

PRELIMINARY
UNEDITED
TRANSCRIPT

HOUSE OF ASSEMBLY
FOR THE PERIOD:
3:00 p.m. - 6:00 p.m.
MONDAY, MAY 14, 1979

The House met at 3:00 P.M.

Mr. Speaker in the Chair.

MR. SPEAKER (Ottenheimer): Order, please!

I am pleased to welcome to the House of Assembly a delegation representing the Port Blandford to Winter Brook Rural Development Association, including the Council of Port Blandford and a representative of the Council of Musgravetown. The gentlemen are Mr. Ewart Hall, Mr. Ray Olford, Mr. Clayton Cook, Mr. Calvin Day, Councillor Charles Butt and Councillor Max Gill. I know hon. members join me in welcoming these gentlemen to the House of Assembly.

SOME HON. MEMBERS: Hear, hear!

Oral Questions:

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

MR. W. ROWE: Mr. Speaker, perhaps the Government House Leader would indicate whether the Premier is expected in or not.

MR. MARSHALL: I understand, Mr. Speaker, that the Premier is on the West Coast of the Province. I presume he will not in today.

MR. NEARY: Did he not tell you where he was going?

MR. W. ROWE: In that case, Sir, may I direct a question, which otherwise I would have directed to the Premier, to the hon. the Minister of Finance concerning meetings which, according to press reports, were held by First Arabian Corporation, Ashland and members of the government. Would the hon. the Minister of Finance indicate to the House whether First Arabian Corporation now has confirmed to the government that they have a supply source of crude oil to use with regard to the Come By Chance refinery?

MR. SPEAKER: The hon. Minister of Finance.

DR. J. COLLINS: Mr. Speaker, over the weekend there were meetings with FAC, First Arabian Corporation, and a representative of one other organization, that is Ashland Oil, who have been approached and

DR. J. COLLINS: brought along by First Arabian as the possible operators of the refinery and the meeting covered a very wide range. The purpose of the meeting really was for the, I suppose you might call them the principals involved, that is particularly the Premier, and Mr. Tamraz, to discuss the matter fully in a face to face position. This was the main reason for it

Dr. J. Collins: and it covered all aspects, including the question of supply. And there were assurances given by Mr. Tamraz that he had supply arrangements discussed and at a stage that he was happy with.

We were not expecting at this meeting to have any absolutely definitive positions established. There is a deadline for the conclusion of the negotiations that the Province has said it will look to in terms of making a final commitment, that is the end of June. It may be before then, but that was the outside deadline. And there was no thought at this particular meeting that that deadline would be met at this stage. But all aspects of the things were discussed including supply.

MR. W. N. ROWE: Mr. Speaker, by way of supplementary.

MR. SPEAKER (MR. OTTENHEIMER): Supplementary.

MR. W. N. ROWE: Is the minister satisfied that the First Arabian Corporation does have a source of crude? What evidence did First Arabian give the minister and other ministers who were in attendance at the meeting that they have a source of crude for the Come By Chance oil refinery? And if so, what is that source?

MR. SPEAKER: The hon. Minister of Finance.

DR. J. COLLINS: Mr. Speaker, as I said we did not expect to get documentation on all these points. There was no actual document or piece of paper or contract or whatever expected, sought, nor given in terms of supply. But we were given assurances in terms of supply to the same extent as we were given assurances in regard to many other aspects that were covered in the letter of intent. And the assurances given in regard to supply were as of the same order as the other assurances.

MR. W. N. ROWE: A supplementary.

MR. SPEAKER: A supplementary.

MR. W. N. ROWE: Mr. Speaker, I mean, such mumbo jumbo, Sir, I never heard in my life. Is there a source of crude? And if so, surely the minister did not sit down at a meeting - maybe he did,

Mr. W. N. Rowe: but let him confirm it or not as the case may be ~~surely~~ the minister did not sit down at a meeting with Mr. Tamraz and other officials of that company, First Arabian, and Ashland Oil and simply hear assurances from Mr. Tamraz that, Oh, yes we have a source of crude, unless, you know, that Mr. Tamraz was satisfied he had a source of crude, without the minister and other officials going a little further and saying. Would you be kind enough Mr. Tamraz to tell us what your source is? Where are you getting it from? What kind of arrangements have you entered into? Would the minister please answer that question? What is the source of the crude oil?

MR. SPEAKER (MR. OTTENHEIMER): The hon. Minister of Finance.

DR. J. COLLINS: Mr. Speaker, if the hon. Leader of the Opposition is asking if we asked for and saw a contract, no, we did not, because we did not ask

DR. J. COLLINS: to see a contract nor did we expect for the First Arabians to have a contract with them. That was not the purpose of this meeting. The purpose of this meeting was to go over all matters and bring ourselves up to date on them. As far as the source of the crude supply, the source of the crude is the Middle East.

MR. W. ROWE: A supplementary.

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

MR. W. ROWE: The Middle East. That covers a large area - Is it Lebanon or is it Iran or some other country in the throws of a revolution? Mr. Speaker, perhaps I might get a little further with the minister on another question. Mr. Speaker, could the minister indicate whether there is a direct supply of crude from a particular country to First Arabian Corporation or whether there is a middleman involved, say, in the United States or Canada who Mr. Tamraz is dealing with? Did the minister get that far in his talks with Mr. Tamraz? Is it a direct supply, direct from a certain country, direct from a certain company in a certain country, or is it a question of Mr. Tamraz entering into an agreement with a middleman, a middle company who in turn may have some source of crude from the Middle East?

MR. SPEAKER: The hon. minister.

DR. COLLINS: Mr. Speaker, I do not think it would be reasonable to say that we were depending on a single source of supply, for instance, one country or one oil well or whatever. That would be, I would suggest, too slender a source of supply. But the supply will be direct. I am not exactly certain what the hon. Leader of the Opposition means by a middleman. I presume he means that there would be some entirely divorced organization or company buying supply and then selling this to the people who would be operating the oil refinery. And at this point I might emphasize that there has been no commitment at this stage that we will agree to this proposal. We have stated many times that we

DR. COLLINS: want the full exposition of all the facts that we are looking for before a decision will be arrived at. But if that is what the hon. Leader of the Opposition has in mind there will be an entirely different or divorced organization buying oil and then selling it, that is not what is in mind. What is in mind from our discussions is that if this proposal is accepted the operators of the refinery will be in the direct line for the line of supply.

MR. W. ROWE: A further supplementary,
Sir.

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

MR. W. ROWE: This is an important topic so I would ask Your Honour to have some forbearance on the matter in terms of the number of supplementaries.

Mr. Speaker, is Ashland Oil, which is a company, I understand, owned by the Tamraz group of companies, perhaps owned by the First Arabian itself, but at least part of a family of companies controlled by Mr. Tamraz, is Ashland Oil

MR. W. N. ROWE: involved in any way in the source of crude oil which will be used in the refinery? For example, will it be going through Ashland Oil and then to the Coms By Chance refinery or are they in some way agents? Could the minister generally elucidate, if he is able, the position of Ashland Oil in the supply of crude to the refinery?

MR. SPEAKER: (Mr. Ottenheimer) The hon. the Minister of Finance.

DR. J. COLLINS: Mr. Speaker, I do not want to give the impression that we were interested in minutiae, in the details of this, that and the other thing in terms of supply or in many other things. We were looking for the broad picture, we were looking to get assurances on this and we did get it in terms of supply. Ashland Oil are looked to as the operators of the refinery, that is their main role.

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

MR. SPEAKER: A supplementary.

MR. W. N. ROWE: I cannot seem to get too far on specifics regarding the source of crude oil, concerning which, Mr. Speaker, the refinery will rise or fall, by the way. Let me ask the minister a question or two regarding the financing of the takeover of the refinery by First Arabian Corporation. Did the minister receive assurances as well from First Arabian, Mr. Tamraz and those present, that the financing had now been lined up, had been okayed, that the thing was signed, sealed and delivered in terms of the money which was necessary for the takeover and the starting up and the subsequent operation of the oil refinery?

MR. SPEAKER: The hon. minister.

DR. J. COLLINS: Mr. Speaker, this is a very complex operation including the financing thereof. The financing covers not only the satisfaction of the mortgagees and other creditors, it also involves the rehabilitation of the refinery as well as the correction of any defects in the refinery, and I think it is common knowledge that there were many defects in this refinery, some small and some not so small. And it also involves financing in terms of temporary credit, shall we say, for the lifting of crude, so that the financing is a very wide area, a very complex

DR. J. COLLINS: area, and all I can say on that is that we were given information that was satisfactory to us that these arrangements were moving along at the same pace as the other aspects of the delineation of the whole situation is moving along and we were satisfied with the assurances and information we were given to date in terms of finance.

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

MR. SPEAKER: (Mr. Ottenheimer) A supplementary, the hon. the Leader of the Opposition.

MR. W. N. ROWE: I would ask the hon. minister to correct me if I am wrong, Mr. Speaker,

MR. W.N. ROWE: but reading between the lines it would be fair to say that as this point in time First Arabian Corporation were not able to satisfy the Government that they have arranged all the financing necessary to purchase, satisfy the creditors, correct the defects, start up the refinery and operate it thereafter in terms of working capital, that Government is not yet satisfied that First Arabian has raise that amount of complex financing necessary to get this refinery going again: Would that be correct? They have not yet satisfied the Government by documentation or documentary evidence that they have raised the money.

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

DR. J. COLLINS: Mr. Speaker, that is correct. We have not got all the details but we have sufficient in these various areas that I have mentioned so that we are content that things are moving along satisfactory.

MR. R. SIMMONS: Supplementary, Mr. Speaker.

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

MR. R. SIMMONS: Mr. Speaker, I would just like to return to the earlier line of questioning that my colleague the Leader of the Opposition (Mr. W.N. Rowe) was pursuing having to do with crude supply. I would like to direct a supplementary to the Minister of Finance (Dr. J. Collins). Would the minister indicate to the House whether he, as minister, is satisfied that adequate arrangements can be made, or indeed have been made, to assure a crude supply for the refinery? Is the minister satisfied that such arrangements have been made or can be made?

MR. SPEAKER: Hon. Minister of Finance.

DR. J. COLLINS: Mr. Speaker, I must go back and make the point that we have not stated that we are satisfied on any aspect as of yet. We are not looking to saying we are satisfied on this part and make a final decision in that regard, and then at another stage we are satisfied on that part and make a final

DR. J. COLLINS:

decision on that regard and so on.

We have stated, and this is quite clear to all concerned, that we will look at the total package when it is finally brought together, and that includes all the parts at the same time, and we will make a decision at that stage.

In regard to the crude supply, at this time there is no outstanding difficulty in that regard. There is no hindrance that we appreciate there at this point in time.

MR. R. SIMMONS:

Supplementary, Mr. Speaker.

MR. SPEAKER: (Ottenheimer)

Supplementary, hon. member for

Burgeo - Bay d'Espoir.

MR. R. SIMMONS:

Mr. Speaker, the minister's

answers are most enlightening at least in so far as they indicate at what stage the negotiations are. And I would like the minister to indicate to the House now just what stage in his view the negotiations are? I get the impression from his answers that they are at a very, very preliminary stage, so preliminary indeed that the questions of crude supply or financing have not come to a discussion point, that is

MR. R. SIMMONS:

the impression I am getting from the minister's answers. Would the minister indicate just at what point the discussions are, and if indeed I am right in saying that they are still at a fairly preliminary stage and that the government on the one hand and First Arabian on the other have not yet got down to the matter of the stage of hard bargaining on very specific and crucial details such as crude supply and financing?

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

DR. J. COLLINS: Mr. Speaker, if one were going to give a rough guess, I suppose one would say we are 50 per cent along the way.

MR. S. NEARY: Mr. Speaker.

MR. SPEAKER: The hon. member for LaPoile followed by the hon. gentleman for Terra Nova.

MR. S. NEARY: Mr. Speaker, I have a couple of questions for the Deputy Premier in the absence of the Premier, the Minister of Municipal Affairs and Housing (Mr. Windsor). In view of the fact, Mr. Speaker, that Mr. Joe Clark during a visit to Newfoundland on April 24 where he attended a chowder luncheon out in Gander stated that if the Progressive Conservative Government won the election that they would give Newfoundland the jurisdiction over offshore mineral and gas and the fisheries -

SOME HON. MEMBERS: Hear, hear!

MR. S. NEARY: Well, Sir, the question is, in view of the fact last night on television that Mr. Joe Clark did a flip-flop, that he said no, he was misunderstood that there would only be negotiations and co-operation -

MR. DOODY: Fisheries.

MR. SPEAKER: Order, please!

