

Vol. 1

No. 40

PRELIMINARY

UNEDITED

TRANSCRIPT

HOUSE OF ASSEMBLY

FOR THE PERIOD:

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

TUESDAY, NOVEMBER 16, 1982

The House met at 3:00 P.M.

Mr. Speaker in the Chair.

MR. SPEAKER (RUSSELL): Order, please!

ORAL QUESTIONS

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

MR. ROBERTS: Mr. Speaker, I have two or  
three questions here for the Minister of Finance (Dr. Collins),  
possibly more depending, of course, upon his answers. Mr.  
Speaker, these, of course, grow out of - they all relate to the  
same situation - they grow out of the state of affairs disclosed  
by, I guess, the Premier and the minister speaking last week  
at a press conference with relation to the financial situation  
in which the government find themselves.

I wonder if I might begin  
by asking the minister if he could advise the House whether  
the government, by which I embrace both the political government,  
the ministry, and the officials who work for the government,  
the public service, whether the government from time to time  
carry out reviews of the Budget during the year? To be more  
precise, whether they carry out reviews with respect to the  
expenditure predictions and the revenue predictions, which are,  
after all, the basis on which the estimates are prepared, the  
estimates can only be estimates, but as the year goes by are  
reviews carried out by the government? And if they are, as  
I assume they are, perhaps the minister could tell us by whom,  
I do not mean by what individual, but what level or what  
branch of the service?

MR. SPEAKER: The hon. Minister of Finance.

DR. COLLINS: Mr. Speaker, yes, on a monthly  
basis a report is compiled by officials in the Department of  
Finance as to what the expenditures are like at that point in

DR. COLLINS: time, and these are compiled on the basis of information that is sent in by the various departments.

MR. SPEAKER (Russell): The hon. member for the Strait of Belle Isle.

MR. ROBERTS: Mr. Speaker, the minister spoke of expenditures. Are there comparable reports for the revenue forecast contained in the Budget?

MR. SPEAKER: The hon. Minister of Finance.

DR. COLLINS: Yes, Mr. Speaker, there are, but I think it is somewhat more difficult to get a good handle on the revenues.

DR. COLLINS: Let me say this, approximately 50 per cent of our revenues are from federal sources and we get projections about once a quarter from the federal government on these various projected transfers.

MR. ROBERTS: What about sales tax, our own sales tax?

DR. COLLINS: We get again a monthly report there but, in terms of sales tax, as everyone knows, I suppose, there are sometimes delays in the monies being referred in. We get the returns but sometimes there are delays in the monies accompanying them, and then we have to go after these monies, and in many cases we then have to put a penalty on and sometimes there are interest charges against overdue accounts, that type of thing. So at the end of, say, a particular month we may have an amount related to that month in retail sales tax which will change as the months go on because of these other charges I mentioned.

MR. ROBERTS: Supplementary, Mr. Speaker.

MR. SPEAKER (Russell): Supplementary, the hon. member for the Strait of Belle Isle.

MR. ROBERTS: Thank you, Mr. Speaker. I appreciate, I think, what the minister is saying. But I am sure he would agree - and all of us involved in the work of the Public Accounts Committee would be very familiar with this because it was a very prominent subject during our recent series of hearings that Mr. Carew and his associates attended and were most helpful to the Committee on - that the percentage of the sales tax that is not collected, while it may be a lot of dollars - it is \$15 million, I think, being carried on the books at present over a ten or twelve year period - the percentage is relatively slight. So what I am suggesting to the minister, to put it in perspective, is that at the end of each month he has a reasonably accurate figure as to what the sales tax, and presumably the gasoline tax and the tobacco tax, the

MR. ROBERTS: big three provincially imposed provincially collected taxes, what those three are yielding.

Now what I would like to know - let me just take as a date the first of September, which would be five months into the fiscal year, would there have been a review at the end of that period which would give the minister some indication of where we, the Province, stand with respect to, on the one hand, the expenditure, whether it is within the budget that is forecast and, on the other hand, the revenues, whether they are within the forecast set forth in his budget statement and in the detailed estimates?

