Change Islands, both coming under the same school tax authority. Now I have mentioned in this honourable House before, I believe, that the Notre Dame School Tax Authority is bringing people before the court by the scores, and this they resent very much. Their bill, as we know, for two years is \$80.00 and it represents a financial burden on them at this time, naturally.

In conversation with the person who gave me this petition, Mr. Speaker, he said that most people felt that if it were reduced by half they could live with it but as it is they consider that \$40.00

a year is rather high for them. So I would like to support what has already been said by my honourable friend, the member for Fogo, and support this petition and ask that the Minister of Education direct the Notre Dame School Tax Authority to at least be a little more considerate as far as taking these people before the court is concerned and if possible to reduce their rates. I ask that this petition be tabled and referred to the department to which it relates.

MR. OTTENHEIMER: Mr. Speaker, I have taken note of the words of the honourable members from Fogo and Twillingate. I think the matter was drawn to my attention Friday by the honourable member from Fogo. I shall certainly have this matter looked into. The crux of the problem as I understand it is that the school tax authority having been established two years did not send out bills the first year and are in the second year billing people for two years. It certainly can be understood the problems that this would occasion. I do not want to say anything further until I have had the matter looked into but I can certainly assure both gentlemen that the matter will be thoroughly looked into and the points they made and that their petitioners no doubt made will be borne in mind.

MR. ROWE(F.B.): Mr. Speaker, if it is in order, I would like to support the petition presented by the honourable member for Fogo and the member for Twillingate on behalf of the people on Change Islands and in Twillingate itself. Sir, I think this strikes at the whole problem that we mentioned earlier in the consideration of the estimates, in that school tax authorities themselves tend to be controversial, they are troublesome and there is a tremendous amount of difficulty at certain stages of the game in collecting taxes or any form of assessments. Quite often we find that the parents in certain areas are not entirely satisfied with the service that is being rendered by the school board and it is just a troublesome



thing. I think, Sir, it points out the need for establishing a centralized school tax authority or having the cost of education borne by the administration itself in this particular case. This is the type of problem that we are find is cropping up in all parts of the province.

I certainly support the petition. I think it points out the need for a centralized school tax authority.

MR. F.R. STAGG: The matter of school tax authorities is one that is not foreign to my own District of Port au Port. There is a considerable controversy going on there at the present time and it has been going on for some time about the legality of the institution of the school tax authority there. I think it is generally conceded that the school tax authority was legally instituted, however, there is nevertheless a general feeling throughout my area and I think throughout many other areas in Newfoundland that school tax authorities are a cumbersome body and some other method might be derived or the Local School Tax Act might be made more functional so that people know exactly what is happening when school tax authorities are instituted.

I do believe that this is under active consideration by the government and I encourage it. With regard to the two petitions presented by the honourable members for Fogo and Twillingate, it would appear that there is some injustice there in that people are asked to pay two years tax in one year. I trust that this matter will be looked after satisfactorily. I support the prayers of the petitions and I also encourage the administration to attempt to resolve the possible injustices or the inherent injustices that school tax authorities sometimes bring upon people who do not really know what they are getting into.

I support both petitions and I encourage the government to have a very serious look at the institution of school tax authorities.

MOTIONS:

HON. H.A. COLLINS (MINISTER OF MUNICIPAL AFFAIRS AND HOUSING): Mr. Speaker, I give notice that I will on tomorrow ask leave to introduce a bill, "An Act To Amend The Newfoundland And Labrador Housing Corporation Act, 1966-1967."

If honourable members would permit me, with leave of the House I could table the annual report of the Newfoundland and Labrador Housing Corporation. I have several copies in my office which I will get up later.

QUESTIONS:

MR. COLLINS: Mr. Speaker, I have the answer to, I do not know the number of the question but it is in the name of the honourable member for St. Barbe North which I will table and another one in the name of the same honourable gentleman. There is no number on this one either but I will table both copies.

ORDERS OF THE DAY:

MR. NEARY: Mr. Speaker, I would like to direct a question to the honourable the Premier. I wonder if I could borrow that book that the Premier was reading at five o'clock in the morning. Mr. Speaker, I would like to ask the honourable the Premier if he has received correspondence from the Newfoundland Fishermen, Food and Allied Workers Union, in connection with amendments that they want made to the fishermen's collective bargaining legislation?

HON. F.D. MOORES (PREMIER): Mr. Speaker, I personally have not received it but I am pretty sure that the Department of Labour has. I am not sure of the answer but I will find out and let the honourable member know.

MR. NEARY: Mr. Speaker, is the Premier aware then that on April 27, 1973, a letter was sent to the honourable Frank Moores, signed by Richard Cashin, concerning this matter?

MR. MOORES: Yes, I am aware of that, Mr. Speaker. I am only saying that the legislation is presently being drawn up and that is being

taken under consideration. That was discussed in the House previously and as a matter of fact the letter was circulated in the House.

MR. NEARY: No, this is another one, a new one.

Mr. Speaker, a supplementary question. I would assume then that the government has not responded to this latest letter written on April 27, 1973.

MR. MOORES: That is correct.

Motion, second reading of a bill, "An Act To Amend, Revise And Consolidate The General Law Relating To The Public Revenue, The Raising Of Certain Loans Authorized By The Legislature And The Auditing Of Public Accounts."

HON. J.C. CROSBIE (MINISTER OF FINANCE): Mr. Speaker, I rise to move second reading of this piece of legislation. This is an act which amends, revises and consolidates the former Revenue and Audit Act, Mr. Speaker, which if this legislation is passed would become known as the Financial Administration Act, 1973. There have been some changes made in the act and I will just point out the changes that seem to be of some importance.

The first main change in the act is that there is a change in the constitutional functioning of the treasury board which is dealt with in section (3). The treasury board from henceforth will be composed of a minister, who shall be the president as is the Minister of Finance, and not less than six other members of the executive council, designated from time to time by the Lieutenant-Governor in Council. Section (5) provides for the cabinet to appoint an officer called the Secretary of the Treasury Board to hold office during pleasure.

Before last December, Mr. Speaker, the secretary of the treasury board was a Deputy Minister of Finance. This has now been changed so that the treasury board will have its own secretary and the Deputy Minister of Finance is no longer connected with the treasury board. The secretary of the treasury board is Mr. Victor Young and he has the same status as a deputy minister of a department. The

treasury board itself, of course, is a committee of the executive council and as the House knows, the vote for the treasury board appears this year under executive council, the Premier's Office.

The act goes on to provide the powers of the treasury board or what its duties are, including the determination and the conduct of collective bargaining negotiations within the public service and for public bodies, and the sections establish what duties the board is supposed to carry out. The next major change is that which I think appears in section (24), subsection (4) and that is to clarify the position with respect to whether or not the treasury board can create new subdivisions of a head of expenditure during the year. This has been a matter of dispute between the Auditor General and the Department of Finance for some years and treasury board as to whether under the old act treasury board and the government could during the year divide a head of expenditure into other subdivisions not listed in the estimates at the start of the year. Now subsection (4) of section (24) would make it clear that the board can from time to time make such divisions of the subheads of a head of expenditure as it considers necessary with such divisions to be referred to a subdivision of the subheads of a head of expenditure and may, where practical, be exhibited in the estimates for each fiscal year. Now that is a change.

There is a change with respect to special warrants, in section (28). Special warrants, Mr. Speaker, are needed from time to time during the year if an amount is found to be insufficient to meet the requirements of the service during the year. Under section (28) of this act as under the old act, if there is insufficient legislative provision for a service and no countervailing savings available from other subheads for the head of expenditure concerned, upon the report of the minister to that effect the Lieutenant-Governor in Council can on the recommendation of the treasury board order a special warrant prepared for the signature of the Lieutenant

Governor.

Now in the past - There are two situations where a special warrant might be needed. One where there has been an amount provided in the estimates for that service but it has been found to be insufficient and the second situation that arises occasionally is when a new service is found to be needed, something that was not in the estimates at all. The act also provides that where the legislature is not in session or has been adjourned for more than thirty days, any expenditure not foreseen and not provided for by the legislature with respect to a new service urgently and immediately required for the public good, then the Lieutenant-Governor in Council can authorize a special warrant for that new service. Now the change here is that under the previous legislation you can only obtain a special warrant if the legislature were not in session. In section (28), subsection (4d), it is now provided that a special warrant can be issued with respect to a need for additional expenditure even if the House is in session, but it must be tabled in the House within three days if it is so issued. So if there is a special warrant required because there has been an underestimate for a service that was included in the estimates, under this change a special warrant could be issued although the House is open but the special warrant would have to be tabled in three days in the House so that the House would be informed of it, otherwise all special warrants have to be tabled in any event within fifteen days after the House opens.

Now I suppose the major change in this new legislation to replace the old Revenue and Audit Act is section (36) which provides that money shall not be raised by way of loan by the province except under this or some other Act of the Legislature. Now, Mr. Speaker, this will put the House of Assembly back in the position it was before the session of 1966-1967 when the Revenue and Audit Act was amended to provide that borrowing could be authorized by the Lieutenant-Governor in Council alone without authorization of

the House. The position since -

AN HON. MEMBER: (Inaudible).

MR. CROSBIE: No but it did not have to be authorized afterwards either. It would be approved generally in the budget.

MR. ROBERTS: (Inaudible).

MR. CROSBIE: No that was no restriction because it does not matter what supply authorized the cabinet could borrow as much as they liked in a year whether or not it was required by the budget or not. There was no ceiling on what the cabinet could borrow and in fact there was no provision in the House for it to be reported to the House.

So the situation since 1966-1967 has been that the cabinet itself could decide what would be raised by way of borrowing. Now it did not need to have a loan bill passed through the legislature because this could be done by an order-in-council. That was opposed by the Progressive Conservative Opposition at the time and I must admit I was in the Liberal Government in those days and that I was here when that amendment was made to the act. What happened and with that power in the hands of the cabinet, of course, it can be abused or not abused as the case may be but what in fact happened was that a great deal of borrowing was done, Mr. Speaker, without any information being given to the people of the province or the House of Assembly at all as to what had been borrowed. In any event, it was opposed then by the opposition of the day, the Progressive Conservative Opposition, and it was planked in the Progressive Conservative platform that this power should be returned to the House of Assembly. So under section (36) of this act it will not be possible for the government to borrow under long-term, that is debt that has to be repaid in a period in excess of a year, unless it is authorized by way of an act passed by the House of Assembly. So if the House pass this legislation today or this week, there will have to be introduced a loan bill (the loan bill is now at the printers) to authorize the government to borrow during the rest of



the year, up until March 31, 1974, the amount that we will need as indicated by the budget and in the estimates passed by the House.

So that is a major change in this legislation and



this will require the House to authorize before we can authorize long term borrowing. The House will have to approve and we will have to ask the House, Mr. Speaker, to approve the amount we are going to borrow this year. Also an additional amount to give us some leeway because it may be found for example that next February or March is a good time for borrowing money. You might want to borrow then rather than in April or May and you may need some flexibility. In any event, that is one of the major changes here. That is in section 36.

With respect to temporary loans dealt with in section 45, the Lieutenant Governor-in-Council is given the authority in section 44 to decide what amount may be raised by temporary loans. They are to set a ceiling for the Minister of Finance to operate within. A temporary loan is a loan that has to be repaid, I am not sure if it says six months or a year, anyway anyone of those periods, less than a year. The government of course has to borrow on a short-term from time to time. As I mentioned when the estimates of the Department of Finance were being debated, this year we are hoping to start a regular money market programme and always have on hand some \$25 million or \$30 million in treasury bills. Short term loans should be turned over every week when tenders are called for that purpose. So, the cabinet will have the right to determine how much temporary borrowing will be done each year.

Now, the act also makes a significant change in this respect, Under section 45, subsection 2, the minister is directed to lay a detailed account of all temporary loans raised pursuant to section 44 before the House of Assembly within fifteen days after the commencement of the next ensuing session. That section does not appear in the present legislation, Mr. Speaker. This means that there will have to be a report tabled in the House on all temporary loans raised during the year, under the power given in section 44 of the act, so that the members of the House will be fully informed as to what temporary borrowing there

has been during the year and what it has cost and the like. So, that is a new section in the act.

Once this act is passed, Mr. Speaker, there can only be an increase in the public debt with the express authority of the legislature, with several exceptions: One is temporary borrowing. The second is borrowing to make payments in the sinking funds or borrowing to meet debt that is coming due. That does not have to be specifically authorized by the legislature, of borrowing to meet expenditures that are provided for without the authority of the House such as meeting debt coming due and sinking funds.

Under section 51 (3) of the act, Mr. Speaker, the minister is to make an annual report of all guaranteed loans paid in part or in whole during the year. That report is to be laid before the House of Assembly within fifteen days after the opening of the next session and is to show the names of the individual society, organization whose guarantees have been paid, the full amount guaranteed and the amount of payments in each case. I am not sure whether that is a new section or whether that was there before. In any event, there will have to be a report tabled in the House each year as to any guarantees that have been paid during the year. I think the provision was in the old act.

Now, those are the main changes I believe, Mr. Speaker. If the House agree to the enactment of this legislation, it will come into effect immediately. It is not one of the bills that come into effect upon proclamation. It will come into effect immediately and this is why we will have to pass a lone bill before the House adjourns because otherwise we will have no authority to borrow the monies we have to borrow this year.

These are the main changes. There are other changes in the wording of the bill and technical changes in it that have been suggested by an examination of the legislation in the other provinces, by officials of the Department of Finance and the Treasury Board. The legislation has been gone over in detail with the Auditor General. He has

suggested certain changes which we have agreed to. It has been gone over in depth with him. That is not to say now that he approves this legislation but he has been given plenty of time to go over the legislation and make suggestions himself. Other than that, I am not authorized to say that he approves or disapproves the legislation. If he finds any of it that he does not approve, I presume he may very well mention it in his report when he makes it at the end of the year. So this is the new Financial Administration Act, Mr. Speaker, to revise and update the Revenue and Audit Act, to introduce three or four very extensive changes and particularly with respect to borrowing on long term. I move second reading.

MR. ROBERTS: Well, Mr. Speaker, it should not take terribly long to state our position on this bill at least in the first instance. Whether or not there is a second instance will depend on whether honourable gentlemen on the other side choose to go into the debate or not. Let me begin by saying that although the bill is a very large one - it covers forty-five pages and it has in it eighty-six sections, it is a very important one because it is the basic financial legislation under which the government of the province operates. While it is both important and lengthy, it is not terribly exciting because there is very little in it that is new.

As the minister has explained, there are throughout the bill - I have not compared it section by section with the old Revenue and Audit Act which was done I believe about 1949 or 1950, by Mr. Walter Marshall, who was then the comptroller of finance and deputy minister, and Mr. Jim Thompson of Peat, Marwick. Mr. Thompson was with Peat, Marwick, senior partner, and was retained then to advise the government. Mr. Thompson and Mr. Marshall were the government's two chief financial advisers and they worked out - I am not saying they are responsible. The government are responsible, of course, but they worked out quite good legislation which served adequately over the years. It is now out of date and needs to be

updated and revised. That is what we have before us today.

Now, leaving aside the technical changes to which the minister referred - these are fairly straightforward - the bill, as far as I can see, only does three or four things that are of any interest whatsoever in the sense of their new principles. The rest of the principles in the bill, Sir, are commonly accepted and are such things as; all monies are paid into the consolidated revenue fund and the comptroller must make sure that no money is spent without legislative authorization and all this type of thing, straightforward, quite important but do not require further debate at this time because they are widely accepted.

First of all, the bill does provide for a secretary for the Treasury Board other than the Deputy Minister of Finance. I think that is a reasonable step forward. The present gentleman there, Mr. Victor Young, in effect has been secretary of the Treasury Board for three or four years even though he did not hold the title in law. In law the old Revenue and Audit Act said that it was part of the duties of the Deputy Minister of Finance. I think it is a step forward to have a permanent secretary. The Treasury Board has become a power-house in the government sense. I am glad that the present minister and his colleagues have carried it on.

The special warrants, as far as I can understand it, this merely resolves a situation whereby there has been dispute between the Finance Department, the minister and his officials, on one hand, and on the other hand the Auditor General. It seems to be quite reasonable to give the governor-in-council power to issue special warrants in certain circumstances. These circumstances are defined in the bill and again they seem quite reasonable, not terribly exciting, not terribly new. It does clear up an area where there was dispute and I think that is to be commended and that is to be welcomed.

Mr. Speaker, the only change in the bill that seems to be of any importance is the one to which the minister referred, of loan

acts. Let me say that I welcome it. My colleagues and I are quite happy about this. Equally we are especially pleased that the minister will now be required to table reports. Mr. Speaker, let there be no misunderstanding of this bill. This bill no more prohibits the government of this province borrowing money on the credit of this province without prior legislative authorization than it prohibits the fog from coming in the narrows or the ice. Now, I am not going to say that the situation as we now have it in our law was right or wrong. The administration brought it in, I believe in 1966. They acted then on the advice of their officials. I know whereof I speak. I was not a member of the administration but I do know whereof I speak. It has functioned for a number of years. Be it right or be it wrong, the government have decided to replace it. I do not quarrel with that at all. Sir, the bill before us now no more prohibits the offence, and the honourable gentleman from St. John's East I hope will say a few words on this. He has been one of the major spokesmen on it. The offence as I understood it, the offence of portion of the procedure has been that the cabinet, the governor-in-Council, could borrow money, pledge the credit of the province without prior legislative authorization. There always had to be legislative authorization for expenditure but it would be done under the Supply Acts or, the Minister of Finance will agree with me, it could be done retroactively. We did it retroactively this year, Sir. The administration spent \$30 or \$40 million on a Labrador Linerboard Mill. Then we retroactively approved that by legislation. It is not uncommon, not wrong, not criminal. It did not have to be done that way. There is nothing to say that the government could not have spent the money and could have waited until they brought a bill in. They may say that is inconvenient. Maybe it would have been. The fact remains that under this bill, Sir, that procedure can still be done.

The relevant sections, Your Honour, are section 44 and section



39. Section 44, Sir, authorizes the overnor-in- council to borrow any money he wants, \$150 thousand, billion, million, for a period not to exceed twelve months, straightforward, reasonable, twelve months. The only check upon the total, Your Honour, is the amount set by the lieutenant governor-in-council who of course is the cabinet. Let me just read subsection 3, Sir. It says, "A loan may be raised under this section whether or not the raising thereof may have the effect of increasing the amount of the public debt of the province or of extending the term of years if any prescribed in any act authorizing the issue of any securities proposed to be repaid, renewed or refunded with the proceeds of the loan."

Now, Sir, that section read together with section 39, which says that the lieutenant governor-in-council may raise by way of a loan in the manner prescribed in subsection 1 of 37, and subsection 1 of 37 will be referred to in a minute, the lieutenant governor-in-council, under 39, may roll over loans. It is not the technical term, but he may raise money, such money as may be required to repay, renew or refund in whole or in part any security issued under the authority of this or any other act whether or not the raising of the loan may have the effect of increasing the amount of the public debt or of extending the term of years if any prescribed in the act authorizing the issue of the securities proposed to be repaid, renewed or refunded.

Section 37 (1), Your Honour, simply gives the lieutenant governor-in-council - it says, "Where in any act authority is given to the Lieutenant Governor-in-Council power to raise money by loan unless there is some provision to the contrary in the act, the Lieutenant Governor-in-Council may in fact exercise that power."

So, Mr. Speaker, you read these sections together and the situation is simply that the government may raise, the cabinet may raise loans for a period not exceeding one year. That is a reasonable provision. I am not arguing against it. What it does

mean is that we are then on the hook and as Your Honour will agree, whether we borrow the loan, whether we borrow the money for one month or one hundred years, once it is borrowed it must be repaid. The credit of the province is committed. Similarly the governor-in-council may borrow money to repay, renew or refund in whole or in part any securities issued under the authority of this or any other act. In other words, the security issued, the twelve month note issued under section 44 can be refunded under section 39. They may have to call in another temporary loan. All I am saying, Mr. Speaker, is that this bill is reasonable and straightforward. We will vote for it but let it not be thought that this bill in any way limits the power of the cabinet to pledge the credit of this province without prior legislative authorization. It does not, though sections in there are reasonable in themselves. They are reasonable in context but it does not in any way limit the power of the cabinet.

Even if it did, Sir, even if there were a section in this act saying that nothing shall be raised without prior legislative assent - and that section is not there, Sir, section 36, Section 36 does not say that. Section 36 says nothing shall be raised by way of loan except under this or some other act. This act referred to in section 36 also includes sections 44 and 39. Even if we had before the House a bill saying, unless the House of Assembly has specifically the bill to authorize the borrowing or the making of a loan, it shall not be made, what would that mean, Sir, in a House where we have eighteen ministers in the cabinet and maybe a nineteenth? We have a portfolio held on an acting basis by the Premier. Nineteen men in the cabinet, two additional gentlemen in quazi-ministerial positions as assistants to the Premier. Twenty-one out of a House of forty-two! No limit on how many men can be taken into the cabinet. There is no act of this House, Sir, that limits it. True the legislation dates from before this administration. They did not pass it. They



have not changed it. They have not proposed to change it. There is nothing to prevent the Premier tomorrow waiting upon His Honour the Governor, Sir, and advising His Honour the Governor to swear in as minister the gentleman from Bay de Verde who at present is not a minister, the gentleman from Bonavista South who at present is not a minister, the gentleman from Brugeo who at present is not a minister, the gentleman from Grand Falls who at present is not a minister, the gentleman from St. John's South who at present is not a minister. I have named all of the honourable gentlemen opposite who at present are not in the cabinet. The gentleman from Green Bay, the gentleman from Trinity North are not ministers but they are by authority of this House holding quasi-ministerial positions. Even if the cabinet were bound by act of legislature to borrow money only with another act of the legislature, what, Sir, does that mean when at least half of the House, not half of the government side, half the House can be in the cabinet, can be under pay, can be under obligation?

Mr. Smallwood when he was Premier was criticized for this. The criticism many people made had a great deal of merit. The present administration are equally guilty. What we need in this province in this sense is a law saying, for example, there shall be no more than twelve men in the cabinet. Out of a House of fifty-one twelve in the cabinet. Two assistants for the Premier. I am not counting the officers of the House, Sir, they are not part of the government in this sense of the word. They are appointed by this House or elected by this House. So, Mr. Speaker, the whole issue is a sham issue. The Progressive Conservative Party, a great deal of it, to hear them in this House you would think that Newfoundland had her birthright sold. Well, Sir, if Newfoundland's birthright was sold, this bill will allow them to have another sale and a resale and a

further sale and still a further sale because these two sections, Sir, section 44 and section 39, give the government the power to borrow unlimited sums of money. There is no limit anywhere in this bill. Indeed, Mr. Speaker, it specifically says that a loan may be raised - I am reading section 44 - a loan may be raised under this section whether or not the raising thereof may have the effect of increasing the amount of the public debt of the province. What could be clearer than that, Sir? So the Cabinet has the power under this to borrow unlimited amounts for up to twelve months. They also have the power to borrow further unlimited amounts to pay off any loan that has been made, including the temporary loans.

Mr. Speaker, let me just say one other thing. The Minister of Finance also when he brought in or introduced the bill, moved second reading, said that the loan bill which will come in will have in it a little leeway. I think I am quoting him correctly. I mark down the word "leeway". Now that is a revealing phrase. In other words, the \$210 or \$220 million in capital borrowings that we have authorized in the supply bill there will be more than. Maybe we will have an extra \$5 million thrown in for spending money, for travelling money. Even by that standard the administration are making a mockery of the principle which they espoused.

Mr. Speaker, this is pretty well what I have to say. I am in a paradoxical position. I shall ask my colleagues to vote for the principle of this bill because it is a piece of housecleaning, it is good tidying up work, it has updated an act that is twenty or twenty-five years old and needed to be updated and needed to be tied together and new concepts brought in and some old ones cleaned out. I am quite prepared to ask my colleagues on this side of the House to vote for the bill.

At the same time, I do not want it to be thought for a minute. and I hope the gentleman from St John's East, who looks as though he is about

to launch himself into this debate, will address himself to this point, I do not want it to be thought for a minute that this bill changes the system. It merely changes the form and it is a sham and a piece of hypocrisy for anybody on the other side to pretend that this bill will limit the power of the cabinet to borrow money without prior legislative authorization. It will not. It does not. The sections in this bill were drawn deliberately to enable the government to borrow money without having first to come before the House. I do not find that all that offensive because they must report to the House and they cannot spend the money without authorization from the House be it retroactive or be it prospective. This bill if it is put forward as being a bill to return to the House of Assembly control over the borrowing of funds for this province, if that is the reason it is put forward, Sir, it is put forward with hypocrisy because it is a mockery of that principle. This will enable the government to borrow what they want, Sir. They merely have to call it a temporary loan. Mr. Speaker, it makes no difference, if my honourable friend from Bonavista North goes to the bank and borrows \$50,000, it does not matter whether it is borrowed on a thirty day note or a thirty year note, he borrows it and he must repay it. If the government go to the banks or go to the money markets and say we want to borrow \$100 million, "Oh, we are only short term, we are limited by section 44 (1) c. to a period not exceeding one year so we will borrow it for 360 days," that makes no difference. The credit of the province is still involved and the credit of the province stands behind that loan and when the 360 day term is up that loan must be paid.

Mr. Speaker, we shall support the bill but we shall do so in the knowledge it does not carry out, perhaps it could not carry out this pledge we heard so much about, to restore to the House of Assembly complete control over the financial affairs of the province. Even if it did that, Sir, it would be meaningless to do so in a House of Assembly where one half of the members are under direct

obligation to the Premier, the leader of the government, under direct obligation in the sense that they are either members of the ministry or are personal or special assistants, in either case holding office at his pleasure. We will support the bill, Sir. We shall do it with something less than enthusiasm.

MR. MARSHALL: Mr. Speaker, I do not think that I can let this opportunity go by or allow the honourable Leader of the Opposition to attempt to whitewash this bill as being just a little bit of inconsequential legislation which is just a piece of house-cleaning and perpetrates and does exactly the same type of thing and exactly the same thing as had been done by the previous administration. This is indeed a very forward reform. It is a reform that should not have been necessary in the first place because we should never have been in the position where the power to determine whether money was borrowed or not was taken completely away or virtually away from the legislature itself.

First of all, Mr. Speaker, to meet head on the statement made by the Leader of the Opposition which was, I suggest, a statement made by a person who realizes, being a member of the previous administration that operated under the legislation then existing which engrafted all of the powers to borrow in the cabinet, which was contrary to what went on in other provinces of Canada, which is contrary to what went on in the British Parliament, which is contrary to what went on in the United States, which is contrary to really what went on in the days when democracy was growing in the sixteenth, seventeenth and eighteenth centuries in England. He realizes this and I feel he must as the intelligent individual that he is, he must realize that this is so but we just heard a "mea culpa" as it was for his reasons for going along with the previous situation.

First of all let me make abundantly clear that this changes in each situation. Previously, Mr. Speaker, in 1966-1967, the Revenue and Audit Act was amended to provide as follows; that

"The Lieutenant Governor-in-Council may borrow such amounts" (I am quoting) "as will realize a net sum of money required for the consolidated revenue fund." This obviously resulted in a complete blanket power to borrow without any legislative sanction whatsoever and it resulted indeed in most undesirable consequences pertaining. Contrary to the statements made by the honourable Leader of the Opposition here, contrary to the statements that were made by the Liberal Party when it was on this side, this action constitutes, as I say, a radical and a very radical departure from democratic procedures.