MR. S. NEARY: - fisheries and resources, Mr. Speaker, that he would only co-operate and negotiate with the Provinces. What does the hon. gentleman now have to say about that position, when Mr. Clark completely reserved himself, turning himself upside down and inside out has completely done a flip-flop? What is the hon. gentleman's reaction to that?

MR. SPEAKER: (Ottenheimer) Hon. minister.

MR. N. WINDSOR: Mr. Speaker, my colleague, the Minister of Mines and Energy (Mr. Doody) might want to comment, but as I understood the words of the Federal Leader of the Opposition last night, he did not at all take a flip-flop, he was quite consistent on what he has been saying and that he is not going to come down here in a confrontation position at all, he is quite willing to negotiate and he recognizes the rights of the Province.

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

MR. SPEAKER: Hon. member for LaPoile.

MR. S. NEARY: Mr. Speaker, is that not the same position, Sir, that the Liberal Government of Canada has taken, that they are prepared to negotiate and co-operate with the Provinces? The Province itself -

SOME HON. MEMBERS: Oh, oh!

MR. SPEAKER: Order, please!

I must point out that our rules will not permit a kind of re-scheduling or interpretation of debate last night. The hon. member must get his questions into a form whereby he is asking a minister for factual information in respect of the matter for which he is responsible to the House. The questions have to

MR. SPEAKER (Ottenheimer): come into responsibility to the House of a minister.

The hon. member for LaPoile.

MR. NEARY: Okay, Mr. Speaker. Would the hon. gentleman tell the House if it is true that the Government of Canada is prepared to negotiate and co-operate with the Newfoundland Government in the matter of offshore resources and the fisheries, that they are prepared to negotiate?

MR. MARSHALL: A point of order, Mr. Speaker.

MR. SPEAKER: A point of order.

MR. MARSHALL: The hon. gentleman is - Your Honour has giving a ruling; the hon. gentleman said, "Okay," and then proceeds to ask exactly the same question that Your Honour immediately ruled upon. We would be quite happy to debate this with the hon. gentleman at any time, but this is not a matter within the responsibility of the hon. Minister of Municipal Affairs and Housing.

MR. W. ROWE: To the point of order

MR. SPEAKER: To the point of order

MR. W. ROWE: Mr. Speaker, we understood that first of all the hon. Minister of Municipal Affairs is the Premier's right hand man and takes over for him when -

MR. NEARY: Deputy Premier.

MR. W. ROWE: - Deputy Premier, he has been on a number of occasions in the past; if we are wrong perhaps the Government House Leader could tell us who is the Deputy Premier now, who does take responsibility for the Premier when he is not in the House, number one. And number two, Sir, the questions my hon. colleague is asking of the hon. Deputy Premier, as I understood him to be, are matters which should be within the purview of the minister in his negotiations with the Government of Canada. Surely this government has a policy on what they want to do with regard to fisheries and offshore oil and gas and jurisdiction over those resources and what they understand the present

MR. W. ROWE: Government of Canada's position to be. If they do not understand that, Sir, then I would submit that we are at sea completely. What is the minister's understanding, as I understand the hon. member's questions, what is the minister's or the government's understanding of the policy of the Government of Canada and what has their response been and what is their position with respect to that position of the Government of Canada?

Now, Sir, it may be a grey area but I would submit that it certainly is within the minister's or at least the government's purview to make a comment on that kind of important public position.

MR. SPEAKER (Ottenheimer): The gist of my former ruling was of course not that the subject matter of federal/provincial relationships with respect to fisheries jurisdiction, however one wants to put it, was not a subject matter appropriate for questioning. My interjection was that questions on whatever subject have to be in such a way as to be directed to a minister in terms of an area of responsibility for which he is responsible as a minister and responsible to this House, and both questions and answers obviously should be from that perspective.

I think the hon. member in rephrasing the question did take it out of that ambit of comment upon the debate last evening, which really no minister in this House is responsible for, and did put it in a different kind of perspective. So I recognize an hon. minister.

Mr. Doody: I would like to give the hon. gentleman the benefit of my small experience in conversing with his colleagues in Ottawa, the Liberal Administration there which is shortly to be the former Liberal Administration.

SOME HON. MEMBERS: Hear, hear!

MR. DOODY: Now there are two very distinct -

SOME HON. MEMBERS: Oh, oh!

MR. DOODY: - areas of interest here, Your Honour, one of them is the offshore resources, the mineral resources, the under the seabed resources: The P.C. Party's policy in Ottawa in this regard is that these offshore resources are the property of the provinces to which they are adjacent. There is no equivocation on that. It has been established as the policy of Mr. Clark, who will shortly be the Prime Minister, and so we can dispense with all of this rigmarole that we are going through through the law courts.

With regard to the fisheries, there is a somewhat different situation. We have been fighting on our own here in Newfoundland to try to establish some rights with regard to those areas which you feel are the responsibility and indeed the territory of the Province of Newfoundland in regards of the marine life in that area. We have tried to co-operate with the Maritime Provinces in presenting a case to Ottawa. We have not been successful. The present administration, particularly the present Minister, Mr. LeBlanc, feels that each province should be dealt with on its own and on its own merits, and Newfoundland obviously is not in a position to go along with that. We feel that our historic rights are the rights that should be looked at. The Minister of Fisheries (Mr. W. Carter) has made that abundantly clear on many occasions. Mr. Clark feels that it would be better if a spirit of co-operation were to be established with the Atlantic region, the existing government through Mr. LeBlanc feels that a spirit of confrontation is more in keeping with what they feel is Confederation. Unfortunately we have not been able to make too many points in the fisheries end of it. Mr.

Mr. Doody: Clark is willing to sit down and try to resolve that. We will find out after the 22nd. which of the two policies will really be pertinent as regards to the Province of Newfoundland and its future.

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

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

MR. NEARY: In view of the fact now, Mr. Speaker, that Mr. Clark has changed his mind again, and that he claims that the jurisdiction of the fisheries -

AN HON. MEMBER: Oh, oh!

MR. NEARY: - the jurisdiction of the fishery comes under the Government of Canada, according to Mr. Clark, and that other resources will be negotiated and he is prepared to co-operate with the Province, will the hon. gentleman now undertake to tell Mr. Cabot Martin from now on when he is making public statements, making utterances on behalf of the government, that he not play politics, that if he wants to be a politician let him cancel his contract with the Newfoundland Government and go out

MR. NEARY: and be a fullfledged politician and not make the statements that the hon. gentleman made a couple of weeks ago that if Mr. Clark won, if Mr. Clark won -

MR. MARSHALL: A point of order.

MR. SPEAKER: (Mr. Ottenheimer) A point of order has come up.

MR. MARSHALL: The hon. gentleman is obviously making a speech and, you know, we are in the Question Period.

MR. SPEAKER: On that point of order, I would point out to the hon. gentleman and request the hon. gentleman to bring his question to a point of interrogation.

MR. NEARY: Well, what Mr. Martin said was that if Mr. Clark won the election that Newfoundland would get the jurisdiction over its offshore resources. Will the hon. gentleman now discipline Mr. Martin and tell him that that is not true, Mr. Clark says it is not true, and ask him not to play politics while he is on the public payroll? Will the hon. gentleman undertake to do that?

MR. SPEAKER: The hon. minister.

MR. DOODY: Mr. Speaker, my understanding on that is that Mr. Cabot Martin is a special advisor to the Premier and is under contract and has made little or no effort to hide the fact that he has taken a most responsible view of the political scene in Newfoundland and supports the Progressive Conservative Administration. I congratulate him for seeing the course of events as they will occur. The job that Mr. Martin has done in presenting the under the seabed mineral case to the world and to Canada particularly is a tribute to him and to this administration. The thoughts that he may possibly enter the political arena, as the hon. gentleman opposite suggests that he should, fills me with delight. I would be particularly pleased

MR. DOODY: to see him active in this particular House. I would like to see him, as a matter of fact, head for the district of LaPoile and grow some deep roots in that area. We may be in the somewhat peculiar position of seeing the hon. member for LaPoile (Mr. Neary) being driven from LaPoile and come back to Bell Island, where I will be only too happy to meet the gentleman again on his home territory.

Thank you.

SOME HON. MEMBERS:

Oh, oh!

MR. SPEAKER:

Order, please! The hon.

member for Terra Nova.

MR. LUSH:

Mr. Speaker, I have a

question to direct to the Minister of Transportation and Communications.

Sir, in view of the fact that we are fast approaching the road construction season, and in view of the fact that we have no idea what time the Budget will be presented before the House, I wonder if the minister can indicate as to what time will there be an announcement made regarding the full compliment of communities, regions and areas which will be receiving or be allocated capital funds for road construction this year, this coming season? Mr. Speaker, this is rather an important matter. There are many people living in areas in rural Newfoundland that are subjected to terrible road conditions that are now awaiting these announcements from the minister.

MR. SPEAKER: (Mr. Ottenheimer) The hon. minister.

MR. BRETT: Mr. Speaker, that is a matter of grave concern to me. We have something like 2,000 miles of gravel road in this Province and the budget for reconstruction and paving generally is in the area of \$10 million to \$12 million, and it is obvious from that that we cannot hope to start all of the 2,000 miles of road this year and, therefore, cannot expect to finish them. I do not know if any minister has ever given a list of the roads that would be done in the Province. I think that would only serve to entice riots almost, since obviously some will be started this year and some will not. So if I were to get up in the House and say that we are going to pave some of the roads in the hon. member's district and none in that of the hon. the member for Bellevue (Mr. Callan), then I can see what would happen. All I can tell the hon. member is that I will not know for sure exactly what roads are going to be paved until the Budget is presented in this House, which hopefully will be sometime during the latter part of May or the early part of June. As I said, I will not be given the list then, but at least I will know what roads we hope to start.

A bit of good news - our calcium chloride programme will be somewhat different this year for the areas that we cannot pave. Last year we did the roads between communities. I think that was rather a waste, and this year we hope to put calcium chloride to prevent dust in all areas that we control, not council roads but roads that we control, all areas that are built up. So this at least should be good news for the rest.

MR. LUSH: Mr. Speaker, a supplementary.

MR. SPEAKER: A supplementary.

MR. LUSH: Mr. Speaker, it seems as though every time an hon. member on this side of the House asks a question relating to the allocation of capital funds for this thing or that thing, water and sewer or roads or whatever, we are given the same answer that no decisions can be made until the Budget is brought down. Now it seems to me in reading

MR. LUSH: the papers and looking at the tenders that are being called, that I have seen this year tenders being called for roads in certain parts of the Province. Now what is the reason for this that it seems as though we can announce some roads before the Budget comes down and others we cannot? Can the minister address himself to that question?

MR. SPEAKER: (Mr. Ottenheimer) The hon. minister.

MR. BRETT: Yes, Mr. Speaker, that is quite easy. There will be some \$20 million worth of paving and reconstruction on the Trans-Canada Highway this year under the TCH agreement. There are several million dollars worth of DREE work that is under

MR. C. BRETT: construction. In addition to that, there was \$6 million worth of work carried over from last year that was not completed. And, of course, tenders were called for some of that this year, that is ongoing. There are some sections of roads and bridges that obviously have to be done for safety purposes and some tenders have been called in that area as well.

MR. T. LUSH: A supplementary, Mr. Speaker.

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

MR. T. LUSH: If you will remember, the minister will recall that I presented a petition here in the House last week on behalf of 1,688 residents in communities stretching from Port Blandford through to Jamestown and the Winter Brook area requesting that funds be allocated in this fiscal year for reconstruction, upgrading and paving of the roads in that area. Can the minister indicate to the House what action he has taken respecting that petition?

MR. SPEAKER: Hon. minister.

MR. C. BRETT: I can only tell the hon. member that the gravel roads that are in his district will be considered among the other priorities. Whether or not we will get them done this year I could not say but certainly they will be considered to be done at some date.

ORDERS OF THE DAY

MR. SPEAKER (MR. OTTENHEIMER): Order 27, the adjourned debate on Bill No. 33. The hon. Minister of Justice.

MR. A. HICKMAN: Mr. Speaker, on Friday I had just about concluded my summary of the bill to reform matrimonial property law. And I undertook to go through it once more very carefully over the weekend to ensure that I had covered all of the areas of concern contained in this bill. Because it is a bill, apart from the reform nature of it which is very significant, it is also a bill that had to be very carefully prepared to ensure that the property law and the law of intestacy was not affected inadvertently as a result of this legislation.

