

PRELIMINARY  
UNEDITED  
TRANSCRIPT

HOUSE OF ASSEMBLY

FOR THE PERIOD:

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

THURSDAY, NOVEMBER 22, 1979

The House met at 3:00 P.M.

Mr. Speaker in the Chair.

MR. SPEAKER: (Simms)

Order, please!

STATEMENTS BY MINISTERS

MR. SPEAKER:

The hon. Minister of Education.

MS VERGE:

Mr. Speaker, I have a statement about school construction funding. At the present there appears to be a great deal of public concern about the inadequacy of school buildings in a number of Newfoundland communities. In recent weeks, I have received numerous submissions from both individuals and groups, all requesting new or improved educational facilities for their children.

I would like at this time, Mr. Speaker, to make it clear that under our denominational system of education, which is a partnership between the government and the recognized churches, the Department of Education does not make decisions on the distribution of building grants to school boards or on where new schools are going to be built. Under this partnership, the government apportions capital grants among church authorities on a per capita basis. These grants are distributed by the church authorities, or their denominational education committees, to their school boards and they (denominational committees and school boards) decide precisely which schools are going to be built in any given year. The government's other involvement in this procedure is simply to approve architectural plans to ensure that they meet all building codes and minimum educational requirements.

This year the government voted \$17,200,000, an increase of \$500,000 over last year, for school construction and it has committed this amount to the churches for the next seven years. This means that we will be providing, including this year, \$138,000,000 to the denominational committees for school construction over the next eight years.

Under normal circumstances this amount would be sufficient for the denominational committees to amortize their

MS VERGE: debts on existing buildings and to construct several million dollars worth of new buildings each year. The difficulty arises, however, in that interest rates have increased almost seven per cent in the last two years, and three percentage points in the last several months. This means that in some cases existing grants are barely enough to pay the debts on schools already built.

I am very pleased to announce, Mr. Speaker, that the government, recognizing this problem, has agreed to provide additional funding to the denominational committees to enable them to undertake approximately \$12,000,000 worth of capital projects that are critically needed at this time.

SOME HON. MEMBERS:

Hear, hear!

MS VERGE:

These committees will be authorized to borrow this amount and appropriate increases will be made in future grants to enable them to amortize the debt.

I would also like to inform hon.

members that senior officials from government have been meeting with representatives from the denominational education committees in an attempt to develop an alternate arrangement for the long-term financing of school construction in the Province. I am hoping that these officials will be able to submit a proposal to government later in the Winter.

In conclusion, Mr. Speaker, may I say that we have built in excess of \$200 million worth of new schools in this Province in the last ten years. In spite of this enormous effort, there is still an urgent need to improve school facilities in a number of areas. It is our intention to do everything within our power to provide the necessary resources to church authorities and school boards to permit them to meet this need within the next five years.

Thank you.

SOME HON. MEMBERS:

Hear, hear!

MR. SPEAKER: (Simms).

The hon. the member for Fogo.

MR. TULK:

Mr. Speaker, in the absence of my friend from Port au Port (Mr. Hodder), I would like to respond to the minister's announcement and say that for me, personally, as I am sure, for other people in Newfoundland, this comes as a welcome surprise.

As the minister says, the D.E.C. in conjunction with boards does decide where funds will be spent, and in that light I welcome this on behalf of most school boards in Newfoundland who do have critical problems. We welcome the \$12 million. But I wonder, Mr. Speaker, if the minister has any indication of when we will know what schools are going to be built? Can she also give us a breakdown of what the various committees will receive?

Thank you, Mr. Speaker.

SOME HON. MEMBERS:

Hear, hear!

MR. SPEAKER: (Sirms)

The hon. the Minister of Education.

MS VERGE:

Mr. Speaker, it would not be proper for me to anticipate the priorities which the denominational education committees will assign to the spending of these new funds. What this decision amounts to is authorization for the church committees to proceed with the planning and construction of \$12 million worth of schools and this will be broken down among the three denominational committees on a per capita basis.

Mr. Speaker, at this time, the amounts to actually be paid to the committees are not known. This will depend on the long-term financing arrangements which are worked out by the committee which is now looking at that important question.

MR. SPEAKER: (Mr. Simms) The hon. Minister of health.

MR. W. HOUSE: Mr. Speaker, we had a question yesterday regarding the insulation programme and also there has been a public affairs programme that made reference to it and, of course, some extra calls and I thought perhaps the best thing to do would be to make a statement on the matter.

In recent days, there has been considerable publicity relating to a potential problem with one of the types of insulation processes used in Canada and the United States.

The specific process involved is an injectable foam type insulation and it is the formaldehyde foam which is injected in the walls of the house by some force. In the process of this, it is not uncommon for an odor to be present in the house and apparently there is some potential for ongoing leakage from the foam which tends to be more likely to occur at high temperatures and the result, of course, being a formaldehyde odor that can be a very significant nuisance.

~~I might note that the type of~~  
insulation is acceptable to the federal government under the CHIP programme - the Canadian Home Insulation Programme. It is recommended for use in walls only and not recommended for ceilings, and the material, as I said, is widely used in Canada and the United States.

We have discussed the situation with officials of the Health Protection Branch of Health and Welfare Canada. They advise that in spite of the widespread use across Canada, the Protection Branch has received no complaints or expressions of concern from health agencies or from individual consumers regarding the material. However, the minister, we mentioned this yesterday, the Minister of Health and Welfare, the hon. David Crombie, has indicated that his department will be further investigating the story that came by the public affairs programme and will be investigating where

MR. W. HOUSE: there may be a potential for health hazard. In this regard, he has invited citizens who have had health problems which may be attributable to that odor to contact him directly and obviously I would be pleased to receive such letters and pass them on to the minister's department.

In summary, I would like to reassure the many individuals in the Province that we have had this insulation for a long time. There is a slight odor, normally it disappears quickly, generally speaking there is no health hazard as far as we can detect it at this point in time. If individuals do have any symptoms which they attribute to it, they should contact their family physician or the department and we will see that it is forwarded to the federal health minister.

MR. SPEAKER: The hon. member for Bonavista North.

MR. L. STIRLING: Thank you, Mr. Speaker, I wish we had that information yesterday, There would be no need for me to take the action that you suggested I need to take which was to get it on the Late Show.

MR. L. STIRLING: Even in the information that the minister gives, it is not precise enough for a lot of people. This exact product is now being used, the description of the product that he is talking about is now being used in the district of Bonavista North, and if the federal Minister of Health still has a concern, I think the Minister of Health needs to give a bit more information than he has. For example it says that if somebody has any problem that he thinks might have been caused by the odor, he should get in touch with his doctor. Now I think that the minister could provide a bit more information in describing some of the appearances that this might have. Does it affect people who have asthma? Is it a product that you only get the problem with if heated up to what temperature? Are you talking about normal Summer temperatures? And what are the symptoms of the disease that, say, the federal minister is concerned about? I think that the information that anybody who feels that he may have something wrong with him should go see his doctor if he thinks it may be caused by this, and if it is caused by this get in touch.

My concern, Mr. Speaker, is that the Minister of Health should have had this information out immediately after the problem was recognized by the federal people and also that is not precise enough right now.

MR. SPEAKER (SIMMS): Order, please! Order, please!

MR. W. MARSHALL: I was just rising on a point of order, Mr. Speaker,

MR. SPEAKER: I was about to interrupt the hon. member and if you will allow me to do that, perhaps the hon. President if he wishes may raise his point of order. I was going to point out to the hon. member for Bonavista North (Mr. Stirling) the time allotted after ministerial statements is generally meant for comments, clarification, brief questions and not for debate. I fear the hon. member may be entering a little bit into the area of debate. So if you have some points of clarification or comments you would like to make, I think that is what the time is allotted for.

MR. SPEAKER: (SIMMS) Does the hon. member for Bonavista North wish to continue?

MR. STIRLING: Thank you very much, Mr. Speaker. I thought that was what I was doing. Let me be specific. What is the product? Does it have a brand name? How many brand names are in use in Newfoundland? What is the situation for people who have already completed the insulation? What should they do if they have put the insulation in the ceilings where it is not recommended? What kind of symptoms are related to the diseases or the side effects that the minister refers to? What kind of information should they take? What kind of action should they take? When should they take it and what should they do if they still have other questions?

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER (Simms): The hon. Minister of Health.

MR. HOUSE: Mr. Speaker, that is quite a number of questions and I am not going to respond to all of them. I think what I did say is that the Health Protection Branch had not received any complaints. The Health Protection Branch had not received any complaints, that the minister had been asked a question as a result of a programme that had been done by CBC, I think, a public affairs programme, and he said that he would be glad to receive any complaints that people had about the product and invited people to write to him, and I just extended that on. What our people have said in their investigation is that as it stands today, generally, there is no health hazard. Presumably because the federal minister is investigating or having an investigation done, we will be keeping in contact with them and of course we will be giving the information as we get it.

MR. SPEAKER: Order, please! First of all, I am sure hon. members would like to welcome to the gallery today the Member of Parliament for Bonavista-Trinity-Conception

MR. D. ROOPE,

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: With respect to the matter which was raised yesterday near the end of the debate on Private Member's Day, I would like to first of all point out that a Speaker does not or cannot decide questions of order in anticipation. Yesterday, however, a point of order was raised in relation to the right of a member to speak after yielding to another member. Yesterday's situation was resolved, of course, when the member who yielded was given leave by the House to rise again and speak. It is appropriate at this point to say a few words of clarification on yielding. And looking through the precedents of this hon. House, there appears to be accepted practice on two types of yielding. There is the situation where a member is recognized by the Chair, stands, but right away indicates he is willing to yield to another member. In this situation it is clear that the member yields his complete turn to speak. He has not spoken

MR. SPEAKER (Simms): at all to the question and therefore does not lose his right to speak on that question at a later time.

The second type of situation for which there is a precedent, is the situation where a member is speaking to a question but allows another member to interrupt him with some information or an answer to a question. The former Speaker ruled on this situation, the reference is Hansard, March 10th., 1978, and the quote, he said, "When an hon. member is speaking he has the right to speak without anyone else interrupting. He asks questions of other members. Number one, they are not obviously required to answer and, number two, they may not answer unless and until the original speaker yields. Then of course another difficult point comes in: after yielding a while, a person who has yielded decides that he has heard as much as he wishes to, and when he then insists on his right to speak again I do not think the Chair has any choice but to give it to him."

Now, obviously there are differences in the time taken by members speaking before he

MR. SPEAKER (SIMMS): yields, and going by the precedents in this House it appears that once a member starts speaking to the question he has the right to yield to another member, but also the right to call on his right to speak any time during his time to speak as determined by the Standing Orders. And once the member's time has expired and he has spoken to the question, either with or without having yielded part of that time, he may not, subject to Standing Order (53), speak twice to a question.

Now just a few comments in relation to the person to whom the original speaker yields. The first situation I described, where a member immediately after being recognized by the Chair yields to a member, the member yielding merely delays his turn to speak. The member to whom he yielded, once recognized by the Chair, speaks to the question in accordance with the Standing Orders and has the full time allowed to him.

In the second situation, where the yield is to a member who offers information or an answer, the member yielded to is speaking at the discretion of the original speaker. The member yielded to in answering the question does not lose his right to speak later to that question. When he later stands and is recognized by the Chair, he speaks then in accordance with the Standing Orders and has the full time allowed to him by the Standing Orders.

I make these general comments recognizing that circumstances will arise that do not fall exactly into one type of yielding situation described before, or exactly into the other described situation. I cannot rule on hypothetical questions, but when a situation arises I will have in mind these comments that I have made today. It is important, I believe, for hon. members to recognize the effects of their manner of yielding.

Once a member starts speaking to a question, he is exercising his right to speak. And under the practice

MR. SPEAKER (SIMMS): in the House, if a member wishes to yield his turn to speak he cannot have started to speak to the question. If he has spoken, he will forfeit whatever time he yields.

ORAL QUESTIONS

MR. SPEAKER: The hon. member for Terra Nova.

MR. T. LUSH: Mr. Speaker, I have a question for the Minister of Labour and Manpower (Mr. Dinn). Questioned in Committee in Ottawa some weeks ago prior to his trip to this Province, the hon. Ron Atkey, Minister of Employment and Immigration, stated that the purpose of his visit to this Province was to discuss or announce with Provincial Government officials a specific Federal Government job creation programme for this Province. My understanding was that the minister merely announced, in vague terms, the Federal Government's overall employment strategy for the nation as a whole. And my question to the minister is, did the Federal Minister indeed discuss with him or with other government officials any specific job creation programme for this Province? If so, can the minister provide hon. members with some details or some specifics of this special job creation programme. When will it be set in motion? When can we expect this special job creation programme to be set up? This Winter, this Spring, or over the next couple of months?

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

MR. DINN: Yes, Mr. Speaker, I welcome the question from the hon. member. Actually the question was answered about a week and a half or two weeks ago when the hon. minister was here and I was asked a similar question by one of the hon. members opposite. So I welcome the hon. member back to the House of Assembly and say that there were many specific ideas put forward by the hon. the Minister of Employment and Immigration when he was here. One of the conditions of informing the provincial government discussing some of the changes that may be made in those programmes so that they would be more in line with what we were planning here in Newfoundland ourselves, one of the conditions was that we not discuss the specifics of the programme, although they were announced to me, that we not discuss the specifics of the programme until the budget came down and then we were at liberty to discuss the different and various aspects involved in the programmes that were announced - not programme but programmes.