Prior to the enactment of this amendment the cabinet could only borrow where prior statutory authority had been given except in the cases of emergencies where the cabinet could borrow temporary loans for a temporary period as the exigences of the public service required. Here in this bill we have provided that no monies may be borrowed without legislative approval except in the one case, to refund existing indebtedness and that is reasonable because the province would have already paid upon the borrowings which we are refinancing. It would already have deliberated on them, number one. Number two, obviously there is no question that valid obligations of the province to third parties must be honoured. Secondly, it provides for temporary loans to meet the exigences of the public service. This was a phrase which the Leader of the Opposition very carefully skirted. I do not think he mentioned it in his remarks. In other words, to meet the emergencies, to meet an emergency situation. It is an escape valve and it is only to be used and will only be used for that purpose. It is similar to the legislation that exists in other provinces of Canada.

When we were in opposition, Mr. Speaker, we brought in a bill to amend the Revenue and Audit Act, to bring about this self same result. In other words, to abrogate completely - the record will show it - the power of the cabinet to borrow



money and commit the credit of this province without legislative sanction with certain escape valves which you have to have and which pertain in every bit of legislation from here to Vancouver and I suggest in the United States and in England. At that time and that was before the days when largesses of money were given out to the opposition to do their research, we poor mortals on the other side had to do our own research ourselves. We were greeted by the then all-powerful government and statements being made at the time, statements I think the record will show, that such an amendment was stupid in the extreme and we were told that there were two reasons why this could not be. Number one, that it was the same power as was given in every other province of Canada. These were the words that were given, "In every other province of Canada". They had the same powers as they had under the 1966-1967 amendment. In other words, blanket power to borrow. Secondly, "It was most necessary for flexibility in borrowing." These were the reasons that were given. They just do not wash, as I will demonstrate, because it just is not so. The fact of the matter is that the Financial Administration Act of Canada, that every other power, every other province has essentially the same powers of operation as is contained in this amendment and not the blanket borrowing as was represented.

Indeed under sections 29 of the Financial Administration Act of Ontario as well as in Canada, as I will come to in a minute, but the Ontario Act says that no money shall be borrowed by way of loan except under this or any other act of the legislature. This is the same as this section in the amendment of our Financial Administration Act, "No money shall be raised by way of loan by the province except under this or some other act of the legislature." Similarly the Federal Government has exactly the same thing. Alberta and Manitoba have exactly the same provisions. Yet when we were in the opposition, labouring over there and we brought in the amendment, the honourable Leader of the Opposition and most of

the other honourable gentlemen opposite were over here and in their own way were obviously supporting the government. These statements were made and they got up and they voted against this amendment which is now brought before us.

It is not, Mr. Speaker, an inconsequential amendment. In effect, it is a return of a large sector and segment of democracy to the legislature.

Now that was the first thing that was completely and absolutely without any foundation whatsoever; the statement, in support of the opposition to the amendment, by the Liberal Government at the time, that every other province of Canada had the blanket power to borrow, this was untrue, it was false and it was without foundation.



This bill here puts the position as it is in every other province in Canada including the federal government. Surely the people of Newfoundland are entitled to the same amount of an intensity of fiscal responsibility from its Provincial Government as it receives from its Federal Government.

Another argument used was that it was necessary for flexibility of borrowing, to administer the affairs of the province. This is an argument that is used frequently from time to time, as a matter of convenience, by the bureaucrats. This government have decided that all the flexibility that this government need and all the flexibility we should have is the amount that the Legislature is prepared to allow us to borrow within a certain stipulated time, plus extra amounts to meet our commitments to third parties plus, if urgencies occur, emergencies occur, there has to be an emergency borrowing power.

Now the argument used by the honourable Leader of the Opposition to the effect that whether or not this increases the temporary borrowings, which may increase the public debt and therefore you have the right to increase the public debt by these temporary borrowings, is specious in the extreme because obviously, if you borrow more money, any one who can add one and one and knows it makes two, obviously knows (there is no attempt to hide it) that it would increase the public debt. That is not the point. The point is, Mr. Speaker, that the cabinet may not borrow any more unless, as I say, it is for a temporary matter, for a temporary reason and for an emergency itself.

A mention was made at the time that this was done by the financial advisers to the province, at the particular time in 1966 or 1967, I am not going to comment on that one way or the other because there may or may not have been a reason for mentioning it. I do not know. I am not going to get up and start screaming and yelling because it was mentioned. It does not make any difference anyway because the fact of the matter is that whoever brings about this change, it is the responsibility of the government in power. It was a disgraceful change in itself.

Now the argument was also used that the Legislature had to pass on the borrowing powers anyway. Yes, Mr. Speaker, they had to pass them on eventually I suppose, when you consider that it would come in in supply; you had to get supplementary supply and you had to get power to spend the additional money that had been raised. In a sense they did not have to pass on it because if there were a real short fall in their estimates that had been brought in and they needed extra money to meet the supply that had been granted, it did not really have to be passed on. Just say that there was proper budgeting, some of it would certainly have to be passed on in supplementary supply. The point of the matter is purely and simply this, Mr. Speaker, that this was judgment after the fact; after the mopies had been spent; after the commitment had been made; after the commitment had been made from a duly authorized delegation from this House to the cabinet. There is absolutely no way that this Legislature could turn around and say, "All right, we will not sanction the borrowing which we had authorized you in previous sessions to do." That would in effect have been a default of our obligations and really an act of bankruptcy on our part. It is rather silly to say that the legislature had the opportunity to pass on it, when it had the opportunity only after the fact.

The situation in this province is that we have a very high provincial debt. We have small resources and a great amount of needs. Before we can get the fiscal responsibility which ideally perhaps we will never achieve but which we should aim for, certainly the people of this province have the right to know two things: (1) what the money is being spent for and (2) how their money is going to be raised, whether it is going to be raised by taxation or whether it is going to be raised by borrowing and ultimately paid back by the people of the province. It was the latter alternative that was not brought forcibly to the attention of the people of this province. It was wrong to that extent or in that area certainly.

Now mention was made (there was a great attempt to try to sluff it off, which has been inconsequential in this amendment) that this government, in its linerboard legislation, when it came back to the House, it had already spent the money, more money than had been authorized in the estimates. If the honourable Leader of the Opposition wish to consult the original Linerboard Bill, there was an amount put in that bill as an outside limit that the government may borrow. It said then, "Up to \$50 million." This is what it was allowed to spend and what it did spend. Subsequently, this year, more money was needed, so we came in with another bill. We have been consistent, as I say, throughout.

Mr. Speaker, I think I have really covered all the points and I want to re-emphasize again that this is not just a little routine little bill that is slipping through, a little tidying up of the Revenue and Audit Act, doing exactly the same thing as had been done in previous years. No indeed it is not, Mr. Speaker. It is to return fiscal responsibility back to the people of this province, through this particular amendment as it is to the Revenue and Audit Act. It is putting us in the same position as all democratic countries, as our sister provinces. It is certainly noteworthy to point out that the Leader of the Opposition, who was on the other side, who agreed with the then leader when he said that this legislation then was stupid in the extreme, that it was not the case as in other provinces; did so without any knowledge at the particular time as to what was pertained in the other Canadian Provinces, so there is good reason I would say to view his remarks right now, as the remarks of a person who has not really the knowledge of what he is speaking about.

Mr. Speaker, I would like to compliment the Minister of Finance on this very forward piece of legislation. Quite frankly, I think it should be engrafted into the constitution so that it cannot be changed on a simple majority vote in the House of Assembly because, Heaven knows, with

the temperament of the honourable gentlemen opposite and when they get back to power in 1995 or the year 2000, the province will be put in exactly the selfsame position as it has been in previous years, with predictable results. Here are the results. They are practical results.

Mr. Speaker. In 1966-1967 the largest amount of supplementary supply sought was \$20 million, prior to this the largest amount. In 1967-1968, when this blanket power was given, it increased overnight to \$54 million. People wondered why our debt mounted so quickly and so rapidly. Well this is one of the major reasons. In 1970-1971, it mounted to \$43 million, supplementary supply. These were irretrievable commitments of public money, Mr. Speaker, as I pointed out before, no legislature, no responsible opposition, no single member of the House could refuse to honour when it was brought back in again.

Now this year, thank Heavens, because we have a conscientious, hard-working and capable Minister of Finance, the supplementary supply was down, down, down, way, way down below, underneath the table as it were; you could hardly even notice it. The fact of the matter is that one of these days when the honourable Minister of Finance has served his time, when he gets to ninety, ninety-five and he is no longer able to mount the steps, with his walking cane, there will be somebody else there and it might just happen to be a Liberal, Mr. Speaker. - If it happens to be a Liberal Government that is in, we can reasonably predict that we will be galloping away again with borrowing from the point of view of convenience, without reference to the people who are the ones who ultimately have to pay the debt, and we will see an astronomical acceleration of the public debt all over again.

Now, Mr. Speaker, I could go on and on and on, ad infinitum, about this particular bill, but I will not. I think I have convinced the honourable member for White Bay South and I am quite certain that I have convinced the honourable member for Bell Island, absolutely and completely certain. The fact of the matter is that this returns a sovereign power to borrow money to the hands of the people.

MR. NEARY: What is the honourable minister drinking?

MR. MARSHALL: Just ice and water. That is all, water and ice. They are both the same thing, one is liquid and one is hard.

But this restores to the people of Newfoundland the power to borrow money except in two instances: to refund existing indebtedness, which is the same as they have in the federal government in Ontario and all over the place, everywhere. The only place you could compare us with is probably Russia or Communist China or something like that where a couple of people could just spend all the resources of the province. It restores to the people of this province the sovereign power to borrow except to refund existing securities, which is the same as in other areas, and for temporary purposes, which is the same as in all other areas, but only for emergency purposes, which is also the same in other areas.

Mr. Speaker, in addition to congratulating the honourable Minister of Finance, I hope I have succeeded in giving the honourable members of the opposition a lecture and a lesson in ordinary operation of democracy, which I hope they will take to heart. If they are ever led out of the wilderness again and if they ever get into power again, with a leader who speaks only himself and they have to follow along, without an eye, or a nay or a wherefor or a question, I do hope that they will remember this lesson and when they do get up off their knees, when they are able to speak out and speak on themselves, to themselves and for themselves that they will remember what the purpose of the democratic system is all about.

MR. ROWE (W.N.): I do not know what happened to the honourable House Leader, Mr. Speaker, over the weekend. He has something burned or something. He is extremely touchy and extremely irritable. I do not know what he burned when he was sliding down over those sheets tied together but he is very irritable and touchy today, consumed with a sense of vindictiveness and bitterness.



Going back over the years again, going back to a time when an act was passed, Mr. Speaker, allegedly taking away the authority of this House, when the Minister of Finance by the way was a member of the administration, Minister of Justice, Minister of Public Works, the point is, Mr. Speaker, at that time these gentlemen thought there was nothing too wrong with the legislation at that time but now, of course, there was something wrong with it. The importance of this bill, Mr. Speaker, is evidenced by the audience that the honourable Minister without Portfolio has from his own side today. All the while he was speaking, there were six or seven of his members, his colleagues, in this House and now there are nine. One third of the members, less than one-third of the members which he has with him on that side of the House, take the time or the interest to come in here and listen to this epoch-making piece of legislation and what it is all about, Mr. Speaker. That is the importance his party, on his side of the House, deem this bill to have for the people of this province or for the House.

Now, Sir, the Leader of the Opposition has already made the major two or three points that should be made about this legislation. I will not be speaking very long. I will probably mention from a different angle what he has already said before. Let me say this, that in order to give legislative authority and sanction to the stated Progressive Conservative policy, when they were in opposition and when they were outside the House looking for votes from the people, in order to do this in respect of the financial authority of this House, Mr. Speaker, what would be needed would be an outright legislative prohibition of the government borrowing any money without the authority of the House. I do not know what they had contained in their piece of legislation which they brought in here as a private member's resolution. I do not remember what was in that. It was a number of years ago. The indication, the impression they gave to the people of this province was that when they got in power, what they

would be doing would be making sure and certain that no more money would be borrowed by the government, without the prior, the previous, prior advance authority of the members of the House of Assembly. That was the impression left with the people of this province, Mr. Speaker, nothing more nor less than that. Now I do not say that that was a good impression to leave or that that idea was a good one. Certainly a government which are generally responsible to the House of Assembly in any event and through the House of Assembly to the people should have some flexibility, should have some leeway, some margin to look after emergencies or not even emergencies, something which might come up, which might not be an emergency nature but might be in the public interest to look after financially. Perhaps the government should have the authority. Indeed I think the government should have the authority to borrow money and then to seek the retroactive legislative authority of this House. I do not see anything wrong with that. They are a group of responsible men, responsible generally to this House, they know that. They are subject to public scrutiny all the time, as all politicians are. Certainly trust and responsibility can be reposed in this government or any other government to do what they consider to be in the best interest of the province. I am not saying that the ideas spouted off by the Tory propagandists, when they were out of office, were good ones at all, the indication and impression being that no more money would ever be borrowed by a government unless it had the previous legislative authority or the previous authority given to it in advance by this House of Assembly.

Certainly the impression which they gave the people is not realized in this bill. I think this bill is a good one. The Leader of the Opposition has already said that he thinks it is a good one. What does it do? It is some small measure that takes away as a matter of form but not substance some authority of the government. Now there are enough loopholes in the bill, in the act that it will become, to run a couple of



dump trucks through, Mr. Speaker, a couple of bulldozers, graders and perhaps all the equipment of the Department of Highways, because there is no substantial change in effect. There is no substantial change. The Minister without Portfolio should not try to pull the wool over anyone's eyes. What it comes down to is this: When they were out of office, they said that they were going to do this, that and the other thing when they got into office. Through some fluke which not even the Minister of Finance or the Minister without Portfolio ever foresaw in a month of Sundays they got into office, Mr. Speaker, through a fluke, and suddenly they are found in a position where they do have to give some lip-service to all the promises which they had been making to the people.

In any event, Mr. Speaker, they fluked into office. The people of Newfoundland put them into office; they fluked into office, which is a good thing. I mean I am delighted to be over here.

MR. ROBERTS: It was no fluke that the honourable gentleman from St. John's North got put out of office.

MR. ROWE (W.N.): The honourable gentleman for St. John's North was not put out of office by way of fluke; malice aforethought, carefully thought out. The Premier knew that he would not squawk. He tried to put out now the Minister of Provincial Affairs but we would see what kind of a squawk there would be then. He chose the two soft touches and threw them out. That is aside from the main point of the bill, Mr. Speaker, considerably so.

Now we have an administration somewhat embarrassed by the irresponsible promises made, the impression at least being that no more money would be borrowed by the administration, without previous and prior advance authority of this House. Now they have to come in and do lip-service to that promise. What do they bring in? They bring in this bill which in form appears to deprive the administration of its authority to borrow money. As the Leader of the Opposition has already said, Mr. Speaker, by way of Clause (44) of this bill: "the government

may borrow such sum or sums as may be necessary to meet the exigencies of the public service." Who determines that but the cabinet itself. Who determines what the emergencies or exigencies or the things that emerge but the Minister of Finance, in his own unfettered discretion, dictator Crosbie! An exigency, Mr. Speaker, is a far cry from an emergency. An exigency is just something that emerges, something that comes up, something that may be an emergency or not. Perhaps the Minister of Finance may freak out one of these fine summer nights or days, either on the yacht or the "Rowdy Man" or down on the Gander River and decide that an exigency has arisen and we need to borrow \$50 million, albeit short-term financing, but once you have borrowed \$50 million, that has to be paid back, as the Leader of the Opposition has said -

MR. CROSBIE: (Inaudible).

MR. ROBERTS: That will depend on being minister.

MR. ROWE (W.N.): As the honourable Leader of the Opposition has said, if I go down to the bank as I did today, Mr. Speaker, to borrow some money to pay my income tax, a short-term loan and merely a short-term, that does not mean that my credit is not tied up. As a matter of fact, it being short-term is more financially embarrassing to me. I would have to find the money within the next month or so. If it were a five-year loan, I could at least say well, let that day come when it may, perhaps I will have a windfall by then or maybe I will be dead by then; let my heirs take care of it; let my estate look after it.

MR. CROSBIE: Never borrow money -

MR. ROWE (W.N.): Here are the government with the authority in their own unfettered discretion, no obligation to account to anybody at that time (later they will account to the House) they can go out and borrow \$50 million short-term financing and within a year it has to be paid back. How is it going to be paid back? The credit of the province is bound up. The

credit of the province is obligated to that extent, whether it is a twenty-five year loan or a thirty day loan. What is the honourable Minister of Finance talking about or the honourable Minister without Portfolio? The government still have the authority, Mr. Speaker, the unlimited authority to borrow what they want and to tie up, bind up, to obligate the credit of this province. There may be a limit of a year on it. So what? The money is borrowed so they come into the House and they say to the House at that time, whether the House is disposed to agree with the borrowing or not they say; ten days from now we are obligated to pay back this money which we have borrowed, which we borrowed three hundred days ago and ten days from now we are obligated to pay back this money -

MR. MARSHALL: (Inaudible).

MR. ROWE (W.N.): Well sure, there is no problem there - standard wording. It means that the government can do what it wants to do.

In any event, Mr. Speaker, the Minister of Finance comes into this House and says, "Look, we have borrowed \$50 million." Some harebrained scheme or other. That is, I am not saying that they are going to get involved in a harebrained scheme. They borrow \$50 million for three hundred days and then they come into this House and say that that has to be paid back next week, and we have no money. Now we do have a chance to borrow twenty-five year money by issuing a bond issue on the Mainland of Canada or in Germany or in Japan, as the Minister of Finance has said, we need that to pay back this money, how about doing it? What choice does the House of Assembly have, Mr. Speaker? What choice does it have? To use the words of the Minister without Portfolio, the choice that we would have would be to say no to the government or face bankruptcy as a province because we have not met a commitment. That is the choice thou hast. The government of the day, Mr. Speaker, has exactly the same authority to tie up the credit of this province as the government before did. All this is is a bit of lip-service, some window-dressing to make it look like that this administration is living up to the commitments, the

promises that it made to the public, to the electorate when they were seeking the administration of this province. That in all, Mr. Speaker, does not make it a bad bill or a bad act when it comes into law, as it will.

We are not going to move any amendments nor anything. Let us merely be clear as to what is going on here. Let us be clear that this may be cleaning up some loose ends. This may put the legislation in Newfoundland on the same footing as the legislation all across Europe, the United States and the rest of Canada for all I know. It may be. Let us not think that this legislation fetters in any way or binds in any way the government or prohibits the government from borrowing money without previous legislative authority. They can do it. I would say, Sir, that the time will come when they will do it. I do not deny that power to this administration or any other administration. They are responsible to this House. They are reasonable men and responsible men. They are not going to do anything stupid nor foolish, I know. We may have our political differences, we may have our priorities which are different, we may have a different philosophical outlook as to what should be done in the province. I do not think that any man on either side of this House thinks anybody in this House is irresponsible or stupid or is going to do anything which is not in the best interest of the province, I am not saying that. Every man is going to do what is in the best interest of this province, no matter who is in power.

The point is that this government, as the previous government and as the succeeding government will have, as the other governments did have, have the power to commit this province's credit without any ceiling on it whatsoever. Merely by calling it a temporary loan does not alter that fact, Mr. Speaker, by one jot or tittle or one iota. That power is still there. This is a good bill. This is a reasonable bill. Let us know what we are passing in the House. Let us not have the wool pulled over our eyes by vindictive spleen as evidenced by the Minister without Portfolio, not

by the Minister of Finance because he knows what he is doing. He has brought in a reasonable bill, a bill which puts us on I believe a uniform standing with the other provinces across Canada. It modernizes the act; it gives the government sufficient powers; it gives the House sufficient powers, a good division of powers between the executive arm and the legislative arm as far as this act is concerned. We did not hear any vindictive spleen out of him. We did not hear anything like; this is the salvation of mankind compared to the stupid irresponsibility of the previous administration, because he knows what he is doing. He is not interested in trying to pull the wool over the eyes of this House, members of the press or the members of the public. I am sure that he will agree with that statement, Mr. Speaker, when he clues up the debate. It is a good bill and a reasonable bill.

Now, Mr. Speaker, let me touch once more, finally, on one point made by the honourable Leader of the Opposition when he was speaking for this side in this debate. All the acts in the world, Sir, taking away as much authority as you want from any administration of this province, are useless if a majority or nearly a majority or more than a majority of the members of this House are in some way or another directly obligated, not financially or anything like that, but as a matter of loyalty because of their position, to the cabinet, to the executive arm of our democratic system.

As the honourable Leader of the Opposition said; we have eighteen soon perhaps nineteen members of this House who are directly in the cabinet, actually in the cabinet. We have two other gentlemen, two fine gentlemen in my estimation, who are, as he put it, quazi-members of the administration. They are not members of the cabinet. Their loyalty, their first loyalty, like honourable members, is to Newfoundland and Labrador. There is no doubt about that. Their next loyalty is then, as a result of their



position their next loyalty is to the administration. If the honourable member for Green Bay or the other honourable member, who is in the position of special, executive or parliamentary assistant, does not agree with that, then I would submit, Sir, that they do not belong in their positions. They have a position as special assistant to the Premier or parliamentary assistant to the Premier or executive assistant, I do not know what the terms are but they all mean the same thing. They are for all intents and purposes members of the administration. They do not sit in on cabinet meetings but they are responsible directly to the leader of the administration just as in a different way the Deputy Minister of Finance is responsible to the Minister of Finance more so than he is responsible to this House, in his capacity as Deputy Minister of Finance, his loyalty is clear. There may be a slightly more divided loyalty on the part of the honourable members who fill these other quasi-administration jobs and positions, slightly more divided. I would say that in the pinch, when the chips were down or if they are down that these gentlemen are going to be loyal to the administration. That is who they work with day after day and the leader of the administration. That is where their loyalty lies. To bring in a bill which appears, in form if not in substance, which appears to be limiting the authority and the power and the capacity of the administration in a House of Assembly where a majority or just about a majority of the members of that House are either in the cabinet or are directly loyal, directly responsible to the administration or the leader thereof, is nothing, Mr. Speaker, but a tissue of impotency. There is nothing to it. There is no substance to it. There is no safeguard there.

As the honourable Leader of the Opposition said, perhaps what is needed in this province and in other provinces of Canada is a constitutional amendment, not an amendment by act of this House, but a constitutional amendment whereby the number in the administration can only be a certain proportion, a certain percentage of the members of the House



of Assembly, perhaps twelve, I believe the honourable Leader of the Opposition said, or perhaps out of a House of fifty-one, you might go to fourteen or fifteen. There should always be in our responsible government system a sufficient number of members in a House, in a Legislature, to vote a government out of office. You

MR. WM. ROWE: have it in Great Britain where they have say thirty ministers out of 650 members, I believe six hundred odd members. The cabinet itself is about thirty. I believe the cabinet itself is about thirty and there may be other ministers who are not in the cabinet, sixty or so.

But in any event it does not exceed more than one-tenth of the number of members of the legislature itself, the House of Commons. In Ottawa we have thirty ministers or something and have 267 members of the House. Again slightly over one-tenth of the members of the House of Commons in the cabinet. At all times a sufficient majority of the House, on all sides of the House, to turf the government out of office if need be.

In this House we have about half, excluding Your Honour's presence because Your Honour is nonpartisan, above the battle, so we have forty-one and about twenty or twenty-one are either in government or in quasi-government position, quasi-administrative positions - one-half or a majority, a simple majority who owe a greater loyalty in their day-to-day work to the government, to the executive to which they belong, than to the House of Assembly itself, to which they have responsibility.

So, Mr. Speaker, this act, when it comes into law, will be impotent as far as substance is concerned, as far as controlling the executive is concerned. It does not do what first of all the party, the Progressive Conservative Party, said they wanted to do when they got into power. It does not do that in substance, although it may do it in form, and as far as the actual control by members of this House over the government is concerned, the bill does not even do it in form or substance. It just has no meaning whatsoever.

It is a good bill. It is a reasonable bill in other respects. We do not need to go into all the technical changes of things that this bill does in the updating and that sort of thing but as far as controlling the executive arm of government is concerned, it has no power, Mr. Speaker, the bill has no substance and the people of Newfoundland, the press and the members of the House might as well

MR. WM. ROWE: know that - they might as well know it.

I am not saying that the bill should be any different. I think it is a good bill as it stands. I think that the real problem in this House is that from a control of the government standpoint, that the members of this House do not control the government, the government has too many people in it, the government controls the House rather than the House controlling the government. That is the real problem and that goes beyond financial responsibility, that goes beyond committing the credit of this province, that goes to the heart of the whole form of government which we have. Thank you, Mr. Speaker.

MR. SPEAKER: If the honourable member speaks now he closes the debate.

MR. CROSBIE: Mr. Speaker, it has been quite an interesting debate. I think, Mr. Speaker, that if this trend continues we are going to have to call the honourable gentlemen opposite the "pooh poohers," because they spent the last week or ten days "pooh poohing" the legislation that we brought before the House.

Every piece of legislation that contains any change or any reform or anything new, they try to pooh pooh by saying that you could drive a tank through it or there is a loophole in the bill. I do not know what happened to all the loopholes in the bills in the past twenty-three years because I never heard the honourable gentleman opposite say once while they were in power that there was a loophole in any of the bills and we all know there is a loophole in every bill. There is no piece of legislation that cannot have a loophole but obviously their campaign now is - since we are doing what we said we would do, since we are changing what we said we would change, since we are reforming a number of the things that need to be reformed, that their approach to it now is to pooh pooh it. "It is not important. These are not important matters. This is a nice housekeeping bill. This is tidying up and so on and so forth but not of any real importance and not of any great interest to the public, so all we can see now is that they are on the pooh pooh kick.

I do not know what the kick will be next year. They will have

MR. WM. ROWE: to adopt some other slogan next year but right now it is the loop, the loophole whirl they are on and the pooh pooh technique. Well having explained that, Mr. Speaker, I think it explains what we have had to listen to for the last few minutes and I think it is quite ingenious. Actually if I were caught in the bind that they are caught in, I would be a pooh pooher too. I might even be worse. I cannot mention what is worse than a pooh pooher.

MR. WOODWARD: Is he not already one?

MR. CROSBIE: The honourable pooh bahs, we are going to have to call those opposite. Now the honourable gentleman from Labrador North had better be careful.

Mr. Speaker, many of the points that the honourable members opposite raised I can agree with in a way but it is wrong to say there is not a fundamental difference in the bill that is now before the House because there is.

The fact is that until this legislation is passed, the cabinet did not have to be authorized by legislation to borrow. There did not have to be any act passed by this House to authorize the government to borrow money. There did not have to be a loan bill passed and that is evident by the fact, Mr. Speaker, that we have not had a loan bill since 1966. There has been no bill brought before this House to authorize the government to enter into a loan. There has not had to be because that power was given by the House to the Lieutenant-Governor in Council.

Every bond issue, Mr. Speaker, has to have a legal opinion to the borrowers, given to them by their council and by council here in Newfoundland, that the loan is legal and authorized and it is a binding obligation of the province.