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

DR. COLLINS: Mr. Speaker, as I mentioned, on a monthly basis we get these reports and with the

DR. COLLINS:

provisoes I have mentioned that there has to be as time goes on some refining of the figures, some updating of the figures, these monthly figures are the best that we can get at that particular time. So at the end of September, or whatever it was, after five months we would have five months' accumulated reports.

Now I might mention this, Mr. Speaker, that I suppose no government is perfect. I do not think our government is perfect, there are certain delays-

MR. ROBERTS:

The Premier may not agree.

PREMIER PECKFORD:

I would not do that.

DR. COLLINS:

- I mean the bureaucratic government. I am sure the ministerial government is perfect. But there is a large bureaucracy, that means that there are some inefficiencies in it, there has to be. I think there are inefficiencies in everyone's private office, there are inefficiencies in everyone's home and so on. And beginning last Fall we put on some pressure on the bureaucratic machinery to make sure that their accounts, their calculations, their returns, were expedited to the greatest degree possible, and that I think did validate our figures compared to previous years to a large degree. It did improve the figures, I should say, not validate them. It did improve the figures but I would not for one minute -

MR. ROBERTS:

The speed with which they came in.

DR. COLLINS:

The speed with which they came in and the accuracy. I would not for one minute suggest that they are now to the maximum improvement possible, in other words up to 100 per cent, but I think there was a considerable improvement.

MR. SPEAKER (Russell): The hon. member for the Strait of Belle Isle.

MR. ROBERTS: Thank you, Mr. Speaker. Again I thank the minister. Let me go back, if I might, to the Ottawa forecasts which I assume, and perhaps the minister can correct me if I am wrong, would be in respect of four items, the EPF financing, the equalization financing, both of which we receive as a Province from Ottawa through shared arrangements, and the two provincially imposed but federally collected tax sources, namely, the Corporate Tax and the Personal Income Tax. Those are the four major sources, I would suggest, from Ottawa. There is certainly a lot of money comes through them. And the minister, as I understood him to say, said that we receive quarterly estimates, quarterly reports from Ottawa presumably predicting what is going to come in the next period of time and telling us what has been received in the quarter under report. Could he tell us when these are received? I mean, do we get one, say, in March which deals with the quarter beginning the 1st. of April, going April, May, June? What is the timing of that?

MR. SPEAKER: The hon. Minister of Finance.

DR. COLLINS: Mr. Speaker, I suppose I would have to check and see if every year was the same as this past year. I cannot vouch that is the case. But I know this year we got our first report in April, and you recall that the budget was brought down the end of May; we got our next one approximately - I guess it was three months later, we got it in July, and then we got the next one in October.

MR.SPEAKER (Russell): The hon. member for the Strait of Belle Isle.

MR.ROBERTS: Mr. Speaker, the minister received, or his officials did and they brought it in to him, of course, a report in April which said what had been collected and, more importantly, said what was expected to be collected not only during the next quarter but I assume during the fiscal year. Is that correct? I wonder then if the minister could tell us when he first became aware - presumably from these reports, but if not from the reports from whence - when he first became aware of the fact that there in all likelihood was going to be a deficit? He brought his budget in about the end of May was it not, mid-May?

DR. COLLINS: May 27th.

MR.ROBERTS: May 27th, the end of May, and in that there was a small but significant surplus predicted on the current account -

DR. COLLINS: Five million.

MR.ROBERTS: Five million - forgetting how current account - I mean, that is a theological question - but at the end of May, which presumably would have incorporated the April report from Ottawa and would have incorporated the April monthly reports on the provincial tax sources, so at the end of May there was a \$5 million surplus on the current account. I wonder if he could tell us when he first became aware that we were headed for a deficit, which turns out to be monstrous \$60 millions?