I would commend to hon. gentlemen who are interested in the work that has gone on into family property law, the reading of a very voluminous piece of work that came out by the Law Reform Commission of Canada in 1975 entitled Studies on Family Property Law. And that was about four years behind the Gushue Report on Family Law that was submitted to the Government of Newfoundland. In the provisions as to void contracts, there is a provision that is known in the law as a dum casta provision, two words. My latin training in the Methodist College of Grand Bank comes to the fore where we had great emphasis on latin under the leadership of the father of the hon. the Leader of the Opposition and it was a phrase that we used so often when I was in grade IX and grade X and grade XI. But anyway, it spells d-u-m and the next word is c-a-s-t-a. What it really means is that people should not contract or try and legislate on morality, that that is something that is beyond the ken and the ability, the wisdom of parliamentarians and legislators. And in that respect I would quote a very good paragraph from the Law Reform Commission of Canada as follows; "Misconduct may be the legal reason for the termination of marriage but it does not necessarily follow from this, that it should also be the reason for inflicting economic sanctions upon one of the

MR. A. HICKMAN: parties. Like the quality of affection between spouses, the moral conduct of married persons is not something that can be purchased, nor do we think it is a particularly appropriate task of the law to attempt to enforce an official moral code against married people through the power of the court, to reward propriety or punish misconduct, by the granting or withholding of property rights." That really is

MR. HICKMAN: a summation of what I was saying here on Friday with respect to the dum casta clause, and to the clause covering the void provision.

So, Mr. Speaker, in concluding may I simply again say this bill, like Gaul, can be divided into three parts - that is more Latin - the part one of the bill really which deals with the matrimonial home, deals with it separate and apart from the rest of the estate and both spouses shall have a one half interest in the matrimonial home no matter who has the legal title or when the home was acquired. Part two deals with the matrimonial assets acquired during marriage. And again under the heading of part two, the provisions for the exercise of judicial discretion where something is obviously grossly unjust and unconscionable and part three deals with the domestic contracts.

I had been asked also to enquire - over the weekend a couple of people contacted me and said, How will this new legislation as it deals with the matrimonial home deal with the registered home ownership plan? Where at one time if a house was registered in the name of the husband, say, and it was the desire of the couple to come under the registered home ownership plan, then the wife could go and register under it and avoid a provision in the act which says that the applicant or the person so registering must not have any ownership right. The concern was that we now give a right to the wife and this might preclude her. But upon checking with the federal people today, I am advised that under recent federal legislation one spouse cannot contribute to a plan while the other holds title to a property. So they apparently dealt with this so-called loophole in legislation earlier this year and therefore the matrimonial home provisions of this bill are not relevant one way or the other to the RHOP programme. Mr. Speaker, I move second reading.

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

MR. W. ROWE:

Mr. Speaker, I rise to support the general principle of this bill. The general principle of the bill is good. It is a bill which goes a long way towards correcting one of the most serious abuses of our society today and that is with regard to the inequality of treatment which has generally been accorded married women under the law since time immemorial.

Before getting into the various sections of the bill itself, concerning which, Sir, I have some very grave reservations, very serious reservations, the way in which the principle is in fact put into effect causes me and causes a number of other people with whom I have spoken some serious reservations and I will get into that in a general sense in a moment and a more detailed sense as I just flip through the pages of the bill. Before doing so, Sir, let me compliment the minister for bringing the bill in. It is one example, I would say, of where Cabinet solidarity has overcome the private misgivings, indeed perhaps the private philosophy of a particular minister. I am not saying that the minister is in any way determined to keep women down in our society, but Sir, I will make note in passing of the extreme reluctance which the Minister of Justice showed last session of this House with regard to the efforts being made by status of women's councils, by members of the Opposition, by other members in his own caucus, I would submit, to try to enshrine legally, in legislation, the rights of women, particularly married women. He showed an extreme reluctance, Mr. Speaker, on every occasion. His basic Tory philosophy, I think, came to the fore on every occasion that he was questioned on it in this House or outside the House. As a matter of fact, he tried to forestall the dismal day when we would see this legislation brought in

MR. W.N. ROWE: by talking about White Papers that were needed, my colleagues will recall that. 'Oh, this is a very complex matter, Mr. Speaker; we need to bring in at least one White Paper on this and we need to have that White Paper spread far and wide and have comments from married women, by women's groups, by husbands for that matter, by men's groups, by other aspects and elements of our society.' We have not seen a White Paper. I do not know if the minister ever got around to trying to draft a White Paper on the subject or not. We have not seen a White Paper. We see him now as Minister of Justice (Mr. T.A. Hickman) forced, reluctantly I would submit, but forced nevertheless by his Cabinet, some of the more progressive members of his Cabinet to bring in a bill and to argue for it strenuously as he has done in the last couple of days. It is an example, Sir, of Cabinet solidarity in action and there is a number of ministers of the Crown who would well take a leaf, a page out of the hon. minister's book when it comes to the exercise and the need for the exercise of Cabinet solidarity.

There is no doubt, Sir, that over the years married women have been more or less treated as a chattel in the hands, in the estate of their husbands. There have been some giant strides made over the last generation or so to try to equalize matters a little bit, to try to make matters more equitable under the law but we still have a long way to go. And this bill in many of its sections and parts does help to equalize matters, to make matters more equitable, more fair, fairer to make fair play operate under the law as far as married women are concerned.

There are a number of aspects of it, Sir, that do not go far enough on the one hand and I would submit, Sir, on the other hand there are some aspects which go too far. Which go too far in terms of what they do and go too far in terms of casting doubts as to what the legal situation and the legal rights of a married woman or a spouse, generally, would be under this act.

MR. W.N. ROWE:

Before getting into some of these matters, let me ask the minister this, perhaps he can make a note and respond to it when he closes the debate or perhaps somebody else in his Cabinet, in his administration can mention it as well, did the minister canvass any groups in our society as to some of the more radical elements, perhaps, in this bill? Did the minister or the Government ask any of the religious groups, for example, religious denominations in our Province today what their views were on a number of elements in this bill? I am referring specifically and I will get into more detail on it a little later, I am referring specifically to the section in the bill which provides for the so-called cohabitation agreement, an agreement whereby a man and a woman who are not married, have no intention, perhaps, of getting married, do not believe in marital status of any kind but who want to live together, not in common-law, not a common-law marriage as is normally understood under the law but merely wish to live together. There are certain terms for that state of bliss or otherwise employed in the parlance of the street, Mr. Speaker. Has the minister checked with any of the groups who, I believe, may have their sensibilities and their sensitivities somewhat affronted by this possibility? I am not saying that the minister should not have proceeded in spite of having canvassed or contacted religious groups in the Province, I am not saying that at all, what I am saying, Sir, what I am asking, has the minister contacted various groups in this Province today to ask them what their views are on this so-called cohabitation agreement or the provision under the law for cohabitation? Your Honour will know that the tradition under the law has been not to allow people who are not married, who do not intend to be married, who do not believe themselves to be married, do not want to be married, the law has been that it will not sanction agreements between a man and a woman in those circumstances who may be living together

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MR. W.N. ROWE:

because what it does is lends the
dignity of the law and the sanctity of the law and

MR. W. N. ROWE: the sanction of the law to a situation which may be in some cases illegal in certain jurisdictions or considered to be immoral in certain jurisdictions and among certain people; therefore, no agreement which is designed to provide for property division or the ownership of property or the status of cohabitation generally without marriage, no agreement has been deemed to be legally enforceable in our courts because it is an agreement in respect of an illegal or an immoral subject matter. That is, I suppose, briefly what the law has been on the subject. The hon. minister would also know that the reason this law has developed in the way it has is because the common law on the subject of marriage and men and women living together has basically been taken, a couple of centuries or more ago, from the canon law which was church law. And there have been certain changes made, of course, over the years by decisions, some very radical changes - some good changes, some bad changes - that were based on the canon law, the church law with respect to the marital state.

Now the minister may be aware or maybe he is not aware that there are groups in our society, religious groups and otherwise, who do not necessarily believe that this cohabitation agreement is a proper form of agreement to be given the sanction and sanctity of the law and of legislation. I have my own views on it which I will express a little later on, but I would like to ask the minister whether - some groups whom he could reasonably have assumed to have strong feelings on the matter - whether he did them the courtesy of asking them what their views were and how they felt about it and whether they had strong objections to it or whether they might, in fact, be willing to go along with it in spite of their strong moral objections to legal sanctity being given to the state of cohabitation without marriage having been entered into? The minister did not touch on that subject when he spoke. And I think it is an important subject, because after all, the government is elected to govern on behalf of the people and there are certain people who would have strong views on the matter.

Mr. Speaker, it is a good bill, it is a well drafted bill. There is some fuzziness in it which may cause some

MR. W. N. ROWE:

legal difficulties, and I will touch on that as we go along - a certain amount of fuzziness, which perhaps is a good thing, in that we will get some decisions from the court on various interpretations; but at the moment it is a little bit fuzzy.

The explanatory note in the bill, Mr. Speaker, for the sake of the press and other members who may not wish to wade through section by section - the explanatory note itself is inordinately good, an excellent summary of what the bill, itself does and what the bill, itself proposes. Part one, as the explanatory note says, deals with the matrimonial home, which is defined as any home owned by either or both the spouses and used as a family residence. Each spouse would have a one-half interest in the matrimonial home no matter who has the legal title or when the home was acquired. No spouse could dispose of or encumber a matrimonial home without the consent of the other. In addition, the court would have the power to award exclusive possession to either spouse. That is a good summary of what this bill provides with respect to the matrimonial home.

There are a number of other elements which I will deal with as we go through the bill. But there is one point, Sir, that springs to my mind right at the beginning which may cause some serious difficulties, and I would ask the minister if he has addressed himself to it, and I refer to this; as the minister knows, although it does not say here in that explanatory note, in the Act, itself, there is a section which I will come to a little later which states, in effect, that although spouses may agree to opt out of the provisions of this Act with regard to all other matrimonial property, that no agreement can be entered into and be considered valid respecting the matrimonial home which takes away from the rights conferred by this Act. In other words, Mr. Speaker, a husband and a wife under this law, if it is passed, are deemed to have a one-half interest in the matrimonial home, and there is no way that either spouse can get out of that privilege or that obligation by agreement or otherwise. Now, Sir, I put this to the hon. the minister and members opposite: Because this Act has retroactive effect, it will apply to matrimonial homes

Mr. W. N. Rowe: which were acquired and dealt with in good faith by a husband and a wife twenty-five years ago, fifty years ago, one year ago today or even before this Act came before the House.

Now, Mr. Speaker, I know of many cases both through my legal practice, when I was practicing and through discussions with friends of mine, of many cases where a husband, very mindful of his duty to protect his wife and family as far as the matrimonial home was concerned, very mindful of that duty, very concerned about that duty, and that feeling, that root-fundamental feeling to look after his wife and family no matter what he himself does with regard to business or otherwise, I know of many cases where a husband who has owned a home or acquired a home shortly after marriage put that home in his wife's name. And the reason he put it in his wife's name, he is not looking forward to a divorce or anything else, he and his wife and his family are going to live together forever as far as they are concerned, and their children until they grow up and move away, and the wife has title to that home, and it was done twenty years ago, and that man goes into business, and he sets himself up in a company, for example, and goes into business, perhaps a risky business, trying to make a few dollars, or politics for that matter, or practices law for that matter, or does anything else, and the house is put in his wife's name, and he does it because he knows and there is no attempt to defraud anyone or try to pull the wool over anyone's eyes, down in the Registry of Deeds the house is in the wife's name, and anybody can see that by a simple search of the Registry of Deeds.

He goes into business and he applies his name to all kinds of commercial paper in connection with that business and becomes personally liable by way of guarantee and otherwise. And during the course of operating his business he goes bankrupt. And because he anticipated or foresaw the possibility of going bankrupt in his business as an entrepreneur, he provided for the protection and security of his wife and family by putting the house in the wife's name. And it might have been there for ten or fifteen or twenty years. There are provisions

Mr. W. N. Rowe: under The Bankruptcy Act whereby you cannot give property to relatives within a certain period of time before a bankruptcy occurred or it is declared null and void, it is considered to be a fraudulent conveyance. So, Mr. Speaker, this was done twenty years ago. And the business goes along, and the husband goes bankrupt, the company goes bankrupt and he, because of having applied his name, his signature to all kinds of guarantees and so on, may go personally bankrupt himself and, as I say, having provided against that eventuality, made sure that no matter what happened to him in his business or his business capacity, his wife and his family would have a roof over their heads.

Now we have a situation where, in spite of the man's best efforts and desire to protect his family in this regard, that man who did that in good faith years ago, we now have a situation where willy-nilly, whether he wants to or not, that man suddenly finds himself as again half owner of that home. And if he goes bankrupt, as I said, I would submit, Sir, that his creditors now have a legal weapon and a legal remedy whereby they can go against that asset in the hands of the husband, namely, the half ownership of the home. It is an asset, like any other asset, and can proceed against him on that basis, Mr. Speaker.