Now since 1966, all the lawyers have had to check, is there an Order-in-Council passed authorizing this loan? Once this bill here is passed, the House passes it, the lawyers in question are going to have to check and see what money has been borrowed by the province

MR. CROSBIE: this year? Is it within the amount authorized by the legislation or not? If there is any doubt about that at all or if they report that in their opinion this is not authorized by the House of Assembly, we will have to call the House back together again to have the legislation amended or amplified so that any legal doubts are settled. So there is no question that this is a fundamental change in the borrowing powers of the government.

Now it is true, Mr. Speaker, as a practical fact that the government has a majority in the House of Assembly and it is equally true that it would be unheard of for the government to bring in legislation authorizing us to borrow more money and have the majority of the government of the House and not support it. If the majority of the government of the House did not support it, the government would fall. We all know that this is a most unlikely event, but that does not change the legal effect of what the House is passing that this bill is voted for. If this bill be passed, then legally the government must consult the House to get authority to borrow money on a long term basis for this province. A loan bill will be introduced. It is at the printers now and hopefully will be debated tomorrow. If the House did not pass the loan bill that is going to come before it, we could borrow no more money this year on long-term.

Now it is true that we could borrow it short-term, temporary, under a year. There is no limit on that, that the cabinet sets the limit on what we borrow by way of temporary loans. But Mr. Speaker, you can only borrow a certain amount on temporary loans and the reason for our not being able to suggest to the House that the House should control the amount of temporary loans or short-term borrowing is that it is impossible to estimate how much you are going to need in short-term borrowing. That depends on whether short-term rates are less or greater than the long-term rates or vice versa or long-term rates less or greater than short-term rates? It depends on how well we can do long-term borrowing. Perhaps the market might go bad during the year; we find that we cannot borrow all we hope to borrow

MR. CROSBIE: on the long-term market, that the market has gone bad. If that happens, then we would need to increase our short-term borrowing.

So it is impossible to know in advance how much we can borrow short-term and therefore, the House will have to trust the Lieutenant-Governor in Council to exercise that power wisely. But in any event, Mr. Speaker, we are also amending this legislation so that we will have to report to the House within fifteen days of the next session what happened by way of temporary loans this year, how much was borrowed, what the interest rates were and all the details on temporary borrowing.

Now it is true, as I mentioned when I introduced this legislation, Mr. Speaker, that I; the Minister of Justice; the present Minister of Public Works, were members of the Liberal Administration in 1966 and 1967 when this amendment, which we are now reversing, went through. That is a fact so there is no admitting it or not admitting it. I did not really give it much thought at the time but I can tell you, Mr. Speaker, that when I became an independent member of the House and went into opposition, I soon realized the enormity of that change, because in 1970 and 1971 it was impossible for a member of this House, certainly a member of the opposition, to find out how much money the government were borrowing.

The passing of the supply bill or the passing of the estimates or the bringing down of the budget, it may reveal to you, it does in our budgets, it did not in the former budgets, it now reveals how much the province needs to borrow during the year. We know what needs to be borrowed but under the old act we could borrow twice that and we did not have to report to the House of Assembly that we were doing it and they might never find out about it. They might find out a year or two years later when the Auditor General brought down his report. But it could be two years before you would find out how much had been borrowed two years earlier. In 1970 and 1971 in this House the government refused to say how much money it was borrowing long-term or to inform the members about that. It is true, we could not find out. They borrowed quite a bit more



MR. CROSBIE: than was indicated as being necessary by the estimates or the Budget Speech.

Well this is a case of whether a power is exercised properly or not and I do not think it was exercised properly in the last several years of the Smallwood Administration, probably not the fault of the honourable gentlemen opposite but the head of the administration.

So it is a fact that there is a fundamental change. Now, Mr. Speaker, we must calculate in our own bill if we find that we have not asked the House to authorize us to borrow enough, if we find say for example next February or March that the market is very good and this would be a good time to go for another loan but we do not have the authorization, we will have to ask the House to pass another bill or if the House be not open, to call the House back together again.

MR. NEARY: That is not an emergency.

MR. CROSBIE: No.

AN HON. MEMBER: Inaudible.

MR. CROSBIE: No, suppose a market appears good, say next February or March, for a long-term loan but we have used up the amount that the House has authorized.

MR. ROBERTS: We can borrow it for short-term and then ratify the -

MR. CROSBIE: No because if the long-term market is good, then you have to borrow then on long-term. So it may be that we will find, if we have not calculated right, that we may have to call the House back together again and ask the House to amend the loan bill.

So there is a fundamental change here and I think it is a change that the Progressive Conservative Party promised when they were in opposition and in their campaign and which is now before the House.

Now, Mr. Speaker, nevertheless the real problem in this province is the amount we have to borrow and not how we go about borrowing. I mean the real problem faced by this province is the tremendous amount of money that we have to borrow to continue moving

MR. CROSBIE: at all forward as a province and the last two years was certainly evidence of that. This year is evidence of it and next year will be evidence again.

We have to borrow in this province to build roads and all, to do any capital work, to make the grant of \$8 million a year to school boards, and so on we have to borrow money and we have to borrow this year I think it is \$208 million, that includes meeting debt coming due and payments of sinking fund.

MR. NEARY: Inaudible.

MR. CROSBIE: No, it is in the budget. You cannot admit or deny it, it is just a fact.

MR. NEARY: We were going into bankruptcy when we were doing it.

MR. CROSBIE: Well, thank heavens that we got here in time and they are still advancing us the money!

MR. NEARY: The Minister of Finance said he knew how he could borrow it.

MR. CROSBIE: If the honourable gentleman is going to start tripping me up, I cannot start discussing these problems.

So, Mr. Speaker, there are one or two other points. This is not lip-service. I think the honourable gentleman from White Bay South called it lip service.

Mr. Speaker, on the point that both the Leader of the Opposition and the member for White Bay South mentioned, I am not at all a supporter of the Ted Russell thesis that was in "The Evening Telegram," some weeks ago. Was he here? I did not know he was here. But that thesis is completely out of touch with reality and I do not agree with the honourable member for White Bay South when he says (whether or not) there is a majority of this House in the cabinet and therefore the cabinet controls the House of Assembly, I consider that of being of very little importance either.

What has changed the whole parliamentary system, Mr. Speaker, in the last fifty years, is the evolution of political parties and political discipline. This House, whether or not half the members are in the cabinet and if you include certain officials and

MR. CROSBIE: parliamentary assistants and the half on the government payroll or not, is immaterial. If the government has a majority of members in the House, the government is going to stay in power, not just because certain of them are in the cabinet and certain are parliamentary assistants and one is the Speaker, and the Deputy Speaker and the Chairman of Committees, that is not the reason. The reason they are going to stay in is party discipline and party system and party loyalty.

There is a minority government up in Canada now.

MR. THOMS: He said that before - he did not agree with it.

MR. CROSBIE: That honourable gentleman, I never heard him say anything that was sensible at all yet.

So, Mr. Speaker, it is the party system that has changed, the parliamentary system, and anyone who is so out of touch with reality today as to think that that is not the case, he is living back in the Victorian era, certainly not in the Edwardian - the Victorian era.

We have today a minority government in Ottawa. Nothing like a fifth of the Liberal members in Ottawa are in the cabinet or on the payroll, any way, shape or form but they are supporting this minority government. If ten or twenty of them deserted it, they could topple it, but does it topple? Is it going to topple? No, they are supporting the members of the Liberal Party of Canada.

AN HON. MEMBER: Whether they are in the cabinet or not.

MR. CROSBIE: Whether they are in the Cabinet or not, and if there were a minority P.C. Party, it would be the same. So it is the party system that has completely changed what happened in the House of Assembly.

MR. NEARY: That is why the minister has changed his mind. Changes all around.

MR. CROSBIE: The honourable gentleman got me buffaloed. Since he was so nice to me there ten days ago, I just cannot get mad with him any more. I mean a few weeks ago, if he said anything I would really let him have it but now, you know he has obviously got something.

MR. NEARY: Inaudible.

MR. CROSBIE: I do not know what it is but he has got something.

So, Mr. Speaker, I think it is clear that it is a fundamental change but it is also clear that the House of Assembly is under the control of the government or any government that is here with a majority. It is just as well to face that fact and it is the public that has to decide, in three or four years time, whether or not that particular crew deserves to go back in again.

Now, Mr. Speaker, if the bill is passed, the loan will have to be authorized by an act passed by this House. It will either be the Loan Act or it might be an act like the Labrador Linerboard Act or some similar act, it will have to be approved by legislation. With the exception of borrowing to meet sinking fund payments, borrowing to meet debt that is coming due and temporary borrowing, these will be the only exception. This is a substantial change.

I do not think there is any other - yes, there is a section which says that with the present debt you can substitute one class of securities for the other, in connection with present debt.

So the result of passing this legislation will be, Mr. Speaker, that we will have to be very careful on how much we ask to be approved by the House to be borrowed by the loan act, if not we may find that during the year we will have to call the House back together again and that means that the House will have to be told why it is necessary to do this and why more money is being borrowed and we will have to account to the House and in the last four or five years the fact of the matter is that the changes made in 1966-1967 made it possible for the government to do what they like without accounting to the House. At least with this change we will have to account to the House of Assembly, and I think it is a large step forward.

I notice that the honourable Leader of the Opposition, who objected so vehemently to his father being mentioned in the House, did not upset our House Leader here, the member for St. John's East, whose father was Comptroller and Deputy Minister of Finance in 1966-1967.

MR. ROBERTS: I did not mention that.

MR. CROSBIE: No, no, but the honourable gentleman said -

MR. ROBERTS: To a Point of Order, Sir, if the honourable gentleman quotes me he has to quote me correctly. The only way in which I mentioned Mr. Walter Marshall was in reference to 1949. I did not mention him, indeed I do not know whether Mr. Marshall was, I do not recall when was the precise point when Mr. Groom became Controller, succeeding Mr. Marshall. So let the honourable gentleman quote me correctly.

Not only that, I commended Mr. Walter Marshall and Mr. Jim Thompson. I have a very high respect and affection for Mr. Walter Marshall. I only wish that I had respect and affection for his son.

MR. CROSBIE: Well, Mr. Speaker, I am glad we have that point cleared up. I was just going to commend the House Leader for remaining so calm and cool and quiet.

MR. ROBERTS: You notice what I said happened to be true or else the House Leader lied.

MR. CROSBIE: Well the honourable gentleman is still very touchy on that issue. Mr. Speaker, we have this excuse for the honourable Leader of the Opposition: He faces a major change in his lifestyle within the next few weeks and therefore, we forgive him his little brusqueness and sensitivity during the next couple of weeks.

It is a big change and when the House is having their stag party for him - I have not heard yet - I presume that the whips will be meeting, Mr. Speaker, to discuss this issue and select the films to be shown and all that kind of thing.

The Party Whip can be the taster, Mr. Speaker.

MR. EVANS: Inaudible.

MR. CROSBIE: This is a great advance forward, Mr. Speaker, and I therefore move second reading.

On motion a Bill, "An Act To Amend, Revise And Consolidate The General Law Relating To The Public Revenue, The Raising Of Certain Loans Authorized By the Legislature And The Auditing Of Public Accounts," read a second time, ordered referred to a Committee of the



MR. CROSBIE: Whole House on tomorrow.

MR. SPEAKER: Before we proceed with other business, there is just one thing that maybe I should mention, tomorrow the committee which drafted the Address in Reply to the gracious Speech from the Throne will be presenting it to His Honour the Lieutenant-Governor, at Government House, at noon. The committee and the gentlemen at the table and myself will be there and the invitation is extended to all honourable members of the House who wish to attend. We could either leave as a group from my office here, at approximately 11:30 or, if that is not convenient, honourable members wishing to be present could find themselves at Government House by noon. But the invitation is there for all honourable members to attend if they so desire.

Thank you!

Motion second reading of a Bill, "An Act Respecting Conflict Of Interest In Matters Of Public Concern."

MR. CROSBIE: Mr. Chairman, this is quite an important piece of legislation or quite a new departure in this House and therefore it may take me some time to introduce the legislation. The members have had this legislation now for some time, so they have had lots of time to peruse it. It is a difficult and complicated area, breaking new ground really because we have not the precedent of legislation before any other Canadian House of Assembly in any event to go by or the Federal House, and therefore the matter should be considered very carefully.

The fundamental principle of this legislation, Mr. Speaker, is that there should be public disclosure by all members of the House of Assembly and members of the cabinet and by certain civil servants or public servants, of any interest they have that might conflict with their responsibilities as members of the House or members of the government or as public servants.

Now the principle of this bill is public disclosure and after disclosure, if any one of those groups of people are in a conflict of interest situation, nonparticipation by them in the discussion of that issue or the decision made on the issue, nonparticipation in the



MR. CROSBIE: decision or in the discussion that lead up to a decision, whether you are in the cabinet or in the House or in the civil service, in a particular position where you have got some discretion.

In other words, Mr. Speaker, if we pass this legislation and I think the House will, it would make it impossible, for example, for a member of this House or a member of the government to own shares in Canadian Javelin or to own shares in BRINCO or to own shares in any company negotiating with the government, or EPA, and have anything to do with the action the government take in connection with those negotiations.

That is a situation that has not been the case in the past because we all know of a recent instance where it was revealed that the leader of the past administration had owned shares in BRINCO at a time over a period of years when very important negotiations between the government of this province and BRINCO were underway in connection with the Upper Churchill.

Now there was nothing illegal about that situation at that time but with the passage of this legislation - improper yes, completely improper but if this legislation were passed, for example, that kind of situation would be illegal.

As I see it, if this legislation passed, it would be contrary to the legislation for a member to have an interest in a law partnership if he is in the government and if one of these partners acts for someone doing business with the government or seeking concession from the government, it could also be a conflict of interest.

In that situation that particular person should not vote or express an opinion on any action in connection with that client of his law firm, if he still retains a financial interest in the law firm.

MR. NEARY: Would the lawyer have to take his name off the door?

MR. CROSBIE: No, but to have a financial interest in it. They would not have to take their name off the door anyway, but in that situation,

MR. CROSBIE: whoever that person was could not have anything to do with the decision that was being made in connection with that particular client. That was certainly not the case heretofore.

Now, Mr. Speaker, it is disappointing to notice some of the comments there have been on this legislation, in the press, because I think it is not informed criticism of this legislation. There was no point anyone in this House thinking and I am sure anybody with any sense is not going to believe that this legislation can stop conflicts of interest. There have been some awfully silly questions asked about this legislation, particularly by reporters, you know - how is it going to stop conflicts of interest? Well, it is not.

Well it is not going to stop conflicts of interest any more than the criminal code stops murder. The criminal code forbids you to murder someone. The criminal code forbids you to be a drunken driver. The criminal code forbids you from breaking and entering another person's house. The conflict of interest legislation will forbid you from taking part in any decision where you have an interest that is in conflict. Now some people may still try to do that, it is not going to stop them from trying to do it, All it does is provide a framework that makes that particular action illegal and if it is discovered that there has been an offence that makes that particular action illegal and if it is discovered that there has been an offence, we then have some legislation we can prosecute under, the same as the criminal code does or any other kind of legislation.

The criminal code forbids now the bribing or corruption of a public official, That does not mean to say that it stops public officials being bribed or corrupted but when that is discovered then of course it is a criminal act and you can be prosecuted for it. If we had legislation like this, if we had it within the last three or four years - the situation in connection with the liquor store lease is clearly a situation where there was conflict of interest, so it would have been contrary to the act.

There has been some talk by the press that municipalities are

MR. CROSBIE: not covered by this proposed legislation. No, they are not covered by it, Mr. Speaker, because it is better for us to see how this works for a year or two in connection with our own affairs before we apply this generally to municipalities. I will review for the House what the present legislation is with respect to municipalities in a moment, the City of St. John's and the City of Corner Brook.

We have to remember that this is the first time this kind of legislation has been introduced in Canada. They just introduced something in British Columbia, I wrote out and asked them for a copy of it but I have not received a copy yet, but they have introduced some kind of a bill there. This is the first bill applying anything like this not only to members of the House, to members of the Cabinet but also to certain public servants. We can see how this works and then can consider whether we should apply it to municipal officials and councillors or not.

Another thing that we have considered in the case of municipalities is that municipal councillors, with the exception of the City of St. John's and Corner Brook, are not paid,

they do not receive payment for being municipal councillors. Should we require the people who are in that position to have to reveal whatever interest they have if they run for a municipal council or is it likely to discourage a whole lot of people from running for those kinds of offices? These are some of the issues that have to be considered when the House considers whether or not it should be applied to municipalities.

Just before getting to the bill, I think it might be worthwhile reviewing what the situation is in general. First, Mr. Speaker, we do have legislation that provides, now, with respect to certain kinds of conflict of interest, the Legislative Disabilities Act which is now chapter (202) of the Revised Statutes of Newfoundland 1970, deals in certain respects with conflict of interest, because in section (2) it says that no person is eligible to be elected or to sit or vote as a member of this House who holds any office, place or appointment of profit from or under the government or (b) who shall directly or indirectly by himself or by any person in trust for him or for his use or benefit or on his account undertake, execute or enjoy in whole or in part any contract or agreement for or on account of the public service.

So, Mr. Speaker, members of this House are already forbidden, first to hold any office or place of profit under the government with the exceptions that are listed in section (3) and secondly; to contract by themselves or by any person in trust for them for or on account of the public service. Not one of us individual members of this House can contract with the government to supply them with services or for any purposes at all. That is illegal and contrary to the Legislative Disabilities Act and if we do it we lose our seats.

AN HON. MEMBER: (Inaudible)

MR. CROSBIE: Well there are then certain exceptions in section (3) - we are allowed to be cabinet minister, speaker, deputy speaker, chairman of committees, deputy chairman of committees, parliamentary

assistants, chief whips or chief opposition whip. We are allowed to hold a commission in the armed forces and there is a whole series of exceptions. We are allowed to be appointed a government director to some particular corporation, We are allowed to be a member of a board of education or a board of health, We are allowed to practice as barristers or solicitors for the government or government departments and a peculiar exception, which we should consider carefully sometime, is subsection (10) of section (3) which permits us to be a member of an incorporated body or the firm or trading company contracting originally or by way of assignment for the public service when such contract is made for the benefit of such incorporated body, firm or company.

In other words, we are forbidden personally to contract in connection with the public service or to have a contract. I personally cannot have a contract to build a road for the government, for example or the honourable gentleman from Bell Island is not permitted to have a contract to sell ham to the government or whatever it might be. He is not permitted to do that but if he incorporates and he is just a shareholder in that company he can, under the Legislative Disabilities Act, do that, which is really very silly when you come to think of it. You are not allowed to do it as an individual but you can if you are a member of an incorporated body - but that is the present law.

Then it goes on to list other exceptions to this rule; Your seat becomes vacant if you violate section (2) or (3) of the Legislative Disabilities Act. There is really only one prohibition there; we cannot contract personally to deliver services or undertake a contract for the government. That is the Legislative Disabilities Act.

Then we have the City of St. John's Act, Mr. Speaker: The City of St. John's Act has a conflict of interest section. Section (28) says that no member of the council is to hold any office

or place of employment or profit in connection with the council or any department of the council nor any work or service or business under the control or direction of the council. He is forbidden to have anybody else enter into a contract in trust for him with the council, although again he is permitted to be a member of a company who enters into contracts to do work for the city. It goes on to say; "Nevertheless, he shall not vote in respect of any such contract or work or if he does so vote his vote shall not be counted." So a council member cannot vote if he is a member of a company and they enter into contracts with the council and he cannot contract with the council himself. If he acts in contravention to that, he loses his seat on the council.

Under section (52) of the City of St. John's Act, no member of the council is permitted to vote or speak upon any question before the council or any committee where his private interest is immediately concerned, distinct from his public interest, or where he is personally interested, directly or indirectly, or an agent for anybody interested. He can be suspended if he violates that. There are certain conflict of interest sections in the City of St. John's Act. Section (306) says; "No official or employee of the city shall be a contractor with the city or interested in any contract or work with the city."

The City of Corner Brook Act has a conflict of interest section, section (14). It is not as wide as the one in the City of St. John's Act but along the same lines. The Local Government Act, section (10), forbids a person elected as a councillor from being paid any salary or remuneration out of the funds of the municipality except with the approval of the minister. The conflict of interest sections in the Local Government Act are not very wide, they are the same as the community council section.

Then we have the deal with the Election's Act which has certain conflict of interest provisions in it. Certain people cannot



be election officials. The Public Utilities Act, Act no. (39) of 1964, has certain provisions that relate to conflict of interest. "No commissioner" section (6) "shall be directly or indirectly employed by or interested in any public utility or interested in any share, stock, bond and mortgage and so on of the public utility. If a commissioner becomes so interested, his office becomes vacant. If he is interested, in section (7), and any matter before the board, he cannot sit on that matter. The House of Assembly Act - the Liquor Corporation Act that was passed the other day has similar sections to do with members of the Newfoundland Liquor Corporation. They are not to have any interest in any liquor or beer wine or any business involving spirits in the province.

There are various acts with different sections that have to do with conflict of interest, nothing very extensive and nothing requiring disclosure. The House will remember that in 1972 we assumed office, Mr. Speaker, on January 18, 1972, and this was a problem that we said we would deal with. On February 29, 1972, and that was just over a month after we took office, the government wrote Professor Allan Sinclair of the University of New Brunswick, to ask him if he would do a study for us on this question and draft an bill dealing with conflict of interest in the public service and by elected members. I sent him what material I had.

His first report and draft legislation was received on May 15 and sent to our legislative draftsman on May 16. There was not time to have this reviewed and legislation prepared for the last session, so the bill is now coming before the House at this session. On June 27, we received our first draft of the conflict of interest legislation from Austin Parsons, who is our chief legislative counsel, because he felt there were certain weaknesses and that the draft submitted by Professor Sinclair needed to be

expanded and changed. From that first draft that was prepared by our chief legislative counsel, it went to the cabinet last July 12. The Premier appointed a committee to study this legislation, it is a complicated area. The committee comprised the Minister of Health, the Minister of Forestry and Agriculture, the Minister of Justice, the Government House Leader and myself. We had a number of meetings on this. The bill was drafted and redrafted, it went back to the cabinet, then it had to go to the Progressive Conservative caucus, it passed the test of the caucus and now it is before the House.

This is not the first time that the subject has come up in the House of Assembly, Mr. Speaker, because in 1969 a resolution was presented to the House, by myself, in April of 1969, asking the House to request the government to appoint a royal commission to investigate the whole field of conflict of interest and to suggest proper legislation. That resolution was not accepted by the government. It was amended to provide for a select committee, a select committee was appointed in 1969. It had a meeting or two, I was on it, the member for St. John's North was the chairman, and that is as far as that got. The subject was then dropped because it was not one that the last administration were much interested in.

It should also be noticed, Mr. Speaker, that sections (87) and (88) of the Revenue and Audit Act deal with conflict of interest situations also, where it is forbidden for officials to be bribed in connection with the revenue. There are a number of other sections like that in our legislation but nothing in general.

MR. NEARY: (Inaudible)

MR. CROSBIE: No.

MR. NEARY: Why?

MR. CROSBIE: It is not necessary.

MR. NEARY: It is necessary.

MR. CROSBIE: Not at all.

MR. NEARY: I would like to have a look at it.

AN HON. MEMBER: No interruptions.

MR. CROSBIE: I will let the honourable gentleman have a look at it if he wants it, but it will not be -

As a matter of fact, I am looking at the report here now. In Professor Sinclair's report he looked at the literature in Canada, the United States and England. It is more extensive in Canada than anywhere else, I am sorry, in the United States. He says that legislation in other Canadian Provinces and at the federal level, aside from the bribery provisions in the Criminal Code, is not all that different than those provisions as outlined earlier in this memorandum as being the situation in Newfoundland.

In other words, the present situation in Newfoundland, where we have almost no regulation, is the position in the other Canadian Provinces and federally. The English situation appears to be as follows: Members of Parliament are required to make a declaration upon assuming office of any interest which might possibly disqualify them. Such interests should be direct, immediate and of personal pecuniary interest. After the appropriate declaration has been made, the member might speak to any bill in the House even though it concerns the private interests of that member but he is prohibited from voting in any such matter.

Then they deal with - "The elected officials at the local government level are required where they have a pecuniary interest to disclose such an interest and are prohibited from discussing or voting in any matter connected therewith."

In respect of Ministers of the Crown, conflict of interest provisions are largely covered by convention, based largely on statements made by Prime Ministers in the past. There is no legislation covering conflict of interest of ministers in England. They have to govern their behaviour by statements made by Prime Ministers. The most recent such statement is one by Prime Minister Churchill, in 1952, which has been followed by each administration in England since that time.

Perhaps it is a bit long to read them all but I will just read a couple of the principles stated by Churchill in 1952. First; "It is a principle of public life that ministers must so order their affairs that no conflict arises or appears to arise between their private interest and their public duty. Such a conflict may arise if a minister takes an active part in any undertaking which may have contractual or other relations with a government department, more particularly with his own department. It may arise, not only that the minister has a financial interest in such an undertaking but also if he is actively associated with anybody, even of a philanthropic character, who might have negotiations or other dealings with the government or he involved in disputes with us. Furthermore, ministers should be free to give full attention to their official duties and they should not engage in other activities which might be thought to distract their attention from those duties.

"Each minister must decide for himself how these principles apply to him. In any case of doubt the Prime Minister of the day must be the final judge." Then it goes on to give certain principles. "In England a minister on assuming office must resign any directorship which he holds whether in a public or a private company, whether it carries remuneration or is honorary. They are not required to dispose of all their investments but if they have a controlling interest in any company, then they have to divest themselves of their controlling interests. They are to avoid speculative investments and securities about which they have or may be thought to have earlier confidential information likely to affect the price of those securities."

The English Civil Service have their own rules and regulations which are contained within conventions, in formal understandings and procedural rules of legislative bodies. As they so often do in England, there is no code set out that governs conflict of interest for civil servants.

Professor Sinclair says that if one could gather the philosophy of the English rule and translate it into legislative language, a statute would provide basically that one should disclose any potential conflict of interest upon either assuming employment or elected office. Once that disclosure had been made, one could proceed from there either to prohibit a member or official from discussing the matter on it or voting on it or simply prohibit him from voting. It is also possible, of course, to conclude that once such disclosure has been made, that should be the end of the matter and the potential conflict would then be left entirely to the conscience of the member and presumably as well to the knowledge of both his colleagues and the electorate.

In our legislation, Mr. Speaker, we have chosen to provide for disclosure and then once disclosure is made to prohibit a member or official from discussing a matter or voting on it wherever there is a conflict.

The American situation is a very varied one: They have all kinds of legislation. Some prohibit absolutely any contracts of any kind by an elected official or an employee of a government agency with any department of government. Others make declarations of interest mandatory. Others go on to require discussion and voting prohibitions, the American States provide codes of ethics which list the things that you should do or should not do. There are all kinds of varieties in the United States, all contained in legislation of the last ten or twelve years.

Then Professor Sinclair prepared a draft conflict of interest bill which is now being expanded upon in the legislation before the House. Mr. Speaker, what then does this legislation provide for? It provides this; First, schedule (a) specifies the agencies that this will apply to. It is going to apply to all members of the House which, of course, included members of the cabinet, and to the agencies listed in schedule (a). The agencies

listed in schedule (a) can be increased by Order-in-Council but the agencies listed are the Civil Service Commission, the Board of Commissioners of Public Utilities, the Ombudsman, the Clean Air, Water and Soil Authority, the Liquor Commission, the Workmens' Compensation Board, the Housing Corporation and so on. They are all various agencies that are listed there, the St. John's Metropolitan Board, the Provincial Planning Board. There are a number of agencies listed. The cabinet can expand those agencies by order-in-council.