MR. LUSH: A supplementary.

MR. SPEAKER: A supplementary. The hon. the member for Terra Nova.

MR. LUSH: The minister was not clear in his answer. The answer I am seeking from the minister is, is there a specific job creation programme for Newfoundland, for this Province as differentiated from that for other parts of Canada?

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

MR. DINN: Mr. Speaker, obviously if the hon. member listened very carefully he would understand what I am attempting to say and that is that we discussed specific programmes, programmes that would fit in very nicely here in Newfoundland. The condition was that (a) we want consultation, but (b) we are not to announce these programmes until they are

MR. DINN: announced federally and they are going to be announced in the budget, they are going to be specified more clearly when the Minister of Employment and Immigration puts his estimates through the House. So having given the hon. minister that condition, obviously I cannot say in specific terms what projects or what employment strategy we have in mind, nor can I very well call other provincial Ministers of Manpower and Immigration, or Manpower and Employment, or Manpower and Labour, as their various names go across the country, to compare programmes. So I really do not know if the programmes he is telling me, which fit in very nicely here in Newfoundland and Labrador, are exactly the same as are being offered in other provinces. But I will be able to do that when they are announced in the budget which will be forthcoming.

MR. SPEAKER: A supplementary. The hon. the member for Terra Nova.

MR. LUSH: With the federal government's announced decision to drop Canada Works from its employment strategy, has the minister enquired into what will happen to the 115 employees in this Province who work solely with the Canada Works Division? Will these employees be laid

MR. LUSH: off, or will they be absorbed into some other division of the federal government? Has the minister inquired into the future status of these employees?

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

MR. DINN: Mr. Speaker, in consultation with the federal minister - and hopefully this consultation will go on until we get to a final conclusion as to what all the programmes are that we will be involved in here in Newfoundland - as a result of some of that consultation, we get our Canada Works increased this year from \$17.2 million to \$19.4 million, and it looks as though, as a result of the programmes announced to me by the federal Minister of Employment and Immigration (Hon. Ronald Atkey), that we will be involved even more next year than we were this year. They will not be Canada Works type jobs but we have programmes that will be co-ordinated through various departments in this government, through Employment and Immigration in Ottawa, and it is my opinion that we will come out on the better end of the scale.

~~There are programmes with respect to~~  
different areas of the Province, high unemployment areas, and of course, we will qualify for those. We will not qualify in a couple of years time because we intend that we will not have a very large unemployment problem at that time.

SOME HON. MEMBERS: Hear, hear!

MR. LUSH: Mr. Speaker, a supplementary.

MR. SPEAKER: (Simms) A final supplementary, the hon. the member for Terra Nova.

MR. LUSH: Again, Sir, the Chairman of the Public Service Commission speaking in Committee in Ottawa, stated that as a result of federal government belt tightening over the next few months, within the federal service in particular, resulting in lay offs, cutbacks, freezes and the like, that this Province could expect to lose upwards of 600 jobs within the federal public service.

MR. LUSH: My question to the minister is, Do these figures correlate with any studies or any inquiries that he has initiated in this area? And if so, how these cutbacks and lay offs and figures, etc., will affect unemployment and what departments or divisions of governments will be affected, and, very generally, how this will affect the level of service or the quality of service offered to the people of this Province?

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

MR. DINN: Mr. Speaker, from ongoing consultation with the federal minister in Ottawa and all the other federal ministers who have come to this Province since May and June, we do not anticipate that there will be any increase in unemployment in this Province as a result of cutbacks in the federal public service. We have just opened a new Northeast Atlantic Fisheries Environmental Centre down in the great district of Pleasantville, we will be opening a new data centre in Western St. John's, and we anticipate that the employment figure will increase as a result of those and many, many other projects that will be included in the coming year.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: (Simms)

The hon. member for LaPoile.

MR. NEARY:

Mr. Speaker, I would like to ask the Minister of Public Works (Mr. Young) a couple of questions about Mount Scio House. We have not heard very much about it lately. Is the Premier now comfortably situated in Mount Scio House? Would the hon. gentleman tell us the renovations that were necessary in order to set up Mount Scio House as the Premier's residence and how much did it cost the taxpayers of this Province?

MR. SPEAKER:

The hon. Minister of Public Works.

MR. YOUNG:

Mr. Speaker, the Premier has moved into Mount Scio House. I could not answer if it is comfortable, but the Premier could answer that himself.

MR. NEARY:

Number two question, Sir.

MR. SPEAKER:

A supplementary. The hon. member for LaPoile.

MR. NEARY:

How much did it cost the taxpayers? What was involved in renovating Mount Scio House and what kind of services are now being provided to the official residence of the Premier, which is the only one in Canada, I believe?

MR. SPEAKER:

The hon. Minister of Public Works.

MR. YOUNG:

Mr. Speaker, as stated previously by the Premier, all that information will be tabled when it is finalized.

MR. NEARY:

A supplementary.

MR. SPEAKER:

A final supplementary.

MR. NEARY:

Would the hon. gentleman tell the House if Mount Scio House has been transferred from the university to the Department of Public Works and, if so, what rent will be charged the Premier? Will it be an nominal fee or will it be the same rent, I believe \$650 a month, that was paid by the former Premier of the Province? The minister should know what rent is being charged for Mount Scio House.

MR. SPEAKER:

The hon. Minister of Public Works.

MR. YOUNG:

I will take notice of that, Mr. Speaker.

MR. SPEAKER: (Simms)

The hon. member for Eagle River.

MR. HISCOCK:

I would like to direct my question to Madam Minister of Consumer Affairs & Environment. I had the privilege of being down in the community of Gaultois in the district of Fortune-Hermitage.

AN HON. MEMBER:

What were you doing down there?

MR. HISCOCK:

Well, in actual fact, what I was doing down there, I was visiting a lot of friends whom I had made acquaintance with while I was in university.

MR. STIRLING:

It turned out very well, too.

MR. HISCOCK:

The question that I was asked while I was down there to bring up to the House is that basically Newfoundland and Labrador Hydro has closed two wells down there because of the possible pollution and in this regard they are paying a man to bring water for these two people, only one turn a day instead, basically, of - I do not know what they do on laundry days. But in that question, the men that were working on this clean-up and looking into it and closed the wells said that there was a PCB. I would like to ask the minister if she knows anything of this and, if she does not, would she look into the possibility of what chemical it is and why these wells are closed and what further action is going to be taken before the frost comes in to the ground?

MR. SPEAKER (SIMMS): The hon. Minister of Consumer Affairs and Environment.

MRS. NEWHOOK: Yes, Mr. Speaker, we did get a report of this spill in our department. It was reported by the Federal Environmental people. It was indicated that it might be a PCB spill, and samples of the water were taken and sent away for testing. And I am sorry I have not had a report on that testing, but I do know that the wells were closed and will remain closed until the tests come back.

MR. HISCOCK: A supplementary.

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

MR. HISCOCK: Also in that regard, there was an announcement made today by the federal regional environment programme that, because of the PCB clean up in Hopedale and Cartwright, it puts a strain on their budget. And in this regard, I am rather concerned at that, if a PCB regional programme has to strain financially, where does that leave us or the Department of Environment in case of oil spill? What financial situation is the Department of Environment in now because of this clean up in Hopedale and in Cartwright?

MR. SPEAKER: The hon. Minister of Consumer Affairs and Environment.

MRS. NEWHOOK: Mr. Speaker, again this was taken care of by the Federal Environmental people and it is their Budget that they are speaking about, not our Provincial Budget. I really could not tell you just how much of a strain it is going to place on their's, but it does not influence our Budget for any spills that we might have to clean up.

MR. HISCOCK: A supplementary, Mr. Speaker.

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

MR. HISCOCK: Also I would like to ask the Minister, an announcement today from the Royal Military College at Kingston said that they have now invented a new reactor to look after PCB spills and other forms of dangerous chemicals. Is the minister aware of this? And basically, will this type of equipment be brought into Gaultois, Hopedale, and Cartwright?

MR. SPEAKER (SIMMS): The hon. Minister of Consumer Affairs and Environment.

MRS. NEWHOOK: Mr. Speaker, I am not quite sure on this. We are co-operating with the Federal Department of Environment, and we have been doing this for quite some time, and I am sure if this is available then we will know about it in short order.

MR. HISCOCK: A final supplementary?

MR. SPEAKER: I indicated a final supplementary at the last question. I recognize the hon. member for Windsor-Buchans (Mr. Flight), unless he wishes to yield?

MR. FLIGHT: No, Sir.

MR. SPEAKER: The hon. member for Windsor-Buchans.

MR. FLIGHT: Mr. Speaker, my question is for the Minister of Lands and Forests (Mr. Morgan). And by way of clarification I would indicate to the minister that I am holding here a report tabled by the minister quite recently, about two weeks ago, the spruce budworm in Newfoundland, 1949. It is strictly a statistical report showing the extent of infestation in the Province, the cordage that is moribund or dying or will die.

SOME HON. MEMBERS: Oh, oh!

MR. FLIGHT: I point that out because, Mr. Speaker, I want to ask the minister about another report, that we understand is long over due, that is in the making.

MR. G. FLIGHT: When can the House expect or the people expect to receive the report from the environmental group who was set up to monitor the Bt spray programme and the report indicating the effect that the Bt programme had on the population of budworms in the area sprayed?

MR. SPEAKER: (Mr. Simms) The hon. Minister of Lands and Forests.

MR. J. MORGAN: Mr. Speaker, maybe the question could be more adequately answered by my colleague, the minister responsible for the Environment. However, in checking on that report no later than this morning, in fact, I understand the report is now being compiled and, I think, will be available to the Department of Forestry sometime in the next couple of weeks.

MR. G. FLIGHT: A supplementary, Mr. Speaker.

MR. SPEAKER: A Supplementary, the hon. member for Windsor - Buchans.

MR. G. FLIGHT: I would like to ask the minister, Mr. Speaker, on what scientific background or on whose advice did the minister act or the Department of Forestry act in designating ~~the areas to be sprayed with Bt and in deciding the dates that Bt~~ spray would take place? On whose advice was it, his own

department's, CFS or the paper companies? On whose advice were the designated areas selected and the dates to spray determined?

MR. SPEAKER: (Mr. Simms) The hon. Minister of Lands and Forests.

MR. J. MORGAN: Mr. Speaker, the area sprayed, of course, is a very small area, the total acreage is 15,000 acres. And determining the location, that was in consultation with the Canadian Forestry Service and with in this case, because there was none in the western part of the Province, it was all in Eastern or Central Newfoundland, it was in consultation with Price (Nfld) so it is in consultation with all concerned.

MR. G. FLIGHT: A final supplementary, Mr. Speaker.

MR. SPEAKER: A final supplementary, the hon. member for Windsor - Buchans.

MR. G. FLIGHT: Sir, I would like to ask the minister that, in the course of this consultation he refers to and in the course of receiving the advice on the Bt programme, was the minister or the department advised not to proceed with that Bt programme, that in view of the fact that the timing was off there would not be time for a second application, we have passed the incubation period of the budworm, that in effect the Bt programme that you were proposing was indeed a futile, a waste of time and a waste of \$150,000? Did the minister not receive that kind of information while he was deciding to go ahead with the Bt programme?

MR. SPEAKER: (Mr. Simms) The hon. Minister of Lands and Forests.

MR. J. MORGAN: Mr. Speaker, the answer is definitely no because the situation was the decision to spray the 15,000 acres was made months before the actual spray occurred. I mentioned in the House when the hon. gentleman was absent last week that the material was late arriving in the Province, primarily because of the truckers' strike in the States, and the second reason because of the weather conditions. ~~And it was because of the weather conditions~~ there was no second application. There were supposed to be two spray applications, but in this case only one. And because there was only one spray application that was the major reason for the report pointing out it was inclusive with regards to the effect of the spray.

MR. SPEAKER: I indicated a final supplementary, The hon. member for Baie Verte - White Bay, unless he wishes to yield.

The hon. member for Baie Verte -  
White Bay.

MR. RIDEOUT: Mr. Speaker, I have a question for the Minister of Lands and Forests also and the minister will remember that last Friday, I believe, I rose in Question Period and asked a few questions regarding the request made to the government from the Town Council of Roddrichton that a commission of inquiry of some sort be set up by the government to investigate and to make recommendations

MR. RIDEOUT: on the serious labour problems that are currently facing that community. In view of the fact that this is Thursday, I wonder if the minister could give me any indication whether the government has made up its mind to move in any positive way on that request?

MR. SPEAKER: (Mr. Simms) The hon. Minister of Lands and Forests.

MR. J. MORGAN: The answer is yes, Mr. Speaker. In consultation with the Premier, and as a result of the representations made to the Premier's office, the Premier has now asked the Department of Forestry to coordinate an investigative team to be sent to the area. The team will consist of representatives and representatives from the Department of Industrial Development, the Newfoundland and Labrador Development Corporation, the Department of Rural Development and, especially in this case, the Rural Development Authority which makes loans for sawmilling operations, etc., and the Department of Forest Resources and Lands. The team will be headed by the ADM of the Department of Forestry, Mr. Hoddinott, and their intent first of all is to travel to the area to meet with all concerned ~~groups who made representations to the Premier in this case and to~~ myself, both the council and the committees in the area, to determine the problems as outlined by these committees and people in the area, and hopefully, to determine possible

MR. MORGAN:

solutions to the problem by means of coming back and making report to government with possible recommendations.