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

DR. COLLINS: Mr. Chairman, as I mentioned we get quarterly reports, and we have for a number of years, from the federal government. I do not know if they came in those months but we certainly get





DR. COLLINS:

government. We suspected it was not an aberration but we thought, you know, that there was a possibility that that may have been an aberration.

MR. ROBERTS:

Mr. Speaker.

MR. SPEAKER (Russell):

The hon. the member for the Strait of Belle Isle.

MR. ROBERTS:

Thank you, Mr. Speaker, and, again, I thank the minister.

I wonder when he says - what I heard him say was that he has been seeing these quarterly reports for a number of years, of course, as minister, and inevitably, or all but inevitably, if they erred, they erred on the small 'c' conservative side; they said that you will be getting \$10 millions and in actuality it turned out to be \$10.5 millions or whatever the numbers may have been. And then he saw one in July, reporting for the rest of the current fiscal year, the 1982-83 year, which said you are going to be getting less than we had predicted in our earlier forecasts.

Could he tell us - and I realize he is going from memory, but these are the sorts of figures, surely, that stick in a man's mind, you know, they are of some importance - the order of the aberration down, was it, you know, \$1 million, \$5 million, \$10 million, \$20 million? What I am trying to get at is we have a \$60 million deficit, or a predicted \$60 million deficit coming up between now and the end of March, and the minister had some indication in July that the federally collected monies might not be up to scratch. Could he tell us, please, Mr. Speaker, first of all, whether the July forecast was negative on all four of the items?

MR. ROBERTS: Because I assume, and I think the minister has confirmed, that all four items are included in the forecast, the four federally collected or federally paid items. And secondly, could he give us some indication of the scale of the downward trend, downward numbers which they indicated?

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

DR. COLLINS: Mr. Speaker, perhaps I should explain one thing here so that there is no confusion on it, and this was explained when we had a briefing for the press and other briefings a little while ago. When we were engaged in renegotiating the Fiscal Arrangements Act in the early Spring -

MR. ROBERTS: That is the EPF Act.

DR. COLLINS: The LFF and equalization too - we were informed by the federal government that the 1980 census meant that we had a lesser entitlement than they had been projecting since 1975.

MR. ROBERTS: That would be because we had fewer people?

DR. COLLINS: We had fewer people. We had 20,000 fewer Newfoundlanders than everyone thought we had.

MR. ROBERTS: Like the revenge of the cradle the other way around.

DR. COLLINS: Something of that order, although I think it was largely out-migration more than anything -

MR. ROBERTS: People voting with their feet.

DR. COLLINS: - although I think

DR. J. COLLINS:

the reverse revenge of the cradle did come into it. Now that meant that we had overpayments on equalization and on EPF from the federal government for numbers of years, and the federal government indicated that they were going to look at three years of overpayments. They were not going to go back to 1975, they were only going to go back three years. During the negotiations we got a very strong indication from them that they would allow this overpayment to be phased in, our repayment of that overpayment to us. I hope I am not confusing people. We had to return to the federal government the overpayments we received because -

MR. E. ROBERTS: Because they made us a Billpayers Loan, as HFC would call it.

DR. COLLINS:

Much the same.

And we have to repay that. But we got a strong indication from the federal government that they would allow us to repay in installments, not in a lump sum, and they said we could do that in terms of the equalization overpayments as well as the EPF overpayments. We got strong indications on that and we built into our budget in May an installment of those repayments. Now when we got the projections in July, the federal government had by that time confirmed that the equalization overpayment would indeed be phased in, but they, in the mean time, had changed their mind on the EPF and I do not know why they did that. I do not know why they decided to let us phase in or pay by installments our overpayment for equalization and not for EPF.

MR. ROBERTS:

Presumably they treated us the same as other provinces.

DR. COLLINS:

Yes. It was the same for all provinces, but throughout the negotiations they took a harder

DR. J. COLLINS: line on EPF anyway than equalization.

MR. E. ROBERTS: Of course, everybody gets EPF and only the 'have nots' get equalization.

DR. COLLINS: Everybody gets EPF and I suppose the 'have nots' get equalization so they are a little bit softer in that regard.