There are certain agencies not listed. For example, Mr. Speaker, we have not included any hospital boards, primarily, because these hospital boards are composed of people who are not paid and who are at the request of the government undertaking a voluntary service. Therefore, we felt that it would be a bit much to ask members of such boards to have to disclose what interests they have in any company or what interest they have in land and all the other matters that we have to disclose who voluntarily go into politics or who are paid public servants. Our feeling was, certainly at this stage, that it would be carrying this thing too far if we included in these agencies the various hospital boards where people are serving in an unpaid capacity.

AN HON. MEMBER: (Inaudible)

MR. CROSBIE: Well they are paid thirty-five dollars a meeting. The chairmen get fifty dollars a meeting.

AN HON. MEMBER: (Inaudible)

MR. CROSBIE: I know that but they also receive payment for their services. They get paid, in other words. With unpaid boards, we felt that it should not be extended to them, at least not yet. Perhaps it will have to be extended to them in the future. That specifies the agencies that will be included as well as the civil servants.

In section (2)e, there are included all public employees, employees as defined in section (2) e and referred to in schedule (b) of the Act. We do not want to include in this, Mr. Speaker, every



government employee or every public employee. There is no need to and besides we should have to include nine or ten thousand people. What we want to include in this Conflict of Interest Act are public employees who have authority or who can grant a contract or who can recommend the granting of contracts or who do inspections or who have some discretionary authority. There are listed in schedule (3) certain public employees, deputy ministers, associate deputy ministers, assistant deputy ministers, members of the Premier's staff, members of the staff of Treasury Board, members of the staff of the Executive Council, members of the Planning and Priorities Committee Secretariat, They should all be included because they have a chance to influence government policy as a whole.

Executive assistants to ministers, the highest management official under any agency, loan and debt managers, mortgage and industrial loan officers. They should have to disclose any interests they have. They are empowered to grant or recommend mortgages or loans. Inspectors generally, health inspectors, liquor inspectors. These people should have to declare what interests they have because it could be that they might have an interest in some establishment that they are supposed to regulate. Solicitors and the staff of the Department of Justice, registrars, all officers or persons who act in connection with the collection or management of revenue, persons who have a discretion to issue licences, persons granting or conveying leasehold leasing of lands, persons who have a statutory power of decision, persons dealing in the lending of money or the guaranteeing of loans, persons dealing with the appraisal or expropriation of land.

The Auditor General is given the power to decide whether any members described in these sections are persons who only act in a clerical, non-discretionary or non-decision-making capacity in which the possibility of conflict within the meaning of the Act is unlikely. If that be so, then the Auditor General can exclude any such category of employees from having to comply with the Act under

this schedule (b).

It goes on to include the Clerk of the Executive Council, Secretary of the Treasury Board, the Director of Air Services and so on, the executive Director and Medical Director of Medicare- certain officials are specifically described. That can be extended, also by order-in-council, to other categories of persons.

What do these people have to do, Mr. Speaker? If you come under this Act what do you have to do? Every member and every employee has to, under section (4), once the Act comes into force, the member and the public employee is going to have thirty days in which to comply with the Act. He has to file a disclosure statement with the Auditor General. I noticed an article in the "Evening Telegram" that it was said to be with the Attorney General. It is with the Auditor General that all of these disclosure statements have to be filed by each public employee or member of the House who is affected by this. It will have to be filed within thirty days after legislation is proclaimed and after that a statement has to be filed on or before the 15th. day of January in each year.

It is going to take time, Mr. Speaker, if the House pass this Act, to get the proper regulations, to get the necessary forms, to make sure that all public officials are informed that are covered by the Act, so my guess would be, that it will be next January before we have the first series of statements filed. It might be possible to do it sooner.

AN HON. MEMBER: (Inaudible)

MR. CROSBIE: No, the statements would be filed with the Auditor General. The Act provides that the statements of every member of the House are open to the public. So anybody who wants to go into the Auditor General, wherever he keeps his registry, any curious member of the public can go in and inspect the statements.

AN HON. MEMBER: Can the press go in?

MR. CROSBIE: Oh yes, the press can go in, they are persons. They can go in and look at the statements of members of the House of Assembly but statements filed by public employees are not open to the public generally, they can only be examined by members of the House or the Auditor General or persons authorized by the Auditor General or authorized by a cabinet minister. Otherwise, they are not open to the public generally.

AN HON. MEMBER: (Inaudible)

MR. CROSBIE: Our feeling was that the members of the House are elected and they go to the public to seek election and therefore, their affairs - we can hardly object to having our disclosure statements completely open to the public. Persons who are working in government service are not in the same position, it just happens to be their career, they are paid by the taxpayers. Why should they be made to have to disclose their affairs as publicly as we do? Therefore, their statements will be open to any member of the House. If there is any suspicious member of the public who thinks that Joe Blow, public servant, has some interest that he is not disclosing or wants to know what interests he has disclosed, he can always ask a member to go down and check it for him or a minister to authorize him to look at it or report it to the Auditor General who will be checking all these statements. We feel that, certainly, they should be entitled to more privacy than we are.

What is the statement going to have to disclose, Mr. Speaker? Is this actually legislation that is not tough enough, as the "Evening Telegram" suggested in an editorial in April? I do not think so. It is the toughest legislation, in any event, that has ever been presented to any House of Assembly that I know of. What do you have to disclose? Under subsection (3) of section (4), which is subject to subsection (9) - first, subsection (9) states two things that must be disclosed whether there is a conflict

of interest or not. Every member will have to disclose all land in the province owned in whole or in part by him or directly or indirectly through any person, company, firm or body, any land owned by him or his spouse or any of his minor children. That will have to be disclosed - and the public employee, everybody is subject to the Act. That is one thing that has to be disclosed, land or interest in land.

Secondly; any interest of that member or his spouse or any of his minor children, existing directly or indirectly, through any person, company, firm or body or otherwise howsoever, in the common or preferred shares of a corporation, that has to be disclosed. So, forgetting conflict of interest altogether, whether there is any possible conflict or not, you may own shares in a company that has no connection whatsoever with the Province of Newfoundland or no connection with government but you still have to disclose that you have an interest in that corporation, so that things must be disclosed in any event, forgetting conflict, one is any interest in land and the second is any share interest or ownership interest in a company.

It goes on to say in subsection (9); "Provided however that such statements shall not specify an interest in any shares of a corporation other than a land development corporation listed on the stock exchange, where the value of that interest according to the latest available closing price or quotation is less than \$5,000." Why is that there? You have to disclose any interest you have in a land development corporation even if that is a public corporation no matter what the interest is. Why the interest in land? Only because, Mr. Speaker, that a member of the House or a member of government or a civil servant could know that certain land was going to become valuable or that a road was going to go through it or that something was going to happen by way of water and sewerage and he could acquire land having that knowledge and make money in that way from it. That is why land is mentioned.

Secondly, companies are the vehicle most commonly used for business and instead of having arguments about whether an interest in such and such a company is an interest that gets you in a situation where there might be a conflict of interest, we felt it is best for you to disclose any interest that you have in a corporation. That interest is disclosed whether or not there is any argument over whether it deals with the Newfoundland Government or not. You simply disclose the interest.

If it is a public corporation traded on a stock exchange, obviously, its shares are worth at the slightest, Mr. Speaker, several hundreds of thousands of dollars and usually, at least, several millions of dollars. There is not a company with the exception of some mining companies and so on just getting started on the penny stock market, there is not a company listed on a stock exchange whose shares are not worth in the millions of dollars. If you have an interest in such a company as that, that is only worth up to five thousand dollars, there is nothing you can do as a member of a government that is going to increase your little interest in that company to any significant degree. Some felt that there should be a limit of five thousand dollars to disclosing such interest, first, because it is not or cannot be of any major importance but secondly, because certain members or public servants may dabble in the stock market.

They buy a few hundred dollars worth of shares this week or a thousand or two and next week they sell them again. Next week they buy another couple of thousand dollars worth so under this legislation you have to file a disclosure statement within thirty days of acquiring the new interest or disposing of one. Therefore, if we did not have some limit for shares traded on the stock exchange some members or some civil servants would have to be constantly filing statements simply because they bought a few dollars worth of shares this week. It is just a nuisance and

any interest of five thousand dollars or less in a public corporation is not going to induce one to attempt to favour that company whatever that particular company might be.

MR. NEARY: How about if any member of the House went down and bought half a dozen or so of...



MR. NEARY: (Inaudible) half of Outer Cove with a view of selling it back to the government at some later date.

MR. CROSBIE: Well once the act becomes law then the member would have to include in his disclosure statement that he owns land at Outer Cove or wherever and then if he sells it to the government later on he would have to disclose who he sold it to, under another section of the act. So that is why the limitation is there of \$5,000 shares of a company that trades on the stock exchange. It is just to avoid the nuisance of having to file constant disclosure statements if you are a person who has a hobby of investing in the market and buying and selling small amounts of shares.

Now in addition to the items that must be disclosed whether it is a conflict or not, subsection (3) of section (4) says that the disclosure statement should specify each and every interest required to be specified by subsection (9) and each and every other interest which to his knowledge such member or public employee, his spouse or any of his minor children has or will acquire as a result of which there is a possibility of a conflict between such interest and his position as a member or public employee. So that is a general statement, any interest a person has that brings up a possibility of a conflict between that interest and his position as a member or civil servant he must disclose.

Now for example let us suppose I do not own shares in a corporation, let us take Canadian Javelin as an example, as I do not own shares in Canadian Javelin but Canadian Javelin might make me a loan, so they lend me money then under this section here there definitely would be a conflict between such interest of mine and my position as a member, although I do not own a share in Canadian Javelin (section 4(3)). Any situation where there is a possibility of a conflict between such interest and a position as a member or public employee must be disclosed. So a person who does not disclose some situation like that would be in violation of this act.

Then it goes on to say that including but without limiting the generality of the foregoing and it goes on to give examples, "Any financial interest which such member, his spouse or minor children has in any company, firm or body which has done, does or might do business with the government of the province or an agency." So we know from the legislation that if any of us have an interest in a company, that is incorporated, a firm might be unincorporated, or any body at all which has done in the past or now does or might do business with the government that we have to declare that interest. So if I have an interest in Newfoundland Engineering Construction Company Limited that has done, does and might do business with the government, I will have to disclose in a disclosure statement that I have an interest in Newfoundland Engineering Construction Company Limited.

MR. NEARY: How about if it is a loan?

MR. CROSBIE: I will not disclose because I do not have such an interest and I am just giving this as an example. If for example there were a loan to me from a company doing business or does business or might do business with the government, then as I interpret this section that would be a conflict of interest unless I revealed it.

MR. NEARY: So if the honourable minister were getting an interest cheque every month he would have to disclose that interest on what is considered to be a loan.

MR. CROSBIE: If you have an interest in any particular company then you would have to disclose it, yes.

MR. NEARY: No, say I say to my brother; "Look we will consider this as a loan. You pay me interest on the loan every month," that would have to be disclosed?

MR. CROSBIE: Yes, that would be an interest in the company unless - but if the honourable member sold his shares to some - Let us say the honourable member had shares in "X" company and sold them to

his brother then of course it is his brother who would owe him the money and not the company as the honourable member would not have any interest then in the company.

MR. NEARY: So if you get your interest cheque then every month you do not have to disclose it.

MR. CROSBIE: Well I do not know what interest cheque the honourable member would be getting. I mean the honourable member would have to give me a concrete example. In any event, if you have any financial interest or your spouse or any of your minor children in any company, then you have to disclose that. That is given as an example. Then it goes on to say that the word "interest" includes an interest in any partnership including the law partnership and any employment for which remuneration is payable. For example you may not own shares in a company but you may receive remuneration from a company, as you might be a director and not own shares. You do not have to have shares in a company to be a director. You may get remuneration from a company without owning shares in it; then you would have to say that you have an interest in "X" company because they pay you director's fees or they pay you remuneration. So that is quite clear.

Now to my mind, Mr. Speaker, this means that you are required to report any interest in which you might possibly have any kind of conflict of interest between your public duty and your private interest. That is the way it reads to me. Now how that is not tough enough or what the loophole is in it I would like to hear what it is. So there are certain specific things that are quite clear you have to do. Then it goes on to say that generally wherever there is a possibility of conflict you must disclose that possibility.

So these statements are filed with the auditor general. Now if a statement is late being filed and you do not have a reasonable excuse, in the auditor general's opinion, then you lose

your pay for the period you failed to file the statement or failed to disclose the information and the auditor general is the one who decides whether you have a reasonable excuse or not. So one of the punishments you will suffer if you do not file a disclosure statement is that you will not be paid for the time you do not file it.

AN HON. MEMBER: Does that pertain to Members of the House of Assembly?

MR. CROSBIE: Members of the House of Assembly and civil servants or whoever. So everybody should file their statement and if there is any dispute about the amount of the money involved there the auditor general determines it.

Now as I said earlier, statements filed by members of the House are open to public inspection, filed by public employees and members who are not members of the House are open to inspection during government hours by any member of the House of Assembly or any person authorized by any minister of the crown in right of the province or authorized by the auditor general. So if anybody is curious or has some reason to inquire about the disclosure statement of a public civil servant, then he can go to the auditor general and say, "I would like you to authorize me to look at the statement of Joe Jones," and if they give some sensible reason the auditor general will authorize them to do it, but it will not be open to the public generally.

AN HON. MEMBER: Do they need a reason?

MR. CROSBIE: Yes, well they would have to because the auditor general has the right to authorize and he would have to be satisfied that there is some reason.

AN HON. MEMBER: Maybe curiosity.

MR. CROSBIE: Well, if they are curious they can always ask a member to go down and satisfy their curiosity. I am sure the honourable gentleman would be glad to do it. Now that is section (4).

Now under subsection (10) of section (4), Mr. Speaker, "Where any interest, or part of an interest specified in a disclosure statement is to the knowledge of that person disposed of, the disclosure statement next filed by him after he has acquired such knowledge shall disclose to whom, if he knows to whom such interest or part of an interest has been disposed of." So if you dispose of an interest, on your next disclosure statement you are supposed to show who you disposed of it to. Now you will notice that the section says "to whom, if he knows to whom," So you might ask; "What person is going to sell an interest and not know to whom he sold it?" Well, the answer is that if the interest is shares in a publicly traded company, let us say it was shares of Jubilee or shares of Brinco or shares of Canadian General Electric or whatever, who are buying and selling shares and the broker sells those shares but you do not know to whom, you just tell the broker to sell shares. He sells them and he cannot tell you who they were sold to and you do not know yourself. So you disclose, the person to whom you dispose of an interest that you know who that person was, so that if you sold the shares yourself to someone you would have to disclose who that person was or if you sold land you know very well to whom you sold it and you would disclose to whom it went as long as you knew to whom it was disposed.

Then the section on schedule (c) is simply repeating the sections in the criminal code on corruption and bribery and it is really just for information purposes, and this act is to be read with those sections of the criminal code.

After the disclosure section, Mr. Speaker, we come to the prohibition section. So if after you had disclosed an interest it turns out that that particular interest comes before the government for a decision or comes before the House, you are not to speak on the matter, if there is a conflicting interest, unless you explain the conflicting interest that you have, and that you are not to vote unless the House permits you to vote on a conflicting interest.

Then that section goes on to say that matters affecting remuneration or pension rights is not conflicting, matters of general taxation and so on. Then under section (7) where a public employee or a member, who is a cabinet minister really, has a conflicting interest and they are involved in any official action concerning them, then they have to declare their interest and not participate in the decisions. Now for example, suppose a minister has an interest, as this act permits you to have, in a company that does some business with the province, then that is not forbidden as long as that is disclosed, but if that company were seeking to receive a contract from the government for some work, he could not be the minister that dealt with that decision and he could not participate in the cabinet decision on that matter.

MR. NEARY: That is the Jim Reid clause.

MR. CROSBIE: No, no, this is not the Jim Reid clause, this is a general clause to deal with these situations. Now this legislation requires disclosure and then nonparticipation. Another approach to take to it would be to forbid a person having any interest at all that might conflict. If that be done then we shall drive out of public life half the people who are in today, and it is not our intention to do that. We do not think it is possible to do that in this province and I do not know if it is possible to do it generally and still attract people to public life. If you were to say in this legislation that no member of this House could have an interest in land or in any company that might do business with the government or does business or might do business in the future, then half the members could not carry on and could not continue, or there would be no point to it.

So we are not requiring that and we do not think it is sensible to require that or we do not think it is possible to require it, but we are requiring disclosure.

MR. NEARY: Do not look at me, I do not mind.



MR. CROSBIE: I am waiting to see his statement. I think he has quite a few interests we do not know about.

MR. NEARY: A \$15,000 mortgage.

MR. CROSBIE: I would say the honourable gentleman has probably made on the stock market in the last two or three years \$200,000 or \$300,000, unless he is getting poor advice from his friend, the other John C.

So then section (7) goes on to provide, and I do not want to go into this in too much minutiae, that you are not to participate in the decision. Well this can be laughed at and scoffed at and it could be said, "Well, what difference does it make? He will just talk to his colleagues and they will see that he gets the business." Well the actual fact is, Mr. Speaker, that a member today who is in business that has anything to do with the government only damages himself as soon as he gets into politics. He already damages himself enough because he knows if his company should get any business at all that people are going to be scoffing and saying, "Well he is getting the business because he is in politics." It does not matter if they got the business long before that or more business but he opens himself up to public insinuations and public criticism. So as I see it, it would be very foolish for any persons to get into politics because they want to increase their business. If they are interested in increasing their business, they are much better off staying behind the scenes and getting in there where they can do the most good for themselves, and that is not by getting into political life and getting elected to this House of Assembly.

Any member that has any business interest and who was ever elected to this House, his business interest could do nothing but suffer. That is not the reason why members get elected to this House. If they have business interest that they want to expand and they want to make more money and so on, they do not run for

election to this House, they involve themselves in political parties by other means, by other contributions and acquire influence that way. That is the way it is done and not by getting elected to this House. It is only we fools who get elected to the House and come under the criticism and contumely and attack and suspicion by doing so. I will tell this House that I know all about it because I have had a lot of it in the last six years.

MR. NEARY: The member can always resign, because there is nobody forcing him to stay here.

MR. CROSBIE: The member is here because he chooses to be here and the electors have re-elected him, and nothing will ever force me to resign.

MR. NEARY: Well, that is right, it is by choice.

MR. CROSBIE: Exactly but I -

MR. NEARY: So why complain?

MR. CROSBIE: But I say that the criticism that you are in, the uninformed and unjust and stupid criticism that you are in because you may get something out of it in a money way or business way is so stupid, because it would be the last thing that you would do if that were what you were interested in.

MR. NEARY: Unless you have a guilty conscience, why would you worry about that sort of thing?

MR. CROSBIE: I do not have any guilty conscience, Mr. Speaker, and I am sure the honourable gentleman opposite does not either.

MR. NEARY: No, that is right. I do not, so therefore there is no criticism.

MR. CROSBIE: He has no conscience.

MR. NEARY: That is right.

MR. CROSBIE: Now to get on with section (9), Mr. Speaker, the bill goes a bit further and section (9) states, "A member, a public employee or any other employee of the province or of an agency shall not for his own or anyone else's personal gain use or supply to

another person information not available to the public, which he has acquired as the result of the performance of his duties as such member or employee." That is a significant section. There have been cases here in the past, admitted cases, people who were in the cabinet actually admitted it. One, a gentleman who appears on television every now and then, an elderly statesman, he was at a certain dinner a few weeks ago; meeting his old buddy actually admitted that from information they got in the cabinet they went out and bought shares in the stock exchange and made a boodle of money. Well this would be prohibited by section (9).

If a member should get any information that is not available to the general public, for example that some company which has been making a proposal to the government, the government has now given it the go-ahead and it is going to get concessions and it is going to have a flurry up in the stock market, if a member of the cabinet, when this act is passed, should see this information and step out and call his stock broker and say: "Buy me ten thousand shares of John Jones Limited today," and this was found out about, he would be prosecuted under this for a violation of the act by using confidential information for his own personal gain, information which was not available for the general public - that would prevent that. Yet there are people who say that this legislation is not tough enough and there was an article in the "Evening Telegram", a week or two ago, by Michael Benedict, who is generally quite a good writer, saying that it has a lot of loopholes and it is not much of a change and it is not much of a step forward. It is a complete step forward. It makes illegal some of the commonest activities of a few years ago that will now at least be illegal if anybody participates in them or if a public employee learns that there is going to be a road go through some particular area and using that information, or a member, he goes and buys up the land in that area and a year later the land becomes valuable, that is prohibited by section (9) of the act. We will not

be able to use and we should not now but it will be prohibited and there will be a penalty if we are caught using confidential information not available to the general public to enrich ourselves.

Now I consider that to be a considerable step forward.

MR. NEARY: How will it be proven?

MR. CROSBIE: You talk too much - how do these things get out generally? You tell your friends or you get a few drinks in or it leaks out or somebody you bought the land from says, " Well, John Crosbie bought that land from me last year and now it is gone up in value ten times." This is the way these things get out, but at least it makes them illegal. So that is pretty well I think the substance of the bill.

Once again, Mr. Speaker, this is not the millennium and the opposition have said they have some amendments to suggest and if they have some to suggest it would be helpful if they were in writing so we could look at them. It is a very complicated and tricky area and if the House pass this legislation, doubtlessly it will need improvement in a year's time or two years or problems may arise under this that we have not thought about or legal consequences might ensue that need to be dealt with. But I believe that if the House pass this legislation it will certainly be the forerunners in it in any jurisdiction. This particular kind of legislation will at least give us a legal framework to deal with situations that have arisen in the past and could arise in the future. It would mean that members of this House have to disclose their interests, particularly any interest that there is any possibility of conflict in each year and these statements have to be renewed whenever their interests change.

I feel that the legislation certainly goes as far as it is now safe or proper for it to go. I do not feel that there are a lot of loopholes in it and I do not feel that it is not tough enough. I think we are advancing on new ground here and we want to be careful

that we just do not advance too far and do something that we would all regret. I think it is a great step forward. If there be more needed, there is nothing to prevent the Premier, for example, laying down rules or any standards that he wants the members of his cabinet to observe - whether they can have certain interests or should sell them or shares should be held in trust. These rules can be laid down by the Premier if he should wish to go further than the act provides for now with respect to members of his cabinet. Premier Davis in Ontario has done that but Premier Davis's rules apply only to cabinet ministers and parliamentary assistants they do not apply to members of the Ontario House and they do not apply to any civil servants. I have sent him a copy of this legislation, because they are considering legislation up there to.

So all in all, Mr. Speaker, this I think is a revolutionary step forward. It is a very complex area. I think it can work. We have to be careful, particularly in connection with our public servants to whom it applies and to whom it does not. As for me, I will be glad to comply with it. I therefore intend to support the legislation as, of course, one would expect. I therefore move second reading of the act.

MR. R. WELLS: Mr. Speaker, I have just a few remarks which I think I can conclude before six o'clock. It has not been my practice since I have been a member of this House to continually castigate the previous administration and I do not want to start doing it now. I think it is fair to say and proper to say, to start with, that Newfoundland has had a very poor record insofar as corruption in public life is concerned. Going back, years before most of us were born, before all of us were born, as far as that goes, and the period which has elapsed since confederation, in respect to conflict of interest and matters related thereto, has not been something which we as a province can be proud of. People might wonder and the people of Newfoundland might wonder why this subject of conflict of interest has come up in recent months, has been talked



about by members of the Progressive Conservative Party and those who now form the government party on this side of the House. The reason is because there were several, more than several, there were many blatant examples in the last twenty-two years of conflict of interest, and it was decided by this government and by this party that something would be done about it.

Now what is proposed may not be perfect. I do not mind saying that I myself, when the subject was first brought to my attention, thought; "Well, is this necessary? Can we not be trusted to behave as ordinary decent citizens and ordinary decent legislators and members of this House and must we have a set of rules to prevent us from being crooked, to put it bluntly, and to using our positions in order to try and enrich ourselves?" I thought about it and I thought about what I had read of the past in Newfoundland, I thought about what I had seen in the past twenty-two years in Newfoundland and the answer I came up with was an honest; "Yes, something should be done."

Now firstly I would like to say that there is no way, and I know this from the practice of criminal law which is mostly what I have done in my work in life, that there is no way to stop the crook from being a crook. There is no way to stop a member of this House or a member of this government or any government, if he should want to be crooked, if he should want to do a deal, if he should want to do an under-the-table thing. There is no way you can stop him. Sometimes it will be done and perhaps often it will be done and you and I, Mr. Speaker, will die and will never be able to prove what was done.

Now as the minister said in his opening remarks, "You cannot stop the crook. You cannot stop the murderer. You cannot stop the thief. You cannot stop anybody who really wants to commit a crime. They will do it and they will find a way to do it whether they are in public life or not." At the same time this is I think an important bill which breaks new ground because at least it requires



persons to disclose not the details of what they own but at least the general areas of their interest. For instance, if you or I or any of us have \$5,000 or \$2,000 or \$1,000 or \$10,000 sitting down in a chartered bank, earning interest at regular rates, that does not matter. The fact that one might have a bank account with money in it does not affect the people of Newfoundland and does not affect one in one's duty here in the legislature. But if somebody has land which can be sold, somebody has land which can be rezoned because the rezoning of land is very important. If land is frozen and it is not legal to develop it, for instance, in such a case land may be worth nothing but the same land if zoned for industrial or commercial or residential use could be worth a great deal. This is the sort of way where a person can own land or a spouse can have an interest in land or a company can have an interest in land with which a person is associated and influence can be brought to bear and this is the sort of thing, for instance, in land, that this bill is aiming at.

There is, Mr. Speaker. I think it is a good and desirable step that members, except for well monies in the bank, which really cannot influence public matters - the other things that they own, the shares and interests in companies, law partnerships and all the rest should be disclosed because if it be disclosed, I think that it is a rare person who would have the public face to do something and to act in such a way that people knew precisely, by looking at the statement which he filed, what he was involved in, I think it is some curb on the individual and some curb to prevent him from blatantly carrying out abuse of his position. Now that will apply to members of course and cabinet ministers.

We do not know how this will work. We are breaking new ground. It is nice to see Newfoundland breaking new ground once in a while in the Canadian Confederation, instead of looking always at what the other province did - "Oh, we will do that," with no thought of

going into a statute drafted, as we often see, the name of the province changed and it becomes law. I will never forget myself coming back and starting to practice law and seeing how confederation worked in Newfoundland, as a person participating in professional life. I will never forget how often I heard this and saw this, "Oh, what do they do somewhere else? What do they do in another province?" It is good to see us starting something, breaking new ground.

So I heartily support this bill. I hope that it works. If it should not work, we can change it. If new teeth are needed, they can be put there. I think it is good too that senior civil servants or the designated list of civil servants have to file such a statement also although theirs is not public to the same extent that a member's is. A member's should be completely public, of course, because nobody asked any of us here to go into public life. We are here because we want to be and this is one of. - I do not call it a penalty, it is just one of the things that the people who elect you and the citizens generally of this province should know, for the most part, what you have, particularly if you could use it to affect decisions by the government of the day or by the House of Assembly.