MR. RIDEOUT: Mr. Speaker, a supplementary.

MR. SPEAKER: (Simms) A supplementary, the hon. the member for Baie Verte - White Bay.

MR. RIDEOUT: Mr. Speaker, I thank the minister for the information and for the very positive step that the government have taken in this regard. I want to say publicly now that I am very pleased with it. Can the minister give me any indication when this - I do not know if it is going to be called a Commission of Inquiry or a task force or whatever the official title is going to be - when the minister anticipates that the group will be formed and when we can expect that they may be able to go about their business of doing the investigations in Roddickton?

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

MR. MORGAN: Mr. Speaker, the committee has now been formed and we can call it an investigative committee or a task force committee. I do not think the title of the committee is very important. The important thing is they go in and do a job. I am hoping to be in a position tomorrow morning to announce to the House the names of the members of the committee. They are now in the process, and Mr. Hoddinott, who will Chair the committee, is in the process of making contact with those people in the area who have asked for meetings, to determine a convenient time for a meeting or meetings in both Main Brook and Roddickton sometime over the next week or ten days.

MR. RIDEOUT: Mr. Speaker, a supplementary.

MR. SPEAKER: A final supplementary, the hon. the member for Baie Verte - White Bay, followed by the hon. the member for Grand Bank.

MR. RIDEOUT: I wonder if the minister could tell the House, Mr. Speaker, whether, in drawing up the terms of reference of this task force - we will stick that name on it for the time being -

MR. RIDEOUT: whether in drawing up the terms of reference for the task force, any definite time limitations have been placed on the task force? In other words, have they been asked to report to government within a particular time frame or have they been given sort of open-ended terms of reference to report when they wish, or is there a particular time frame about to be placed on their deliberations?

MR. SPEAKER: (Simms) The hon. the Minister of Lands and Forests.

MR. MORGAN: Mr. Speaker, in discussing the matter with the assistant deputy minister who will be heading the committee, and he following up with the members of the committee, they looked at the possibility of a two month period being a reasonable time. So we are looking at around the early part of the New Year having a report back to government.

MR. SPEAKER: The hon. the member for Grand Bank.

MR. THOMS: Mr. Speaker, in the absence of the Minister of Justice (Mr. Ottenheimer), I would like to direct a question to the President of the Council (Mr. Marshall). I fully realize that, in this particular case, the President of the Council might not be able to give an answer at the present time, but I would like for him to look into the matter and to get back to the House.

As the President of the Council probably knows, a recent decision of the Supreme Court of Canada ruled that a motorist or a person, before taking a breathalyzer test, does not have the right to contact his or her lawyer. Also, I think, as the President of the Council probably realizes, it has been the practice in this Province to allow a person, before taking a breathalyzer, to contact his or her lawyer. What I would like to know from the President of the Council - maybe he could get the information for me - is whether or not the provincial Department of Justice will be making representation to his counterpart in Ottawa to have the Criminal Code amended so that a person would have this particular right?

MR. SPEAKER: (Simms)

The hon. the President of the Council.

MR. MARSHALL:

Well, Mr. Speaker, as the hon. member is aware and as I know from the question, this is a matter of substantive law, it is a matter of the criminal law and it is a matter of the federal government. Whether a person is allowed to contact his lawyer or not, the effect of it would be as to whether or not he had a defence in court on those grounds.

Certainly, this is a matter that we will be considering. I know that the government has had a dialogue with the federal government relating to proposed amendments to the Criminal Code of Canada and this is one of the items that the government will take under consideration. But before one gives a definitive answer, and I know the hon. gentleman, Mr. Speaker, was not asking me for a definitive answer at this present time, you know, the implications of any such representation would have to be weighed very carefully by us, but I thank the hon. member for his observation and it will certainly be taken under consideration, Mr. Speaker.

MR. THOMS:

A supplementary, Mr. Speaker.

MR. SPEAKER: A supplementary, the hon. member for Grand Bank.

MR. L. THOMS: As I said in my original remarks, it has been the custom in this Province for the police to give the person who is about to take a breathalyzer test the opportunity to contact a lawyer. That has been the procedure that they have followed. I happen to believe that this should be an inalienable right of a person who is about to take a breathalyzer test, that he should have the right to contact a lawyer. What I am afraid of is that with this recent decision the custom that is in practice in Newfoundland will now be changed. I wonder if the President of the Council (Mr. Marshall) could advise whether or not all law enforcement agencies will be advised to continue the practice that they have been carrying on all along?

MR. SPEAKER: The hon. President of the Council.

MR. W. MARSHALL: Mr. Speaker, as I have indicated this is really a matter of substantive criminal law, the rights of the individual who is charged with a crime. Obviously, I think everybody would agree with the hon. member that a person who has been charged, whether for an offence for impaired driving or for any other offence for that matter under the Criminal Code, should have really the right to council. But within that there would have to be also certain parameters. The hon. member knows that this could also be used as a device, in certain cases, for somebody to avoid having to take the breathalyzer until the crucial period is over and then it cannot be determined as to whether or not the person has been operating the car in an impaired manner. It is not really the function of the Provincial Government, which is charged with duty with respect to the administration of Justice itself, to take it upon itself. As a matter of fact, it would be ultra vires of the Provincial Government, so to do, to make rules and regulations with respect to matters affecting the substance of criminal law. But of course, if any federal law comes in which is not of benefit to the citizens of this Province, we will make

MR. MARSHALL: representations to the Federal Government. All I can tell the hon. member at this stage is that whatever applies, it cannot just to apply in Newfoundland, I think it has to apply throughout Canada because criminal law is a matter for the Federal Government. But we will certainly take the observation that he made under advisement and weigh it carefully and I know the Minister of Justice (Mr. Ottenheimer), when he returns, will be very interested in it and will include it in the representations which he makes.

AN HON. MEMBER: When does he return?

MR. MARSHALL: Well, Your Honour, if that is just a question I might say where the hon. Minister of Justice is.

At the present time the hon. Minister of Justice is down somewhere in New Zealand attending the Commonwealth Parliamentary Conference. Conference.

AN HON. MEMBER: (Inaudible) representing us.

MR. MARSHALL: Yes. As all members know, he is the Chairman of the Canadian Delegation of Parliamentarians, the Canadian branch of the Commonwealth Parliamentary Association, and as such I think all members of the house will realize that this is a very substantive honour.

SOME HON. MEMBERS: Hear, hear!

MR. MARSHALL: And while the hon. gentleman is very assiduous and conscientious in the carrying out of his duties, I think all members will realize with a great deal of pride that he is representing Newfoundland, and indeed Canada, very effectively in this international forum.

MR. SPEAKER: The hon. member for St. Barthe.

MR. T. BENNETT: Mr. Speaker, my question is directed to the hon. Minister of Transportation and Communications and it concerns the federal ferry which connects the Island to Labrador, the Straits ferry. I am wondering if there is a line of communication between the two, the hon. minister and his colleague in Ottawa. The people in Labrador every year at this time become gravely concerned for the taking away of that ferry and the communications to the island.

MR. T. BENNETT: They are wondering if it would be possible that the minister would be able to support the federal authority to have that ferry extend its services until at least Christmas and if, indeed, that is not possible, there could be other means of transportation provided.

MR. SPEAKER (SIMMS): The hon. Minister of Transportation and Communications.

MR. BENNETT: Mr. Speaker, the hon. member indicated that is strictly a federal responsibility, that the ferry is paid for 100 per cent by the Federal Government. Of course we agree with the hon. member, we would ;

MR. BRETT: the hon. member would like to see it going across the Straits as long as possible and I would be very happy to put in a plug for my friend with the hon. minister, Mr. Mazankowski.

MR. SPEAKER(Simms): Order, please!  
The time for Oral

Questions has expired.

REPORTS BY STANDING AND SPECIAL COMMITTEES

MR. SPEAKER: The hon. the Minister of Public Works.

MR. YOUNG: Mr. Speaker, I should like to table, in accordance with Section (4) of the Public Tendering Act, all tenders awarded other than to the lowest bidder and it covers the period from January 1, 1978 to December 31, 1978.

MR. SPEAKER: Answers to Questions for which Notice has been given.

MR. NEARY: Is the Premier going to answer the questions?

MR. SPEAKER: Presenting petitions.

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

MR. SPEAKER: A point of order. The hon. the member for LaPoile.

MR. NEARY: The hon. the Premier, Sir, indicated two days now in a row that he was going to provide the House with information that he was asked for three days ago.

MR. MORGAN: That is not a point of order, Sit down!

MR. NEARY: I know the hon. the Premier was distracted there by one of his colleagues but I would like to find out if he is going to give the House the information.

MR. SPEAKER: To the point of order. The hon. the Premier.

PREMIER PECKFORD: Yes, Mr. Speaker, I thank the hon. member for LaPoile for reminding me.

The question that the hon. the member for LaPoile asked me a couple of days ago had to do with a letter, a piece of correspondence from a fish processor on the Southwest coast. The fish processor was asking that the government provide some financial assistance to the processor so that that processor could pay prices for fish that the fishermen were demanding, and he was asking it because he understood, the processor understood, that some assistance had been given to other processors in the general area of the South coast and that, therefore, it should also apply to his processing unit. I think that was the question.

My answer to that question, Mr. Speaker, is that there was an amount of assistance totalling, perhaps, somewhere in the order of \$50,000 to \$70,000 provided to processors - to fishermen, really - for the payment of fish they had provided to a number of fish plants in the Gaultois, Harbour Breton, Hermitage area while those fishermen in the union did not have a contract with the respective processors in Hermitage, Harbour Breton and Gaultois.

The present request by Billiard Fisheries is not in that category and the negotiations between Billiard Fisheries and the union was separate from, and distinct from, the group of fishermen to whom the original assistance that was provided by government applied, totally different altogether, and it covered a period of time for those fishermen when they did not have a contract, when there was no contract in operation. That is why it was paid. A two cent subsidy, I think it was, was paid because it was in a period of time when a contract had expired and another one was due to begin that we filled in the different period of time.

MR. NEARY: Exactly the same thing.

PREMIER PECKFORD: No. Billiard Fisheries

PREMIER PECKFORD: negotiate separately with the union. T.J.Hardy negotiates separately with the union. The Fisheries Council of Newfoundland, or whatever it is called, negotiated for all the fishermen who sold fish to Hermitage, Harbour Breton and Gaultois and it was a period of time when the fishermen were not covered, January to April 1, as the Minister of Labour and Manpower can tell you, and we filled in the gap there in between to make up the difference because it was not a part of any contract. So it is a entirely different situation that exists here, it is not apples and apples. We will be responding and giving a detailed answer to the letter that the hon. member for LaPoile (Mr. Neary) has presented.

I appreciate his question and I can say to him quite categorically that the same situations do not apply, because if they did we would, obviously, have to honour the same kind of thing. But it was to a group of fishermen who were not under contract from January to April that this money applied and therefore it was that kind of a subsidy and had nothing to do with us discriminating against small processing people versus big processing people. It had nothing to do with that; it had to do with helping the fishermen who were caught in the lurch between two different contracts in Hermitage, Harbour Breton and Gaultois.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER (Simms): Order, please! I should, for the record, indicate that there was no point of order there but I believe there was an agreement to revert back to Answers to Questions.

PRESENTING PETITIONS:

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

MR. WOODROW: I would like to present a petition signed by 187 residents, about 70 families, on Hillview Road in the Community of Benoit's Cove, calling for immediate emergency repairs to the water line in the community.

I would like, Mr. Speaker, to read into the record also the prayer of the petition. It reads as follows:

"We, the undersigned, residents of Benoit's Cove, who come under the water supply from Hillview Road, hereby request that we have sufficient repairs done to our water line to get us through the Winter, and furthermore request that we have a permanent and adequate water supply installed starting hopefully in the Spring.

"At the present time we have no water whatsoever and we are forced to carry from an open brook approximately half to a quarter of a mile away. This condition repeats itself each year and as taxpayers and voters we feel, indeed we know, that we deserve better."

I would like, Mr. Speaker, to add the following comments to the petition. The water system in Benoit's Cove, at least in the particular area, has been a recurring problem for some time now due to design and installation problems. The main water line running from the dam in the community is very poorly installed and in places is at or above ground level causing obvious problems during the Winter months. The outlet from the dam itself is in a running brook and during heavy or light rain, sediment and debris turn up in residents' drinking water. And I just have here, Mr. Speaker, a sample; this was taken from the tap of one of the residents on November 12th., 1979. I am going to put it on the table of the House with the petition.

MR. ROBERTS: Pour it on the table.

MR. WOODROW: The problem is then, Mr. Speaker, a very serious one and area residents are not guaranteed a stable water supply and indeed during Winter months are not assured of water at all.

Now, Mr. Speaker, in all fairness to the Department of Municipal Affairs and Housing, some measures have been initiated in an effort to alleviate the problem. In fact, several times during the year I have had to bring this matter before the regional office in Corner Brook and from time to time, in fairness, work has been done.