And I would submit, Sir, that in certain cases the home could be sold to satisfy the debt of the husband and perhaps the wife would end up with half the value of the home when it is sold, but half of the other value of that asset which was the husband's and deemed to be sold by this Act whether the husband wants to or not, the other half of the value of that asset, the one-half ownership of the home would go to the husband's creditors. And suddenly you would find a situation where,

MR. W. ROWE: in spite of it having been done years ago in good faith, no effort to defraud anybody, no effort to pull the wool over anybody's eyes, registered in the Registry of Deeds, you find a situation where a man can no longer depend on the matrimonial home, or the home being preserved against the depredations of creditors that he had entered into relationships with as a result of his own personal business enterprises. Now, Sir, I would question whether that is right. Without drawing away from, without detracting from the need to provide for equality with regard to the matrimonial home with respect to the wife, particularly, let us be under no delusions at all about this, Mr. Speaker, we are not talking about the protection of husbands or men when we talk about passing this act, we are talking about giving women a fair share, a fair shake of the matrimonial property that they have contributed to, if not in terms of money earned, they have contributed to in kind by the efforts made to bring up their families, by looking after the home and, perhaps, also by financial contribution as a result of working or otherwise as well, we are not, Sir, detracting from the need to do that and provide some basic equity and equality to the woman in a marriage, what I would question, Sir, and I would like to hear the minister respond to this or perhaps the hon. the Government House Leader when he speaks on this, I would question the right of the government to be passing legislation which goes the other way, in fact, in trying to protect a woman's right to a half ownership, deprives a husband and the wife as well in this case, of a protection with regard to the family home which they could have entered into before this act came into effect but because of the existence of this act we suddenly find he can no longer do. You may have arguments saying, Well why should a man be able to put a matrimonial home to one side and then go into business and so on and not allow that matrimonial home to be liable for any debts he may incur. But I would say, Sir, that that is largely irrelevant. The point is that he could have done

MR. W. ROWE: it beforehand. The title to the home was in the wife. The title is registered in the Registry of Deeds. Creditors dealing with the husband in a business capacity are aware of that, they know of that, they know that the family home is not available to satisfy debts, business debts of the husband, they proceed in any event, they proceed to give him credit and they know that if the man goes bankrupt or his company goes bankrupt they cannot touch the family home except in very unusual circumstances. And I would say, Sir, that we should not deprive a wife and a family of that legitimate protection which was heretofore available to a man before launching out into the risky world of business and business ventures. Perhaps, Sir, I will have another word to say on that when I go through the act and mention some of the sections. But I mentioned it right at the beginning so that the minister will deal with it because I think it is probably one of the most fundamental points. My house, for example, as anyone can see if they go down stairs, is in my wife's name. Although I make no bones about it that the greater portion of the financial contribution came out of my pocket, it is in my wife's name. Why? Because I want to protect my family in the event of anything happening to me in business or law or anywhere else. It is something that a man normally does. I would be very surprised if this hon. gentleman here, who is recognized as being the most gentlemanly politician ever to enter into politics in Newfoundland's history, I would be very surprised if his gentlemanliness has not extended into his domestic relations. I would be very surprised if his home is not also in his wife's name for the same reason. The man has been in business, sometimes risky businesses, I would submit, and wants to make sure that if anything should happen to his business venture—whether it is his fault or not his fault is irrelevant, that there would be a roof over his family's head. And that is a minimal security and protection, Sir, I would

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MR. W. ROWE:

submit, that a man can
guarantee to his family. I would not like to see an act whereby
that minimal security and guarantee is whipped away from a man
because he goes into business

MR. W. N. ROWE:

or because this Act is in existence.

And now the man, without wanting to have half ownership in his home, this Act deems him to have half ownership in his home simply because it was something which was not anticipated by a government in their zeal to protect the woman in the marriage and to make sure that a woman had half ownership of the matrimonial home. In other words, it was a sort of boomerang effect, Mr. Speaker, it was a legal boomerange - it sort of backfired. And before passing this Act we should make sure that some provision is made whereby a husband can afford the minimal protection of a matrimonial family home to his family no matter what the repercussions may be of his going into business and then going bankrupt or losing his shirt as the case may be.

So I think the point is well taken -

I have seen the minister over there nodding his head and whispering that it is a good point, and I hope that he will deal with it. And perhaps before he closes the debate, he can bring into the House something drafted up which can be moved by one of his colleagues in Committee to take care of that eventuality in some way or other without detracting from the need to protect the female spouse and her right to one-half ownership of the home. The point we are trying to make, of course, is that it should be at least one-half ownership and that if a husband desires to pass all title over to the wife for the protection of his family, or the reverse, then there should be some way whereby that agreement can come into effect. Perhaps, Mr. Speaker, one way I can suggest to the minister - and I will apply this to other sections of the Act as well - perhaps one way that we can make sure that a husband and a wife are not being taken advantage of by the other spouse with regard to the matrimonial home, is to provide for a form of agreement which can be entered into by a husband and a wife to allow one or the other to have full title to all the matrimonial home but to make a provision that in this particular case both spouses are almost in a fiduciary capacity with regard to the other. In other words, as my hon. friend, the Minister of Justice (Mr. Hickman) well knows, if he is giving advice to a client, and in the course of giving advice to

MR. W. N. ROWE: the client enters into some kind of an agreement with a client of his which could possibly be to the disadvantage or not to the advantage of the client, then if anything ever went wrong with that agreement and they ended up in court, in order for that agreement to be upheld in court because of its fiduciary relationship, he would have to prove that no undue influence was brought to bear on the client in order to get the client to enter into that agreement. And one of the best ways of proving that no undue influence was exercised on that client is to show that the client had independent legal advice with regard to that particular aspect of their relationship. Now, perhaps something can be written into this Act which provides for an agreement to be entered into concerning the title of the matrimonial home, that there is a presumption against that agreement being bona fide unless the person who seeks to enforce the agreement can show that the other spouse had independent legal advice with respect to the agreement. Maybe that is the way to look after it. It is a sort of legal technicality that I do not expect all members of the House to become excited about or involved in, but I would assure them that we should do something about this aspect of the problem, because each member of this House and every member of society at large can be adversely affected and gravely adversely affected by

Mr. W. N. Rowe the bill as it now stands with respect to the matrimonial home.

Mr. Speaker, part two, of the bill deals with the matrimonial assets acquired during a marriage in addition to the matrimonial home, of which I have just spoken. The basic principle as the explanatory note says, is that the matrimonial assets are to be divided equally, although -and this is important- the court may vary a division if an equal division would be grossly unjust or unconscionable. That is important.

Now, Sir, business assets are dealt with separately in Section (27) and may be shared if one spouse has made a financial or other contribution to the building up of these assets." Now, Sir, here is an example where I believe the bill does not go far enough. I will deal with it a little bit more specifically when I go through the Act, but let me say at the beginning, whereas with respect of the matrimonial home I believe the Act goes too far and does something which was not anticipated and which should be remedied, in this particular respect, business assets, it may not go far enough. I will give the exact wording when I come to it, but the situation now is that unless a spouse, and let us face it, we are talking about a wife in 99.9 per cent of the cases, unless a spouse actually contributes money or money's worth or time or effort towards the building up of the business asset she has no right to a share in the business asset irrespective of the fact that by her looking after the family, by her devoting her time and attention to raising the children, looking after the home, taking that burden off the back of the husband and allowing him to go out and build up a business, irrespective of that fact the contribution made by the wife in those circumstances, we have a situation where, in the event of the marital breakdown and the separation and divorce of the parties, we have a situation where the wife who may have given fifteen years of her life to the family in order to allow the husband to build up this business asset she finds herself completely out of luck when it comes to sharing the asset, the

Mr. W. N. Rowe: business asset, because she did not involve herself directly enough or immediately enough in the actual building up of the asset itself. And I will read the words when I come to it, Mr. Speaker. I just mention now in a general way, because I think again this is a defect in the bill.

I am surprised, I do not know if the hon. Minister of Justice (Mr. Hickman) who complimented the Status Of Women's Councils on their input into matrimonial property law, I do not know if he showed that section to them, and if they were in agreement with it. I have had numerous meetings with these ladies who, as he indicated, showed far more knowledge than I did on the subject, and more knowledge than I would say the hon. minister showed on the subject, because they have dug into it. They have gone into it, they have looked at all of the jurisdictions, they have looked at all of the problems, they have looked at all of the possible remedies, and my understanding from my discussions with these ladies was that there was nothing radical about what they wanted or thought was right and equitable, it was a moderate request and that was that a wife who is making her contribution to the family, helping to rear up the family, looking after the home, looking after the husband's needs in a matrimonial and domestic way, and allowing the the husband to make money on the outside, their view was that business assets, assets which were acquired during the term of the marriage, not before, during the term of the marriage should be divided equally. This seems to be a bit of a comedown from that position.

I had agreed with the Status of Women's Councils and other women who had strong views on this that I thought that this was a reasonable position to take. I was very surprised to see this bill come in which did not enshrine that position in the legislation, and I would ask the minister whether he discussed that aspect of the bill far and wide and whether he has gotten the feelings of these women who have done a tremendous amount of research and work and devoted

Mr. W. N. Rowe: a lot of thought to this subject whether he has gotten their, not their approval, because this House and the government needs the approval of nobody, but as with respect to the religious groups who may feel a little bit upset about the cohabitation agreement, without marriage, I would submit that other groups in society may be somewhat upset over this business asset definition, and although their approval is not required, I would submit, Sir, that certainly the thoughts and the position and the ideas of these thoughtful women who have studied the subject, should at least be canvassed to see where they stand with regard to it.

Now, Mr. Speaker, part three, of this Act to reform the law respecting the property of married persons deals with domestic contracts. "Persons would be permitted to enter into marriage contracts to deal with their relationship and to take them outside of the Act." In other words, a contract can be entered into by a husband and a wife to deprive the husband or the wife, particularly the wife, of most of the benefit of this Act. They cannot, of course, as I mentioned earlier, deprive themselves of the benefit of the section relating to the

MR. W.N. ROWE: matrimonial home, that stands no matter what a contract would say, a marriage contract would say. but they can, in fact, render this act more or less null and void with respect to all other aspects of the marriage and all other sections simply by entering into a contract, an agreement to do so.

Unmarried couples would be permitted to enter into cohabitation agreements which could include a provision to bring them under the act. In other words, you could have a man and a woman, as I said earlier, with no intention of ever getting married, no desire to get married but who could, by simply signing an agreement, bring upon them all of the benefits of a married couple so far as this act is concerned. And, Sir, I might also add, a couple who does not want to get married, no intention of getting married, do not agree with marriage can bring all of the benefits of this act upon them by a simple statement, agreement, signed, bearing their signature, without bringing upon themselves any of the liabilities of a married state of marriage which may exist outside of this act altogether.

Now, Sir, one can be as progressive and as liberal in one's views as one wants to be. Sir, I gravely doubt the efficacy, the rightness even, of a provision which allows unmarried people, whether it is a long-term arrangement or whether, in the parlance of the street it is a one night stand, I could apply other nouns and adjectives to the state we are talking about in the parlance of the street again, I doubt very much whether without very great and due deliberation we should be passing a bill which gives unmarried couples, living together, long-term or short-term, the right to bring upon them all the advantages of this act as if they were married without, Sir, importing into the state which they are living in the obligations that you, Your Honour and I, my friends here in this House have as a result of having gone through a marriage ceremony. One may say, without becoming

MR. W.N. ROWE: hysterical about it, that certainly with respect to some people we are, by passing this act and these provisions, encouraging people to become involved in this kind of a living arrangement, relationship and discouraging them from entering into the marital state which brings with it certain serious obligations, one, with regard to one spouse to the other and the children of the marriage and so on. As I said, there is no need to become hysterical about it but I think it deserves a certain amount of attention. I think that before we pass this aspect of the bill we should ask ourselves whether we are doing the right thing. Perhaps some members of the House may believe that we should get rid of marriage as we know it altogether and allow people to enter into contracts governing their relationship which can be rescinded by the consent of either party. If that is what the Government wants to do, Mr. Speaker, let them say it. If the Government wants to get rid of the status of marriage - as I said earlier, I am not accusing them of anything or becoming hysterical about this, but if the Government wants to allow marriages to take place by simple contract

MR. W. ROWE: which can be rescinded by mutual agreement, without resort to the courts, without the obligations that under our present law the married state confers on the partners, if they want to do that well let them do it. Let them bring in an act which does that. Mr. Speaker, as I said earlier I doubt very much whether the government should be bringing in legislative provisions which provide for the married state on the one hand and then allow two people, a couple who want to live together without marriage to have the benefits of this act and none of the obligations of the married state. It seems to me that that is lopsided. If they want to bring in a new code of marriage, if they want to bring in something which allows a marriage to take place by simple contract and as a result of that contract being signed certain legal obligations automatically follow as a result, but that that contract can be rescinded by mutual consent, without going through courts, without anything else, and that after the rescission of the contract and the separation of the parties certain legal consequences follow, well let them do it, but I would doubt very much the acceptance on the part of a great number of people in our society, church groups, individuals whose sense of morality and decency may be affronted by this, I doubt very much, Sir, whether the lopsided arrangement which they are now approving, I doubt very much whether that in an unchanged form should go through this hon. House.