So I think that that is good and wise and right. So, Mr. Speaker, I think the history of Newfoundland and I make no apology for saying that the history of the last twenty-two, twenty-three years has shown that this is needed in Newfoundland and it is just as well to come to grips with it, just as well to bring it in and just as well to try it and if it should need an amendment to make it work better, then let there be that amendment in a year or two or three years time.

On the matter of enforcement, I think the honourable member for Labrador North made a comment; "Who will enforce this?" Any member, any interested person would have a right then to enforce it, to make a complaint to the police that such and such a thing had not been in a filed statement or that an offence had been

committed under this act or that there were grounds for suspecting that an offence had been committed under the act, could ask for a police investigation or lay any information himself, just as any member, without a police investigation, any member of the public can go and lay a charge against me or you or anybody else, if they have the grounds to support it, and the courts would then decide whether in fact this act had been contravened.

So, Mr. Speaker, I think it is time that we in Newfoundland, time that we in this House looked at things such as this, looked at areas where the abuse can take place in public processes. I think the minister was very right when he said that it is not necessarily the people who come into this House who are seeking to make a dollar out of the taxpayer but a great many other people who are on the fringes of politics. This has always been, I suspect, people on the fringes, people with an interest, people who try to influence the actions of government. These are the people who tend to make the most money. History I think confirms that. It is not the members but at least, if a man is in public life he must expect this sort of scrutiny. I think this is a step in the right direction. I hope it works and I hope that this House has the courage to enact further legislation or amendment if it should not work.

MR. NEARY: I cannot help but noticing, Sir, that the trip overseas really did not do very much for the honourable member who just took his seat. He is still precise and old womanish in his attitude - because it was not because of the history of the previous administration in the last twenty-three years that this bill was brought into the House. It is not and I will tell the honourable -

MR. SPEAKER: Order please. I am sorry to interrupt the honourable member but it is now six o'clock and I do leave the chair until eight o'clock tonight, at which time the honourable member may continue.

The House resumed at 8:00 P.M.

Mr. Speaker in the Chair.

MR. SPEAKER: Order please!

While the Chair is aware that the matter at Buchans is a very serious matter, it does not feel that it is of such urgent public importance to warrant the suspension of the regular business of the Honourable House at this time.

MR. S. A. NEARY: Mr. Speaker, as Your Honour knows, the House may adjourn in a day or two, and this I believe is the only way that we can discuss this what I consider to be a very serious matter at Buchans, the strike between ASARCO and the United Steel Workers of America. I am in the hands of Your Honours but could Your Honour suggest any time that he may have in mind when we could discuss this matter, before the House adjourns.

MR. SPEAKER: I am sure that the honourable member is aware that it is not one of the duties of the Chair to suggest anything to members of the honourable House but to rule on the matter as such, and the Chair so ruled, realizing the seriousness of the situation in Buchans.

MR. NEARY: Thank you, Your Honour, I will carry on with this debate but I will probably move that the House suspend the order of business, tomorrow at 3:00 o'clock, when the House meets.

AN HON. MEMBER: Inaudible.

MR. NEARY: The Speaker has made a ruling and I am quite satisfied with his ruling.

Now, Mr. Speaker, when the House rose at 6:00, o'clock the honourable member for St. John's South had just spoken in the debate on the bill, "An Act Respecting The Conflict Of Interest And Matters Of Public Concern." The member for St. John's South told the House that it was not very often that he rose in his place in this House to castigate the previous Liberal Administration but he felt he was duty bound on this occasion to do so because of the appearance of corruption of twenty-three years of Liberal Administration in this

province.

I am just summarizing what the honourable member said, Sir. I want to say here now, Sir, to that honourable member, that I was a member of that administration for three and one-half years and during the time that I was a member of that administration, Sir, there was no corruption.

AN HON. MEMBER: Inaudible.

MR. NEARY: There was not. There was no corruption. Honourable members might remember in this House when my honourable friend was overseas on one of the jaunts that members of that side of the House had been taking repeatedly since they formed the administration, when he was overseas, we dealt with this matter of throwing mud in this honourable House. I was brought to task by the honourable Minister of Finance for suggesting certain members on the other side of the House had abused the government aircraft. I was asked to name names.

Now Sir, I am going to ask that honourable member who made that statement before supper for him to name names. Otherwise, Mr. Speaker, withdraw his statement and apologize to this honourable House, because here is one member, Sir, who did not take one five cents, not a nickel from that old whipping boy, the previous Liberal Administration when I was a member of it, only what I worked for and was entitled to. I would like for the honourable member to be man enough, to be honourable enough, Sir. In stand in this House, instead of tarring all the members with the same brush as we were accused of doing by the Minister of Finance, that he name names. If he should want to make a charge, Sir, let him make it, name names, Sir, and not try and hide behind innuendo, snide remarks, jeers -

MR. WILLS: Will the honourable member permit a question?

MR. NEARY: No I will not permit a question, when I am finished the honourable member can have the floor when I am through. Sir, I submit to this House, that this slur makes me mad, Mr. Speaker, it makes me mad. It burns me up to hear that kind of a statement made. No



wonder politicians in this province are distrusted, as much as they are, when you hear members come into this House and make statements such as were made by the member for St. John's South this afternoon. If he is so pious and virtuous, Sir, and pretends to be better than anybody else in this honourable House, then let him explain this, Mr. Speaker. In his fifteen months as a supporter of that administration, let us look at the honourable member's record, if we want to get down to personalities in this House, Sir, I can think of four occasions, at least four and there may be others. I can think of at least four occasions when the member for St. John's South would appear to be in conflict of interest.

Number one was when the Lieutenant Governor-in-Council agreed to provide legal counsel for the Minister of Provincial Affairs and myself in the judicial enquiry that is going on concerning the spending of welfare funds for building material on Bell Island. Who was appointed as legal counsel for my honourable friend, the Minister of Provincial Affairs? No other than the member for St. John's South. If that is not conflict of interest, Sir, I do not know what is.

What about, Mr. Speaker, when these raids took place, before Christmas? The firm whose office was raided in Montreal wanted to get their records returned. Now the Premier is preturbed. I did not make the statement. It was one of these cronies over there who made the statement. I am trying to defend myself against that kind of mud throwing. The member for St. John's South, the Premier was not in the House this afternoon.

MR. MOORES: I was listening.

MR. NEARY: The honourable Premier was listening. The Premier heard what the honourable member said, and I am going to defend myself against it whether the Premier likes it or not.

When this firm in Montreal felt that their records should be returned, who did they commission as their counsel in Newfoundland? None other than my honourable learned friend for St. John's South, after it became a public issue, after he was embarrassed, he withdrew



from the case. Then, Mr. Speaker, when we had a piece of legislation before this honourable House, I forget the title of the legislation, one of my colleagues may remember, the Lakeside Apartments, remember it was in court.

MR. ROBERTS: Appointment of Administrator Act.

MR. NEARY: Yes, an Appointment Of An Administrator Act. To deal with the controversy down at the Lakeside Apartments, I think it was. Who stood in this honourable House, one of the first to leap to his feet and support that piece of legislation? None other than the member for St. John's South, who happened to be representing one of the parties before court. The case was before the Supreme Court. Up leaps the member for St. John's South, who supported the legislation, and well he might. He was being retained by one of the parties.

That is mentioned in this new conflict of interest. There was an apparent case of conflict of interest. It is covered in here now. I wish we could make it retroactive. There are three examples, Sir, I said, there were four.

Well, Sir, when the Tory Administration took over the government, on January 18. and they started to float bond issues, who do you think, Mr. Speaker, was the legal firm in this province who are representing the lenders? None other, Mr. Speaker, than Wells, Greene, O'Dea and Halley.

My honourable friend may say, well it is up to the lenders to choose their own counsel. Well, Sir, I want to point out to this honourable House that it is an unwritten rule right across Canada that the provincial government would subtly suggesting whome they would like to see the lenders choose as their counsel. And in this case it was the firm of Wells, Greene, O'Dea and Halley. No conflict of interest there, Sir?

MR. WELLS: Mr. Speaker, I rise to a point of personal privilege. The honourable member for Bell Island has made four charges. I think I should deal with them. I have no objection -

MR. NEARY: No, Mr. Speaker, that is not a point of privilege.

MR. WELLS: On a point of personal privilege.

I will deal briefly with the four points because they are actually incorrect. The honourable member, of course, has a right to criticize me but the facts must be correct, and if they are not correct I have a right to correct them.

In the first instance he referred to the enquiry which is now taking place. He said, "legal counsel was appointed." That infers that the government appointed legal counsel. That is absolutely incorrect. As I understand it, the participants in that enquiry or the two main protagonists had the right to select a counsel of their choice. The honourable member for Bell Island selected counsel and the honourable minister selected counsel, which he had every right to do. That is the first point.

MR. W. N. ROWE: On a point of order, Mr. Speaker.

MR. WELLS: So the honourable member's point of order takes over the point of personal privilege.

MR. ROWE, W.N. Of course it does.

MR. WELLS: No.

MR. ROWE, W.N. On a point of order, Mr. Speaker.

MR. SPEAKER: As the honourable member is aware I am sure that this point of privilege takes precedents over a point of order.

MR. ROWE, W.N. Mr. Speaker, the point of order is as to whether this is a point of privilege. So obviously the point of order has to take precedents.

MR. WELLS: The point raised by the honourable member -

MR. ROWE, W.N. Mr. Speaker, may I have a ruling on the point of order?

AN HON. MEMBER: Sit down.

MR. SPEAKER: Considering the matter of privilege of the honourable the member for St. John's South, I feel that I have to rule that it is not really a point of privilege but merely a difference of opinion between two honourable members of this House.

MR. NEAPY: Thank you, Mr. Speaker, at last I can carry on. Mr. Speaker ruled that it is not a point of personal privilege, it is a disagreement between two honourable members of the House, which gives me the right to carry on.

MR. SPEAKER: Order please. I did so rule that I feel it is not a point of personal privilege on the part of the honourable member, but more than difference of opinion between two honourable members which is not a point of personal privilege.

MR. WELLS: Inaudible.

MR. NEAPY: Is this a point of order?

MR. WELLS: Yes, this is a point of order. I would refer Your Honour to Beauchesne, page 95, Chapter II, Business of The House, Sub-section IV. "Certain urgent matters such as assaults upon or insults to members, if they should occur during a sitting of the House, may be raised at once in spite of the interruption of a debate or other proceedings except the division in progress. The complaint on such a matter is entertained by the House as soon as it is raised. But if complaint be made in Committee of the Whole, the Chairman reports progress and the Speaker resumes the Chair."

Now this is a case, Your Honour, where the honourable member for Bell Island has made faculty, incorrect statements and imputations against me, a member of this House. It is made in the House and we are in the House. There is no proper place for me to deal with them but here in the House at this time. It is an insult, and that is why I rely on this chapter of Beauchesne. It is an insult to me as a member of this House. If I cannot deal with it here, I cannot deal with it in the courts. There is no recourse.

AN HON. MEMBER: Is the honourable member challenging Your Honour's ruling?

MR. WELLS: I am pointing out Beauchesne on the point.

MR. SPEAKER: I would like for the honourable member not to go into a long debate on this but make his points clear and precise, and I shall rule on them at that time. Members of the opposition will be given an opportunity to speak on the point of order.

MR. POWELL, W.N.: Mr. Speaker, on the point of order, I have no objection to the honourable member making points to some point, but, Mr. Speaker, I think we should be clear on the procedure and the order involved here. My point of order is this, as I understand the procedures of this House, the honourable member is not permitted to stand up and refute debate in order to attempt to refute any statements or allegations made by my honourable colleague. Now if he should wish to rise on a point of privilege, and a point of privilege, as I understand it, if a point of privilege be raised in this House, as I understand it, it should be dealt with by the House. Now he can rise and make a motion or he can rise and ask the House to deal with the matter, as a matter of privilege of the House or a breach of privilege of one of the members but he is not permitted, Sir, I would submit, to merely rise and in a debating, argumentative fashion merely try to refute what is a matter of opinion expressed by another member of this House.

MR. WELLS: Mr. Speaker, this is the whole point, it is not the matter of opinion, it is the matter of fact. In my remarks I am quite prepared to confine myself completely to facts not opinions. And it is because wrong facts have been alleged against me that I rise on this point of personal privilege. I know of no other time when I can do that unless I go outside of the House and make comments, but surely we in the House can deal with matters involving ourselves. This is the point of privilege; factual opinions, Your Honour, I am not concerned with.

I may say, apropos of what Your Honour has said, that if allowed to deal with these four points, I will deal with them with the utmost brevity and the factual aspect only.

Your Honour, I was dealing with -

MR. ROBERTS: On a point of order, I must confess I am somewhat at a loss. The honourable gentleman has made some statements here, the gentleman for Bell Island. The honourable gentleman for St. John's South has taken exception thereto and says, alleges that the

statements of fact are incorrect. Well be that as it may, there it is. Now, Your Honour, what is the procedure from here on in? A matter of privilege one cannot just leap up in a debate, as Your Honour has told us time and time again and say, "Mr. Speaker to a point of personal privilege" and make a statement. That is not permitted. There is a procedure set out in. I do not know if it is in our Standing Orders or if it is in Beauchesne, there is a clear, concise procedure to be followed in respect of matters of privilege. I would suggest, and I do not want to cut off the honourable gentleman, I think I can understand his feelings, nor do I want to cut off my friend because I understand his feelings.

AN HON. MEMBER: Inaudible.

MR. ROBERTS: Perhaps Your Honour might wish -

AN HON. MEMBER: Inaudible.

MR. ROBERTS: Yes, my friend has the floor in the debate but we are still on a procedural point. Perhaps Your Honour might wish to adjourn the House now, Sir, for five or ten minutes so Your Honour could consult with the clerks at the table and go into this matter. I must confess I am, quite candidly, at sea. I know a point of privilege must be raised immediately and is set forth clearly but I am not sure what happens - one just cannot stand and make a speech. The honourable gentleman wishes to make a statement, I do not wish to bar him but a statement is a speech.

MR. WELLS: He has already spoken, I do not, Mr. Speaker, want to sleep on my rights here. I have raised it, it is now at the earliest possible moment. Now if Your Honour should rule that this must be dealt with tomorrow or some other time or in another manner, by all means, but I cannot let this drop. It should be dealt with, I feel, immediately.

MR. MAPSHALL: On a point of order, Mr. Speaker. The point of privilege must be raised immediately. As I understood the words, it is not a case of difference of opinion as between members but, as I understand the words of the honourable the member for Bell Island, he accused the honourable member for St. John's South, in effect, of



a breach of a conflict of interest position, in his professional life as against his private life. That in itself constitutes to my mind a base and vile insult against the honourable member for St. John's South and it must be dealt with accordingly.

MR. ROBERTS: Mr. Speaker, if I may, again we are on page 18 of our Standing Orders, which is the commentary not the order itself. "It is the practice in the Canadian House to bring up a question of privilege before the House has taken up the business of the day. However, the proceedings of the House may be interrupted at any time, except during a division, by motion based on a matter of privilege. A question of privilege ought rarely to come up in Parliament. It should be dealt with by a motion giving the House power to impose a reparation or apply a remedy."

The procedure that I recall, there was a statement, where the Premier made a statement outside of the House, that I considered was a breach. I raised the matter at the time, which happened to be budget day, which was the earliest moment. I did not press it then because we went on with the minister's Budget Speech. A day or so later, when I had the Hansard transcripts, I stood at orders, at 3:00 o'clock, made my point. The Speaker took the matter under advisement and a day or so later made a ruling that I had not in fact, that there was no breach of privilege.

Now the honourable gentleman has done the right thing to raise his question of timeliness. The question now is: what is the further procedure that is to be followed?

MR. WELLS: I refer Your Honour to page 19 of our Standing Orders where it says, "Libels and aspersions upon members and interference with their official duties are breaches of privilege of members." This is a libel and certainly an aspersion upon a member of this House. It is a breach of privilege and it must be dealt with.

MR. ROBERTS: Mr. Speaker, that is a conclusion. The honourable gentleman advances it, He may or may not be correct, but he would agree that it is a conclusion. Certainly I could go on and read the next sentence in that citation: "A dispute between two members



as to allegations of facts cannot be classed as a breach of privilege."

I mean that is the whole point.

MP. WELLS: Put this is an aspersion.

THE SPEAKER: Order please! The Chair is not quite certain what the honourable member for St. John's South disputes. He shall permit the honourable member to be brief and concise and, after he has heard what the honourable member has to say, if it is necessary to recess the House for five or ten minutes, I shall do so and make a ruling on it then.

MP. WELLS: The first matter insofar as the appointment, I have dealt with.

The man in question, the minister of the Crown, was entitled to ask any practicing member of the Bar of Newfoundland to represent him at the hearing. He asked me and I accepted and that is that.

The second point was that a man in Montreal retained me to look into the legal question of the seizure of his papers. He also, the Q.C. in Montreal, had the right to approach and engage any member of the Bar in Newfoundland. This was not an appointment by the Province of Newfoundland. It had nothing to do with the Province of Newfoundland except peripherally. Afterwards I came to the conclusion, as there was so much unwanted and unwarranted fuss made by certain members of the opposition, I came to the conclusion that the man himself might be better represented by someone who was not the subject of this controversy, and consequently I resigned from that case. But I was in no sense retained or engaged by the Government of Newfoundland or anyone connected with it.

In the third case he referred to Lake Apartments. That was a case that was carrying on before the Supreme Court of Newfoundland in a normal fashion. An application had been made by me, as counsel for one of the parties, to have not a receiver but an administrator appointed to look after the interest of the tenants. Unknown to me, and there is no reason why I should be informed, the appropriate minister of the Crown brought an act into the House to accomplish the same thing, pending the outcome of the case. I supported that bill.

Every member of the House, as I recall, supported it, and it was perfectly proper in every respect and had nothing to do with conflict of interest.

The fourth matter which was raised by the honourable gentleman is this, that after this government took office my law firm was retained to do a bond issue or to act on a bond issue. At the time in question I was not a member of the House, it was before the March election. In any event, the matters concerning the bond issue were handled by a former partner of mine, Mr. Richard Greene. The work, I presume, was concluded. If it has been billed for and I do not know if it has been billed for or not, and if monies have been paid by whomsoever appointed Mr. Greene as counsel or engaged him as counsel, the monies in question have been paid to Mr. Greene not to me. I have been in no way involved nor the members of my present firm in that transaction.

AN HON. MEMBER: The honourable member was not a member of the House.

MR. WELLS: I was not a member of the House when Mr. Greene, a former partner of mine,

was engaged on these bond issues. So my honourable friend, Mr. Speaker, has made an attack which has not got a basis in fact, which is utterly unwarranted. He may criticize me if he wish but on facts which must be, I hope, substantiated before this House.

On motion the House recessed for ten minutes.

MR. SPEAKER: Order please. They are considering and consulting, the members of the table, on this matter. It appears as if the honourable member for St. John's South has made a prima-facie case for a breach of privilege of the House. However, this is such a serious matter that I would like to see the transcript of Hansard before actually making a further ruling on it. In the meantime, I am wondering if the honourable member for Bell Island would like to withdraw any remarks he made as to the aspersions and the character of the honourable member for St. John's South. I am not making a ruling at this time. I wonder if the honourable member for Bell Island would like to speak on the matter as such?

MR. NEARY: Yes, Mr. Speaker, I appreciate the situation Your Honour finds himself in and I want to point out to the honourable House, Sir, that I did not in any way cast any aspersions on the character of my honourable and learned friend from St. John's South. What I did say, Sir, was that the honourable member allowed himself to be placed in such a position that there could have been a possible conflict of interest. If we had had this legislation at that time, Sir, my honourable friend could have very easily been in a position of conflict of interest. So that the statements that I made, Mr. Speaker, were merely confirmed. My honourable friend verified this

MR. SPEAKER: I asked the honourable member for Bell Island if he would like to withdraw any aspersions on the character of the honourable member. I do not think he should get into a debate as to his opinion of what he had said earlier. I would like to

see a copy of Hansard.

MR. NEARY: I did not intend to cast any reflection on the character of my honourable friend. That was not the intention, Your Honour, so -

AN HONOURABLE MEMBER: Yes, you did.

MR. NEARY: If I did leave that impression, Sir, well then it was misinterpreted and I withdraw it. I did not intend to leave that impression.

MR. SPEAKER: Is the Chair to understand the honourable member has withdrawn?

MR. NEARY: Well, I do not know what I am withdrawing here but whatever it is Your Honour wants me to withdraw, as far as casting aspersions on the character of my honourable friend, I do it.

MR. SPEAKER: The honourable member for Bell Island may continue the debate.

MR. NEARY: Thank you, Your Honour. I do not know if I need to go over the grounds again. I think I should summarize what I said, Mr. Speaker, which is this: In the case of the judicial enquiry that is taking place right now, the public treasury are paying legal council for both the Minister of Provincial Affairs and myself. My understanding, Sir, of the Legislative Disabilities Act, which may be incorrect, Mr. Speaker, and it may be correct, I do not know, my understanding is that no member of this honourable House is permitted to receive payment for services rendered. This is the point that I was making. Apart from that, Sir, there is a more serious -

AN HONOURABLE MEMBER: That is not correct.

MR. NEARY: Well, maybe it is not correct. I said I am not sure if it is correct or incorrect. Mr. Speaker, if the honourable Minister of Justice wants to stand and speak in this debate, he is quite welcome to do so after I am finished. I am not sure if it is correct or incorrect, Sir, but it strikes me as being wrong. I have a right to my opinion in this House. There is a more serious implication than that. The fact that at the time the

honourable member for St. John's South was chosen - I have to be very careful about my words now - chosen by the Minister of Provincial Affairs, to act as his counsel, the Premier had indicated, around about the same time or shortly after that, my honourable friend was going to be invited into the Cabinet. There were nineteen ministers at the time and I remember passing the remark that was nineteen and a-half. So, it is a rather difficult situation, Sir, when you are down before an enquiry when civil servants are being paraded in before that enquiry. It is hard for an ordinary, common layman like myself, Sir, to comprehend how these civil servants who are working for the government, with a potential minister representing his colleague, if not a potential minister then certainly a member who supports the government. This is something which concerned me very greatly, Sir. So, I suggested at that time that the member withdraw from the case, which up to this moment he has not done. Granted he has not sat in on too many sessions of the enquiry. He has had one of his partners there, a Mr. Haley, I think it is. He has been there on a number of occasions. For all practical purposes, the member for St. John's South still represents the Minister of Provincial Affairs. In my opinion, Mr. Speaker, this is wrong. It could have a psychological affect on some of the witnesses. Now, whether it will or whether it will not we could probably never prove that it would, but that possibility, in my opinion, is there. The fact that the member is being paid from the public treasury, I think this is wrong.

Now, as far as the administrator for the Lakeside Apartments legislation was concerned, Sir, I was about to quote a section of the new act when the member rose on a point of privilege. The section I was going to quote was (6) page 10, speaking and voting by members. Section (a) says that subject to provisions of section 17, a member of the House of Assembly or of any agency consisting of more than one member; (a) shall not speak on a matter of

conflicting interest in respect of such a member in relation to such matter unless at the commencement of his speaking he states any conflicting interest, within the meaning of this section, to his knowledge he, his spouse or any of his minor children have in the matter. Well, I do not know whether the honourable member did or not. I did not remember his saying that. I expressed an opinion, Sir. In my view I thought that was wrong for the honourable member to come into this House and support this legislation. If the honourable member did state that he represented one of the parties, well and good. I do not remember it. If he did not, then I would say that he was wrong.

On the matter of the bond issue, Sir, I was pointing out to the House that the firm of Wells, Green, O'Dea and Hally did in fact represent the lenders on at least one bond issue. I do not know how many more. Maybe there was only one. If the honourable member says that he was not a member of the House at the time, well I accept that explanation, Sir. If the honourable member had been a member of the House, then I would say there was a potential conflict of interest. These were the points that I was making, Sir.

As far as the Montreal Firm was concerned, my honourable friend has also verified that fact. I made three statements of fact, Mr. Speaker, that were verified by the honourable member when he rose on his point of privilege.

The fourth one that I was dealing with when he interrupted me, I may have explained it and I may not have because I was under the impression that the member was a member of the House at the time. The honourable member says that he was not a member of the House and I accept that explanation, Sir. So, I have made four points. Three confirmed by the honourable member. One, number four, we agree that the member



was not a member of the House when his firm handled the bond issue, represented the lenders. Now, Sir, whether or not payment only went to Mr. Green, who happens to be the Tory bagman, or not is irrelevant as far as I am concerned. Mr. Richard Green is the bagman for the Tory Party. He is Moneybags. The honourable minister should know what a bagman is.

So, Mr. Speaker, my honourable friend and learned friend says these were wrong facts. Well, Sir, I say to my honourable friend that there were wrong facts in the statement that he made this afternoon in this honourable House. I asked the honourable member to withdraw these statements, Sir, and apologize to this House, which he has not seen fit to do. When he made the accusation that the previous Liberal Administration was corrupt for twenty-three years, I state categorically, Sir, that that was not a correct statement, that these were wrong facts. As my honourable colleague on my left here points out to me, there were a lot of honest men in that administration. The honourable member agrees now but that is not what he said this afternoon. The honourable member has repeated it, Mr. Speaker, that the administration was corrupt. What he is really saying in fact, Sir, is that I was corrupt, because I was a member of that administration and so was my colleague, the member for Labrador North; the member for White Bay South; the Leader of the Opposition; and my honourable friend, the member for Fogo. We were ministers. There are five former ministers sitting in this House. Mr. Speaker, the honourable member for St. John's South just repeated what he said this afternoon, that that administration was corrupt. I submit to you, Mr. Speaker, that that is unparliamentary. I am going to give the honourable member an opportunity to withdraw that statement. If not, Sir, lay a charge, name names, because we have had enough of this nonsense in this honourable House. I thought we dispensed with it the other day.

He has colleagues on his own side of the House, one sitting right in front, the Minister of Justice, who were a part of that administration that was corrupt, according to the member for St. John's South. The Minister of Finance was in the administration long before I was. Was he corrupt? The Minister of Public Works and Services was a member of that administration much longer than I was. Were these three honourable gentlemen corrupt? When the honourable member for St. John's South throws his handful of mud he does not know who he is going to hit. He happened to hit me the wrong way this afternoon.

AN HONOURABLE MEMBER: Too bad.

MR. NEARY: Yes, it is too bad because it is not true. If the honourable member has any principle at all, Sir, any assumption about him at all, Mr. Speaker, if he is an honourable gentleman, as I think he is, then, Sir, he has the opportunity now, I am going to invite him to withdraw that remark. I will give the honourable member an opportunity to do it if he wants to. Not going to do it? Well, I hope, Mr. Speaker, that in future in this honourable House when the mud is thrown, when the accusations and the charges are made, that members will remember where it started. It started in St. John's South, not in Burgeo this time.

The honourable member said this afternoon that the reason for bringing in this piece of legislation was because the previous Liberal Administration appeared to be corrupt. Well, Sir, in my opinion, for what it is worth - I was in this House when all the blowups took place - in my opinion, Sir, the real reason for bringing in this piece of legislation, conflict of interest, so called, was because of a major confrontation between the present Minister of Finance and the former Premier of this province. It all started back on May 14 or May 13 I think it was, 1968, when the Minister of Finance who was then Minister of Health resigned from the former Smallwood Cabinet. There were a number of serious

charges made at that time, Sir, and the honourable Minister of Finance will remember this. In the letter that was passed to the Minister of Health at the time, by the former Premier, there were a number of serious charges made concerning the minister's family and the minister's family's interest. I have here in front of me, Sir, the 'Evening Telegram', Tuesday, May 14, 1968. It is in very fine print. You would almost want a magnifying glass to read it, it is so small. Here are some of the things that were stated at that time. He also said, referring to the former premier, "Your family's airline company, EPA, have been helped by the government to the extent of millions of dollars. Your family's activities at Bay of Islands in White Bay have received many thousands of dollars from the government."