However, in view of the quickly approaching Winter months, given the resultant problems with the system, emergency repairs must be carried out by the department. And I must stress that any repairs should be supervised, important word, Mr. Speaker, to be supervised by officials in the regional office in Corner Brook to ensure that the necessary work is carried out in a correct manner.

~~I must also stress, Mr. Speaker, that~~  
while area residents and the governing municipal body, it is a commission of administration at present, which incidentally is not collecting water fees from those using the service, are requesting temporary repairs to avoid the hardship over the Winter months. A more permanent solution to the problem hopefully will be effected in the Spring.

And in view of the above, Mr. Speaker, in view of the present circumstances facing the residents of Benois Cove, I trust that the department will take compassionate and immediate action on this petition.

I would like now, Mr. Speaker, to table the petition and have it referred to the Department of Municipal Affairs and Housing.

Thank you, Mr. Speaker.

MR. SPEAKER: (Simms) The hon. member for Bonavist North.

MR. STIRLING: Being a former resident of the West Coast and the area represented by the member, I would definitely support his petition to the House because it cries out on behalf of many of the communities in Newfoundland, many of the communities represented on this side of the House. I would be interested in having the comments of that same member, as I support the petition and ask for urgent attention, interested in comments from that same member when we get around to looking at the act in a few minutes or a few days. Does this mean that they have to put in property tax now in order to get that emergency water service looked after? And would you agree that they should have property tax installed? I would be interested in the member's comments when he takes a look at this act to see whether or not he can send a telegram back to the members of Benoit's Cove and -

MR. WOODROW: (Inaudible)

MR. STIRLING: In that case, Mr. Speaker, I am sure the member will send a telegram back saying either you are suggesting we delay that a few days until you get your water repairs made, or you better get them to indicate that the \$300 or \$400 property tax per person will have to be installed prior to that water problem being corrected. Definitely every member on this side of the House, Mr. Speaker, representing many of the small communities, understands completely what the member is bringing out in his petition and I hope that he has much better luck than most of us have had.

MR. SPEAKER: Hon. Minister of Municipal Affairs and Housing.

MR. WINDSOR: Mr. Speaker, I rise basically to thank the hon. member for once again bringing the situation to our attention and I assure him and the hon. House that the department is very aware of the situation as it relates to the particular community and the problems that have been experienced with the water supply there. We will

MR. WINDSOR: be taking a look at it immediately, again, to see if there are any immediate repairs that can be done to alleviate the situation somewhat for the Winter months. And, of course, any future consideration for long-term solution, the permanent water supply system will be considered in view of the capital expenditures for next year.

ORDERS OF THE DAY

MR. SPEAKER(Simms): Order 2, Bill No. 1.  
Committee of the Whole on the bill, "An Act To Reform The Law Respecting The Property Of Married Persons."

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

COMMITTEE OF THE WHOLE

Mr. Chairman(Baird): Order, please!  
Bill No. 1, Clause (32).

MR. RIDEOUT: Mr. Chairman.

MR. CHAIRMAN: The hon. the member for Baie

~~Verte - White Bay.~~

MR. RIDEOUT: Mr. Chairman, I just want to take a minute or so, and I assume the clause will carry, but I just want to take a minute or so to say once again, an not to be repetitious of the arguments that I made against the clause on the last day. I was hoping that since Private Members' Day intervened since the last time we considered clause (32), that maybe the government House Leader, who is looking after the piloting through of this bill in the absence of his colleague, the Minister of Justice, might be able to tell us whether or not any of the objections we made to the clause were going to be taken care of and unfortunately, he did not rise to his feet so I can only take his silence to mean that what we have said so far has fallen on deaf ears.

I have no desire to hang her down on clause (32), Mr. Chairman. The facts of life are such that the clause is going to go through. I have registered my objections

MR. RIDEOUT:

to it and I want to say

once again to the minister, and to the Committee, that I support the principle of the bill, I voted for the principle of the bill and I will continue to support the principle of the bill but I find clause (32)

MR. RIDEOUT: very offensive for the reasons that I stated to this Committee on the last day. I do not think it is right or proper for us, as legislators, to put into statute law in this Province that kind of clause. And I intend, although supporting the bill, I intend to stand by what I told the Committee on the last day and to vote against the clause.

SOME HON. MEMBERS: Hear, hear!

MR. CHAIRMAN (BAIRD): Shall Clause (32) carry?

MR. CHAIRMAN: The hon. member for Torngat Mountains.

MR. WARREN: On Clause (32), Mr. Chairman, as you know on the last day when this bill came up, I did speak, also on Clause (32), in an objective mood. I still stand by that. I hate to see a bill going through this House that does give encouragement to cohabitation. As I said earlier, this section of this bill, Section (32), in my estimation should be deleted from the bill altogether. I am in principle supporting the bill. I think it is high time that we had such a bill brought into this House, for people throughout Newfoundland and Labrador, that will very much in the future set a trend for their lives.

But in Section (32) itself I am afraid, Mr. Chairman, that we have something in that bill, and it could be years down the road that people are going to look at it and it is going to be the sorriest thing that this House ever passed, passing this bill with Section (32) in it.

MR. CHAIRMAN: The hon. member for LaPoile.

MR. NEARY: Mr. Chairman, I was hoping that the representative of the Newfoundland Status Of Women in the House would have a few words and try to answer some of the questions that we put to the representative the other day in connection with this clause and with this bill.

The only objection I have to Section (32), the only objection is the fact that this is the clause that should apply to married couples as well as non-married couples. People should

Mr. Neary: should be able to opt in to this bill instead of being forced to opt out. That is the weakness in the bill. And the minister put up a very weak defence the other day in trying to defend this clause and defend this bill. What we are doing, I do not know if the members of the House realize what is happening here, but I think the government have overstepped their jurisdiction. I would not agree that it is unconstitutional. But the government, and especially the Minister of Education (Ms. Verge) in trying to point up a problem in our society, in our Newfoundland society, in trying to point up that problem, has brought in a law which forces every married couple, and unmarried couple in the Province to come under that law whether they like it or not.

AN HON MEMBER: (Inaudible).

MR. NEARY: This bill, Mr. Chairman, let us face it, this bill has nothing to do with divorce, nothing to do with separation at all. This bill is dividing the matrimonial property. It has nothing to do with what the minister told us the other day in giving us the horror stories. It has nothing to do with that at all. This bill forces every married couple in Newfoundland to divide the matrimonial home, that is what it does.

AN HON. MEMBER: Happy marriages.

MR. NEARY: Pardon?

AN HON. MEMBER: Happy marriages.

MR. NEARY: That is right.

Now it could be argued that there is nothing wrong with that. But, Mr. Chairman, what is wrong with it is that the minister, the Minister of Education I am talking about, in trying to zero in on a specific problem in our society, has brought in a bill of general application applying to every married couple in the Province. Now that is my objection to the bill, Sir. And it should be a piece of enabling legislation where if married couples want to enter into contracts they should be able to do so under the law. They

Mr. Neary:            should have the protection of the law.  And  
if Judge Goodridge and the other people down in the courts cannot  
make up their minds then the legislation should lay down guidelines  
for people like Judge Goodridge

MR. NEARY: so that he can figure out the matrimonial property. If he cannot figure it out now, well, okay, let us give him some guidelines. But you do not make a law affecting every married couple in Newfoundland to get at that specific problem. That is the thing, Sir, I think we should take a look at. Clause 32 is probably the only clause left - there may be one other clause where we could bring out this point. And I think, constitutionally, it is wrong. It is not the purpose of government, it is not the job of the House of Assembly when you are trying to get at a specific problem, to make a law for everybody. The argument with Clause 32 - I am not arguing on moral grounds, I could not care less or otherwise - but I am merely arguing that it is married couples who should be given the right to opt in and not forcing them to opt out. What we are doing now is the reverse - we are giving non-married couples the right to opt in if they want to and forcing the law on married couples. That is what I would like to point out to the House, where I think the bill has gone wrong.

I subscribe to the principle. All of us have agreed with the principle of zeroing in on the injustices and ~~the type of situation that we all know about. The Minister of Education~~ (Ms Verge) is not the only one who can get up and tell a few horror stories in this House. I happened to be Minister of Welfare in this Province for three and one-half years and I could tell the minister stories that would make her little hairs stand on end. But that is no justification for bringing in a law of general application punishing every married couple in Newfoundland.

MR. J. CARTER: Welfare  
on Bell Island.

MR. NEARY: Yes, I could do that too.

AN HON. MEMBER: By leave.

MR. NEARY: Yes, by leave. I could tell the hon. gentleman about A. B. Walsh and I could tell the hon. gentleman about the trust fund down in the Royal Trust Building and I could tell the hon. gentleman about the biggest scandal in the history of Canada,

MR. NEARY: the Linerboard mill that he and his colleagues have refused to do anything about. I could go on and on and on with a list of scandals involving the Tory administration the length of the floor of this House and nothing done about it. And the government refuses to do anything about it.

SOME HON. MEMBERS: Oh, oh!

MR. NEARY: I will not be distracted any longer, Sir, by the hon. gentleman.

AN HON. MEMBER: He is not even in his seat.

MR. NEARY: No, that is right, not even in his seat. It is either raining or it is cold today or the hon. gentleman would be out in his savory patch. Only on rainy days and cold days, frosty days, you will find the hon. gentleman in, being nasty in the House.

Mr. Chairman, let the word go out that we are - and I am - all for the principle of eliminating this injustice in our society, but I am afraid now that we are going at it in the wrong way. I am not sure if the way we are going at it is constitutional or not. I do not know if the way we are going at it could be challenged ~~under the British North America Act - only time will tell - but~~ certainly is a bill that has very serious ramifications and very serious implications throughout the Province. And I hope the Minister of Justice (Mr. Ottenheimer), who is not in his seat, is sincere when he tells us that there is going to be a massive educational programme to make the people of this Province aware of the implications and the consequences of this bill.

As I said a few moments ago, Sir, it has nothing to do with divorce, nothing at all. It has nothing to do with separation, as the hon. the Minister of Education (Ms Verge) would lead us to believe. It has to do with dividing the matrimonial property.

On motion, Clause 32, carried.

MR. CHAIRMAN: (Baird) Shall Clause 33 carry?

MR. ROBERTS: Mr. Chairman.

MR. CHAIRMAN: Mr. Roberts.

MR. ROBERTS:

Mr. Chairman, I do not want to make a speech, so I will not, but I have a question on Section 33 which relates to a specific situation that arises out of Section 31 in Section 33. I guess probably my friend, the President of the Council (Mr. Marshall), would be the best one to speak for the ministry on this.

Section 31 provides that a marriage contract may be entered into by two spouses either before their marriage - I suppose that says their intended spouses - or during their marriage while they are cohabitating. And then, Section 32, of course, as has been pointed out, provides for the entering into a contract between two people who are not married to each other but are cohabitating - cohabitating, I guess, not cohabitating - or living together, to put a common but not inaccurate description on it.

MR. ROBERTS: What I want to ask the minister is precisely what is the situation when a man and a woman who are married to each other are not cohabiting, and I am not sure that is separation in law, it may or may not - I am not sure that is separation as is envisaged in section 19 - It may be, but I am not sure it necessarily is. But let us assume, Mr. Speaker, and this is the question, that two people who are married to each other are not cohabiting, how do they go about dividing up the property, short of an application to the court? It is quite clear under the - and I know my learned friend, the Minister of Education (Ms Verge), will follow and perhaps may be able to help us on this - I am just not sure what the situation is where you have two people who are married, are not cohabiting, whatever that may mean, and I suspect that is a matter that would require judicial interpretation and Mr. Justice Goodridge and his brethren on the bench may yet have a bite at that particular part of the apple, but how do they go about dividing up the matrimonial assets short of a court action? Now, obviously, under section 19 they can apply and have an order in due course granted but supposing they can agree, they cannot agree to live together, they are not divorced, but can they not agree - they can agree, but can they not make a legally binding agreement?

As I read section 31 and section 32, and, of course, section 33 governs the both of them, or refers to both of them, how do people in that situation, and that, of course, I venture to suggest, Mr. Chairman, this is not a unique situation. The suggestion which I have put is probably the most common situation in which this act will be invoked, that a man and a woman have ceased to live together, the marriage has not proceeded to the stage of an application to the divorce courts either because there are not grounds or because the parties for good and legitimate reasons of their own do not wish to take a petition for divorce.

MR. ROBERTS: Now what does happen? If they are cohabiting they can make an agreement and split up the goods. If they are married and are cohabiting they can make an agreement and split up the goods. If they want to go to court they can. But what happens if they can agree on two things, they can agree that they do not want to live together and, therefore, they are outside the ambit, as I read section 31, they are outside its ambit, but they could also agree on how they are going to split up their various chattels. Now, do they have to go to a court? It is not an academic - I think it is a very good point. Perhaps the minister, who is, I know, familiar with that, can set my concerns at rest.