Now, that July projection of our transfers from the federal government was a bit of a shock to us because here we were faced with a lump, a total repayment of the EPF overpayments.

MR. ROBERTS: How much was that in dollars?

DR. COLLINS: The total amount was \$25 million.

We had budgeted for an installment of \$6 million.

MR. ROBERTS: About a quarter.

DR. COLLINS: So here we were now faced with an extra requirement of repayment of \$19 million. So the projections we got in July had those two things: One, that sudden EPF requirement and, two, certain turndowns in other things. Now, I might say that there was not neqative turndowns all along the boards. As a matter of fact, funnily enough personal income tax was up a bit, but

DR. COLLINS: corporate income tax was down very sharply. It was down from something like \$54 million down to about \$34 million or \$32 million, that type of thing, almost halved, something like 40 per cent less anyway. There was a very sharp turndown in that. There was a turndown also on equalization, unrelated to overpayments, based on population changes. There was just a turndown on equalization just because the economy had changed.

MR. ROBERTS: A significant turndown, was it?

DR. COLLINS: I think it was, if my memory serves me, of the order of \$6 million - \$8 million, something of that order.

MR. SPEAKER (Russell): The hon. member for the Strait of Belle Isle.

MR. ROBERTS: Thank you, Mr. Speaker.  
Again I thank the minister.

Let me just follow this through now. He has told us that bad news came in July in that first of all the federal government said we are going to require you to pay back to us all your EPF overpayment - which is \$19 millions more than you budgeted; we are going to expect to have all of that repaid during the 1982-1983 fiscal year. And secondly, we got some bad news for you on corporate tax. And thirdly, we have some bad news for you on equalization; you are not going to get what we expected you would get.

Can the minister tell us whether that put us into deficit - I do not want to get theological; I mean, when do you draw the line? But at that stage was the Province projecting a deficit on its current account? Because he has just accounted for \$45 million. Can he tell us whether at that stage we were heading for a deficit?

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

DR. COLLINS: Yes, as the hon. member mentioned that added up to a negative variance of \$45 million. But as I mentioned there was somewhat unexpectedly a positive variance on personal income tax.

MR. ROBERTS: Of how much?

DR. COLLINS: If I remember correctly that was about \$12 million.

MR. NEARY: Oh!

DR. COLLINS: So the total negative variance was of the order of say \$33 million. Now I am using very rounded figures -

MR. ROBERTS: I appreciate it.

DR. COLLINS: - and just from memory but it was of that order. And obviously that would put us in a definite budgetary position.

Now I would like to recall to hon. members' minds that this was out of keeping with previous quarterly changes. So the question raised in our mind, is this something that is going to remain in place? Is it going to get worse the next time we get our projection? Is it going to get better the next time? We were uncertain whether this was a piece of bad news that was going to stay in place or whether it was an aberration, but obviously we feared the worst, and I think it was prudent to do so, so we set in place then a very close review and monitoring mechanism.

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

MR. ROBERTS: Thank you, Mr. Speaker.

The minister tells us that the government set in place a review and a monitoring mechanism which would

MR. ROBERTS: tell us presumably - the Premier is giving some instructions here - presumably this would tell us, the Province, as we went along where we were with respect to expenditures. Am I correct that the review and monitoring was with respect to expenditures or respect to revenue?

DR. COLLINS: With respect to both.

MR. ROBERTS: I am sorry. The revenue would be monitored anyway through the types of information which the minister gave us earlier on. Now let me then ask about expenditures, because if we have a \$61 million millstone around our necks these days and \$33 million of it - before I go into expenditures, can the minister tell us the results of the September report which came from Ottawa on these four sources? Are we still heading for a \$33 million variance on those four sources or is it a little different?

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

DR. COLLINS: Again, Mr. Speaker, I do want to emphasize I do not want to be held to these precise figures. But there was a further negative variance in the October projection, when we got it in October. It was not as great. Again, if my memory serves me, it is around \$6 million or \$7 million.