The Premier noted that Mr. Crosbie had been a member of the Cabinet subcommittee set up to negotiate the terms and agreements of the linerboard mill for Stevenville and agreements for the third paper mill and refinery at Come By Chance. The first agreement for the linerboard would provide that the mill construction be done by the construction company ENSA or the Schneider - Creuset Organization in France. "I was shocked to learn shortly after the agreement had been negotiated that your family's construction company," quoting from the letter that was given to my honourable friend, "that your family's construction company had obtained the representation for Newfoundland of the Ensa Company. The Linerboard agreement with Schneider - Creuset and Ensa was later - "

MR. CROSBIE: On a point of privilege. That statement is a lie. That letter was completely withdrawn by Mr. Smallwood the week following May 14, 1968. The contents of that letter were a lie. He was threatened with legal action and withdrew the letter and every statement made in it. The honourable gentleman is now producing this as statement of the facts and I say they are completely untrue.

MR. NEARY: No, Mr. Speaker, I am not producing them as statement of fact. The honourable minister is quite correct. The letter was withdrawn and the statement - obviously, Mr. Speaker, members are not paying attention to what I have said, Sir. I am countering a statement that was made by the member for St. John's South.

AN HONOURABLE MEMBER: You are not countering it by attacking him.

MR. NEARY: I am not attacking anybody.

MR. SPEAKER: Order please. If honourable members have a point to make, I suggest that they rise in their places in the proper procedural manner and make their points clearly and concisely, whether they be points of order or points of privilege or whatever points honourable members wish to make. The honourable member for Bell Island has the floor. In so far as I can see, he is completely in order. He is reading things which may be controversial. However, they are not out of order and no point of order has been raised to that effect.

MR. CROSBIE: I am raising the point of privilege. This is being read into the record again, a letter which has already been repudiated and withdrawn by the person who made it, containing statements that are completely incorrect and false. They have already been demonstrated to be incorrect and false, already withdrawn by the last Premier. My point of privilege is; what is the honourable gentleman reading this into the record for? Is he now stating that these are facts that he is reading into the record or what is his point? Is he trying to illustrate some point? What is the point of it? Well, if the honourable gentleman would explain what he is doing.

MR. NEARY: The point that I am making, Mr. Speaker - I think Your Honour was paying very strict attention to what I was saying - the other honourable crowd, Sir, have been so jumpy after the weekend - the Minister of Finance is not one because he was not in Gander - but the point that I am making, Sir, is that the honourable member for St. John's South made a statement

this afternoon that the reason that we have conflict of interest in the House today is because the previous administration appeared to be so corrupt. I am saying that that is not the reason. That is not the history behind this conflict of interest legislation. It was the Minister of Finance who then started a crusade of his own, an individual crusade to bring in conflict of interest into this House. The Minister without Portfolio knows that. He was in the House at the time. What is wrong with the Minister of Industrial Development tonight? Well, if you do not like it, buy earplugs or go out and drink coffee out in the back room. That is the real reason behind this conflict of interest, Sir. It is a crusade, a pledge, if you want to put it that way, made by the Minister of Finance following this blowup, that he swore and probably rightly so, that this would never happen again in this honourable House. So, he undertook a personal crusade to introduce conflict of interest legislation in this honourable House. That is how the bill, in my opinion, got on the floor of this House today.

Now, Sir, in that great crusade that was carried on, picked up later by other member of the Tory Party, the Tory Administration, in two provincial general elections, I was under the impression that the bill would be much more than just a bill compelling members to disclose their interests. We discover now, Sir, that that is not so, that this bill is just, in my opinion, an impertinent imitation of the Real McCoy, of what it should be. It does not go far enough, Sir. It is a counterfeit bill. It is full of loopholes, Sir. My honourable friend said today you can draw a dozen trucks through it. It does not stop conflict of interest in this House. We were told this afternoon by the various members who spoke in this debate that the reason a member of the government would not have to surrender his investments and his interests, the reason, you would not be able to get good people, so we were told by



the Minister of Finance, to come into public life in this province. What nonsense, Mr. Speaker! When a person comes into public life in this province, Sir, he does so with his eyes wide open. Nobody puts a knife or a gun in his back and says he has to run for public office. He does it voluntarily. It is done by choice.

The inference that the Minister of Finance is leaving with this honourable House is that the only good people you get in politics in Newfoundland are businessmen or well-to-do lawyers. What the minister is really saying, in my opinion, is that you judge a successful person in Newfoundland by the size of his bankbook, by his wallet. It does not make any difference how he accumulated his wealth, Sir, whether it be by legal means or illegal means, moral, immoral, it does not make any difference. The minister is saying that you will not get good people to come into public life. By good he means you will not get wealthy people, well-to-do people to come into public life. The minister is using the wrong yardstick, Sir. You have, in my opinion, in this province a good many truck drivers, a good many office clerks, a good many fishermen and a good many farmers and a good many miners and a good many loggers and a good many stevedores. You can go all the way down the line, Mr. Speaker. They would not be considered to be supermen or people who put Libby's Beans on the shelves of supermarkets. They are just as good, Sir, if not better in a good many cases than the yardstick that my honourable friend whom I praised up a couple of weeks ago, is talking about: you will not get good people in public life: meaning you will not get well-to-do people in public life. I say that we have had too much of that in the past, Sir. The representation in this House is completely out of kilter. All you have to do is look around to see how many lawyers - I do not know whether they are well-to-do or not - how many business people, lawyers and doctors and educators, in this honourable



House making laws and passing legislation, Sir, effecting the masses of the people in this province.

The ordinary rank and file like myself, I am not a millionaire, Sir. I am not well-to-do. I am lucky to be able to meet the mortgage on my house. My honourable colleague here from Bonavista North is not a well-to-do person but I consider him to be a good man, Sir. My honourable colleague down here from St. Barbe North is lucky, Sir, if he can meet his mortgage payments, and will probably have to borrow from the bank to pay his income tax. Is he a good man? I would say he is. The Minister of Industrial Development, a friend of mine all his life, is not well-to-do, Sir. Would you consider him a good man? No wonder the people of this province have such a skeptical view of politicians when we hear statements like that. "You will not get good men," he said. "If you force them to surrender their ill gotten gains, in a lot of cases you will not get good men to come into politics and to come into public life in this province" - meaning that the only people that come into politics or come into public life in this province are the rich people. I say that is nonsense. That kind of a statement, Sir, gets me riled up. I consider myself to be as good as anybody in this honourable House. I will stake my reputation up against the member for St. John's South any time. I will put my reputation on the line any time with the member for St. John's South. Any time he wants to challenge it, Sir, I will do it.

Now, Sir, this bill is just a farce, in my opinion. All it does is require members to disclose details of their interest. Members can still come into this House. Why only recently, Sir, and this was most unfortunate, in my opinion, that when the university professor in New Brunswick was writing his report to the government that we had three or four appearances of conflict of interest right here in our own province. I am sure the professor was given instructions. I have not seen the report. I would like to see what the recommendations were. The minister

told me he would let me see the report. He has not sent it over to me yet. I have no doubt at all that some of the clauses in this bill, Sir, had to be written to suit the existing situation in this honourable province. We had an example of that some time ago when the Minister of Rural Development made a statement, Sir, to the 'Evening Telegram' on March 10. I will table it. The honourable Minister of Industrial Development wants it tabled. Here it is, picture and all. Legislation! Mr. Speaker, this statement was made voluntarily, no provocation, out of the clear blue sky the minister made the statement. Nobody put any pressure on him. "Legislation may force minister out of cabinet. Rural Development Minister, Jim Reid says he may have to leave the provincial Cabinet if conflict of interest legislation to be brought in by the government during the present session of the House of Assembly prevents his firm from tendering for work on government contracts." I do not know if the minister was quoted correctly. I do not know. The honourable minister never denied it. Well, it is a pretty serious statement, Mr. Speaker.

MR. REID: I did not even know what conflict of interest was then.

MR. NEARY: Well, Sir, the honourable minister is learning pretty quick. "It is not a matter of thinking of resigning, Mr. Reid told the 'Telegram', I have given it considerable thought." Now, the minister tells us he did not know what it was all about. What is wrong with the honourable minister for garbage tonight?

MR. HICKEY: I have to listen to the garbage, that is what is wrong with it.

MR. SPEAKER: The member for Bell Island is not to be permitted, indeed it is certainly regrettable that he has referred to an honourable member of the House in such a derogatory manner. I ask him if he might refer to the honourable minister in the proper manner from now on.

MR. NEARY: Thank you, Mr. Speaker. So, as Mr. Reid told the 'Telegram', "I have given it considerable thought. The point is that under the conflict of interest legislation I might not be able to bid on government jobs and I would have to resign in that case." Mr. Reid was first elected to the House of Assembly in March, 1972. He represented the district of Trinity South. He was appointed to his present portfolio in December, when Frank Moores announced government restructuring, in the setting up of new departments. "Mr. Reid owns James G. Reid and Sons Limited of Hearts Delight, Trinity Bay. His firm operates heavy construction and earth-moving equipment in road construction projects and is involved in the construction of water and sewer systems. He said he relied on government work in order to carry on this business." If my memory serves me correctly, Mr. Speaker, I saw the honourable minister on television making the same statement.

MR. DOODY: Sounds like an honest man.

MR. NEARY: So, all you have to do is come out and make a statement, that makes you honest, there is no conflict of interest. Is that what the Minister of Industrial Development is saying? The minister just denied making this statement.

The argument is that if I remember correctly I saw the minister on television. Well, Sir, a couple of days later - I do not know but it was the next day when the issue got right hot and the pressure was on - I saw the honourable Premier on television being interviewed up here in the room, CBC up here, upstairs, making a statement in defense of the Minister of Rural Development. He said, "I have spoken to the minister. We have discussed this on many occasions and I told the minister" - I am just summarizing what the Premier said - "I told the minister to hold off, do not resign, take it easy because when matters are being discussed in cabinet or in his department concerning his firm or business all the minister had to do" - this is what the honourable Premier said - "all the minister has to do is to just to step aside for the time being,

retire from his portfolio for the time being. Then when the matter is settled the honourable minister can come back to his former job." Sir, I saw the Premier. My honourable colleague confirms it. It is true. It is a statement of fact, Sir. Mr. Speaker, what a mockery that makes of conflict of interest legislation. "All you have to do," the Premier says, "is if the government is doing business with your firm, you just go home for a few days," I think the Premier said, "come back when it is all over." You will make your million! Everything is fine, no conflict of interest!"

AN HONOURABLE MEMBER: The Premier did not say that.

MR. NEARY: I am saying it. I said the Premier made that statement.

MR. DOODY: He did not say, go home and make a million dollars.

MR. NEARY: No, I am saying that. That is right because that was the impression that the Premier left with me, Sir. Do not be so jumpy. Just take it easy. I know the honourable minister is nervous. He will be more nervous if he is up for another two or three years. They will be shell-shocked, Sir, after the next session of the House. We have only brought out one tenth of it this session. We are gathering in a few facts now that will make the hair stand straight on the heads.

MR. SPEAKER: Order please. Honourable members have carried on for approximately three or four minutes now with the repartee to which we have all become familiar. However, it has reached the point to which the Chair cannot any longer condone this type of behaviour. We have reached that point. The honourable member for Bell Island has the right to be heard in silence. I would suggest that he make his points as unprovocative as possible.

MR. NEARY: What have I said that is not true?

AN HONOURABLE MEMBER: You misquoted the Premier.

MR. NEARY: I did not misquote the Premier. The Premier said, Mr. Speaker, that all you have to do, all the minister has to do is leave his portfolio for the time being and when the business

is transacted and finalized he can come back to his old job. Is that not true? I said that. Oh, Mr. Speaker, they are splitting hairs, Sir.

MR. SPEAKER: Order please. Honourable members' memories are very short. Here it is not particularly right to have to rise to make the same point repeatedly. Honourable members have the right to speak in this debate. Honourable members to my left have the right to speak in this debate. The honourable member for Bell Island has the right to speak in this debate. That point is quite clear. Honourable members to my left are certainly not adding to - words escape me. However, I feel that if honourable members to my left were somewhat less effusive that the debate might proceed a little more orderly.

MR. NEARY: Thank you, Mr. Speaker. I wish there were somebody on the opposite side of the House who could discipline their members.

Mr. Speaker, I think it was well put in the 'Western Star' on February 9, 1973, in an editorial that was written about this conflict of interest. It was headed "A Change of Mind". "My government will bring before you legislation respecting conflict of interest." That was all, just eleven words dealing with conflict of interest, among the more than six thousand -

MR. CARTER: On a point of order. Mr. Speaker, for the information of this House, just how much is an honourable member permitted to read into the record?

MR. SPEAKER: The question raised by the honourable member for St. John's North is hypothetical and therefore the Chair does not have to deal with it. However, the honourable member for Bell Island appears to be proceeding to read into the record editorial comment which may reflect upon the proceedings of the House, which is quite different from editorial comment which may just refer to things that are not necessarily under discussion in the House. I would ask the honourable member to carefully read the piece of material that he is attempting to read into the record

before presenting it, because it is quite possible that it is out of order. However, to this point he is not out of order although I do believe that the tenor of the article is such that he may have to be interrupted.

MR. NEARY: Well, Mr. Speaker, I agree with the editorial in the 'Western Star' when they said that it is possible that Premier Moores and his advisers no longer want cabinet ministers and other public servants to reveal their business connections and holdings. This is a view, Sir, that I am afraid I subscribe to myself. I do not think that I could have put it in a better way. We were lead to believe, Mr. Speaker, that there was going to be full and public disclosure of shares and investments and involvement by members of this honourable House particularly, Sir, cabinet ministers. We are not going to get that in this bill and I am very disappointed that we are not. I am quite satisfied personally to disclose any interests that I have, Sir.

AN HONOURABLE MEMBER: You have got nothing, that is why.

MR. NEARY: That is right. Practically a pauper! Does that make me any worse a member of this honourable House? I am satisfied, Sir. I think that I have as good a record in this honourable House as anybody.



I am satisfied to disclose my holdings, Sir, my interests. I have no fear whatsoever. I have no fear at all, Sir. I have nothing to hide. I hope that other honourable members of this House can stand in their places and say the same thing; make the same statement. I have a feeling that the Minister of Industrial Development may be able to make that statement. I have nothing personally to hide, Sir, neither does my family. There is no implication on making a statement of fact. There is no innuendo, Mr. Speaker. Where is the innuendo? I am saying, Mr. Speaker, that personally I am not afraid to disclose my holdings to anybody. If the honourable minister wants to get up and make the same statement, I encourage him to do so. Mr. Speaker, if the honourable minister wants to make the same statement, he is entitled to do so. It is a free country. I suppose we still have democracy in this honourable House - freedom of speech.

MR. HICKEY: Tell me something else, I already know that.

MR. SPEAKER: Order please. Honourable members, for the third time, honourable members to my left are reminded that each member has the right to participate in the debate in the manner as laid out in the Standing Orders and in the manner which is customary. Honourable members, while sitting in their places, are completely out of order to carry on a debate with an honourable member who has the floor. Even with the honourable member's permission, that is out of order. It adds nothing to the orderly flow of business in this honourable House.

MR. NEARY: Mr. Speaker, I can only repeat again, Sir, I wish there were somebody over there to discipline these members who seem to be completely out of control, Sir. Mr. Speaker, I can say with a clear conscience that I am satisfied to disclose my holdings under this bill, Sir. I am quite satisfied. If I had any interests, Sir, that have the appearance of conflicting with my position in this House, I would surrender them. I would, Mr. Speaker. I would come into this honourable House - there is no dark cloud over my head, no strings attached. I would

devote my full time to try and do something for the people of this province. I would not worry about any business interests if I had any and I do not have any. I would put the affairs of the people of this province before anything else. I have nothing but harsh words for anybody who would not do that, Sir. That is why I argue, I get riled up, I get so perturbed when I hear this statement: "You will not get good people to come into public life in this province." Why would you not? They come in with their eyes wide open. They disclose their interests. They surrender any interests that they have which might conflict with their cabinet positions or their being a member of the House, otherwise, Sir, they are not worth their salt. They should not be in the House. If they put their own private, personal interests before that of the people of this province, they are not fit, in my opinion, to represent the people of this province in this honourable House. I do not mean, Sir, that when a person comes into this honourable House - if it were I, for instance. Mr. Speaker, and I have three brothers - if I am invited into the cabinet a couple of years from now, by my honourable colleague, the Leader of the Opposition, and the honourable Leader says to me, "I would like to invite you to come into my cabinet." I would say, "Thank you very much! I consider that as a very great privilege and an honour, as I did when I was in the cabinet before." But Mr. Leader of the Opposition (this is purely a hypothetical case, Mr. Speaker, that I am using) I have interests in a number of companies in this province. I am a shareholder in this company and that company. I am on the board of directors of this company and that company and the other company. The Leader of the Opposition says, -

AN HON. MEMBER: (Inaudible).

MR. NEARY: He is Premier now. He is not the Leader of the Opposition. He is Premier. He says, "No, no, I am not having a man in my cabinet who has so many interests in business and industry in this province. You will have to give it up." What do I do, Mr. Speaker? I go out and I say to one of my three brothers, "If the Premier invite

me into his cabinet and I have to surrender my interests, my investment, I have to give it up," My favorite brother will say to me, "Well Boy, let us go somewhere and talk it over." We talk it over and he says, "Fine. I will take it off your hands."

MR. SPEAKER: The honourable member has approximately five minutes left in which to speak.

MR. NEARY: I did not realize, Mr. Speaker, that I had gone on so long. So, Sir, I will say to my favourite brother, "Yes, Okay!" We would agree. He is going to take it all over. He is going to buy me out, Sir. He says, "But look, I do not have the money to pay you now but here you can have a couple of hundred thousand dollars in cash and the rest of it I will pay you over a period of ten or fifteen years. How does that suit you?" I would say, "Great, great boy! I appreciate that. God bless you!" "In the meantime, I will pay you interest on your money every month." "Great, that is even better again!" Over a period of ten or fifteen or twenty years he pays me off, plus the fact that I get my cheque every month for interest, Sir. Now that kind of a situation, Mr. Speaker, in my opinion, is also wrong. I would be wrong to do it. It would not be ethical on my part to do it, Sir. It would be immoral, especially if my older brother took to the television a couple of days later and confirmed the fact that I can buy back my interest in these companies if I should ever leave the cabinet. That to my way of thinking, Sir, is completely unethical. I hope that when this conflict of interest legislation is passed that no minister nor any member of this honourable House, either present or future, will be able to manipulate in that kind of a way, Sir. It is a pity, I would say, that we could not make this retroactive. It is all right for well-to-do people to come into this honourable House and talk about conflict of interest. They have their millions. They have it stowed away. They do not want anybody else to make a penny now that they got theirs.

AN HON. MEMBER: (Inaudible).

MR. NEARY: That is what the honourable member thinks. I would say it is a pity that we could not make this retroactive. What a pity!

Mr. Speaker, these are some of the questions, some of the unanswered questions that I have to ask about this conflict of interest legislation. It is meaningless, Sir. We were led up a garden path again. I hope that when my honourable colleagues speak on this legislation that they will move amendments to put some teeth into it.

MR. CARTER: Mr. Speaker, I have a few observations that I think are not out of order at this time. This is a bill that has long waited to be brought before this House. In fact you could argue that the previous administration did not need a conflict of interest bill. They may well have tried to conceal the more heinous of their activities but if my memory serves me accurately, they made very little effort to hide the fact that they fully intended to enjoy every advantage of office. In fact they were so blatant in their inequity that they used to boast about their holdings as they paraded their enormities right in the face of a public that had been bludgeoned to submission and acquiescence by a combination of threat and treat. Yes, Mr. Speaker, it was toady time with a vengeance. Obvious and selective healers and henchman strutted around like peacocks, vying with their cronies in their urge to consume conspicuously. Mr. Speaker, the appetite with which these freaks gorged themselves on what they regarded as their just spoils was only exceeded by their desire to boast about the rewards of their submissiveness. In fact, Mr. Speaker, so great was the patronage splurged about that it was no wonder that the former government members fell over each other in their urge to touch the hem of their master's garment or to kiss his feet. They learned their lessons well at the former Premier's knee or some low joint like that.

Mr. Speaker, it was enough to make one suspect that Pythagoras was correct after all when he maintained that the souls of animals could get into men. I saw case after case of prominent Liberals acting like animals,

like lowly animals, scared cats. Mr. Speaker, jackals and parrots abounded, while there was a proliferation of birds of prey that feasted on the choicest morsels. Conflict of interest? What flourished was community of interest. It is the prospect of lean pickings rather than any stirrings of conscience that is causing the pathetic and hypocritical mouthings that we are getting from that side tonight.

No less a person than the former Premier, Mr. Speaker, has vowed in this very House that the holders of liquor licences should support the Liberal party. Do we forget that the assets of the Bell Island Mines, amounting to some millions of dollars, were disposed of, leaving only \$3,000 for the people of Bell Island. The most charitable interpretation that can be put on this sordid affair is that it was scandalous incompetence. The former Premier's holdings of Javelin and Brinco stock while negotiating with these companies, has already been mentioned. What about the liquor stores? One could go on and on, Mr. Speaker, stock pumping, announcements, etc., etc. Those who now protest innocence were silent then. As far as I am concerned, silence betokens consent.

The only conflict that one can recall from those sordid days is the one that arose among the Liberal-healers as they scrambled and jockeyed for positions in a vicious pecking order that obtained in those times. It is very hard to be serious in the face of such hypocrisy, Mr. Speaker.

As we witnessed tonight, any complaint in this House was followed by an impossible trackless, labyrinthine procedural wrangle that usually set up an effective smoke screen. There were many interests. Each individual had his own interests, which were inevitably put before the interests of this province. The only place where there was no interest was in the welfare of the individuals they were supposed to represent. As for disclosure, there was very little effort made to hide what went on. A stripper could not disclose more. The only



concealment was of the vast sums involved. Anyway, Mr. Speaker, to discuss and debate these matters intelligently, it is vital to know the difference between right and wrong. I feel that this is a skill that became atrophied in the Liberal Administration.

Do not honourable members opposite realize what a system they were part of and whose philosophy they still support and espouse? Bad things can go on in government, Mr. Speaker, as in any sector of society. I would like to submit that it is not until these nefarious acts are condoned that the rot really sets in.

MR. SPEAKER: Before other honourable members speak, I would like to welcome to the galleries tonight Mayor Gillingham of Norris Arm and Deputy Mayor Saunders and Councillor Saunders who are visiting the city and various departments on council business. I trust that your visit here is interesting and informative.

MR. ROBERTS: I thank the honourable gentleman for St. John's North for being so quick. That is about the only thing one can say in his favour. I do not intend in any degree to engage in a debate, at least with him or with the sort of points which he made. They are not worth debating and they are not worth the attention of me or any honourable member in this House. He is entitled to his opinion. I am glad it was not said for my approval, Sir. When the honourable gentleman for St. John's North sets out to curry my approval, I shall be worried. He and I have nothing in common except that we are both members of this House. If we had anything else in common, I should be very, very, very worried.

Now, Sir, let me come back to the bill. My colleagues and I welcome this piece of legislation. I am not so sure we welcome everything about it and I am not so sure that there are not many things lacking in the bill as it is before the House. Indeed I have prepared, as I will move at the appropriate time, Sir, eight separate amendments and all but one of them substantive. One of them is procedural and



quite minor but eight major amendments to this bill. I have sent copies to the Minister of Finance, who introduced the bill, and I assume he has talked with his colleagues or done whatever he wishes to do about them. As I come down to it, we will deal with the points.

Sir, the reason I welcome this bill and the reason why I think every member of this House should welcome this bill is that it is an attempt to set some standards to guide people in public life; to set some standards in an area in which up until now there have been no standards other than those which an individual set for himself. We are not talking, Mr. Speaker, of criminal acts. The Criminal Code of Canada deals quite explicitly with certain types of conduct. It used to be Section 103-104. It is now Section 108-109-110-111-112-113-114 of the Criminal Code of Canada. Those are the criminal sections. They deal with certain situations. They deal with bribery, improper conduct of a criminal nature. Over the years there have been prosecutions and convictions. The Minister of Lands and Forests from British Columbia, Mr. Summers, a number of years ago went to jail for accepting a bribe. The court fined and sentenced him, I believe to five years in jail. There have been other cases of prosecution. I think the Summers' case was perhaps the best known.

This bill now, Sir, will provide us with some guide marks, some bench marks, with respect to the standards which men in public life in this province should adopt, must accept and should follow. I do not propose to go into the past. I see little point to be gained from it. If any honourable gentleman wish to, I am of course willing to. Certainly there is nothing to hide, or nothing which should be hidden. Perhaps there is much that the people would want to hide but there is nothing which should be hidden. I do not see much to be gained at this stage by going into it. What I am concerned with is taking this piece of legislation, which is a good first draft, and trying to improve upon it, trying to see if we can get a bill which carries into practice some coherent, articulate and definite principles to govern the conduct

of persons in public life with respect to possible conflicts between their public duties and their public powers on the one hand and on the other hand their private interests and their private concerns.

Mr. Speaker, first of all let me again ask the Minister of Finance if he would table a copy of the Sinclair Report. I should be most interested to see what Professor Sinclair recommended. I realize that the report was submitted to the ministry and is not a public document in the sense that a royal commission report is and yet, Sir, this is not the usual document received by ministers. It was announced, as I recall it, in a speech from the throne. It was announced that this particular gentleman had been commissioned for this purpose - the people of Newfoundland had paid for the report and I think they are entitled to see it. I cannot see it as being a confidential document of the sort which normally the ministry would wish to keep confidential. I ask the minister to make it public, to table it so honourable gentlemen can read it, so other people interested across Canada can read it. We are told that this legislation is the first of its kind. I think that is correct. I think that students, lawyers and political scientists will probably be studying this legislation in years to come. They would find it very useful, very useful indeed to have the report on which the legislation has been based. If it is not made public, Sir, one would be forced to certain very unpleasant conclusions and so I do hope it is made public. All I can do is say that, and there is no point in repeating it.

Mr. Speaker, the act is an act respecting conflict of interest in matters of public concern. I find it surprising and astounding that nowhere in this act, Sir, is there a definition of conflict of interest. We do have a section, Section 4, subsection 3, which gives us a half definition of conflict of interest. At no point does it define what is a conflict of interest. It states in that Section 4, subsection 3, that where a member, and in this sense member is more than a member of the House, it also includes members of certain boards and

so forth as laid down in one of the schedules - where a member or a public employee has certain interests which may (the words are quite broad) conflict or which there is a possibility of a conflict between the interests in his position as a member or public employee then he shall declare them in a disclosure statement.