MR. MARSHALL: Mr. Chairman, if I understand the question properly, and perhaps the hon. Minister of Education afterwards may wish to address herself to the question as well, these particular sections, 31 to 33 are permissive sections, that persons may enter into an agreement. If I understand the import of the hon. gentleman's question, you know, I do not think it precludes other agreements being made. I mean if people are - if I am right, I believe he indicated that, you know, if people were separated, now, could they make an agreement. You know, it does not destroy the contractual right of a person to make an agreement with another person, no matter what their particular state at the - their de facto state at the time in which the agreement was made. What the act is intended to do is to confer certain rights on persons but as there is an overall right to contract out of the provisions of the bill, you know, I do not think it interferes -

MR. ROBERTS: There is no overall right in that situation. If my learned friend would allow me, Mr. Chairman, perhaps I could put it this way - and I was not here Tuesday when section 31 was being discussed. Why are the words, "While they are cohabitating," and, incidentally, it is cohabitating in one and cohabiting in the other, I do not know what kind of grammar - I think both are syntactically incorrect.

MR. MARSHALL: Yes.

MR. ROBERTS: But while they are cohabiting why are those words in section 31? Because I would submit, with all respect to my learned friend, that the presence of those words means that there is an area of a marriage during which the parties may not make a contract under the terms of this act. If those words were taken out then I think it would solve the situation as I see it. Although there may be some explanation - the learned Minister of Education (Ms Verge) is smiling like the cat that swallowed the canary and she may or may not have reason to, but maybe she could help out.

MR. MARSHALL: Perhaps the hon. -

MR. ROBERTS: Okay, let us hear, but

MR. ROBERTS: is the presence of those words that creates a situation during which no agreement, as I read Section 31, may be made.

MS VERGE: Mr. Chairman, as I understand it under the present law while a couple are married and cohabiting any contract which they enter into which purports to deal with their respective rights -

MR. ROBERTS: (Inaudible)

MS VERGE: Yes. So for the benefit of the hon. members who are not familiar with the law; while under the present law, before this bill becomes law next July 1st, a couple who are married and cohabiting who enter into an agreement which purports to anticipate a separation or a divorce and deal with their property rights in that eventuality, it is void as being against public policy. This bill will change that provision of the common law to now enable a couple during their marriage and while they are cohabiting, to have a marriage contract which anticipates separation or divorce or provides for that eventuality. Under the common law, now, a married couple upon separation, that would be during the period between their cohabitation and their divorce, while they are legally separated may, and in fact in many cases do, enter into a separation agreement which can provide for their distribution and division of their property among other things. And the law governing separation agreements would be the same after this act comes into force, substantially. Couples would still have the freedom to enter into a separation agreement in the way that they do now after this act comes into force and I would think that it would be, of course, preferable for couples in the situation of a separation, to work out their property affairs through mutual agreement in a form of a private separation agreement, even after this act comes into force. This act will merely give each of the partners to the marriage some security and will establish some guidelines to enable them to more readily be able to come to a mutual agreement out of court. But, of course, in cases where that is not possible they will be able to resort to the provisions

MS. VERGE: of this act giving a right to apply to the court for a division of either matrimonial assets or business assets.

MR. CHAIRMAN: (Baird) The member for the Strait of Belle Isle.

MR. ROBERTS: Mr. Chairman, with all respect to my learned friend, I think I followed what she said and with most of it I have no objection. I mean, the question of contracts in marriage has never been tested in our law as far as I am aware - by our law I mean the law of Newfoundland, but I think I would agree with her opinion, in fact, I have had occasion to look into on behalf of some clients and I think one would be ill-advised, absent this legislation, to enter into a contract during a marriage, short of a separation, that purported to be effective on the disillusion of that marriage or upon the separation of the parties to the marriage. I do not argue with that. But this is an important point, Sir, and let me go back because I do not think I have made it clear or if so I have not had an answer to it. The law at present says that, short of a separation, a contract to dispose of the property of married people is not necessarily enforceable. It may void, it may be voidable, to use those terms in the legal context, but it is almost certainly not enforceable. I think that is the consensus of the members of the bar who have had occasion from time to time to look at it. This act varies the common law - and I think a number of us spoke about it at second reading and I think it is a wise variation of the common law. It varies it in the sense, two senses. Section 31 says that a married couple may make such a contract which will be regarded as enforceable under our law. Section 32 says that a man and woman who are not married to each other may make a contract that will be regarded as enforceable. Fair enough! But the words in Section 31, "while they are cohabiting seem to close, to create a period, a closed period during which no agreement may be made. My submission would be this, that we are changing the common law to allow agreements during marriage, to be made during marriage but only while the parties are cohabiting during marriage,

MR. ROBERTS: so if this clause goes through, if (31) goes through unaltered, we end up with a situation whereby an agreement cannot be made in the situation during which the parties are married but cohabiting. I think that is a sound, logical argument and my concern is - this may seem to some members, Mr. Chairman, to be terribly academic, but I think when we think about it a moment, this is the most likely situation in which an agreement - an agreement is going to come up in one of two ways; either they are going to come when you go to get married - just before you say, 'I do', your friendly solicitor whips your agreement in front of you and the man and the woman sign it, or they are going to come up when one or both parties to the marriage comes in to see a lawyer and says, 'Look, we have come to the end of the road, tell us what our respective rights and obligations are.' Most people are not going to be affected by this act unless the marriage gets in difficulties and they end up.

At that point, assuming they are not cohabiting, and if I understand cohabitation, it is simply living together - you could have a separation while you are living together, if I understand the law correctly. I do not know why we would use the term 'cohabiting', a separation, I think, has a precise meaning in the law of this country and, as I say, I do not understand why it is cohabiting in one clause and cohabiting in another, that is just sloppy, sloppy work. Minor, but sloppy.

But we have the situation where in you come - somebody comes in to see me and they say, 'Mr. Roberts, I am married but I am not living with my wife and she and I wish to make an agreement to divide up the assets. We have come to the end of the rope.' Now, I look at section (31) and section (31) - I look at the act and I say, 'The act applies absent an agreement to the contrary.' Am I correct? The minister would agree with me? I mean, that is the law once this thing is adopted, as it will be. And I say, 'Fine, but you have a right to contract out, it is given by section (31).' Correct? And I say,

MR. ROBERTS: 'But, ole man, hold on now, you lose your right under section (31) because you are not living with your wife, therefore, it seems to me there are only two options left, one is to take the straight fifty/fifty division that the act puts down, the other is to go into court under section (19).' And I agree completely with the Minister of Education (MsVerge) when she says, and any lawyer, I think, would agree, that a settlement is preferable to litigation. Litigation is expensive, it is uncertain.

My hon. friend from St. John's West (Mr. Barrett) in his private life is an insurance man and he, doubtless, has had a lot to do with lawyers from time to time with respect to claims and I think he would concur that he would rather have a settlement of a claim within agreed terms than let a matter go to court. I suspect that solicitors who act for the insurance company with which he is involved, that is their practice. I know in my own little practice, from time to time, if one gets a settlement within agreed limits you take it every time rather than go to court. Courts are expensive and ~~they are uncertain and with a settlement, you know what you have.~~ Win, lose or draw, you know.

I am not sure that I have necessarily convinced anyone, but I think the point I have raised is a valid one, I would suggest, because this act is going to have far-reaching ramifications, Mr. Chairman, far further than any of us in this House have realized. I only realized the other day, myself, that it will no longer be possible for any married person in Newfoundland to make a will with respect to his matrimonial home.

May I suggest - I notice my two learned friends, the Minister of Education and the President of the Council (Mr. Marshall) have been conferring. If my point is valid, and I think - I have not heard an answer to it yet. Maybe we could agree - we are not going to finish this bill at Committee this day. I will guarantee that, if there is any question about it.

MR. ROBERTS:

But I do not think I need to, I think there are sufficient concerns to be looked at. Could we let this clause stand? Because I can see a problem and the result of it would be to prevent people making an agreement in a situation where it is likely that many of them might want to make an agreement. The result of that, in turn, would be to force them to go to court and that, surely, is improper in public (inaudible) for two reasons, number one, we should not force people to go to court if they do not want to, and number two, the courts are burdened enough as it is without putting extra litigation, extra actions before them.

If the hon. minister can allay my doubts I will back off, but I may say I have not had them allayed yet.

MR. MARSHALL:

Mr. Chairman, I come back to the position that I took when I first addressed myself to the observation and that is that

MR. W. MARSHALL: it does not prohibit entering into contractual relationships where the parties are separated and not cohabitating. All it says is, "They may enter into," and the reason why it is there, as the hon. Minister of Education (Ms. Verge) indicated, is that such agreements would be void as a matter of public policy before the passage of this act and this is the reason why it is there. I do not think that its presence precludes the entering into of contracts where the parties are separated but I could say this to the hon. gentleman, when he was away the other day we dealt with the matter of the statutory limitation period. This bill does not come into effect until July 1st. We are very concerned and very interested in the remarks that are made in committee and this is certainly one of them, as well. I think we would certainly take it under advisement and we will lead in an amendment if an amendment is, in fact, necessary, I mean, we will deal with it before the act comes into effect on July 1st. But I think the hon. member will agree with me, I mean, we could argue it back and forth and I can see the position and the reason ~~why he is taking that particular position and that view from the~~ straight interpretation of it but I look at it and I get another interpretation. So, it is not the desire, in this act to preclude persons not cohabitating, who are married, from making contracts and if it is necessary we will lead in an amendment after the act is passed.

MR. E. ROBERTS: Mr. Chairman, I appreciate what the minister says and I will back off at that. I mean, that is a reasonable response. I would, perhaps, best sum up what I am trying to say by saying it is the words, "while they are cohabitating," as they appear in Section 31 which cause the concern on my part. You know, if those words were not there. I think the matter would be crystal clear that whether -

AN HON. MEMBER: (Inaudible)

MR. E. ROBERTS: I am sorry?

MR. W. MARSHALL: I just had a note handed to me

MR. W. MARSHALL: that I think will probably solve it a bit.

MR. E. ROBERTS: Well, alright.

MR. W. MARSHALL: Perhaps we have all looked at this bill so many times and when you look at a bill and you read it so many times you can still miss things. There is Section 34 here which provides for the specific provision, now, with respect to separation agreements, when a man and woman who have cohabitated and they are living apart may enter into an agreement in which they agree on their respective rights and obligations including the ownership of properties, support obligations and what have you. That would certainly seem to meet the observations made by the hon. member but I would say with respect to it, I mean, we value the observations and we will take them certainly into consideration and look at it from that aspect to be quite sure because it is certainly not intended in this act to preclude persons in that particular position from making an agreement without having to have them resort to court.

MR. E. ROBERTS: Well, I appreciate the hon. member's observation and I have seen Section 34. The trouble is Section 34 refers to a man and a woman who have cohabitated, it does not refer to a man and a woman who have married and I realize that cohabitation may involve marriage but, I am not going to conduct a filibuster on Section 33 but I do not think Section 34 - it may have been intended to meet the need, but it does not meet the need, so I will simply say again, where I was when I yielded to the hon. gentleman, that the words, "while they are cohabitating," I would suggest that consideration be given simply to dropping those four words and that would then have the effect of saying that you may make a contract during marriage, remember marriage exists, of course, up to the granting of an absolute decree not simply the nisi. The marriage is just up to - and at any time during the marriage two parties may, by agreement, vary this act which, I think, is the principle that the government wish to put forward and it is certainly one that we are prepared to accept

MR. E. ROBERTS: on this side. I just do not understand why the words, "while they are cohabitating," are in there.

With all respect to both my learned friends, I have not heard any reason why they are. Now, there may be a reason -

MR. MARSHALL: Would the -

MR. ROBERTS: Go ahead!

MR. MARSHALL: You know, the problem is, as we see it, the existing law. Now, we would want to weigh the observations by the hon. gentleman. I think, you know, amendments in Committee of this nature could cause real problems. The point is I think we would have to have the aspect in, that where people are cohabitating, they are able to make separation agreements (inaudible) you see.

MR. ROBERTS: I agree. I am not accusing my learned friend of being rigid or stubborn. I mean, I am not. I would if I thought he was, but I do not think he is and therefore I do not. I agree completely that it is necessary to have a Section (31). Because as my learned friend, the Minister of Education (Ms. Verge) said, a contract now between two people who are married to each other and are not separated. And I think it requires separation now, if I understand law, but certainly, you know, people who are not either - people who are cohabitating with each other, such a contract, I think almost any lawyer in Newfoundland and Labrador who looked at it would say that contract, Sir, is not worth the paper it is written on because it is not enforceable. It is against public policy, and that is that.

I had an occasion to do some research, I may have missed a case or I may not know about it, but I am not aware of any case where that matter has been put to the test in the courts of this Province. So all I will say is simply, and I agree with the hon. minister, you know, amendments in Committee are a very dangerous thing, Mr. Chairman, unless they are reason amendments that the drafts people have worked out and the minister to bring in. You know, I mean we have all seen amendments that seem to be straightforward, accepted, and then that cause problems.

So I have not moved an amendment and I do not propose to. But I would simply say to the minister that it is the words "while they are cohabitating" that cause the trouble.

Section (34), with all respect to whoever

Mr. Roberts: passed the note to the minister, Section (34) does not meet the need. Section (34) speaks in exactly the same terms as Section (32). And I would think any judge who looked at it would be drawn inevitably and unavoidably to the conclusion that (34) deals with the same situation as (32) and no other.

Now, if (34) said, "A man and a woman who have cohabitated and are living separate and apart or a man and a woman who are married to each other and are living separate and apart". If my learned friend follows me?

MR. MARSHALL: That is right.

MR. ROBERTS: But I do see - I mean, I will let it go by.