But there is something which is again more serious, Mr. Speaker, regarding this situation. Under the existing law it is quite possible for a man and a woman to not be married when, in fact, they think they are, either because one of the parties did not have the capacity at the time to consent to a marriage, or because the marriage took place and it was irregular in form, or a marriage was performed by somebody who did not have the right to confer the marital status on the couple. There

MR. W. ROWE: are hundreds of reasons as to why a marriage is either void from the beginning or becomes voidable as the relationship carries on for a variety of reasons. Now, Sir, under the existing law there is a presumption in favour of marriage. If, for example, a marriage was not in fact entered into and could have been entered into, but it was not in fact entered into and the couple had been living together on the basis that they had been married, then it is beholden on people who want to - on anybody who wants to say that they were not married, to actually prove to the court that the marriage did not take place. There is a presumption in favour of marriage. Now I have not done any great legal research in preparation for this, I am just talking in general terms based on a general knowledge of matrimonial law. Now that has some very salutary effects. For example, if a couple were not, in fact, married and they were presumed to have been married that meant that, of course, their children were presumed to have been legitimate for all purposes unless by proving beyond a reasonable doubt the marriage did not take place and therefore the child was not legitimate, it was illegitimate. But the presumption was in favour of marriage. Now what I am wondering here, Mr. Speaker, is how much doubt is going to be cast upon the existing law in which there is a presumption in favour of marriage unless it is proved otherwise by somebody, how much doubt is going to be cast

MR. W. ROWE: on the status of some people who with good intentions, who intended to be in a married state, who thought they might have been married, who intended to be married, who meant to be married, as a result of this new law, this new section under this particular act, I am wondering how much doubt is going to be cast upon that particular situation which may affect a number of people in our society in this Province? If we have a situation now where a bill provides that unless you are married this act does not apply, and then goes further and says, but if you are not married, if you are cohabiting and you are not married you can make this act apply by entering into an agreement to make it apply, does that now mean that the presumption in favour of marriage is in any way interfered with? Perhaps the hon. House Leader can advert to that point when he stands up. Does it now mean that there may be couples who, unless they have signed an agreement which brings them under the purview of this act, and if it is suspected that they are not, in fact, married, that presumption in favour of the marriage is now done away with and that they must prove themselves that they are married in order to come under the purview of this act and if they cannot prove that, and sometimes it may not be possible to prove it, if they cannot prove that then they are out of luck as far as this act to reform the law respecting the property of married women is concerned?

Again, Sir, it may be a difficult legal point, it may be a technical legal point, and I do not expect all members of the House to follow it with bated breath. But it seems to me, Sir, that this bill can at least be construed, rightly or wrongly, and that can only be decided by a court of law, can be construed as, because it now provides for agreements to be entered into by people who are cohabiting without marriage, that it could weaken the whole fabric of the matrimonial law which presumes people to have been married, to have entered into a valid marital state, so-called common-law marriages for example, which are in effect presumptions

MR. W. ROWE: in favour of the married state, without any proof being adduced to prove that a person may be married to another person, the presumption is there that they are, in fact, married. Is this burden of proof in any way shifted or changed? I would like the hon. House Leader if he has done some research on the subject to advert to that as I say, to see how this may in fact cast doubt upon any particular marriage.

There are two points, Sir, about this cohabitation agreement without marriage; one, is that it may be offensive to a number of people's sensibilities, it seems to bring into the law now the advantages of this act without any of the liabilities or obligations. I should not say liabilities of the married state because theoretically there are none, but there are obligations of the married state. People can have the best of all worlds now, Mr. Speaker, they can have their cake and they can eat it too. I am not necessarily against that, what I am against is laws being passed which discourage people from getting involved in a married state which carries with it certain obligations, discourages them from doing that and encourages them to get into a relationship whereby they can have certain benefits under this law and none of the obligations of the married state. And secondly, Sir, does it cast any doubt upon the presumption in favour of marriage which is now part of our common law? Is the onus of proof in any way shifted? Is the onus now on people to prove that they are married rather than for somebody else to prove that they are not, which is an important - as Your Honour well knows, being a trained lawyer - is an important consideration when it comes to proving something in court, where the onus of proof is, whether it is on Your Honour or whether it is on someone who seeks to attack some relationship of Your Honour's or some contract Your Honour has entered into.

Mr. Speaker, I am glad to see, just going through the act now section by section, not all sections, of course, but some of the more salient points in the act, I am glad

MR. W. N. ROWE: in the Act, I am glad to see that this Act, which is called the Matrimonial Property Act, shall be deemed to be remedial. It shall be deemed to receive a fair, large and liberal construction and interpretation as best insures the objects of the Act. Perhaps that section, itself gets rid of some of the doubts which I have now raised a moment or so ago. Perhaps it does.

AN HON. MEMBER: Which section is that?

MR. W. N. ROWE: That is section 2, sub-section 2: 'This Act shall be deemed to be remedial.' In other words, it is an Act which is deemed not to bring additional problems on people, but to solve people's problems, and in that respect shall receive a fair, large and liberal construction and interpretation as best insures the carrying out of its aims. I am glad to see that there and I hope that it is strong enough and is deemed to be strong enough by judges in our courts to remove some of the doubts which I have submitted may be raised by some of the sections of this Act.

Mr. Speaker, in part two, page ten, section 16, the bill provides for a definition of certain terms such as business assets and matrimonial assets. Business assets is defined to mean property primarily used or held for or in connection with a commercial business investment or other income or profit producing purpose. Matrimonial assets, Mr. Speaker, which is the crux of this bill, includes all real and personal property which is acquired by either or both spouses during the marriage and ordinarily used or enjoyed by both spouses or the children and so on, and it talks about being used for recreation purposes, education or household, social, aesthetic purposes, and then it makes certain exceptions, and rightly so - gifts and inheritances and trusts and settlements are accepted. For example, if a man or a woman comes into a large amount of property as a result of a gift or death of a relative and so on, that does not become part of the matrimonial property. And that is only right and proper. It may even have the salutary effect of causing people not to get married to another person because that person is going to become an heir or an heiress.

Another exception to matrimonial assets is the personal injury awards that may be awarded to a person

MR. W. N. ROWE: in respect of a personal injury and that is also a reasonable exception, except for the economic loss, for example, of a husband who is disabled in some way and therefore cannot earn money and part of the personal injuries award made by the court is in respect of that; then, of course, the wife should expect to share in that award as well. But aside from that we have an exception to the general rule - personal effects, family heirlooms, real and personal property acquired after the separation, and then we have two exceptions which I have left until last - business assets and property exempted under a marriage contract or separation agreement. We see, Sir, where legally, business assets are excepted from matrimonial property and also all property which is exempted under the marriage contract.

Now, Mr. Speaker, just referring to business assets for a moment, which is an exception to the general rule that all matrimonial property is to be owned equally and in the event of a separation there is to be an equal division of the property, an equal return on any property sold. Section 27 on page 15 says that where one spouse has contributed work, money or money's worth in respect of

MR. WN. ROWE: the acquisition, the management, the maintenance, operation or improvement of a business asset of the other spouse, the contributing spouse may apply to court and the court shall by order direct the other spouse to pay an amount to compensate the contributing spouse or award a share of the interest of the other spouse in the business asset to the contributing spouse in accordance with the contribution.

Now, Mr. Speaker, here is a situation where I believe the bill perhaps does not go far enough. As I mentioned in my opening remarks, it applies only to a situation where the spouse, and in 99 per cent of the cases you are a talking about the wife, has contributed work, money or money's worth in order to buy the business or to manage the business or to maintain the business or operate the business or to improve the business. It does not, as I indicated earlier, apply to a situation where the husband is left free and independent to buy, operate, build-up and manage a business where the wife stays home, looks after the children, looks after the husband's personal needs, takes great burdens off his shoulders, looks after the home, adds an equal amount to the viability of the marriage and the bringing up of the children. but because she does not contribute money or money's worth or time or work directly to the purchase or the management or the operation or the improvement or the building up generally of the business itself, she is not entitled, as I read this section twenty-seven of the bill, she is not entitled to one penny, Mr. Speaker, of the business asset. I would question the legitimacy of that. I would certainly question the equity of it. It does not appear to be fair to me. It does not appear to be fair at all. Just to take an example, you could have a husband and a wife who are building up a family business that they have acquired and for the first two years of their marriage the wife is making an equal or greater contribution to the success of the business as the husband is,

MR. W.N. ROWE: working away at it, then the wife has a child and another child and two or three or four or five children and as a result of that, concerning which process the husband is at least as responsible as the wife, she is away from the business looking after the children, rearing the children up, children who are the responsibility of the husband as of the wife, as I say, looking after them, seeing to their education, their schooling and so on, providing the maternal benefits to the children and the wifely benefits to the husband in a home, are we to assume that under this law at the moment that the wife gives up a direct contribution of time, work, effort, money, investment into the business she is then deprived of any further share in the value of that business asset? Mr. Speaker, that does not sound equitable or equal or fair or anything to me. Perhaps the hon. Government House Leader (Mr. Marshall) could give us the benefit of his views on that subject. It just does not seem fair, Mr. Speaker. It is not fair!

If the government is going to take the bull by the horns and bring in a bill here which is supposed to effect a fair division and ownership of matrimonial assets, acquired and improved and developed during a marriage, then

MR. W. ROWE: I would submit, Sir, that they do it properly. I would submit, Mr. Speaker, that they go all the way and make it fair and equitable. If they do not intend to be fair and equitable, well then let them come in and say, "We are not going all the way. What we are going to do here now is we are going to go part of the way. We are going to throw a sop out to the females in our society. We are going to make it look as if we are dividing up matrimonial property in a fair and equitable way and the ownership thereof, but we are going to put all kinds of little weaselly things in it which make sure that the husband is not deprived of his ownership of a business asset if, in fact, the wife, as in the majority of the cases this would be the case, has not directly contributed money or work or time to the building up of that asset.

I think in terms of a law practice, for example, how many wives who are looking after families who are not working themselves, looking after the family, looking after the husband, looking after the home, a housewife in other words, how many wives, Mr. Speaker, make any kind of a contribution to a husband's law practice? In fact, how can she make any kind of a contribution to a husband's law practice? How can she do it? There is no way for her to do it unless she is a trained lawyer herself actually down there in the lawyer's office, And so the lawyer or the doctor, as my hon. friend the Minister of Finance (Dr. J. Collins) is, goes about his business, puts in ten or twelve or fifteen hours a day, his wife puts in an equivalent amount of time looking after him and the children and the home. He builds up a nice valuable practice which brings in a good income and which has a capital value in its own right in terms of good will and clients and patients and so on, and the wife has no interest financially or legally, Mr. Speaker, no legal interest in the building up of that capital asset simply because she has not directly contributed in any way to the building up of that asset, although she has contributed in many ways to the building up of the marriage and has contributed indirectly by allowing

MR. W. ROWE: the husband to go out and build up the asset while she takes greater responsibility for the development of the home, the matrimonial home, and the care of the children.

Mr. Speaker, if there is any fair play or equity in the way this Section 27 is worded and the way 'Business Asset' is exempted from Section 16 which describes matrimonial assets, Sir, if there is any fair play or equity or equality in it, I do not see it, and I would like the government to bring in an amendment during Committee stage and perhaps the House Leader or the Minister of Justice (Mr. Hickman) can indicate what they intend to do, I would like to see them bring in some amendments to take care of that aspect of the matrimonial property act which does not provide for fairness or equality or equity in any way.