Mr. Speaker, since there is no definition and that is not a definition - whatever it is, it is not a definition. Let me try to put up a definition. I do not propose words of art. I think there is a generally accepted definition, one which has evolved over the academic consideration. As the honourable Minister of Finance knows, the books are filled with articles on conflict of interest. I had a bibliography prepared for me to show the last ten years in this field. There must be two hundred separate articles in learned journals and in periodicals of one sort or another, law reviews, bar reviews, such things as the counterparts of the Canadian Journal of Political Science. The honourable gentleman once wrote an article in that, when it was the Canadian Journal of Economics and Political Science. It has now become hybrid and twins. The generally accepted definition, Mr. Speaker, out of this vast study, is that a conflict of interest arises where a person in a public office uses that public office improperly for his private benefits. Now there are some important elements in that, Sir. First of all, by definition, it only applies to a person in a public office. Secondly, the person in public office has to use the office to benefit himself and by himself that would include not just personally but anybody. If I were to benefit; the gentleman from Twillingate, that would be a conflict of interest where he confers the benefit. The important word is improperly. There is much confusion on this point, Mr. Speaker. I think it is worth some attention because I see nothing wrong at all with a member of this House or a member, in the sense of this bill or a public employee, having an interest in a firm that does business with the government. I see nothing wrong with that at all;

Indeed, Sir, let me go further. I have made no secret of the fact that I hold a number of shares in a retail drug company in St. John's. I make no secret of that at all. That retail drug company has done business with the government, welfare prescriptions. The offence is not in doing business. If the gentleman from Placentia East owned a highway construction company and he was Minister of Highways, there would not necessarily be anything wrong in his construction company getting a contract to build a highway. That is not the offence. There is nothing wrong there. There is nothing wrong in that. What would be wrong, to carry through my analogy and I use it only for analogy, was if the gentleman used his position to give that company an unfair advantage. How? He could do a number of things. He could say, "Well we will not bother with tenders; we will negotiate the contract." That would be improper because it may be that they would get \$10,000 for building a piece of road and a contract put out on tenders might only cost \$9,000, so there would be an improper conferring of a benefit there. It would be improper, Mr. Speaker, whether or not the honourable gentleman owned that company. It would be equally improper if he were highway's minister and he conferred the benefit of that sort on somebody entirely unrelated to him in any way.

Another way it could be done, Mr. Speaker, would be if the honourable gentleman were to say, "Look, we are going to build a lot of roads this year. Go ahead and buy a lot of equipment, you will need it." In other words; using the information one gets by sitting in a cabinet and saying that if we are going to build a road from point A to point B - then a man using that information rushes out and calls his brother or his cousin or his uncle or his law partner or his friend and says, "Buy the land on that route; it will be more valuable because the government will expropriate it, do not buy that land, buy the land next door to it. When the highway goes through, you will have a big benefit; you will have a piece of land on a major highway." That would be improper.

Let me say again, Mr. Speaker, that the offence in my eyes (I think a review of the literature would show this quite conclusively) is not in the mere doing of business with the government. It is an easy statement. I can see spending the rest of my political life being hounded by that. There is nothing wrong with any person doing business with the government, whether the person be an individual or a corporate entity. What is wrong is if the business is done improperly and if the individual uses his position, his public office, his public trust, to benefit himself improperly. I am not talking of corruption. I am not talking of criminal acts because, as the Finance Minister reminded us this afternoon, this act magnanimously allows the Criminal Code's writ to run in Newfoundland. It runs anywhere, of course. The act makes no attempt, nor could it under our constitution in Canada, to deal with criminal matters. It merely points out that there are sections in the Criminal Code. They are there, and they have been there. Any time the Crown feels that they should proceed under them then, of course, the Crown will proceed under them just as it proceeds on other matters in the Criminal Code, be it murder, theft, rape or whatever the offences are. What we are talking about are the civil actions or the noncriminal actions, an area which is not covered by the Criminal Code. There, as I have said and I shall go on saying it, I think is the crucial distinction, that the offence is not in doing business with the government, the offence is in doing business improperly.

Now, Mr. Speaker, the obvious question is: What then is improper? This is the real nub of the question. This to my mind is the point at which the legislation must be aimed. There is a long debate between the two schools of thought as to how to make sure that there is nothing improper, not enough to leave it to chance. I think we all agree on that, that there must be objective standards in legislation or



rules of some sort. We can find examples in Newfoundland's history I am sure. I am equally sure that we could find examples, Mr. Speaker, in every province in Canada. The House is not anxious I am sure for me to go on to list examples, but I spent six months in law school doing a special study in this. Each student had to take a project and mine was this one because I was interested in politics. This fitted in with the criminology course. There have been examples in almost every province in Canada and federally of this type of alleged improper action.

The point of the debate has been, not does one need standards or not, one does. The point is then whether one proceeds to solve the problem by what is called disclosure or by what is called divestment. These are the two accepted means of dealing with the question of how best to act to detect possible impropriety and to detect it if it is committed. I felt the Minister of Finance made a good point this afternoon when he said that this bill will not prevent conflict of interest any more than the law against murder does not prevent murder and the law against theft does not prevent theft. What we have to do here is set the standards so we shall know what is a conflict of interest and then take the steps so that if anybody acts to benefit from a conflict of interest, he can be detected and the appropriate action taken.

Let me say a word or two about divestment, Sir. This is one which many people automatically say is the answer. Divestment - get rid of all your interests. If you own shares in a company that does business with the government, get rid of them. If you own a piece of land that maybe is next to a highway, get rid of it.



I find that unacceptable, Sir. I do not think it works in practice, I do not think it works in theory.

Let me just put forward some of the considerations.

First of all there is one in common equity. I do not look for precedence but as they occur to me. To say to a man: "Divest yourself of all your interests." Supposing my friend from Labrador North, generally known to have extensive interests in an oil distribution business in Happy Valley in Goose Bay (There is no secret over that, the company bears his name and bears it proudly.) supposing he were to enter the cabinet and be required to divest himself and that would mean not just to his wife, not just to his children but get rid of it. Forced sale such as that would be, everybody in the world would know that the gentleman had to get rid of his interests. That is a fire sale, a forced sale, it could easily cause hardship.

Hardship? How? To carry through the analogy, my friend might have to take far less than those interests were truly worth. Equally, Mr. Speaker, even if one were to get rid of all one's interests in companies that would do business with the government - let us just look at that, Sir, it is almost impossible to think of any substantial business in Newfoundland which is not caught under the words of this section (4)3; "...is either a company, firm or body which has done, does or might do business with the Government of the Province or an agency of the government." It is almost impossible to find a business in this province that not come under that.

My honourable friend from Twillingate owns a ship or owns a company that owns a ship. Again there is no secret to that. Can anyone say that at some point the Government of this Province might not charter that ship for some purpose? Perhaps to carry supplies to Labrador; it is conceivable.

AN HON. MEMBER: How about a business supplying welfare?

MR. ROBERTS: A business supplying welfare? Well said! Well said! What about the welfare prescription orders, to come back to the Elizabeth Drugs thing? A person on welfare, under certain conditions receives an order, I do not know what it is, I have never seen it but it is a card, I gather like a credit card almost, and if that person needed some medical drug, he could go to any drug store he wishes. That is why there is no conflict of interest in my owning shares in Elizabeth Drugs, because the individual can take it to any drug store he wants, and the rate is agreed between the pharmacist on the one hand and the government on the other. They are at it again now trying to negotiate a new scale. That is a credit card and that can go to any drug store and the person supplies the drugs that the doctor has prescribed and the bill goes off to the government, Right? That is the procedure. That would mean any drug store, any interest in any drug store.

One could take any grocery store in the province. There are very few grocery stores that have not done business with the government. Down in Roddickton, the little stores operated by the people there sell supplies to the forestry office. There was a forest fire there in Roddickton three or four years ago and fifty or one hundred men were brought in and left, given their board and keep for a week, to fight the fire. Where did they buy the supplies? They bought them from Mr. Bannister's store, Mr. Kennedy's store, Mr. Decker's store, the stores in Roddickton. Again caught!

I do not find it objectionable that the act catches it but what I do point out is that is a further reason why you could not have divestiture. It would be almost impractical for any person to be in a position - a lawyer? Who is to say a lawyer will never do business with the province? There would be very few lawyers, Sir, who have not at some time or another done business with the province, and I do not say that pejoratively.

An insurance agent? A doctor? Where do you draw the line, Mr. Speaker? For that reason too, divestment is completely unthinkable. I say that, despite the "Evening Telegram's" editorial saying we should divest ourselves, I do not think that is the approach. I can put up another reason too. If somebody should want be crooked and is required to get rid of his shares, he can buy them back. Who is to say I could not sell my shares in Elizabeth Drugs to my brothers? I would get the cash for them, put the cash in my pocket, but if I wanted to benefit the owners of those shares Mr. Speaker, and I was that sort and if I used my office to do it, I can still do it, then who is to say when I get out of politics, next week, next year or in ten years, my brothers would not then sell them back to me, maybe not for the same price I paid him.

It could be done. I would not do it but that does not say that it could not be done. I submit that a person who would use his office deliberately to benefit improperly a private interest is quite capable of that sort of arrangement, I do not find that hard to accept at all. Not at all! That is another reason, Sir, why the divestiture theory, in my view, should not be accepted.

Finally, and to me this is a crushing reason, the divestiture theory still preserves secrecy - you have no way to know. If I come into politics and I divest myself of everything, nobody knows what I had before I came into politics and therefore nobody knows what to watch. That is the key to it, Sir, because secrecy, secrecy breeds the condition in which a conflict of interest can exist. Secrecy and a man who is determined or willing to allow himself to benefit privately from his public interest, that attitude together with secrecy, then you get the potential of danger. We cannot do much about the attitude of the man. There are some among us, I am not suggesting anyone in the House, but there are those in our world, of the half million people in Newfoundland there are those who would possibly be tempted, Of course there are, maybe they will be in the House at some point, Who is to say? We cannot stop

that. There is no way one can tell what is in a man's mind or what a man might do at some point in the future if he gets an opportunity. What we can do, Sir, is remove the secrecy. That brings me to the other. I have dealt with divestment and that brings me straight to the disclosure line, because I think disclosure is the answer.

This is the principle the bill espouses and I agree with it. I have gone on with my reason at some length, Sir, but I should be very upset at a bill which required divestiture or divestment because it would be impractical and wrong. It would not be equitable and it would not serve the purpose. There is no reason at all to say to a man; "Sell your shares, sell your land or sell your interests." That does not serve the purpose. What does answer, the only thing that would answer is full and complete disclosure.

The fact that I own shares in Elizabeth Drugs Limited is well known. They are registered in my name, Sir. Anybody can go down to the Registry of Deeds and look them up, Honourable gentlemen have. I have been asked about it in the House and I disclosed it quite fully, prepared to do, anytime. One can then deal, one can say, if suddenly Elizabeth Drugs Limited happened to get all the government business, then there would be questions. So there should be but if one did not know that I owned Elizabeth Drugs, then there could be no questions. Disclosure is the only answer and by disclosure, Mr. Speaker, I mean full, complete and total disclosure. That is what this bill does not do, Sir. I shall vote for this bill but I shall do so with real regret, because I do not think it serves the need. I do not think it is good enough, I think it is a weak-kneed attempt. I suspect that the government came right smack against the problem and backed up. I really think this is what this bill represents.

We shall see, because I will move some amendments which in my opinion would help -- partially to produce full and complete

disclosure.

Before I do that, Sir, let me mention briefly this argument against privacy or this invasion of privacy. Mr. Speaker, I do not think the argument holds water. I think, with respect to non-politicians, non-elected people, the sort of provisions we have in the bill are reasonable. If they file it with the Auditor General, any elected member may see it, but nobody else may see it unless he has a good reason to do so. In other words, one cannot go look up the Deputy Minister of Finance's holdings, unless one has a legitimate cause to do so. I think that is a very reasonable thing.

I think, Mr. Speaker, when a man offers himself for election, when a man offers himself for election, Sir, he should be willing to let the people know what his interests are, let them know what his interests are fully and completely. He does not have to run, Sir, but by allowing himself to be nominated and standing for election he is asking the people to trust him, to put him in a high office and to give him power, give him the power to do things. A man who asks his fellow citizens for that, Sir, in my view, should be willing to level with them, to tell them everything as to what he owns. If a man should find it distasteful, I can understand that. I can understand a man saying; "I do not want to do it, I do not think it is right for my family or myself. What I have I have worked for." I do not find that hard to understand, Sir, and if a man says; "This means I will not be able to stand in political life," I will not argue with him, I would agree, I would regret.

There may be cases, if you have full disclosure, Sir, where a man does not stand in public life. I think we have to weigh and balance one against the other, Sir. The public interest is having complete disclosure, because that is the only way that we can be sure that a man is not using his public position to benefit himself privately. We have that on the one hand and on the other

hand the right in its own not to have our private business made public. I think, Sir, when you weigh those up one against the other the public interest must win, even though it may well mean on occasion that a person who would run will not do so. Equally, Sir, many people would like to run but do not want to get into the hurly-burly of the House. That is fine, if you do not want that, you cannot be in politics, if you are not willing to take part in the process that has been laid down. Persons have come to me and said, and newspaper columnists say this all the time: "Boy! we do not get the right men in politics." Men have come to me and said: "I would like to run but I am not willing to get into debate. You say hard things in the House." I say, it is like (Well, that is vulgar, it is very apt but. It is like -)

AN HON. MEMBER: Nervous Nellies.

MR. ROBERTS: They may be nervous Nellies but it is like the American mother who wanted her son to be president but did not want him to go into politics. This is a political arena and if one is not willing - it is a political process and if one is not willing to go to the electorate and submit oneself to the electorate's judgement and one is not willing to stand in the House and debate back and forth within the rules, then one has no business being in politics. You cannot be in politics unless you are in politics. You cannot be a little bit pregnant.

I cannot accept the argument that full disclosure would somehow prejudice the rights of privacy. With some people it may and I should regret that but, Sir, I think the other interest is so much greater that it must prevail. If a man should feel that he cannot in conscience reveal his assets fully, completely and totally, then I come to the conclusion that he is not the sort of man - I do not blame him for this - that he is not the sort of man who can go on in to public life, offer himself, go to his fellow citizens and say; "Vote for me, Give me the power."



Mr. Speaker, this House or more precisely, the government have great power, great power to shape our future, to shape our daily lives. I am for full disclosure.

Mr. Speaker, full disclosure is full disclosure, it is not just what we have in this bill. There are some wide sections in this bill, Sir, the bill is not full disclosure. There are loopholes all through it. The loophole of only common or equity shares is found in section (4) subsection (9); "Common or preferred shares of a corporation." Mr. Speaker, there are a thousand ways to have an interest in a company other than in this.

I know that section (4)3 is the broader section but it is still not broad enough. It still is not broad enough! It is broad but it not nearly broad enough. It does not require the disclosure that I think is adequate. There are other loopholes in this bill, Sir. Before I come to them let me deal briefly with section (7) and section (8) which I think are the most ridiculous sections ever to come before this House in any bill I have ever seen. These are the ad hocry sections and they make a mockery of the whole principle.

Section (7) and section (8), where a man who has an interest - if the honourable member for Bonavista South is Minister of Highways and he owns the Morgan Construction Company and the Morgan Construction Company is out to get some Highways business, the honourable gentleman steps aside as Minister of Highways and somebody else steps in and takes the decision, whatever the decision might be, and then the honourable gentleman comes back in as minister. That is ad hocry, that is ridiculous, it is asinine. If there is anything wrong with giving "X" Construction Company the business, the contract to do the work, it is just as wrong, surely it is just as wrong to give it with the honourable minister having stepped aside for the moment. All that does is to confuse it. Either it is right or it is wrong, Sir, and if it is right it is right no matter who is the minister and if it is wrong it is wrong

no matter whether he is there or not. It is the buddy system.

Is Your Honour familiar with Red Cross Safety Rules? You go swimming, buddies, and every now and then the supervisor or the lifeguard blows a whistle and you have to find your buddy and that way saved I suppose hundreds and thousands of lives, that system. Well this is a political buddy system. First of all it does not prevent any conflict of interest. Men are together in a cabinet, Sir, and they are sworn to secrecy. It is not a religious oath, not a blood oath but a very solemn political oath and they stand or fall together. If the gentleman from White Bay South and I are together in a cabinet united, as Mr. Smallwood used to say and he was right, in a secret conspiracy against the world -because that is what a cabinet is in constitutional theory, not an improper conspiracy but a secret conspiracy against the world - I will do what I can to help him. I hope I will not do anything improper but, So he steps aside (of course I will do it to help him) I know he is going to be back there tomorrow, he is my buddy. This section is an absolute insult, an absolute insult to the intelligence of anybody who reads the act, Mr. Speaker.

It does not prevent a conflict of interest it only attempts to confuse it, hide it and whitewash it. A man can say; "I had no part in the decision." But damn it, Sir, he is still part of the same cabinet and they are still his buddies. They know full well he stands to benefit, they know full well old Tom here or Pete or Bill or Sam stepped aside because he has an interest. I can see the cabinet room now, around the table, and the Premier says, whoever the Premier is says; "Well now, old Sam here stepped out today because old Sam he owns this company or he has an interest in this company and we have to decide who is to get the contract. Old Sam is not part of the decision."

In the past I have had to do that. Not my own companies but companies my father owned, and I left the cabinet room even though I had no direct or indirect interest. Halfway House Limited,

when it was before the cabinet I left the cabinet chamber. The item was held until last on the agenda and when it was called I left. I wanted no part in the decision. There were no rules then, and I had no interest. In any event, what was done was right or wrong whether I was there or not and I was as responsible, Mr. Speaker, as if I were there and drafted the order-in-council whatever it was.

Can Your Honour not picture the cabinet room? They are all seated around the table, old Sam has stepped out now, there is an ad hoc minister, old Sam is an unminister for a day, an hour or a minute. Old Sam's company is up and somebody says; "Let us give it to old Sam, Any objection against it?" Somebody else says; "Well there were four bidders and he was not the lowest but he is our buddy, give it to him." Can honourable gentlemen not picture it? Mr. Speaker, either it is right or it is wrong. If it were the low bid then it does not matter whether old Sam were the Minister of Highways or not, it is proper to give it to him. I think the gentleman from Placentia East would agree with me on that. It is proper if he were the low bidder and everything were in order, Whether he is the minister or not is beside the point. If it is not proper, Sir, just having old Sam step out and an ad hoc minister appointed for a week, a minute, an hour or a day is not going to make it proper because old Sam is still one of the inner circle, he is still the honourable old Sam, he is still one of the gang, he is still one of the boys and he is still the guy we campaigned with and we are going to campaign with again, he has shared our secrets and we have been through political blood together.

It is a ridiculous section and I can only ask the minister, urge him to withdraw it and let it lapse. I think it serves no purpose. Either it is right or it is wrong, Sir, to do the work, to give the benefit. If it is improper, having an ad hoc minister or an ad hoc member is not going to make it proper. Sir, if there is adequate disclosure, as I think I made clear, it does not matter whether

old Sam is there or not, because if it is proper it is proper and the whole world can look on the transaction and they can agree and say: "That is proper, old Sam's company got in there with the low bid and there are no extras - we will watch that. The low bid, so there we are."

Mr. Speaker, the bill is the first step but it is not enough, Sir. I propose to move a number of amendments which I would like not to move at this time (I will move them in committee Sir,) but to outline them, because I think these amendments, they are not perfect, indeed in the drafting they may be flogged, I do not pretend to be a draftsman, Sir, I do not pretend to be one at all but in their intent they will make this bill a good, workable piece of legislation. Without these amendments, Sir, what we will have is a whitewash bill not one which will serve the purpose. I would like to see Professor Sinclair's report to see whether he recommended the sort of thing I am going to suggest or whether he recommended this. If the report be tabled we shall know. If it be not tabled I for one shall draw my own conclusions.

First of all, Mr. Speaker, a very minor point but the first in chronological order, the disclosure statement should be verified by affidavit. It is an offence to file a false disclosure statement so honourable members and other people filing a disclosure statement should be willing to take an affidavit. We do that on our election expenses, swear, to the best of our knowledge and belief, that it is true, complete and full.

Mr. Speaker, to come to substantive amendments the first one would be subsection (3) of section (4). Section (4), Sir, is the major section in this bill. It is the one that outlines what must go in our disclosure statements. It is one of the major ones, a very important section. I want to outline them and what the point of them is. I am not moving them now but I think the point, with reference to the gentleman from St. John's East, what I am

speaking of is to the principle of the bill, very much.

Sir, subsection (3) does not cover the case of a loan; a loan made by the member to a company nor it does not cover the case of other indebtedness from a company to the member. Maybe it does, because A, B, and C in subsection (3), Sir, are merely inclusions they are not exclusive definitions. I have talked to lawyers downtown, Sir, and they say that for greater certainty there should be an amendment moved to ensure that a loan, which is a financial interest in a company - if the honourable gentleman from Gander had a loan made to a company, even if he had no shares or anything in the company, he would have a very great interest in that company's advancement, or if the company owed him some money, not a loan but indebtedness of another sort. I shall be moving an amendment there, Sir.

When we come up to subsection (9) of section (4), specify - on this let me give my opinion on a point of law which could be wrong but I believe it is correct, if one should have to list, as I shall have to, 3,000 shares in Elizabeth Drugs Limited directly and one-third undivided interest in 15,000 shares in Elizabeth Drugs Limited, indirectly held by myself and my two brothers through a holding company called Pond Head Limited, registered down stairs, everything in order, I shall specify that. I do not have to specify what they are worth. I do not know what those shares are worth. Accountants can give you a breakup value, they can give you a book value, they can give you a dividend times value.

I own a piece of land, I own 1.12 acres at Hogan's Pond, I own the house that is on it too, subject to a mortgage. I cannot say what that piece of land is worth. Many members have come up to me and said; 'You know we are going to have to tell what we are worth in dollars.' No, no one must disclose ones interest, and my interest is 1.12 acres of land plus a piece in Brigus, on the Frog Marsh Road, in Englishtown, behind, in Brigus. Not Frog Marsh, Englishtown in Brigus. My grandfather or my grandfather's executors



sent it to me or gave it to me. It is not dollars, it is not dollar value we say when we specify. I am going to be moving two amendments there, Sir. One is to delete the words "common or preferred shares" because there are many interests in a corporation other than common or preferred shares. Secondly; I think the five thousand dollar limitation is too high. I think it should be one thousand dollars and accordingly I shall be moving an amendment to lower the five thousand to one thousand.

Subsection (10) requires you or any honourable member to disclose where one has disposed of an interest between disclosure statements, a reasonable thing. It says; "To whom it is disposed of shall also be disclosed." I am going to amend it, Sir, so that the amount one gets for the disposition is contained, because that is relevant. I have a house at Hogan's Pond, let us say it is worth \$50,000. The Ling house sold for \$46,000, just up the pond from it, so let us say mine is worth \$50,000. The real estate market is crazy right now, let us suppose I could get that for it. I list it in my disclosure statement and any year from now or six months from now I sell that house and the land and I list that too and I say to whom it was sold - we will register that document - you do not have to register a conveyance in this province - and I sell that to the gentleman from St. John's West, who is reputed to have private means, I believe generally conceded to have them, and I sell it for \$150,000.

MR. CROSBIE: I would be some foolish.

MR. ROBERTS: I know the honourable gentleman would be some foolish but I am making a perfectly serious point that there could be a very great benefit conferred, and I think that should be made public. If he has given me \$100,000 profit, a foolish profit, an unreasonable profit, then there would be some questions asked. Why? Why has he done it? Am I backing him for leader of the Tory Party or leader of the Liberal Party? Or leader of any party? Why? That is what disclosure is about. Disclosure, Your Honour, gives you the ammunition



with which to ask why. There may be a perfectly valid state of affairs, but why? Why has a certain state of affairs come about?

Sir, I shall be moving a new section which put simply - requires complete and total disclosure of all a man's assets, bank accounts, anything, everything just everything, notwithstanding anything in this act. Each disclosure statement shall disclose all assets owned by the member directly or indirectly. This will be a belle weather clause, we will see if the administration will accept this or not. If I have a bank account - if I am worth \$100,000 one year and \$200,000 the next, I have some explaining to do, Mr. Speaker. The prima facie doubt, where did it come from? Where did it come from? There may be a reasonable explanation but if not, there is the conflict of interest, Sir, stark and naked.

Another new section, Sir, I am going to move to make public essential information. "The minister shall caused to be prepared in each calendar year a statement showing all contractual arrangements of any nature which were entered into by any agency on one hand and on the other hand any company, firm or body in respect of which the member has declared an interest in his disclosure statement." It may be too broad, it may be a little too onerous but on the other hand I can remember when the gentleman from Fortune Bay was in the Liberal cabinet, a question was put on the Order Paper, I believe by the gentleman from St. John's East, the honourable gentleman remembers the question and he was quite properly upset about it because of the imputations contained in it. To recall, it was not in the cabinet, I can recall speaking to him outside the cabinet. He was concerned and perturbed at the implication in it. So he should have been because it was a most improper implication to make, because there was nothing improper.

AN HON. MEMBER: Sixty-four dollars.

MR. ROBERTS: Sixty-four dollars, was it? There was nothing improper

in the course of action between Val Earle Limited, I think the firm was called, and the government.

MR. EARLE: And the name is still on the company.

MR. ROBERTS: So it should be. So it should be. It is the member's good fortune. I assume the gentleman still has interests in the company, but that is irrelevant. It should be disclosed what goes on between companies and members. My friend from Labrador North will probably be selling oil to the government. If you have to buy oil in Labrador North, you have to buy it from the "Town of Woodward", the tanker going up and down the Coast. There is nothing wrong with that but I can hear somebody in Labrador saying now, especially if my friend were the minister or he were on the government side, saying; "Boy Mel Woodward has it knocked there! He is in the government and he is selling oil." The only defence to that, Mr. Speaker, the only defence to that is to have it come out and let it be seen that he actually sells oil less than Shell Oil would sell it. Indeed, my friend has succeeded in bringing down the price of oil substantially in communities in Labrador.

He does not generally go about as a Santa Claus, as a benefactor of humanity, but he is. What is it, a nickel a gallon cheaper in Cartwright?

AN HON. MEMBER: Yes.

MR. ROBERTS: We have it delivered to the door now. Mr. Howard Feckie has an oil truck in Cartwright, would one believe, in Cartwright, and it is a nickel cheaper than when people had to go out and drag it up themselves in barrels. But let it be disclosed, and also in the report the minister would have to indicate whether these contracts were entered into after public tendering. If not, why not? That should commend itself to the gentleman from St. John's North as being a reasonable provision.

Now, Sir, I also propose to move an amendment to add a new section to define a conflict of interest.

To say that this bill has no offence of acting in conflict of interest, Sir, the only offences in this bill are filing a false statement or not filing a statement. Other than that, Sir, if you file a statement and it is not false the only sanctions are criminal. Mr. Speaker, I think that is wrong. I think there should be civil sanctions. Accordingly, I propose a section which will provide a definition of a conflict of interest, simply the use of one's public position and probably to benefit one's private interests directly or indirectly. I say that no member shall so conduct himself as to be in a conflict of interest. If he is, on the written permission of the Minister of Justice, he can be taken to court and found guilty of an offence under this act.

Now, Sir, if it were not criminal, if the honourable gentleman filed this statement and it was not a false statement, it was a full statement, as required by the act, and if it were not criminal - the Criminal Code uses the word "corruptly", in the relevant sections there is no sanction except the public one or the political one. I do not know what that is worth. After Mr. Summers went to jail in British Columbia, a cabinet minister, the Social Credit Government won the by-election in his constituency, astounding as that sounds. The public, whatever factors went into their judgment, they did not pay too much heed to the fact that their previous representative, a man representing a party, a minister had been sent to jail for bribery. So I shall be moving a section to that.