MR. MARSHALL: One of the benefits of having -

MR. ROBERTS: Go ahead!

MR. MARSHALL: - people in the House from the Legislative Draftman's Office, the Chief Legislative Draftsman himself, is the fact, that, these two things, both the limitation period and this, you know, are being noted, I know, and will be very seriously looked at.

MR. ROBERTS: You know, I appreciate that. And I do not think the minister could say much more. I just wanted to be sure that the point was there. Because I see it as probably one of the real problem areas in the application of this Act because this is the situation, I venture to suggest, in which it will most likely will arise. And I know the minister would agree with me, that we should not force people into court. They should have a right to go to court -

MR. MARSHALL: That is right.

MR. ROBERTS: - if they cannot settle the matter by agreement.

MR. MARSHALL: Keep them out of court all we can.

MR. ROBERTS: We should not force them into court if they are able to make an agreement, if they have had - one of the things that is not in this act, interestingly enough, that we might have looked at - if it is I have not seen it - is a requirement that people ought

MR. ROBERTS:

to have independant legal advice. A number of provinces require a certificate of independant legal advice before an agreement can be considered valid because, obviously, these are situations which, you know, are not necessarily duress but where the parties might not be quite as free to engage in contractual discussions as they might in a normal business context. But that is another story.

So I will rest content with the minister's commitment to have the matter looked into. I suspect that there are going to be a lot of amendments to this act over the years because I think that it is - I will not say it is badly drawn but I do not think it is fully thought through. I am not sure that anybody in this Province really has been able to think it through and it is the sort of thing we are going to find out as time goes on, that there are holes and problems. But I do say again that those words, "while they are cohabitating," in section 31, I think cause a problem and the draftsman who, by the way, should not be on the staff of the Department of Justice - I find it offensive. Are they on the staff of the House? They should be paid by the House. And if the House then chooses to second them to the Justice Department.

MR. MARSHALL: We passed this in (inaudible).

MR. ROBERTS: But that is not the way the estimates read.

MR. MARSHALL: Yes, right.

MR. ROBERTS: I venture to say that it is a major point but it is not strictly speaking, Your Honour, relevant to clause 33 of this

MR. ROBERTS: particular bill. But nonetheless, the point I had been making about the defective - Section 31, those words, "while they are cohabitating" - there must be a reason for having them in there. I have not heard it expressed, they are there. We do need a clause to make the agreement valid, if not, really, the whole bill is a waste of time. It would be a terribly restricted piece of legislation. With the allowing or the validity of domestic funds, actually, it could be worthwhile. But those words do cause me some concern and I will rest content with the minister's undertaking to consult with the authors of the bill and see where we go from there.

Section 34 - the minister ought to have a word with whoever passed him the note, because whoever passed him the note either was not listening or did not understand, because Section 34 does not meet the concern we now have.

Other than that, I am willing to let —

although I would ask the minister why Section 33(2) ~~voids all initial agreements with respect to custody which, of course, is~~ a matter beyond the purview of this House anyway, is it not? - whereas Section 34(d) allows it. You know, I know the difference is before or after separation but we are allowing people to deal with custody after separation - we are not allowing - these are people who have cohabited. In other words, what you are saying is you have to live apart before you can discuss who is going to have custody of the children or who is going to have access under what conditions to them. I just do not understand why that particular principle is drawn. Is there an explanation for it? There must be. What is it?

AN HON. MEMBER: (Inaudible).

MR. ROBERTS: Well, one of you drafted the bill.

I mean -

AN HON. MEMBER: That is a good point.

MR. ROBERTS: Just again while the ministers are

MR. ROBERTS: gathering their thoughts, Section 33 (2) says that "a marriage contract or a cohabitation agreement may not include an agreement of the parties as to rights of custody or access to children," and that is straightforward. And, in fact, I am not sure this House could go very much further. I mean, the Divorce Act has some provisions in it, does it not, about this? We might get into a very neat constitutional point.

Section 34, which refers only, Mr. Chairman, to a man and a woman who have cohabited and are living separate and apart, may enter into an agreement including the right of custody and access to children. Now that sounds fine. Why the difference between the two? Section 33 is before separation, before a break in cohabitation. Section 34 deals only with people who have never married each other, and it may include an agreement for right to custody and access - it may or may not, because the parties may not have the authority to make agreements with respect to the custody of children, as, for example, a person was married, had a child, subsequently became divorced, a court order was granted, a corollary relief on the divorce application - you know, this act, the more you look at it, Mr. Chairman, the more questions arise.

MS VERGE: Mr. Chairman, as I understand the existing law, the question of custody of children is always one which can be decided by the court regardless of any contract which the parents of a child may have purported to enter into and the court in making a decision on custody of children has as its paramount consideration - and this is something that is laid out in the Child Welfare Act of the Province - what is in the best interests of the child or children, so that even if the parents of a child enter into an agreement, it is now commonly done in the form of a separation agreement after the marriage breaks up, which purports to deal with custody of the children. If the arrangement subsequently does not work out, an application may be brought to the court either with a divorce petition under the Divorce Act or as is sometimes done -

MR. ROBERTS: The Director of Child Welfare can at any time -

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MS VERGE:

Yes, and sometimes there is a -

MR. ROBERTS:

- whether they are separated or not.

MS VERGE:

That is right. That is a separate

MS. VERGE matter not one merely between the two parents but where the Director of Child Welfare may step in in the best interests of the child where there is evidence that the child is being neglected. Also, a parent may apply to the court by way of a habeas corpus application to get custody of a child. So, in any one of those circumstances an application may be brought to the court, which the court will rule on, bearing in mind what is best for the children, regardless of what the parents may have purported to provide in a contract. That is just a bit of background explanation.

MR. ROBERTS: It has nothing to do with the question.

MS. VERGE: The question precisely is - Why is there a discrepancy between what couples are permitted to provide for relating to their children in a marriage contract entered into either before the marriage or during the period of cohabitation, or in a separation agreement entered into after the marriage break up?

MR. ROBERTS: No, that section (34) deals only with cohabitating people who have ceased to cohabit, it does not deal with married people or separation. It could be. I asked the question. I do not know the answer. Well, I am not getting the answer.

MR. MARSHALL: I thank the hon. minister for her explanation. I have had an opportunity, now, to address the question on (33) and (34). As I see the situation (33) addresses itself to a marriage contract or a cohabitation agreement where parties are living together, and I think it would be deemed to be against policy for persons who are living together with children to decide how the children are going to go in the event - which parent or which person is going to have custody while they are living together, whereas, afterwards, after a separation

MR. ROBERTS: You allow them to decide what to do with their property but not their children.

MR. MARSHALL: You allow them, of course, to jointly bring up their children, but I do not think where they are living together it would seem to be against public policy to provide that if dad and mother split up that you will go to -

MR. ROBERTS: It is not paradoxical that we allow dad and mom to decide who gets the house, and who gets the car, but we will not allow them to decide who gets the children.

MR. MARSHALL: Yes, but the principle of the bill, the nature of the bill, relates to the property of married persons.

MR. ROBERTS: Yes, but now we are bringing children here.

MR. MARSHALL: Well, children are not really the property.

MR. ROBERTS: I agree. I did not bring them into the bill.

MR. MARSHALL: The reason why it is after separation is that it is after separation these things are decided, when there is a separation between two parties, but while they are living together it would seem to be really, in our view, against public policy to put in the bill that they will decide during the period of their marriage where the children will go if mom and dad split up.

MR. ROBERTS: I do not argue with that. That is fine. I am not getting an answer to the question. Section (34), and I know we are on (33), but really, Your Honour, like any act they are all tied in, necessarily, to one another. Section (34) confers only upon people who have cohabitated and are living separate and apart. It does not confer or purport to confer any rights with respect to children on people who are married but have separated. Now, I know the general law, that is done today and we do not need to change the law there. I do not understand why the distinction is made. I do not understand why the draftsman who wrote this bill, or why the instructions given by the minister who instructed the draftsman who wrote the bill, said make a distinction please between people who have cohabitated and are

MR. ROBERTS: living separate and apart, and people who have not. Now, you also get into another interesting point of law. If a man and a woman are not married to each other and they produce a child by the physical process, right?—and (34) (E) talks about their children, so presumably it means children of the union, of the physical union. Now, what rights, presently exist in our law, if I understand it correctly, and I do not pretend to be much of an expert on this at all, the mother of the child has the great part of the bundle of "rights": We are not talking of a piece of property, we are talking of a child, and the over-riding concern is always, as the Minister of Education (Ms. Verge) quite properly says, the best interests of the children. That is reflected down in Section (38) of this bill now. You know, does Section (34) purport to amend the general law of this Province in a backhanded way?

MR. E. ROBERTS:

People think

these are academic questions but damn it they are not, they will all come up and probably come up very quickly. If I understand the law in this Province correctly today, a woman who has a child out of wedlock and in law that child is a bastard, that is not a term of opprobrium or a term of slang that is a legal term. The child is illegitimate. The father of that child has no rights in our law. If I understand the law he has some obligations under the Children of Unmarried Parents Act. Now, that, if I state it correctly, is what I understand to be the general law of this Province today. The mother has all of the rights to that child, for example, the right to adopt or the right to place out the child for adoption. If I understand it correctly that is the law. Now, what happens in this sense? Supporting the man and the woman who have had the child are not married to each other but they are just living together. Cohabitation can be one night it does not have to be one week or so many acts of intercourse. The judges may come up with that in due course, but let us put it one night and they make an agreement under section 34 and the putative mother, I am sorry, the mother and the putative father make an agreement and the agreement is that I, Jane Doe having been informed of my legal right under section 34 of the Matrimonial Property Act 1979, hereby do agree that any child born of the physical union I am about to enter into shall be in the custody of the man who is about to enter into the union with me from which the child will spring if a child in fact does spring

MR. STAGG:

A pretty serious one-night stand.

MR. ROBERTS:

Well, I do not know very much about one-night stands. I will bow to my friend from Stephenville if he holds himself as (inaudible).

SOME HON. MEMBERS:

Oh, oh.

MR. ROBERTS:

But I am concerned about adopting a statute law that may have affects that nobody in this House knows about or thought about.

MR. Stagg:

Reductio ad absurdum.

MR. ROBERTS: Yes, it is reductio ad absurdum and lawyers get damn wealthy out of these situations, and I do not want to see people in the courts of this Province, I do not want to see litigation needlessly, when a bill that can be debated in the House as it has been quite fiercely until my learned friend from Stephenville choose to be unlearned about it. Now, Mr. Chairman, Jane Doe and John James have made this contract ; maybe it is a well thoughtout one-night stand, I do not know, I would not have thought it was a stand, I have always thought it was a different position entirely but again I bow to the hon. gentleman if he has more knowledge than I do. But Mr. Chairman, what happens if they make that agreement purporting to confer some rights upon the father of that child? Does that change the general statute law of this Province ? If so, it surely ought to be done by act, Do we have one act in conflict with another ? You know, this bill in very many ways, Mr. Chairman, it is becoming obvious, is badly thought out. The principle has been well thought out and I have no problem with the principle but there are any number of loopholes in this bill they have been pointed out by hon. members of this House. I will not go over the overall thing, and I know the minister says that there is always a possibility of amendments, but the fact remains people are going to begin making arrangements now. Once this bill receives the Royal Assent there is going to be the greatest bonanza for lawyers, It really will be a bonanza for lawyers, this particular bill . But what is the situation with respect to 34? The minister has not answered the question, Why have we asked to put this provision in, you know, and does it go against the general law of the Province? Are we amending legislation in a backhanded way? We should not be.

MR. MARSHALL: Mr. Chairman, all I can say is that with respect to the observations made with respect to the section 33, again, it is not in there because where a man and woman are living together they have joint custody over their children and is deemed to be, as far as our weight and assessment of this bill, to be against public policy in such an instance for them to agree as to the separation in the event that their parents separate. That is why that is there. Now, with respect to the other I do not believe that it, well it does alter the existing law, I think, in

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MR. MARSHALL:

certain specific instances

that the hon. gentleman referred to but what really it is

MR. MARSHALL:

intended to do is to strengthen the law as it provides to protect the child of a separated home, or an illegitimate child, for that particular matter, because it will thereby encourage and foster the parents of that child when they meet the reality of separation and gives them the right and really encourages them to sit down and discuss as to whom should have custody of the child. Be it the mother or the father, it is deemed to be in the best interest of the children themselves, which is the paramount concern, for this to be done. And this is why it is there in the bill and I think it is for the benefit of the children, to make it quite clear that after separation, whether a man and a woman are cohabitating without the benefit of marriage as we know it under our law, or whether they are married then separated, that these people address themselves to, then, that issue which becomes a very important one at the time.

Perhaps instead of (d)

it should be (a) in that particular circumstance, rather than the ownership of property. That is the only criticism I would make really of the section itself, in that (d) if it were (a) it would have more emphasis, perhaps. It should be the first thing. That is our reasoning behind it.

MR. CHAIRMAN(Baird):

Order, please!

Under Standing Order 31(k)

I do now leave the Chair for the Speaker to announce the topics for the Late Show.

MR. SPEAKER(Simms):

Order, please!