Now, Mr. Speaker, we come again to 'Domestic Contracts' it is called under Part III of the bill on page 16, 'Domestic Contracts'. They talk about two persons being able to enter into an agreement to be known as a marriage agreement, marriage contract, before the marriage or during the marriage in which they agree on their respective rights and obligations under the marriage, upon separation, upon the annulment or dissolution of the marriage, or on the death of either spouse. Then, Sir, in Section 32 of the bill we get into this famous cohabitation agreement. "A man and a woman who are cohabitating and who are not married to one another may enter into an agreement to be known as a cohabitation agreement, in which they agree on their respective rights and obligations during cohabitation, upon ceasing to cohabit, or upon the death of either one of them, And the cohabitation agreement may adopt the provisions of this act and upon adoption this act applies to the man and the woman as if they were married. So for the purposes of this act there is no distinction

Mr. W. N. Rowe: except with regard to the matrimonial home, there is no distinction between a man and a woman who are married and a man and a woman who are not married. No distinction! Now some people may think that is a good thing. I have some reservations about it myself.

MR. F. ROWE: Are you allowed to have more than one cohabitation agreement -

MR. W. N. ROWE: Yes, that is right. My hon. friend puts another idea into my mind. How many cohabitation agreements may one man or one woman have? A cohabitation takes place, an agreement is entered into, the cohabitation ceases. Another cohabitation is entered into, another agreement, the cohabitation ceases. I can see some very convoluted legal problems arising therefrom, Mr. Speaker.

MR. F. ROWE: Possibly including debts.

MR. W. N. ROWE: But in any event, Sir, I have made some points on this already. And I would like to see the Minister of Justice (Mr. Hickman) and the House Leader, and others deal with them, especially with regard to how widely they have canvassed our society to see what the views of people are on these cohabitation agreements, and some of the other problems which I mentioned.

Now, Sir, "An agreement made under this part", says Section (35) "is void unless it is in writing and is signed by the parties and witnessed." "Any provision in a marriage contract purporting to limit the rights of a spouse to the matrimonial home is void." These are two major aspects of this section, the domestic contract section. And Section 35 (1) which states, as I have already said, "An agreement made under this Part is void unless it is in writing and is signed by the parties and witnessed", is the section which caused me some alarm with regard to people who intend to be married, think they are married, but for some factual or legal reason are not in fact married. And as I said earlier, under the present law certain presumptions are made with respect to that and certain benefits of the law can be taken by people who intend to be married and think they are

MR. W.N. ROWE:

married and so on but who are not in fact married. If this act now changes that situation we do have a situation where if people are merely cohabiting even in spite of the fact that they may intend to be married, think they are married, mean to be married and are not married as a result of some legal or factual impediment, then any rights or obligations which they believed they might have had as a result of their intended or presumed married state may be done away with as a result of section 35 because it says quite clearly, "An agreement made under this Part is void unless it is in writing and is signed by the parties and witnessed." And, Mr. Speaker, as far as the state of cohabitation is concerned the act makes it quite clear that unless a written contract is entered into and signed by the parties, then the parties do not have any of the benefits provided under this act. So there are some doubts there and I would like to hear some opinions on that.

The other thing, Mr. Speaker, which I would like to mention in conclusion, is that I believe the guts of this act are destroyed, done away with, by the fact that it is very easy for the act to be cast to one side and for a couple, a married couple, I am particularly concerned with now, a married couple to enter into an agreement which in effect allows them to opt out of nearly all the provisions of the act with the exception of the matrimonial home. Mr. Speaker, I think it would be naive for us to believe that it is not a fairly easy task for a husband

MR. W.N. ROWE: to get a wife to sign an agreement either before marriage or afterwards in many cases. I know of many cases that I dealt with when I was practising law, whereby a husband either before marriage or upon marriage or shortly after marriage or during the marriage was able to get his wife to sign agreements affecting the home, agreements affecting her interest in various business enterprises and so on. I think, without being condescending about it, that in the respect of many wives at least, many wives are inclined to take the advice of their husbands in commercial matters. It should not be so and perhaps it is not so in many cases but in many cases I believe that there is an implicit trust on the part of a wife with respect to the advice given to her by her husband on various matters. And if a husband draws up a contract or gets a lawyer to draw up a contract, which the act allows him to opt out of, and gets the wife to sign it, then you are going to see many cases, Mr. Speaker, where wives, perhaps naively, perhaps inadvertently deprive themselves of the benefit of this act. You are going to see where the provisions regarding matrimonial property and the division of it including business assets, for example, because even if she did make some contribution to the business asset and is therefore under the act with regard to an equal ownership or division of the business asset, how difficult would it be, in many cases, for a husband in the right circumstances to get his wife to apply her name, sign her name to an agreement which takes the business asset out of the operation of this act? Perhaps the reverse would be true as well. Perhaps a wife who is in business and the husband is not, may be able to get her husband to sign an agreement which does away with the benefit of this act. But I would submit, Sir, that in the vast majority of the cases we are talking about a situation where a husband who is out in business has the advantage over his wife, in many cases,

MR. W.N. ROWE: when it comes to this matter and would perhaps be in a position to get her to opt out of this agreement. I think it should be made difficult, certainly more difficult than this act presently provides for, I think it should be made difficult for a wife to deprive herself of the benefits of this act. And once more I submit to the Minister of Justice (Mr. T. A. Hickman), if he is listening, and to the House Leader (Mr. W. Marshall) and other members opposite, a provision whereby a husband would have to prove or show by evidence that when a wife agreed to opt out of this act that she did so in full possession of the facts. The other side of it should be proved as well, that if a wife got a husband to opt out of the act by agreement the husband or the wife, whoever got the other to opt out of the agreement, should have to prove, should have to show that the husband or the wife, particularly the wife, was in full possession of the facts and had independent advice, legal or accounting or some advice, at the time that she did so.

As I mentioned to the Minister of Justice earlier, where you have a situation where one person may have the ascendancy over the other, may have an advantage over another because of knowledge about a certain situation, legal knowledge, for example, or accounting knowledge, where you have that kind of situation, if a person involved with another person who has the advantage over the first person, if that person gets rid off his or her rights under an act then if it can be shown that the person who dealt with the person who got rid off his or her rights had some kind of power or control or advantage or ascendancy over the other person then in many cases, Mr. Speaker, in order for the person to take advantage of the agreement which gets rid of somebody's legal rights, that person has to show that the other person had independent advice, that he or she knew what he or she was doing and the full consequences of the agreement. And I think, Sir, we should put something like that in this act

MR. W. N. ROWE: so that we do not have a situation where what has been given by one hand can be taken away with the other hand because the person who is being dealt with may not realize the full consequences of her act or his act, but particularly her act, in opting out of this agreement. We should not make it easy for this agreement to be opted out of, we should make it a little more difficult. We should make sure that wives and husbands have the full benefit of this Act and that if they do opt out they recognize the full consequences, the full ramifications, that they realize what they are doing at the time that they are doing it. And I would say, Mr. Speaker, we should add to the bill to give it more clout, to give more protection to those who are supposed to be protected under the Act, we should add to it a need for somebody to have had independent advice when he or she signed his or her name to an agreement whereby they were deprived of the benefits of this Act, particularly as they relate to matrimonial property and the rights of a wife to an equal share of matrimonial property.

Mr. Speaker, there will probably be other things to be said about this bill when it goes through Committee prior to third reading. I do hope that some of the suggestions which have been thrown out here today will be taken into consideration by the government, not to detract from the principle of the bill, which is a good principle, but to do what I believe the bill sets out or intends to do, to protect husbands and wives with regard to matrimonial property and to make sure that they have the full benefit of the law, full protection, full security, And in respect of the matrimonial home, I think there needs to be a provision whereby title can reside in one of the spouses' names so that the other spouse who is involved in business can take it out of his or her personal assets and make sure that the matrimonial home, as far as the children in the family are concerned, is protected against the depredations of creditors or other people coming after the assets of one of the spouses.

Mr. Speaker, I support the bill. I hope that the government takes into consideration some of the positive

MR. W. N. ROWE: suggestions which I believe can only improve the bill and make it a much better law for the protection of married persons. Thank you, Sir.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: (Mr. Cross) The hon. the member for Menihek.

SOME HON. MEMBERS: Hear, hear!

MR. ROUSSEAU: Mr. Speaker, I would like to say a few words on this bill. I think in nine years in the House of Assembly there have been a number of bills that have been agreed to in principle and which I think are deserving of input from both sides of the House. I think this is a bill that should not in any way, shape or form be political in nature and that many of the comments that may be thrown out by members of the Opposition and members on this side of the House should certainly be taken into consideration. I think we have four or five learned gentlemen in the House who add much to it, but I think some people who are unlearned in the sense of unlearned in the law - although the learned men of the law also find themselves in the same practical position we find ourselves - may have something to offer. And I agree fully with the hon. the Leader of the Opposition that the bill is fine in principle. I certainly support in principle the bill. I recall two years or three years ago when the Status of Women Council came around to the various ministers and, I guess, the various members in the House of Assembly, that I had no hesitation whatsoever in giving my unqualified support to the concept of the principle of this bill. As a matter of fact, I was proud at the time that I had my home in both my wife's and my name. I listened with interest to the hon. the Leader of the Opposition (Mr. W.N. Rowe) today because I hope he would agree that not a lot of Newfoundlanders are in business and would consider the fact that the full ownership of the home may be prejudicial to the principle they are trying to establish. Certainly not as a businessman in my own right, as a teacher before I became a member of the House of Assembly, it would not occur to me that by

MR. ROUSSEAU: being restricted to one-half of the matrimonial home for both spouses that it could, in effect, be prejudicial to either of the spouses or to the children of the marriage. I think it is certainly a point that has to be considered and I think bears merit.

Another point that the hon. the Leader of the Opposition (Mr. W.N. Rowe) brings up and with which I concur is that it is unfortunate that the spouse, and as the hon. member relates in ninety-nine per cent of the cases we are talking about the wife, cannot own

MR. ROUSSEAU:

part of the assets of the business,

But I would like to throw out one possibility, Mr. Speaker. The hon. Leader of the Opposition used the example of a lawyer and his wife and I can see that possibility but there are other possibilities as well. Young people, a young male, for example, starts a business and in order for that business to grow, from what I understand of business, it is necessary in the early years to throw the money back into the business to build up the assets of the business. At the same time being a young couple it is possible that the wife may also work three, four or five years before they decide to have children. In other words, they want to get on their feet, and although the wife may not be contributing directly financially to the business, she is by working and getting a salary allowing the husband to throw back money into the business that will build the business. That may be indirectly and it may not be according to the law, in the sense that she has made a direct contribution to the business, but from a practical point of view that wife of the marriage certainly is contributing to the build-up of a business of that nature in my estimation. Of course, there has to be a point where you have to stop. The lawyer and the wife, maybe not. But again, if a young lawyer is out trying to establish a practice and he does not want to take the money out of the practice, to build the practice up the wife is working and the wife, by limiting the amount of money that the husband, the lawyer or whatever business the person may be in, puts into the House is, in effect, indirectly maybe, but is, in effect, and certainly practically, contributing to the business.

I would like to make a point on the children of the marriage and I do so not because it is the International Year of the Child, I think every year is the year of the child, but there are certain principles here that bother me and I would like to bring them to the floor of this House of Assembly. Now whether indeed, I am not a lawyer; I cannot read as the hon. the Leader of the Opposition, the hon. the House Leader and the hon. the Minister of Justice (Mr. Hickman) and the other

MR. ROUSSEAU: members of the learned profession in the House; I have to take it on what I can read and I certainly have some concern for the children of the marriage. I notice in Section 24(d) that any property forming part of the share of either or both spouses be transferred to or held in trust for a child to whom a spouse must provide support and in Section 13(ii)(b), I think, there is another reference that the court may only make an order for exclusive possession of the matrimonial home under sub-section 1 where in the opinion of the court it is to the best interest of the child to make such an order. There is another section I want to speak about in a minute.