Finally, Mr. Speaker, since we have heard so much about this being new law, a bold step forward, I venture to offer a bold step forward, a principle adapted from the American law. the triple damages in the antitrust law in the States, whereby anybody who has been adversely affected by antitrust, an illegal combine in their law, can sue and get triple damages from the parties to the combine.

I say here that any member who has benefited, directly or indirectly, from a conflict of interest shall be liable to damages in an amount not to exceed three times the amount of the said benefit. Any voter in Newfoundland can bring that amendment. can bring that action in a court. He will

have the records. he will have the Minister of Finance's statement of the contracts and prima facie evidence that will make his case. triple damages if he gets it, one-third for him and the other two-thirds to go back to the Crown, the party who had been adversely hurt. That will put teeth in it.

So, Mr. Speaker, I will put forward these amendments in committee. I sincerely and genuinely hope that they will be accepted because I put them forth, Sir, in the most positive and constructive way I can. If the government really wish to make this bill work, they will adopt these amendments, they will make them law. If they do not accept them I think I shall have to conclude that they stand afraid and gutless. afraid to make the legislation work, gutless when it comes to putting some teeth into it. If they do not accept this, Sir, the bill will be seen as a whitewash effort, pious platitudes meaning nothing. One of these hours then the government will have to decide, Sir, what they really stand for, whether they mean what they espouse, whether they mean what they have gone around this province saying for the last two year. I agree, I am putting forward the amendments and I would be as bound as my colleagues and I would be as effected as any person in this House. We would have to comply with the law. Yet we put these forward, Sir. we have put them forward to put teeth in an act, an act which is good in its conception but only half carries out the design, Sir. Because in this act, as it now stands the government marched right up to the crunch, right up to the door, right up to the edge of the battle, and when they got there, Sir, they laid down their arms and walked away. That is why I put forth these amendments, Sir. I genuinely hope they will be accepted. I genuinely hope so. I have given them to the government in advance, in courtesy but in the hope that they will be accepted. I put them forth, Sir, because I believe Newfoundland needs this legislation, Sir, and I believe Newfoundland needs legislation that will serve the purposes of setting standards for men in public life. This legislation, if amended, will do just that. and I genuinely and sincerely and earnestly hope

and earnestly implore the government to consider those amendments and to adopt them. Thank you.

MR. MARSHALL: Mr. Speaker, much has been said, and I do not intend to take the time of this House for a very long period of time with respect to this bill, except to point out this that the principle of the bill calls for revelation of interest of individuals themselves. I as a member of the committee as among some other members on this side, with the honourable the Minister of Finance who worked a long time on this, it caused a great deal of concern and a great deal of inquiry on all of our parts. The general gist of the bill relates to a revelation of business interest where there might be a potential conflict of interest and whether the potential conflict of interest becomes actual or not depends upon the integrity of the elected members themselves and the information is there for any member of the public to determine whether or not this occurs. This is the purpose of pioneer legislation. It is a shame really that it is required here in Newfoundland. Anyway we should not really brag too much that this legislation has come before this House of Assembly because of incidents that have occurred in our history in Newfoundland. It is not a distinction, to my mind, that it is necessary for us to have legislation of this kind because we have seen in this House tonight, Mr. Speaker, what can happen if this legislation is abused. We have seen what has happened in the speech of the honourable the member for Bell Island particularly. As one of the members of the committee on this legislation, if there is one hope that I would have with respect to it, I would hope that it will not become a giant peep-a-boo for the press and for the public as such, that it would not give material for the type of the flash magazine that used to be of great interest to me in years gone by and not so much right now, that, the flash magazine type journalism. It is a sincere attempt by people to restore confidence in the public, in their elected officials. What becomes of it really is not only going to depend upon elected officials but how it is handled by the people who are conveying it to the public itself.



Now to my mind there are other aspects of it, and the honourable Leader of the Opposition has made certain points, some of them may be valid, most of them I would say are invalid, and the honourable the Minister of Finance will obviously answer those. There is one issue in connection with this that I would like to draw the attention of the House too. First of all, the attention is drawn towards elected members as such, and the onus is cast upon elected members to do certain things in order to in effect maintain their reputé and their reputation with the public. We should be, and I do not make any references one way or the other, we have to be careful with this legislation with respect to people entering politics and what have you, because we do not want the obvious to happen with respect to it.

However, it is not only the elected members, Mr. Speaker, who are involved but it is also third parties as well, I would contend. The individual in the public, who is prepared and I am not casting illusions or dispersions on anything past, present or future when I say this, but the third party, the company or the entrepreneur or the businessman or what have you, out in the general public, who is prepared to act in collusion with the legislative member or the cabinet minister who may be, and there will be from time to time, I hope not, but there will be, let us face it, people elected who probably have a little bit less integrity than some other people, but the third party who is prepared to enter into contracts with that individual should not, to my mind, get off scott free.

In other words, it is not purely and simply a case of responsibility, and certainly there is a responsibility on elected people, but the responsibility to my mind must also rest with the general public itself. The thought had occurred to us as to how we were to protect and to enforce the responsibility and this duty on third parties. We came up with the idea that is not included in this bill but I can say the government have made a decision to proceed with it, another bill which will come forth at the next session, for reasons that I will give



later, which will allow contracts that were entered into between individuals or firms, in which an individual who is an elected member or a public servant who is an elected member or a company which its majority or a significant shareholder an elected member, a third party who enters into a contract with such an entity and the interest of that person is not disclosed and a benefit is derived to the third party itself, then and in that event there should be a law and there will be a law, providing that if the interest is not disclosed that the government may, within a period of three months or six months what have you, rescind that contract and get return of its money.

That I would say, in addition to this bill, which is a good bill, would add added weight and teeth to the conflict of interest legislation and it would also in effect cast a duty upon the general public, the businessman on the street and what have you. Because as it presently exists, if such benefits are derived by a firm, acting in collusion with a public servant or an elected member, by virtue of relying upon the influence that such a person has, and the contract is made, it cannot under the law be rescinded.

So the government feel that we ought to make a bill or to bring in legislation, which we will bring in at the next session. The reason why we do not have it before the House is precisely this, in order not to adversely affect innocent third parties, and there can be innocent assignees of these contracts, in other words, the benefits can be assigned from A to B to C, and in order not to affect the normal incidents of contractual law with respect to innocent receivers of the benefit or innocent assignees for value. The legislation has to be drafted very carefully so that it can also be rescinded when in the hands of somebody to whom the benefit has been transferred, in the event that person had knowledge of the involvement of the public official. This being so then, Mr. Speaker, I will not go on any further along that line except to say that this legislation is coming, it will be coming in the next session and it is complimentary to this.

In conclusion, with respect to this particular bill, I would say that you can pick all the holes you like in new legislation such as this but it is an earnest attempt to do the best we can with respect to this situation and we will just have to wear the hat and see how it fits and as time goes on if it is necessary for amendments, amendments will have to be made.

MR. SPEAKER: The honourable the member for Labrador South.

MP. MARTIN: Mr. Speaker, I think that there is one thing that we should keep in mind here and that the legislation before the Assembly at this particular time affects each one of us here, and until the unlikely event that this legislation is rescinded everyone who will follow us. It is not enough, of course, but then it is new legislation, and new legislation is never enough.

I am prepared to believe that it is a sincere attempt on the part of the present administration to put our collective house in order. God knows it has been in disorder for far too long. That is not a reflection on any particular party, it is a reflection on ourselves as a people. I think that we have never before demanded that it be put in order. Such legislation, if it is properly administered, is going to do an awful lot toward improving our image not just as legislators, not just as politicians but as a province. I believe it is real reform legislation, I think it is something quite new in concept, not in concept perhaps but it is the first time that anybody has ever had the courage to put it forth so strongly. It is quite weak in what we eventually hope will come about, but hopefully that will come about through future amendments. As a start, I think it is quite a good start but then it is still not enough.

There are two things, as the honourable Leader of the Opposition pointed out, fundamentally concerned in this legislation, that is divestiture or disclosure. I too think that divestiture is wrong. It will serve no useful purpose, it will simply mean that more good people with a lot of expertise, with a lot of ability to offer this province will no longer be interested in coming in if they are required to divest themselves of something which they have spent a long time

building up. Disclosure, I think, is the answer if there is added teeth put into it. Again, I would like to go on record at this point as saying that I support the amendments put forward by the honourable Leader of the Opposition and I hope that the members on the other side of the House and the mover of the bill will not look upon this as simply a partisan tactics. I hope that everyone is prepared to recognize that this affects us all, regardless of party, and will take a good sincere and honest appraisal of the merits of the amendments as put forth. I would hate to see them turned down simply because they were put forward by the opposition. I think they deserve more than that.

What is conflict of interest, Sir? Everybody, I think, who involves himself in the political arena, where public interest is put at the discretion of the private individual, is, in one way or another, in some kind of conflict of interest.

Now, Sir, the question is: How do we legislate against human nature? How do we regulate human failing? How does one guard against human weakness? This is really what we are trying to do here. I submit that the necessity for such legislation is a condemnation of our whole system. It is a condemnation of this honourable Assembly, for one thing. It is a condemnation of the integrity of each one of us as members, something which we should not be very, very proud of. The necessity, I say, for this legislation and nobody will disagree that it is at this point in time not necessary. I think the fact that it is necessary should not leave any one of us feeling very proud.

Whose interest do we represent, ours as individual members or our constituents? This is the fundamental question. I would ask that each honourable member here ask that question and let his own conscience answer it.

I accept this bill, Sir, as a recognition of our own failure as leaders of our people, but then we were never meant to be leaders of our people. Let that role be left to more able men outside of this Assembly. Let us be content merely to be representative of the people who sent us here, and let those people outside, who are suppose to accept the roles of leadership, let them acknowledge that they do have to accept that role. Let them finally take upon themselves this responsibility which

they have, you know, so shamefully abrogated. Let those who would provide that leadership accept that responsibility and let us simple legislators, representatives, let us accept our role as being simply that. We cannot legislate morality. We cannot legislate human nature. We are simply people who have proven ourselves incapable of that unqualified public trust. That is the reason for conflict of interest legislation.

Simply because of the fact that we find it necessary to bring this legislation in at this particular time means that there is a great deal of doubt cast upon our claims that we are in fact honourable gentlemen. If we are truly honourable, Sir, there would be no need of this kind of legislative regulation. This legislation before us is our own admission of failure. Why is it that at this time in our history we find it necessary to bring in conflict of interest legislation into our national parliament? It is because we cannot find within ourselves to trust ourselves, and perhaps this is rightly so.

Have we sunk so low, Sir, have we sunk so low that we have to legislate public trust? If this be the case, God help us! Let there be conflict of interest legislation.

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

MR. CROSBIE: I would like to deal first, Mr. Speaker, with the points which have just been made by the member for Labrador South, whom I am afraid has gone way beyond me in his approach to this legislation, because I do not agree at all that this legislation is a condemnation of this House of Assembly or it is a condemnation of any member of the House of Assembly or that it is a condemnation of the Newfoundland political system or that it is a condemnation of anything. I think it is to the credit of this House, to the members of this House, that we are prepared to consider passing legislation like this. Surely, Mr. Speaker, nobody is going to pretend that this is the only legislative assembly in Canada or the world that has had to deal with the problem of conflict of interest.

When I opened this debate this afternoon, I read the rules that Prime Minister Churchill has annunciated in the United Kingdom to deal with possible conflict of interest by cabinet ministers in the United Kingdom. I referred to the rules that Premier Davis of Ontario recently annunciated on conflict of interest as it pertains to cabinet ministers in the government of Ontario, which rules he had to annunciate because of the case involving the honourable Darcy McKeough, when he was the Minister of Municipal Affairs in Ontario and dealt with some zoning by-law that affected some land of a company that he had an interest in. I mean this is not the only jurisdiction where this has been a problem. This has been a problem everywhere. Practically every state in the United States of America, Mr. Speaker, eighteen of them anyway that I know about have conflict of interest legislation. The United States Congress has passed at least a dozen bills and amendments that apply to conflict of interest. Yet has anybody down in the United States said: "Have we sunk so low?" or "This is an admission of failure," and the other terms and appellations that the honourable gentleman for Labrador South has just used.

AN HON. MEMBER: Inaudible.

MR. CROSBIE: Pardon?

MR. ROWE, W.N.: That is grand. You are putting us on the right track.

MR. CROSBIE: Right. I am afraid this is far too dramatic. This is "Evening Telepramish" in its approach, because the "Evening Telepram" makes a practice. "The Daily News" does not bother itself with these historic, if that is the word, questions or issues of philosophy and principle. But the "Evening Telepram" is much consumed with these questions and generally prefers to look down its nose on whatever feeble efforts we mortals in this House make to -

AN HON. MEMBER: Or government.

MR. CROSBIE: Or government, yes, whatever it is. It is the Wickian principle. The Wick Collins principle, that everything about him is



filled with evil, and that Newfoundland is filled with evil men, all out to do her down and throw up structures on Signal Hill and get themselves in conflict of interest and purloin the public treasury and put up edifices on Water Street and complete. The Bonne Bay Park, when it was announced in this House of Assembly, that conditions are being changed in Bonne Bay Park, the people are not going to be as harshly treated as it appeared. These changes and improvements are dealt with as though, by God, the devil himself had come up with these changes, as if the Government of Canada and the Government of Newfoundland did nothing but conspire together on how they are going to do - under the people of the Bonne Bay Park Area, that the honourable member for Labrador South was on a Wickian -

AN HON. MEMBER: Walks around with a candle in his hand.

MR. CROSBIE: Yes. On a Wickian trend there. I do not think that he really -

AN HON. MEMBER: Inaudible.

MR. CROSBIE: So this is a condemnation of nothing, Mr. Speaker. I think that we should be proud that we are prepared to try and consider how this problem should be dealt with. Do not think for one moment that there has been more problem with conflict of interest in this province than there has been in others or with the federal government. The federal government is replete with us and full of us, always have been and will be until they make some serious attempt to do something about it, which they have not done yet. They have not given guidelines to anybody else in public life in Canada, but we are. We are, we are taking the forefront, they will all be doing it. Nobody was interested in these issues until the last four or five years, but now people are interested in these issues and the fact that we want to grapple with them should not be used to put us to scorn. I think it is to our credit that we are prepared to try to deal with it. I do not think that this House is any less honourable or the members herein are any less honourable than in any other House in Canada, in fact I think we are probably ahead of some.



Now as for the honourable member for Bell Island and his comments, the best thing I think is to pass him in silence. He does not understand the concept. He does not understand what conflict of interest is about. He does not care to understand and he just wishes to use this as a device for slander and abuse, as unfortunately is often his wont. It is his lack of understanding of what conflict of interest is.

Now the honourable member for Labrador South asked: "What is conflict of interest?"

Conflict of interest is where the private interest of (Let us take a cabinet minister as the best example.) a member of the cabinet, for example, might dictate to him to decide something in a direction contrary to what may be in the public interest. The easiest interest to use to illustrate this is a private economic interest.

If I had, for example, shares of BRINCO, which I do not have, but if I did -

AN HON. MEMBER: Inaudible:

MR CROSBIE: The honourable gentleman is not in conflict if he has, because he is not dealing with BRINCO. But if I had shares of BRINCO and I were negotiating, as I am, for the government, as chairman of a committee on the Lower Churchill, my private economic interest would dictate to me to get an agreement with BRINCO that was satisfactory to them, so that they can get it underway - and it might be reflected in the price of their shares which would therefore benefit me. So it would be improper for me to own any shares of BRINCO when a member of a government dealing with BRINCO and deciding an issue like that. That is conflict of interest.

MR ROBERTS: It would be improper not to disclose it.

MR CROSBIE: It should be disclosed but I think it would be improper for me to take any part in any decision.

MR ROBERTS: That is a private judgement, a personal opinion.

MR CROSBIE: Right?

MR ROBERTS: Which is valid I would say.

MR CROSBIE: There would certainly be a conflict of interest situation which should be disclosed, and I think he should not take any part in the decision.

MR ROBERTS: If there were disclosure, the minister's actions would speak for themselves in relationship to the facts.

MR CROSSIE: Right!

MR ROBERTS: Are we going to sit late?

MR MARSHALL: I would ask the honourable minister just to yield for a procedural motion: that the House at its rising do adjourn, when it stands adjourned that it stand adjourned until tomorrow at 10:00 o'clock in the morning.

MR ROBERTS: Along those lines then, Mr. Speaker, why do we not go on and at least give the bill second reading tonight?

MR MARSHALL: Great. So we will just not call it 11:00 P.M.

MR CROSSIE: I will be only five or ten minutes.

MR ROBERTS: Take all the time the honourable member wants. So far the honourable member is okay.

MR CROSSIE: Right! It may also be, for example, that is a private economic interest.

MR SPEAKER: Shall I put the motion?

MR CROSSIE: Oh yes! I am sorry, Mr. Speaker!

MR SPEAKER: It is moved and seconded that the House at its rising do adjourn until 10:00 o'clock tomorrow morning. I declare the motion carried.

The honourable **Minister of Finance**.

MR CROSSIE: This is a private economic interest, MR. Speaker.

Now I may have some other private interests that may be in conflict. I might be, for example, an official of a trade union and as an official of a trade union and with that interest my private interest in trade unionism could conflict with some action the government are going to take. Well, that is another possibility of a conflict of interest. There are any number of possibilities of conflict of interest. But broadly speaking, it is where any private interest of a member could be in conflict with what he should do when the public interest is at stake. This is the definition of conflict of interest.

Now when the honourable gentleman from Wabana spoke about the member for St. John's South, there is not an instance, never mind the facts, there is not an instance there of conflict of interest.

If the honourable member for St. John's South is asked to represent the Minister of Social Services at an enquiry, there is no way in which

his doing that, that interest of his is in conflict with government in any way or in conflict with the public purpose. It is just not a position of conflict of interest.

If the honourable gentleman were asked to represent somebody who had papers seized in an RCMP raid and were asked to go to court for him and he is not a member of the government, there is no way that I can see that his acting as a lawyer in that particular situation puts him in any conflict of interest situation at all.

If the honourable gentleman for St John's South were asked, even as a backbencher or even as a member of this House, by the people who purchased Newfoundland bonds, to act for them in connection with an issue of Newfoundland Bonds, to advise whether this was a legal issue and legally binding on the government, and he did so, that is not a conflict of interest. He is not acting for the Newfoundland Government in any way. All he is acting for is his client, to advise him whether these bonds are legally binding on the province. There is no conflict of interest situation there whatsoever.

AN HON. MEMBER: Inaudible.

MR CROSBIE: It does not matter who recommends them. Let us say that I recommended them: it is still not a conflict of interest. In no way is that a conflict of interest situation. Now if the honourable gentleman were a member of cabinet and one of his partners were representing some company seeking to get a concession from the government, then he is in a conflict of interest position if he has anything at all to do with the decision the government have been asked to make. That is true conflict of interest, because his private economic interest and his law firm, flourishing on the fees of the client, are in conflict with what he should decide on an impartial basis as to what the government should do with respect to those concessions. So that there is all the difference in the world in those.

None of the four instances that the honourable gentleman brought up were conflict of interest situations. In any event, as far as the Minister of Rural Development is concerned, we all know that he has an interest in a company that has now and has in the past

done business with the government. As long as he himself does not participate in any decision that affects any business that it is doing for the government, and his interest is known, then he is in a position where he could be in conflict of interest but he must not participate in that decision. He should make his interests known. Well, all of that is known. This act does not affect him any more than it affects the rest of us. His interest would have to be disclosed and he cannot participate in any decision that affects him.

Now the honourable gentleman for Bell Island says he has nothing to hide. Well it is quite obvious, Mr. Speaker, that the thirty-two members or thirty-one whatever sit over on this side of the House, the cabinet and everybody else who is in the caucus, have nothing to hide either because they have all agreed that they would support this legislation. I do not think any of us have anything to hide.

With respect to the remarks of the honourable the Leader of the Opposition, I think that he has a genuine interest in this subject and a lot of what he had to say made very good sense. He agrees with us that its disclosure and not divestment that should be the principle. It is not that this House should be composed all of men or women who are people of substance or have business interest or who have wealth, but there is no reason why it should be made more difficulty for people who have property or who have been successful in business or who are practicing law or who have investments or have some assets, why it should be made difficult or rigorous for them or why they should be discouraged from taking part in any public activities in the province.

Therefore, we have to tread a fine line between what we should require with respect to disclosure and what we should not. The honourable Leader of the Opposition may genuinely believe and he says it is, so I guess we should accept it. He may genuinely believe that we should require all members to completely disclose all their assets, what money they have in the bank, what money they are owed, if they have any mortgages that the people owe them, what debts people owe them, what shares they own, what land they own, every single bit of assets they have; that they should disclose their assets.

Well, we do not think, Mr. Speaker, that that is necessary and we do not see why it should be necessary. Let us suppose I have \$100,000 in the bank. How can that put me in any conflict of interest situation with respect to my position in the government? It does not. The money is just in the bank. It puts me in no conflict of interest position. Why should I have to disclose that I have \$100,000 at the Bank of Montreal or \$5,000 or \$2,000 or \$10,000? I cannot see any conflict of interest position in it. Why should I have to disclose it? Why should I have to disclose who owes me money or what investments I have unless -

MR. ROBERTS: Inaudible.

MR. CROSBIE: Yes, but the conflict of interest that the past Premier was involved in there was not that. It was the fact that he had an interest in BRINCO shares. The Bank of Montreal, in my opinion, acted improperly in making a loan of that nature to the Premier of the Province. That is my opinion. The real conflict of interest there is a matter of whether it is proper or improper for the Bank of Montreal to make the loan. What put the Premier of the Province in a position of conflict of interest was the fact that the loan was used to invest in shares of BRINCO with whom he was negotiating on the Upper Churchill. The evidence showed when they were bought, in 1963-1965, and after that all kinds of concessions were made to get the thing underway. I really do not doubt that Mr. Smallwood, despite having these shares, did his best to get the best deal he could for us. He put himself into a definite position of conflict of interest. He advised everybody else to buy shares of BRINCO. He obviously thought it was a good thing. It is still a conflict of interest situation.

Now, we just do not see, Mr. Speaker, that members of the House or civil servants should have to disclose all of their assets. They should have to disclose any interest they have which may put them in a position of conflict of interest. Therefore, that suggested amendment of the honourable gentleman we cannot support.



I do not consider sections (7) and (8) of the bill to be an insult because I think that once there is disclosure then there should be nonparticipation in any situation where you are in conflict. That is all that sections (7) and (8) require that if you are in a conflict of interest position and a statement discloses it and you disclose it, you should not take part in that. For example, Mr. Speaker, if an issue should come up in cabinet where I or any other member of the cabinet were concerned in it, then I think, obviously, we should leave the meeting. Otherwise, how can your colleagues consider the matter while you are sitting there and listening to who is for it and who is against it? It is certainly going to inhibit those who are against it. In my view you should not participate in the decision and you should not be at the meetings.

AN HONOURABLE MEMBER: You can ask one of your buddies, you know.

MR. CROSBIE: I know you can ask one of your buddies but it is still less intimidating if you are not there at all.

Now, I do not want to be too long. There are several amendments that the Leader of the Opposition has moved from a quick perusal. I think that we can support. Some of them we will have to try to look at in the morning. Some we will have to hold over perhaps to another session so that our legislative counsel can properly examine them.

As far as that Sinclair Report is concerned, I have no objection to the Leader of the Opposition seeing it and I will try and remember to bring up a copy tomorrow for them. Actually this legislation goes quite a bit further than was contained in the original draft.

Now, the honourable Leader of the Opposition said there was no definition of conflict of interest. Well, one of the reasons is, Mr. Speaker, that you cannot define conflict of interest. There are so many situations of conflict of interest that you can only define it by saying that you should not be in a position of conflict of interest. I think any court can interpret that because it simply means where a private interest conflicts with your public duty. Otherwise it is too difficult to define exactly what it is



and to try to cover every case. A conflict of interest is simply a situation where you are in conflict whether you use it to benefit yourself or not. Therefore, all we are doing here is providing that in any possible situation like that you disclose your interests and do not act on it.

As the honourable gentleman suggested, the bill provides that if you dispose of an interest you are supposed to disclose who you disposed of it to. The Leader of the Opposition wants to go on and say at what price you disposed of it. Well, frankly, I cannot see the public necessity for that proviso, Mr. Speaker. Supposing that I have a piece of land and I sell it to someone for \$10,000, what public interest is there in the fact that it has been sold for \$10,000, if the name of the person to whom it is sold is disclosed. For what public interest does it serve to say what you got for it when you sold it? That is only relevant if you are going to disclose, presumably, every asset that you have. As to the value of the asset, it has no relevance at all. All you are doing is stating that you have an interest and the interest has been disposed of to so and so.

Now, should that arouse any need for further investigation, it can soon be ascertained. I do not see why it should be required to be disclosed.

The only serious difference, really, that I see between this bill and what the Leader of the Opposition is suggesting is that he is suggesting that every member and the public servants involved should have to disclose and list every asset they have and their value and every interest they have, whereas we only require all interests in companies to be disclosed, all interests in land to be disclosed and any interest where there is any possibility of conflict to be disclosed. I think that we have required enough. Perhaps with two or three years practice with this legislation, and that does not appear to fit into the act, it might be time to consider; should a member have to disclose all of his assets when he goes into public life. I do not think we have reached that stage yet.

It has not been suggested in any other jurisdiction that I know of, Mr. Speaker, except that certain candidates up in Toronto in municipal elections up there did it voluntarily.

I cannot understand how in the United States the presidents and senators make so much money. They go into politics only very little and end up millionaires. Linden Johnson did.

So, finally, Mr. Speaker, I think perhaps the Leader of the Opposition generally thinks that we should require full disclosure of all assets but I am tempted to think that that is not the case because for the last five or six days every act that has come before the House, as I said early this afternoon in another act, has been all of a piece. The honourable gentlemen opposite want to jump on the bandwagon and say that it is a good thing but it does not go far enough and then attempt to pick holes and say that it has holes in it and it does not do enough when, when they were in office, they did nothing on these issues themselves at all. They did not attempt to grapple with the conflict of interest problem. Well, perhaps they were not permitted by the Leader of the Administration but still they did not do it. They did not attempt to grapple with the liquor situation which we have grappled with. Just look at the past two or three days. They did not attempt to grapple with the Public Service Commission or the Civil Service Commission and they made no attempt to grapple with the Revenue and Audit Act or the borrowing or conflict of interest. Yet now, when we bring in this legislation, they jump on the bandwagon and start galloping madly in all directions saying that there is not enough, it does not go far enough and their loopholes and the rest of it, when they did not attempt to do anything about it themselves. So, I suppose we can. Anyway, most of the honourable Leader of the Opposition's speech was quite constructive. On the amendments that he suggested, we will have to deal with them in committee tomorrow. Several of them I think we can go for now and others I think should wait for a year or so till we see how this works. In any event, his speech was

certainly statesmanlike in contrast with some others that we heard in the House tonight. I think it was quite a good contribution.

That is all I have to say in moving second reading, Mr. Speaker.

On motion a bill, "An Act Respecting Conflict Of Interest In Matters Of Public Concern," read a second time, ordered referred to a Committee of the Whole House on tomorrow.

MR. SPEAKER: By a previous motion made and carried I now leave the Chair until ten o'clock tomorrow morning.