I can inform the House now that I have received notice of one matter for debate at 5:30, when a motion to adjourn will be deemed to be before the House; notice given by the hon. the member for LaPoile (Mr. Neary) arising out of a question asked the hon. the Minister of Public Works (Mr. Young) and the subject matter, Mount Scio House.

MR. CHAIRMAN:

The hon. the member for the

Strait of Belle Isle.

MR. ROBERTS: Your Honour, I am not going to kick the dead horse further, I understand what the hon. gentleman is saying, but I certainly cannot accept it. I think that (34) is a bad clause, it changes the general statute clause of this Province, and I venture to suggest that until this discussion came up in the House, the ministers just did not think of that at all. I do not find that, particularly, to be a serious crime. This is an incredibly complicated piece of legislation, not to look at it, but I will say again that it is going to create more work for lawyers than anything this House has done in the hundred and some-odd years we have been here.

SOME HON. MEMBERS: Hear, hear!

MR. ROBERTS: Perhaps all of us who are lawyers ought to be banned, under the Conflict of Interest Legislation, from taking part in it, taking part in the debate or taking part in the disposition of the bill.

I just want to say to the minister I will not argue, I will just get the answer, it is policy, and that is it. I cannot argue with that. I can change it in due course, I hope. I certainly cannot change the minister's mind but the people instead will change the government.

And I think anybody who counts on this act not being changed down the road is a very foolish person indeed. I am not satisfied; I think that section (34) takes away from rights which now exist in our law, and it takes away in a backhanded way, and I think it takes away in an improper way, but having said that all I will say is I am against the section and that is that.

On motion, clauses 33 to 36, carried.

MR. ROBERTS: Boy, that sure points out an anomaly in the law, you can get married but you cannot make a contract.

MR. CHAIRMAN(Baird): Shall clause 37 carry?

MR. ROBERTS: Well, Your Honour, I have only one question on (37), it is with reference to subsection (2).

MR. ROBERTS:

The principle of the clause, if there is such a phrase, is very good, that, obviously, a mentally incompetent person ought not to be entering into agreements, it is the guardian who acts. I do find subsection (2), it says, 'Where the guardian is the spouse' - not an uncommon situation - 'the Registrar of the Supreme Court may act'. I would think it should be, 'should act' or 'shall act', or 'must act', whatever the correct word is. I mean, who do we leave it to? We have John and Jane married to each other and Jane is mentally incompetent and John is appointed her guardian, and John makes a contract to dispose of the property of the marriage

MR. ROBERTS: between John, in his own right and Jane, John in the right of Jane. If Jane is no longer a minor, it never need come to court. I mean that is just an invitation for chicanery. Surely it should be 'shall' or 'should' or 'must', not permissive, it should be mandatory.

MR. MARSHALL: I agree with that, Mr. Chairman, although, you know, I previously said earlier this afternoon, that we would not - not that we would not - but that we should carefully weigh before we make it in Committee but -

MR. ROBERTS: I agree with that.

MR. MARSHALL: - you know, it would appear to me that there ought to be somebody charged with the mandatory responsibility. We have not got a public trustee as such, and the Registrar of the Supreme Court often stands on that, and I think that we can entertain an amendment to that. I did not introduce the bill, so if the hon. gentleman would like to second it I would move that the word 'may' be deleted from Subsection (2) of Section 37 of the bill and replaced with the word 'shall' so that it will read that where the guardian is the spouse of a mentally incompetent person, the Registrar of the Supreme Court shall act in the place of the guardian under Subsection (1).

MR. ROBERTS: I will simply thank the hon. gentleman. I do not know whether he intended me to second it; if so, I do, and I will simply say that he and I have now sewn up the mentally incompetent vote in this Province.

On motion, Clause 37 as amended,  
carried.

On motion, Clauses 38 through to  
40, carried.

MR. CHAIRMAN: (Baird) Shall Clause 41 carry?

MR. ROBERTS: Hold on now, do not go quite so quickly - 40 - I am not sure of this, but is 40, Subsection (2), analogous to Section 37(2)? It is where the executor or

MR. ROBERTS: administrator of a deceased spouse is a surviving spouse - again that is not an uncommon situation - the Registrar of the Supreme Court may act in the place of executor or administrator, and you see we would have a case where the agreement would be between John Jones in his own right and John Jones as executor or administrator, as the case may be, of the late Jane Jones, and the agreement would be, you know, in respect of the property of John and Jane Jones, a married couple. Again, I am not sure that that - you know, that is a little different than mentally incompetent but it is still an open invitation to abuse. Perhaps the answer on that might be, if I could suggest to my learned friend, the President of the Council (Mr. Marshall), to have the draftsman look at that overnight. I am with him, amendments in Committee are always subject to consideration. I just raised the point, they may be comparable sections.

MR. MARSHALL: That one is not so patently obvious to me or so patently dangerous, Mr. Chairman, but -

MR. ROBERTS: Well, there could be rights of third parties affected by that

MR. MARSHALL: - it has been traditional that - well, as a matter of right, that a deceased spouse has the right to administration - or the surviving spouse has the right of -

MR. ROBERTS: To the administration.

MR. MARSHALL: Yes, to the administration. What I would prefer to do with that is to take this with the other two points on limitation, and we will certainly look into it.

MR. CHAIRMAN: (Baird) The hon. member for the Straits of Belle Isle.

MR. ROBERTS: Okay, I have no problem with that, Mr. Chairman, the surviving spouse certainly, I think, has a - I am not sure if it is a statutory right, but no judge in the courts -

MR. MARSHALL: A commonly accepted right, yes.

MR. ROBERTS: - would refuse to grant administration to a surviving spouse. I am just wondering - there might conceivably be the rights of third parties, particularly children in the

MR. ROBERTS: marriage or children of a previous marriage that might conceivably be affected and that might lead to a situation under Section 40(2), where you could have a manifest unfairness. I agree with my learned friend, it is not quite as strong as the Section 37 situation, but it is worth looking at.

MR. CHAIRMAN: (Baird) Shall Clause 41 carry?

MR. ROBERTS: On 41, I do not understand 41.

MR. CHAIRMAN: The hon. member for the Straits of Belle Isle.

MR. ROBERTS: 41, Your Honour, "A person may enter into an agreement under this Part to vary or exclude the application of this Act". Does that mean you can vary or exclude the application of Part III of this Act as well? If so, I could get around the Section 31 problem by suggesting that you just make an agreement under the act to vary Section 31 of the act. I am, you know, serious and I am half serious at the same time. I think those words ought to be perhaps meditated upon. You cannot put a clause in a statute saying that you can vary the entire statute. I think it probably ~~has to have some limitation words, you know, attached to it.~~ I just raise it as a point of importance, but I am not sure that it requires any debate or anything, I will if need be, but it is an interesting point.

MR. MARSHALL: My only observation is that this part relates to domestic contracts and agreements and we can certainly take a look at the wording after, but it would appear

MR. W. MARSHALL: that it is quite effective to the words under this part refer to this part relating to domestic contracts and in domestic contracts -

MR. E. ROBERTS: But it says, to exclude the application of this act.

MR. W. MARSHALL: Yes, of the entire act.

MR. E. ROBERTS: The words under this part refer only to the authority to make the agreement.

MR. W. MARSHALL: Yes. But here again we will take a look.

MR. CHAIRMAN: (Mr. Baird) Shall Clause 41 carry?  
On motion, Clause 41, carried.  
Shall Clause 42 carry?

MR. E. ROBERTS: Mr. Chairman.

MR. CHAIRMAN: The hon. member for the Strait of Belle Isle.

MR. E. ROBERTS: Clause 42 - make your Will and you do not even know it. Would the minister care to comment on one point on Section 42? Under our Wills Act, and this goes back in common law what - a thousand years, a Will must either be in holograph or must be witnessed by two people and there are certain formal requirements we do not need to go into. Section 35 would allow one witness so what we are now allowing is a Will to be made with only one witness, is that -

MR. W. MARSHALL: Mr. Chairman.

MR. CHAIRMAN: The hon. House Leader.

MR. W. MARSHALL: We are not really making a Will - allowing a Will, Mr. Chairman, we are allowing, really, a contract and we are saying that that contract can be made in accordance with, in effect the normal formalities and procedures under the law. As an incident to that, that contract may vary a Will and insofar as it varies a Will it will not be deemed to be a testamentary disposition under the Wills Act itself, that is the effect of the wording. So, in effect, you are changing it to that extent but you have to because otherwise

MR. W. MARSHALL: the procedures would be far too involved I think.

MR. CHAIRMAN: (Mr. Baird) The hon. member for the Strait of Belle Isle.

MR. E. ROBERTS: Well, I agree. It is interesting that we are allowing what amounts to testamentary. From now on you do not need to make a will all you have to do is make a marriage contract and then die with the marriage contract in effect and it will have precedence over any will made under the Wills Act. In other words, people who have a will, they, without knowing it, forget the joint tenancy situation with the house- I mean, anybody who is married and owns a house now does not need to make a Will from now on, they can not make a Will in respect of their house as long as their spouse is alive that is it, whoever lives the longest gets the bundle, you know. But the people may not realize that if they make a marriage contract they have, in effect, made a Will and if they have made a subsequent will it may be void or varied by this, assuming the words 'on effect' come into effect on death.

~~Again, another of the aftereffects of~~  
this legislation, Mr. Chairman, that nobody has really paid any attention to but it is going to be there to haunt us for a while yet.

On motion Clauses 42 and 43 carried.

MR. CHAIRMAN: Shall Clause 44 carry?

MR. E. ROBERTS: I want to raise a point of principle on this, Mr. Chairman.

MR. CHAIRMAN: The hon. member for the Strait of Belle Isle.

MR. E. ROBERTS: It will not be at any length but I would suggest that this Clause ought not to be in this bill, I agree with the Clause but I think it ought to have appeared as an amendment to the Intestate Succession Act and I would suggest that this Clause should be deleted and that the government should proceed

MR. E. ROBERTS: to introduce a bill, an act to amend the Intestate Succession Act. This is not an incidental amendment as Clause 43 is, this is a specific amendment to a specific act and I think under parliamentary practice, Sir, and I would raise this as a point of order, that this will require a special, a specific bill to do. This bill does not purport to be a bill, "An Act To Amend The Intestate Succession Act", it is a bill, "An Act Respecting Matrimonial Property And Certain Rights Thereunder," and I think we should have a separate act for it.

MR. W. MARSHALL: Mr. Chairman.

MR. CHAIRMAN: (Mr. Baird) The hon. House Leader.

MR. W. MARSHALL: There is actually on the Order Paper now, notice has been given of an amendment to the Intestate Succession Act and, you know, I wondered myself, really, why it was in as a consequential amendment to this particular act. I think it should go in, I think it is a good provision. In effect, the previous law, if a person died leaving his spouse, and they had no children -

MR. ROBERTS: The first \$30,000

MR. W. MARSHALL: - the first \$30,000 and it became almost impossible to administer because then you had to value the estate and its most unfair - actually it is \$50,000, I believe, it was altered some time ago. But, in any event, you know, it is a good amendment, and substantively it is good and long overdue. I wondered why it is a consequential amendment to this act but I would say that I would, - I mean, it is not really a point of order. I think it can be passed, I say that with respect. But the point is that we do have notice of this act on the Order Paper and I would think, really, it could well go through with the Intestate Succession Act as well.

MR. E. ROBERTS: With respect, Mr. Chairman, I think there is a point of order because it is the Speaker's job to consider any point that is raised at any point

MR. ROBERTS:

during the debate, that a bill in part is improper. Now, I am with my hon. friend, I agree on the - you know, I will have no trouble voting for that clause, I think it is a very good clause and I am quite prepared to agree with that. But I do think it should be dropped from this bill and we should have a bill, "An Act To Amend The Intestate Succession Act." It may be a change that is made necessary by this bill but it is not consequential and it goes far beyond the matrimonial property. We have got a provision in an act, in a bill I should say, it is not quite yet an act, that is different in principle than what the act is all about. So I would suggest to my learned friend there is no point in my moving amendments. The government quite properly control the Committee, they are the majority. But I think that should be dropped from this bill and that we should go ahead at whatever point the government wishes and deal with the Intestate Succession Act in the proper fashion. It is a point of order, Mr. Chairman, and I think it is one that Your Honour ought to take in - you know unless it is agreed - Your Honour ought to take it under advisement and we will get a ruling and deal with it.

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

MR. MARSHALL: Well, I do not know, Mr. Chairman. The point of order that has been brought up, I mean they call it a consequential amendment. The House or any legislative body - can really, it would appear to me, enact any bill under any title, the title does not matter, really what matters is the substance and effect of the bill itself. It can enact a bill to deal, say, with the Lower Churchill power if it wishes to and it could call the bill if it wanted to, The Intestate Succession Act. That is a little bit ridiculous but the point is the title of the bill does not matter, it is really the substance. Just because it is called a consequential amendment if the hon. gentleman does not view it to be a consequential amendment that is an opinion. I am not all that sure, really, whether it is a consequential amendment or not. I mean the point taken, as I have indicated, it is a fairly

MR. MARSHALL:

reasonable point to bring up but at the same time I do not think it is without the powers of this Legislature to enact a bill with a provision in it affecting another act. It is done from time to time. Neatly in most cases, it is done by way of referring to this as consequential amendment.