I would want in support of this bill to ensure beyond any shadow of a doubt that the children of the marriage are provided for and I would assume that it is so done in this bill, but of even greater consequence, Mr. Speaker, in my opinion is this possibility. In Section 3 the question of domestic contracts, in which I fully agree with the Leader of the Opposition, you know some people may agree with it, others may not. It is there but some people may have reservations. Let me give a possible example, Mr. Speaker, that a separation occurs leading to a divorce and that there are one or more children to the marriage, and let us say, for example, that of the husband and the wife one or the other does not agree in the principle of cohabitation and let us say that a cohabitation contract and let us use - I am sorry - cohabitation -

MR. ROUSSEAU: contract is drawn up and let us use, for example, the wife because the wife in the greater majority of cases has possession of the children. So let us say the wife agrees on the principle of cohabitation and she has one or more children of the marriage; and let us say the husband who does not have possession of the children does not agree in principle, as a matter of moral or religious belief or just does not agree with the concept of cohabitation, what would happen to the rights of the husband, or it could be either spouse but I use the husband again because in the majority of cases I think that would be the case, but what right would the husband have if the wife signed a cohabitation contract and there were children of the previous marriage involved? Should not the husband have some right to say, "This is not satisfactory to me or that I know the person in the cohabitation contract and I am not satisfied that he would provide the right and proper home that I would want to see for my children"? Or that possibly one, if there is one, or more of the children may not want their parents to enter into cohabitation or the parent with whom they are living. I do not know whether that is covered, Mr. Speaker, in Section 38, that "The court may disregard any provision of a marriage contract, cohabitation agreement or separation agreement affecting a child where, in the opinion of the court, it is in the best interest of the child." I think hon. members of this House who have served in government from both sides of this House know what the best efforts and the best interest clause may mean. It is a very wide and very varied clause. You have seen many employers in this Province give undertakings of best efforts or best interest to employ Newfoundlanders or to use Newfoundland materials that have not done so.

I do not know, Mr. Speaker, again it is a matter of the lawyer's interpretation, the court's interpretation, but I certainly would not want to feel that the children of a marriage would be forced to enter into a cohabitation agreement and that the

MR. ROUSSEAU: other spouse in disagreement in principle with it, or from a religious or on moral grounds would not have some say in that. I would certainly appreciate it, and I am sorry he is not in his seat, but I am sure he will do so and maybe the House Leader when he speaks on the bill will assure that this point is not the way it could be, because I think, Mr. Speaker, that as good as the principle of the bill is and which I agree and support fully, that the thought to the children of the marriage be given in a clear and unequivocal manner so that there would be no problems arising as a result of Part III of the law.

I think that the bill itself is a unique one for this Province. I think it has been long in coming. I believe up to the time I was in government that many people had input into it. Again I say and I would assume that in the final analysis of the bill that government has given consideration to the thoughts of the various religious denominations in the Province, that while it may be a state in the legal term we are still certainly dependent on the views of our religious leaders in all walks of life, many who have differing opinions on differing subjects. Certainly I would hope that their views have been sought and I hope heeded. I think it is unfortunate that this bill had to come as a result of pressure from, well the Status of Women Council but I would assume from women in general, that it was not something that years before had not been at least thought about and given consideration to on a more positive basis.

MR. ROUSSEAU:

I would look with much interest on the reaction to the bill that the Status of Women Council and women across the Province have. I know that as with what was supposed to have been done and I would assume was done with the Labour Standards Bill, that some public information was put together and sent out to the various employees and employers in the Province, that once this bill becomes law that it will be put into layman's language so that a husband and a wife in Ochre Pit Cove or on the Port an Port Peninsula or the Coast of Labrador might be able to understand exactly what their rights are. It is one thing to say we have the law and it is another thing for the people who are involved for the most part, 80,90 per cent of them who have no idea looking at this piece of paper exactly what their rights are. I would certainly like to see some publication in laymen's terms being distributed to the householders of the Province. It has been done on other occasions. It certainly can be done on this occasion.

I repeat again, Mr. Speaker, that I would hope that the points brought out by all members of the House of Assembly regardless of which side, in respect to this, especially the lawyers, of course, who have more the job of safeguarding what the intent of the principle is, that every consideration will be given to the points made. And I certainly would like to have, especially, the point I raised in respect to the cohabitation and children concept explained satisfactorily, either when the hon. Minister of Justice (Mr. Hickman) or the hon. House Leader (Mr. Marshall) stand to speak on the bill or certainly in committee stage. So I fully support the concept of the bill. I listen with interest to the thoughts of my colleagues in the House of Assembly and to other points that may be raised that as a lawyer I am not able to understand until I hear them in layman's language, then I can go back and look and see it there, that what we are really trying to accomplish here is that we are trying to give women equal status with men in the law and that will come about because of this bill. And I hope, as the hon. the Leader of the Opposition (Mr. W. Rowe) mentioned, that this is not a sop, that it has some real meaning, I believe it does and I would hope--as we all are

MR. ROUSSEAU:

aware of in this House of Assembly, no bill that has ever been passed here has ever gone without amendment, that we start from a general base and then as we see the problems that arise because of the bill that we are able to amend them, that this will be an ongoing process in this concept which I think is one of the ones which-I can stand up in this House on very few occasions and say that I wholeheartedly and fully support without reservation and without concern or care for anybody else in the world except what I believe. I think it is a great principle. I would not like to see it degraded or bastardized in any way, shape or form. I think that we should go on the concept and go on it to the point where de jure in law, there is a natural equality between women and men in our society. Thank you very much, Mr. Speaker.

SOME HON. MEMBERS: Hear, hear!

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

MR. STRACHAN: Mr. Speaker, unlike the Leader of the Opposition I am not a learned gentleman in the legal sense although I must admit publicly and openly that I am learned in most aspects of marriage or non-marriage as it is stated in this bill here having cohabited for a number of years prior to marriage openly and publicly although in some cases - and with no shame. Therefore, some of the things which are stated here are very pertinent, some of the acts. My wife, I am sure, would give her eyetooth to be standing here arguing this bill and debating this bill rather than myself.

But I would like to tackle a number of problems as I see them in this bill. I support the bill. I think it is excellent legislation. I especially like the way the bill is layed out and the fairly simple language, the introduction. There are some of parts of it that I think

MR. I STRACHAN: not go far enough in trying to get to the stage of equality because, in essence, most marriages, as I see it in terms of equality of rights and so on are rather hypocritical, rather a hypocrisy in that men, in essence, many times do certain things in order to protect their interests rather than protect the interest of both.

The only point I can see that I am concerned about initially is, as was brought up by the Leader of the Opposition (Mr. W.N. Rowe), the matrimonial home. And from my point of view this is something which has given me a great deal of concern in the past. Because owning a business it is therefore a great concern to me that should the business go down the tube and become bankrupt then we have difficulty of how my half of the home, as is stated here, how that would be attached and how difficult it would be on my wife, for instance, or a family? Or if I go and there are debts, for instance, in the business, then will that be attached to my family? Will they be harmed in any way? I do not know the legal terms you use in these kinds of situations but I am concerned that the home that I have now and I share with my wife which belongs to both of us. Now in this term here, in this act here, legally all homes belong to both people which I believe should occur anyway. It now means how do we protect this home from business risks or business ventures be it on the part of my wife or myself? And I have often wondered that the turning over of a home, for instance, by myself totally to my wife or by my wife totally to myself is often a rather messy method of getting rid of certain responsibilities or protecting the family, I should say, protecting the family or protecting the home, but it is often done in such a way that this is the only time that a man would even consider in the past doing it. He certainly would not have considered doing it in any other context except to protect something that he feels he may lose. However he does it,

MR. I STRACHAN: the argument now comes, how can I protect the home in this situation so that should we go into bankruptcy it can not be attached or half of it can not be attached? I have often considered that one of the needs in business is that surely there should be some mechanism, not through turning over to another spouse the home or some other loophole, there should be some mechanism in business to protect that home for the family in the risk or in the case of a bankruptcy in the business or a business going down.

I feel that if the home is being built as a normal home and was not the cause of the obvious bankruptcy, because obviously someone can set up business to demand money to build a huge palace and then, of course, have it protected but in normal cases if the home is built out of normal proceedings from the business, then surely if that business goes down for any number of reasons, surely that home should be protected for the male, the female of the marriage and the children as well. Because I think to cause suffering by loss of the home because of a business loss then I think there is a certain danger there. I do not like that attitude. I would like to see some way in which we can protect in some form, in a reasonable fashion, obviously in a reasonable fashion - if a home is worth half a million dollars then obviously there is some concern as to where the money came from and did it cause the bankruptcy. But I do not see that our home, for instance, should be in case our business fails, I do not see that now we have put equality in it, and it is equal in our case anyway, but now we have put in equality of sharing here then there must be some other way in which - maybe it should be added here or in further legislation or discussion, and maybe the legal minds can come up with it, of trying to protect that home should that occur. Because I never felt that should a business go down the drain a

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MR. I. STRACHAN: family should be out in the street, thrown out in the street, either because the legislation now states it is an equal sharing or, in our case, because we share the home anyway. I think there should be some method of protection there.

So. I would like to put that in to support the point put forward on the business of the matrimonial home. As far as everything else is concerned there, I absolutely agree that the

MR. STRACHAN: spouse should have, absolutely should have, the right to 50 per cent, an equal sharing of the properties belonging to the matrimonial home and this is something that we have argued before and talked about and discussed and in my own relationship we have discussed a great deal, because I believe very strongly that that has to occur.

Another point I would like to bring up here and where I do not think it goes far enough and I cannot argue in legal terms; I can only obviously argue from my own experience and our own situation and our family situation, is in the business assets because I have a particular situation in which my wife, during our first two years of marriage, did almost 75 per cent of the work to create a business. Then three years later we decided to have a family, or four years later in other cases, we decided to have a family and the male takes over the business and the business becomes successful. Then it should be, as far as I am concerned, built into this here that a wife can get an equal sharing of that business not based on the amount of time she puts into it. If my wife works, for instance, for two years to help set up that business at no pay in the early years of the business when it was a real struggle, then why, when the business becomes successful down the road, allocate to her an amount based on the time that she put in in the early years? It is not, is not, as far as I am concerned, equality. That is certainly not equality to me and I think that this section, 26-27 section, does not go far enough in allowing the spouse, either spouse, enough sharing of the business asset in the case of a breaking up of a marriage, for instance, especially where they put in a great deal, as has been stated earlier, a great deal of time and which time can only be valued at a certain value which may be inconsequential or very small compared to the future success of that business. And if they have spent that considerable time then I feel that they should be able to share in the business assets in an equal fashion even though later on down the road, they came out of the business because of rearing a

MR. STRACHAN: family and the problems of time allocation in raising the family. I think that this is something that should be done. We have done it very simply in our case because my wife is a shareholder and holds a similar amount of shares as I do or very close to it. So, in essence, she will obviously gain her assets should a marriage break up. Then, of course, there is no argument here. But in most other cases the wives are not shareholders in business. Only in the case of a man wanting to use his wife's name as a matter of convenience does she become a shareholder. But I think that in this case here there should be some argument here to strengthen this section as far as I am concerned, because I would feel that a wife has a claim, has a very strong claim, and more than just a claim from the point of work or money or money's worth in respect of the business. She has in that business - there is only one other argument that I can see against it, should someone marry and he or she has a business, a very successful business at the time, marry someone, then, of course, the argument is that they cannot opt out, but I think that as it was stated earlier on if there is opting out and if the person says, "Look I am bringing into this marriage myself and a salary but I am not bringing my business into it and you have therefore no right to any part of the business", then I think if that is going to be allowed it should be clearly spelled out. There should be clear instructions given to the spouses on that aspect of it and this would probably have to be introduced because I could see some people getting very uptight about this arrangement that should someone marry someone else in successful businesses I can now claim half of that business and they will obviously argue.

There is the other argument, of course, that I put forward where the wife or the husband has contributed to that business, in building up that business, then surely by having to remove oneself on a time aspect because of rearing children or various other things or, for instance, in my case by being in politics, I have taken myself away from my business and my wife has therefore had to do more of the business than would be normal and certainly more of the

MR. I. STRACHAN: business than I do, and so she, therefore, could claim that because I am out of the business, away from the business, I should, therefore, only in this case of business be allowed my certain amount of time that I would dedicate to my business. And I think that is totally wrong; there should be some form of equal sharing as far as I am concerned in these types of business arrangements and assets.

There was, of course, the argument in the West, over in Alberta I believe - I cannot remember the details of it, getting no daily newspapers in Nain, I only heard it on the radio - about the argument in which the wife of a farmer in the Prairies somewhere who had contributed a great deal to that marriage, a great deal of work to that farm in making it a successful farm, of course, and later being separated and I think divorced, but separated certainly, could not claim part of that farm and her part in it. And I think that is totally wrong. I believe that this bill should strengthen up that side there so that we can see some strengthening in it.