Now, the hon. gentleman mentions that this is not merely a consequential amendment but one of some import. I tend to agree but, I mean, I do not say that we have not got the power to do it. I think we should put it through. And, you know, if for the sake of tidiness in our, like in the consolidation of our statutes or, you know, reasonable reference to people looking at these things it is deemed necessary to do, we can amend the Intestate Succession Act and revoke this.

MR. ROBERTS: Mr. Chairman, with all respect to my learned friend -

MR. CHAIRMAN: The hon. member for the Straits of Belle Isle.

MR. ROBERTS: - I am not founding my objection to Clause 44 on the fact that it is called consequential. I do not care what it is called. What I am saying is that the principle of the bill before the House is to deal with matrimonial property and the House has dealt with that, it has accepted it and I am suggesting to Your Honour that it is not correct, it is not in order, it is not parliamentarily proper if there is such a word as 'parliamentarily'. It is not proper in parliament to deal with two matters of principle in one bill. This does not deal with matrimonial property only, this deals with the Intestate Succession Act. And I think that what ought to be done - you know, parliament can do what it wishes but parliament follows its own rules. This House follows its rules and follows the rules that have come up over the years. The way to amend the Intestate Succession Act is simply to put a notice down, as I believe my learned friend says is on the Order Paper, and to have a bill brought in to amend the Intestate Succession Act. There has grown up the practice that a

MR. ROBERTS:

consequential amendment is accepted. But this is not a consequential amendment. A consequential amendment, you know, is something very minor. This is quite a major point. It happens to be one on which we all agree. So I think what we ought to do is simply drop section 44. If the government want to call the Intestate Succession Act immediately, as far as I am concerned we can go ahead with it and I am sure gentlemen on this side are prepared to allow it to go through. But I still feel that it is not proper to have this matter dealt with in the bill before us. And I would raise the point of order. It is Your Honour's prerogative, of course, and responsibility as well to decide. I do not care what it is called, I look at the pith and substance of it. And the substance of this particular section is to amend an act and I believe you can only amend an act by an act that specifically sets out to amend the act.

MR. MARSHALL: You can easily argue, Mr. Chairman, that this is a consequential amendment.

MR. ROBERTS: (Inaudible).

MR. MARSHALL: The point is I do not see it really all that earth shattering.

MR. MARSHALL: fact of the matter is that what we are doing, the very principle of this act, is to change the distribution of property, and to change the distribution of property on the death of an individual. Now, under another law of this Province it provides that in the event that a man dies and there are no children, his widow does not get the benefit that is provided under this act. In other areas of this act we deal, as the hon. member indicated a moment ago, with the Wills Act, and I suppose you could validly say that perhaps that particular provision ought to find its way into the Wills Act. You could go through - there are other areas, as well, I am sure. There are many other areas in this law that affect. The fact of the matter is that this is a revolutionary change in the law, itself. I do not want to give the hon. gentleman the appearance that, you know, you agree here and there with it, but I just do not feel that it is all that import. What we have to do is to change the law. He talked about - you look at the substance and the substantive thing is what the Legislature is doing in bringing about in this bill the very effect that the hon. gentleman supports and endorses. Quite frankly, if we do it in ~~this bill, I think we bring about that effect. That is the point~~

MR. ROBERTS: Well, Your Honour, I simply say that my learned friend is now changing - the ground on which he originally stood having been taken out from under him, he is now changing his ground completely and going back to something which he said was not important at all. I think the point is important. I do not give a hoot about the Intestate Succession Act, because I agree with the suggested change, but I think it is important and I think those of us, as I think my learned friend opposite would agree, who are tender to the rights of this House ought to be very much on the guard for attempts to amend legislation in a back door way. I do not think that was what was intended but I think that is the effect. If Your Honour wishes to deal on the consequential ground, I will. I think I could put together an argument that ought to convince any fair-minded gentleman, like Your Honour, that this is not a consequential amendment. But that is not the point at issue.

MR. ROBERTS: The point at issue is that it is a major matter of principle and to amend a major matter of principle requires a specific act of this House and I think we should be very tender of that and that we should act on it.

I simply raise the point,  
Your Honour has both the responsibility and the authority to decide it.

MR. CHAIRMAN: (Baird)

Thank you.

There has been a point of order.

I think we will recess for five minutes to research it.

MR. CHAIRMAN: (Baird) Order!

MR. MARSHALL: I move the Committee rise, Mr. Chairman.

I think - you know, it is 5:30 - I think actually, by way of explanation, I have heard, I believe, that the Chairman of Committees would like a little while to consider it and he can do it tomorrow, I guess - it has only been a few moments.

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

MR. SPEAKER: (Simms) The hon. member for Humber West.

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

On motion, report received and adopted, Committee ordered to sit again on tomorrow.

MR. SPEAKER: Order, please!

It being 5:30, a motion to adjourn is deemed to be before the House. The matter for debate raised ~~by the hon. member for Lapolle (Mr. Neary) is Mt. Scio House.~~

The hon. member for Lapolle.

MR. NEARY: Mr. Speaker, members will recall during the Oral Question Period today I put three or four questions to the Minister of Public Works (Mr. Young) in connection with Mt. Scio House. The minister, Sir, either deliberately refused to give me the information or is inept in his job, is incompetent, is insignificant, inconsequential or does not know his - from a hole in the ground. The questions I have put to the hon. gentleman, Sir, were very serious matters that people of this Province are concerned about in connection with Mt. Scio House. The minister, in trying to pretend that he did not know, in my opinion was merely using this device to cover up the information. He did not want to give it to the House, and what information did I want? Well, I wanted to know if the Premier had moved to

MR. NEARY:

Mt. Scio House. I wanted to know what renovations had been made to Mt. Scio House prior to the Premier moving in; how much did these renovations cost; what new furniture was bought for Mt. Scio House prior to the Premier moving in; how much did this furniture cost; is the property now the responsibility of the Department of Public Works; has it been transferred from the university to the provincial Department of Public Works; and if it has been transferred, how much rent is being charged the Premier for living in Mt. Scio House; and what other services are being provided, for instance, snow clearing, a watchman, cleaning, cooks, chambermaids, landscaping, lights, and so on. When the people of this Province are faced with ever increasing electricity bills, I believe it is

MR. NEARY: incumbent upon the minister to give the House every scrap of information, every detail in connection with Mount Scio House. Because as members know, it is the only Province in Canada that gives the Premier an official residence - the only Province in Canada. So if we are going to set an example for the rest of Canada, whether it be a good example or a bad example, then I believe they are entitled to have the information that I asked for. The people of the Province are entitled to the information. And the hon. gentleman can pretend that he is incompetent and naive and stupid all he wants, but it is merely a diversionary tactic to cover up the information not to embarrass his boss, the Premier. He does not want to embarrass him by giving the House this information.

Mr. Speaker, I hope when the hon. gentleman now stands to respond that the hon. gentleman will not try to be slick or slippery but will lay the information on the table of the House, the information that the people of this Province are entitled to.

This government came into power saying that they were going to level with the people. We have a representative of the Canadian Bar Society now calling for a freedom of information law in this Province and that is one of the reasons they are calling for it.

SOME HON. MEMBERS: Hear, hear!

MR. NEARY: My colleague, the Opposition House Leader (Mr. Roberts) beat them to the draw, and some time ago, he called and challenged the government to bring in a freedom of information law in this Province. And that is one of the reasons we want it, Mr. Speaker, we have ministers refusing to give this House information. So I hope the hon. gentleman will not get up now and be slippery and slick and try to be smart alecky but will give the House and the people of this Province the information they are entitled to in connection with the official residence of the Premier.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: (Simms) The hon. the Minister of Public Works and Services.

MR. YOUNG: Mr. Speaker -

SOME HON. MEMBERS: Hear, hear!

MR. YOUNG: - I feel the hon. the member for LaPoile (Mr. Neary) in a letter he received from the President of the University got his nose out of joint and he did not like some of the answers that the President gave him. He had all the answers.

It is not my responsibility, Sir.

The rent was paid and anything like that. The house was officially designated last year by a Minute in Council and naturally when anyone moves out the house is done up and painted. The house was painted, Sir, it was furnished, carpeted, drapes, the kitchens were redone. I asked the Premier this afternoon was he comfortable - he is very comfortable.

MR. FLIGHT: How much?

MR. YOUNG: How much? All the purchasing, Sir, was done through the Government Purchasing Agency. All the costs will be tabled and when the invoices are compiled everything will be made available to the hon. member.

SOME HON. MEMBERS: Hear, hear!

MR. YOUNG: Probably, Sir, if he will recall - he knows more about that house than I do. The former Liberal Government built that house for Lord Taylor -

MR. J. CARTER: Tore down the old one.

MR. YOUNG: - and tore down the old one. And, Sir, the title has always been in the government department. The administration was done by the University up until March 31, 1979. When Lord Taylor moved out, Sir, President Morgan would not move in there and the University rented the residence to former Premier Moores. And as was told the hon. member when he asked the questions, President Morgan gave him all the answers.

AN HON. MEMBER: He wrote to the President, did he?

MR. YOUNG: He wrote to the President. I am satisfied to table the letter, Mr. Speaker. It is here his questions and the reply and he got

MR. YOUNG: all the information, and like he told him, it was none -

MR. NEARY: (Inaudible).

MR. YOUNG: He more or less told you it was none of your business how much rent was paid, it was a private matter.

MR. NEARY: It is not a private matter.

MR. YOUNG: I do not have the files of Memorial University.

MR. NEARY: They were charging one dollar (inaudible).

MR. SPEAKER: (Simms) Order, please!

MR. YOUNG: Now, are you going to let me answer the questions?

A decision to charge rent is not my decision, it is the government's decision -

MR. SPEAKER: But you answer to the House for it.

MR. YOUNG: - I am answering to the House - and the government's decision was not to charge the Premier any rent.

MR. SPEAKER: Order, please!

MR. NEARY: You are the minister who answers (inaudible).

MR. YOUNG: Now are you going to let me answer the question or are you going to go yap yapping?

MR. SPEAKER: Order, please!

The hon. member, I believe, has had the five minutes allotted to him in debate and I trust the hon. Minister of Public Works (Mr. Young) is about to conclude his remarks.

MR. YOUNG: Yes, Mr. Speaker.

MR. NEARY: (Inaudible).

MR. SPEAKER (SIMMS): Order, please!

MR. YOUNG: Now, Sir, as for the snow clearing, that is provided  
The grounds done by Pippy Park because it is in the park.

MR. NEARY: How much rent?

MR. YOUNG: How much rent? No rent because a decision of govern-  
ment, not me. It was a decision of government to charge no rent to the  
Premier or former Premiers.

MR. NEARY: Not even a dollar a year.

MR. YOUNG: Well, when you get back in power in ten or  
fifteen years time, you can charge a dollar. But it is the decision  
of this government to charge no rent whatsoever.

AN HON. MEMBER: Hear, hear!

MR. YOUNG: Mr. Speaker, if that does not answer all  
the questions I am satisfied, Sir, to table every cent, tit and totter.  
When we get the bills in and get it all finalized everything will be  
done over and overboard. Thank you, Mr. Speaker.

MR. NEARY: Mr. Speaker, a point of privilege.

MR. MORGAN: (Inaudible) to Roaches line why do you not?

MR. SPEAKER: Order, please!

MR. MORGAN: (Inaudible) to Roaches Line.

MR. SPEAKER: Order, please! A point of personal privilege.

The hon. member for LaPoile.

MR. NEARY: Mr. Speaker, the other day when I was speaking  
in the House - and this is the first opportunity I have had  
to bring this matter before the House, Sir because I only saw the item  
in today's Evening Telegram - the other day when I was speaking to the  
House I misled the House in a piece of information that I gave the  
House. I did not do it deliberately, Mr. Speaker, but I stated that  
down at Her Majesty's Penitentiary they had a trailer for weekenders  
and those who dropped in occasionally, friends of ministers and so  
forth who dropped in once in a while for a visit down there. I  
claimed that they had a colored television set in that trailer.  
I am told by one of the government supporters who spent some time  
in that trailer, that it is not a colored television set, it is a black

MR. NEARY:

and white television set. I apologize to the House, Sir, and I hope, Mr. Speaker, that the government will take steps now to make sure that their buddies, when they go down there, will have a colored television, that that black and white television set will be replaced with a colored t.v. set.

MR. MORGAN:

(Inaudible) back to the welfare

(inaudible).

MR. SPEAKER: (Simms)

Order, please!

I would rule there is not a point of privilege but the hon. member has done what other hon. members have done in the past, they have explained statements that have been attributed to them and he has taken the opportunity, I believe, to clarify those statements or tried to.

On motion, the House at its rising adjourned until tomorrow, Friday, at 10:00 A.M.

I N D E X

ANSWERS TO QUESTIONS

TABLED

NOVEMBER 21st., 1979

Question #47

August 15, 1979

MR. NEARY (LAPOILE) to ask the Honourable the Premier to lay upon the Table of the House the following information:

Total amount of legal fees paid to the law firm of James Greene for the years 1973, 1974, 1975, 1976, 1977, 1978, 1979 to date.

Answer:

<u>Fiscal Year</u>	<u>Amount</u>
1973-4	\$4,425.00
1974-5	0
1975-6	21,166.27
1976-7	270.00
1977-8	0
1978-9	0
1979-80	0

*Received by the Hon. the Premier 21 Nov. '77*