There has been one question here that may cause some problem for other people and obviously I had to consider it very carefully. People are often very shy about talking about the part of cohabitation agreements. But since as I said earlier, I quite openly and publicly cohabited with my wife prior to marriage for a number of years, it was one of our concerns in that situation because we built a house together, because we built that home, then how could I have an agreement that should I die, or should we split up prior, or decide not to get married and go different ways, or whatever we wanted to do - how could we form an agreement in which she could have her share and I could have a share of that home. I think that as far as I am concerned on that clause there this cohabitation agreement is an excellent agreement because it does allow people who wish - as I understand it people who may wish to enter into that kind of agreement, it now allows them under this Act the protection of law to do these kinds of things. I think, on this side of it, we have

MR. I. STRACHAN: to realize that we are living in 1979, that there are certain facts of life that we have to face, that living together, cohabiting prior to marriage is occurring. It is happening. It is becoming more and more acceptable and there are certain problems associated with it which are of real concern both to the male or female in situations like this. As I said, we lived and built a house together before we got married, prior to children and prior to my entering politics for that matter. But I think there is a real concern that should the two who are cohabiting contribute finances, money, time, or effort into a matrimonial home or into a business for that matter, although it can be taken care of in certain arguments - that if they contribute therefore there must be sharing. There has to be in law an ability to come to an agreement. What I see here is an agreement which may be entered.

I heard earlier arguments because one considers the fact that many of the religious societies, churches and so on, and other people may feel that what we are doing here is condoning arrangements outside of marriage. But I think that regardless of it what we are stating here quite clearly is not that we are condoning but we are providing an opportunity in law for an agreement to be reached between two people living together so that they can come to some agreement on the sharing of responsibilities, the sharing of their rights, and the sharing of property. I think that has to occur in this day and age and I agree with it. I know certainly that many other people will agree with it. There may be certain aspects of it which certain societies, or religious groups and so on may object to because it does look as though in law we are, in effect, condoning two people living together outside of marriage. But as I have stated whether we agree to it or not it occurs. I did it happily and blissfully for three and a half years, four years prior to marriage, and without any shame whatsoever. I would not say that I advocate it as a principle for everyone else but I certainly think that many other other marriages may be better from

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MR. I. STRACHAN:

that kind of experience, they may last longer and certainly the aspect of taking on children and so on into marriage may come from a more mature responsibility than it would be from earlier just getting into marriage. However, that is other

MR. STRACHAN:

people's point of view. I think that this cohabitation agreement is excellent. I have no argument whatsoever about it. I think as I said, it does solve some of the problems of sharing of responsibilities, sharing of rights, sharing of homes, sharing of cars, sharing of other things in which two people living together have contributed a certain amount and this can be spelled out in this cohabitation agreement.

Some people may feel it is offensive and if so, of course, that would be their own aspect, it is offensive, they may feel that way. My only argument is that it is a fact of life and I think that also we have got to get to the point where if we are going to talk about equality then we have really got to talk about equality and not hide behind any form of hypocrisy in which we, as men, end up being the supreme, the ascendant. We have said it all. And as I said earlier on this is my argument about, for instance, the matrimonial home or the argument that we put into our spouse's name our homes and various other things in order to protect ourselves, things which we would not normally do in other situations because of our situation, of our maleness, our egotism and so on in which we would not normally do it but we only do it as a matter of convenience.

I think that this legislation here as far as I am concerned, is excellent. I would like to see parts of it strengthened. I would like to have some discussion on the matrimonial home, an explanation from the lawyers or other people, exactly how one can protect the home now that this kind of loophole in the past, if it is not a loophole, certainly a way of putting the home over to the spouse should a business fail and protecting the home since this form of protection nasty and bad as it was, inasmuch as it transferred to the spouse and generally the wife the rights to the home only in this case. There should be some way of protecting that home from a business risk and from bankruptcy so that the family is protected. I think that there should be some form of this because it does remove, as I understand, the normal method now, it does remove

MR. STRACHAN:

the ability to do that and protect the family.

I would like to commend the member for Menihek (Mr. Rousseau) in expressing the fact that when this becomes law, I think, that it should be translated into very simple and untechnical language and I think that it should be distributed to every home and in many places so that many people, and additionally too, I think, a fair bit of publicity to it so that people will, instead of taking it as another householder or something else and throwing it in the garbage, will examine it very closely and see exactly what their rights are. Because we will see many cases where people will not know about it. It is only the educated, highly educated or people in the know or people who are travelling and certainly, for instance, in Labrador, there are many people there who would not realize that they have these rights and that these rights are now covered in law and that they therefore have an equality, that we are getting there. I still say, I do not think my wife would agree we are all the way there but certainly we are getting there towards what should be a real equality. I support the principle of the bill and hope that during the readings and so on, when we go through the clause by clause, we can have some explanation of parts of the bill and that some of the points that have been brought up here can be entertained.

I think that everyone who is interested should talk on it, not only lawyers. I think that other people have a right to discuss it. Obviously some people's views will be very different from other peoples. But I think it is an excellent piece of legislation long overdue and I am sure that on behalf of my wife and myself we welcome it.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER (CROSS): The hon. Minister of Social Services.

SOME HON. MEMBERS: Hear, hear!

MR. HICKEY: Mr. Speaker, I want to add a few comments to the debate on this bill. There are a couple of areas which are of concern to

MR. HICKEY:

me especially in the department that I find myself in at the moment.
One is, of course, with regards to the very question that my hon.
friend who just sat down addressed himself, namely the matrimonial
home. For the longest time the need for this kind of legislation has
certainly been evident and evident

MR. HICKEY:

for a number of reasons.

Probably the most striking of those reasons, Mr. Speaker, is to be found in a department such as mine where the real effects of separation, or indeed, in some instances divorce, come home to one when they see in real terms where the family, family in most instances being a wife and any number of children, are left for the most part to fend for themselves, and if there is a division of property, as in the case of the home, many homes, of course, which have large mortgages on them, where that division comes in, the party and as I said in most instances the wife, in some instances the husband, are left with a situation where they have four or five children.

Shortly, very shortly, after the matters are settled with regard to the property, the family find themselves at the mercy of the state, at the mercy of the Department of Social Services who have to provide things which are as basic indeed, as even shelter. It is my opinion, Mr. Speaker, in this day and age that that is a sad state of affairs.

I agree with my friend who mentioned that when this legislation becomes law it should be widely circulated and I think it is not enough for the government to bring in a measure such as this if we are going to depend on accident to make our people aware of the provisions of such a law. In other words, if this law when proclaimed is not widely known by our people then certainly there can be many instances where the benefits and protection that such a law provides do not accrue to the people who indeed deserve that protection and in many instances are in need of it. So I think there should be some public relations done. There should be an education program acquainting the public with the contents of this legislation, with the provisions and especially certain provisions critical to the continuation of, as I said, the very basics in life, such as shelter, in terms of a home.

MR. HICKEY: I would like the minister when he closes the debate to address himself to one area of concern and I am not sure as I read through the legislation, not sure exactly as to whether this kind of protection is there or whether there is sufficient protection there in terms of the matrimonial home. As I said earlier, many people find themselves in the situation where although there is a home there is a fairly heavy mortgage on that home. Through separation or divorce, it is decided or mutually agreed even that that home be sold, both parties probably end up with very little by way of equity in the home and the partner, in the most instances being the wife, who cares for the children and who is going to continue caring for the children finds herself in a situation where very shortly if not immediately, she has to go to the Department of Social Services to find accommodations. To my mind, Mr. Speaker, it makes little sense to have some protection and not really go far enough. It would seem to me that it is only fair that if there is a home, jointly owned or otherwise, and a marriage breaks up and there are children from that marriage certainly provisions should be made to safeguard against the neglect or so-called neglect of those children. If a child is neglected we use a certain law to apprehend that child,

MR. HICKEY:

take him or her into custody. Very often, not as often I suppose, as maybe sometimes we should, we take the parents to court, charge them with neglect. Mr. Speaker, there are many forms of neglect, not always children that are beaten or abused. Indeed there is a subtle form of neglect when the home in which children reside is sold from under their feet, so to speak, just because two people who may be thinking in their wisdom that the way out of their dilemma is to force a sale of a piece of property having little or no regard for the children that they have brought into the world. Indeed the matrimonial home to my mind is not just a place where a wife or a husband whichever one chooses to live, resides, I think a matrimonial home for the most part, as this legislation states, is where the family resides.

Now, Mr. Speaker, that family continues to exist, I suggest, after a marriage breakdown and separation or divorce wherein those children are cared for and must be cared for by one of the spouses and usually the mother. I suggest, Your Honour, that that family then for the most part consists of that mother and children and I suggest that the matrimonial home therefore should always, for as long as those children are underage, be vested in the person caring for those children or charged with or the person who has custody of those children.

The legislation says that a home or a piece of property can be designated by mutual consent as the matrimonial home. Well that is fine Your Honour and I am sure that people when they become well acquainted with this law would see to it that that kind of situation existed and that kind of protection was put in place for the benefit of the family. But I think we have to ask ourselves the question, "Is that enough? If when that marriage breaks down those two same people who designated a particular spot as the matrimonial home now choose to sell it - for after all if there are four or five or six children what equity one gets out of a home, if there is insufficient income to pay for another one, what is it worth?

MR. HICKEY:

If a wife for example in the division of a home were to get, say, \$10,000 as her share, supposing there was \$20,000 equity in a particular house and it was to be sold and under law divided equally giving the wife or the mother of the children who has custody of them \$10,000, how does \$10,000 get a woman who has five or six children to care for and support into a new home or another home with a mortgage to pay? How difficult is it? I suggest, Your Honour, that it is very, very difficult. What is even more critical is that it is even more difficult for her to continue to make a mortgage payment at today's rates having put that kind of equity into a house.

So I would like the minister to address himself to this area. He can probably go into some more detail certainly than I am aware of, wherein there is provision in the act that a court may deem it fit or necessary or appropriate to see to it that the matrimonial home stays and is the property to be occupied by the mother, the wife or the person who has custody of the children. That is not to deny the other

MR. HICKEY: spouse or the other partner his or her share of that home. All I am saying, Your Honour, is that it is far easier in my mind to see that the other party's share of the home is provided to that person by a sort of purchase or a buying out by the other partner as opposed to putting the home up for sale and letting anyone from the community purchase it where neither one of the partners have it.

We, in my department, have a very serious problem with regards to this particular area and it might be interesting, Mr. Speaker, to inform hon. members that the number of people today who are having their rent paid and who are being provided for by the Department of Social Services as a result of marriage breakdown is unbelievable. No wonder this government moves to bring in this kind of legislation. It is nothing short, Mr. Speaker, of shame, of criminal, some of the situations which exist and sometimes one wonders, indeed, whether there is justice throughout this Province or indeed what kind. ~~Because~~ some of the decisions, that are reflected in cases where there has been marriage breakdown or divorce, have left one of the partners with four or five or six children with very little to support that family. The end result, of course, is that family ends up on the payroll of the Department of Social Services. I believe it is only fair that a wife who finds herself in a situation such as this share equally in the property that was acquired prior to the breakdown in marriage and certainly and most important of all, Mr. Speaker, the issue of the home is critical because that, as I said earlier, is a very basic thing to that family and I think it should be protected.

There is also the question of the husband, I suppose, who enters into an arrangement and maybe the minister can comment on this when he closes the debate as well, the husband, Mr. Speaker, who enters into a separation agreement and

MR. HICKEY: agrees to pay so much money to the family and then decides to head for greener pastures, greener pastures being, Mr. Speaker, outside the Province. It might shock hon. members if they were told that there are such people in the world who forget they bring children into the world and who forget very quickly apparently, when they are out of sight. The old adage of "out of sight, out of mind" seems to apply and again, Mr. Speaker, if one wants some evidence of this, of course, they will find it in an abundance in the Department of Social Services.

So for obvious reasons, Mr. Speaker, I have an interest in this bill and I am delighted to see that my colleague has brought it forward, a very forward piece of legislation, a great social reform, another social reform and certainly he is to be commended for it. I know that the Opposition has teased him from time to time as to why it was not brought in before but I am sure that now it is here they can see that such a thorough job has been done on it it has not been done overnight. It has taken a lot of time and certainly he is to be commended for it. I would also like for him to address himself to the points that I raised when he closes the debate.

SOME HON. MEMBERS: Hear, hear!

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MR. SPEAKER:(Otteneimer)

Is the House ready for the question?

MR. LUSH:

No, Mr. Speaker

Mr. Speaker:

Hon. member for Terra Nova.

MR. T. LUSH:

Mr. Speaker, I want to -

MR. W. N. ROWE:

Adjourn the debate.

MR. W. MARSHALL:

If the hon. member wishes he can take

it up tomorrow.

MR. T. LUSH:

All right then. That is fine, Mr.

Speaker, I will adjourn the debate.

MR. SPEAKER:

The hon. member has moved the adjournment

of the debate?

MR. W. MARSHALL:

Mr. Speaker, I move the House at its

rising do adjourn until tomorrow, Tuesday, at 3 o'clock, and that this

House be now adjourned.

On motion, the House at its rising

adjourned until tomorrow, Tuesday, May 15, 1979 at 3 P.M.