MR. ROBERTS: In addition to the previous one?

DR. COLLINS: In addition to the previous one.

MR. ROBERTS: Supplementary, Mr. Speaker.

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

MR. ROBERTS: That is in addition to the \$33 million, so let us round it off at \$40 million. The minister is using figures from memory and, I mean he is in effect echoing C.D. Howe's old statement - alleged statement; he never did say it, in fact -



MR. ROBERTS: 'What is a million?'. But it is of the order of \$40 million in negative variance. Now that means we are \$21 million overspent on expenditures, that is presumably the way we get the \$61 million - unless, and let me ask this then, unless we are down on retail sales tax: Are we down on retail sales tax? If so, by how much? And could the minister tell us again when he became aware of the fact we were heading for however far down we are on sales tax?

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

DR. COLLINS: Mr. Speaker, when the budget came down, towards the end of May, we had a pretty good handle on the first quarter of the year, that is the first quarter of the calendar year.

MR. ROBERTS: Two months gone.

DR. COLLINS: Pardon?

MR. ROBERTS: Two months gone.

DR. COLLINS: No, of the calendar year.

MR. ROBERTS: Oh, I am sorry.

DR. COLLINS: So we could, I think, on the basis of the first quarter of the calendar year, give a reasonably good projection of what the first quarter of our fiscal year was going to be like. I mean, you know, it was a projection but it was a very close projection, it was only a few months apart and presumably the economy was not going to go suddenly up or suddenly down. So we could build into our budget a pretty good idea of what retail sales tax would be in the first quarter of the fiscal year. And as events have turned out that was pretty accurate. It was not dead on but it was pretty accurate. By the time we got the federal report in July, we had now some indication of what was happening in the second quarter of the fiscal year and that was considerably worse in terms of retail sales tax. And the figures up to the present, we have them in a preliminary fashion for October, and there has been some up and down but they have generally been in a negative phase. So up to the end of October we were looking at something of the order of \$9 million, \$9.5 million less than we projected in the May budget.

MR. SPEAKER (Russell): The hon. member for the Strait of Belle Isle.

MR. ROBERTS: Thank you, Sir, and may I again thank my colleagues for their assistance in letting me pursue this line of questioning. So then we add them all together and we are of the order of less than \$50 million down on revenue, That is a lot of money.

DR. COLLINS: Now that is the retail sales tax figures up to the end of October. If you annualized that, or projected it, we were thinking it would be down about \$16 million.

MR. ROBERTS: So we add that on and we are down to \$5 million overspent, again projecting forth for the year. Well, we will come back in due course to the minister and ask him for details of these \$5 million in over expenditures, none of which, to my knowledge, have been authorized by the House even though the House is now again meeting. I do not know - were warrants tabled last week, special warrants of any sort? So we are not aware of any special warrants, these are over expenditures then on items that have been approved.

DR. COLLINS: Projected. Again you are projecting for the full year.

MR. ROBERTS: Oh, yes, projected. But, I mean, you know, all life is a projection, is it not, Mr. Speaker?

Now let me come back. Can the minister tell us then why he and his colleagues chose to make no statement to the people of the Province? By the end of August it

MR. ROBERTS:

would appear they realized, they knew that in all likelihood now, I know nothing is certain except death and taxes; not the yield from taxes but the fact of taxes, but they had every reason to believe on the best information which they had, and they got what information there was, that the total tax yield would be significantly down, that expenditures were up marginally. Five million dollars on \$1.5 billion is not a vast sum of money, it is a lot of money in itself but not a big percentage so why did they not tell the people of the Province that this was going to be the likely outcome? I mean, the minister will agree they did not tell. They told people outside the Province but they did not tell people in the Province. Could he tell the House, Sir, why this was so?

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

DR. COLLINS: Well, Mr. Speaker, I think we did tell the people in the Province. One of the ways we told them was that we indicated there would be a very definite wage restraint programme. We sent out a signal in that respect in anticipation of not a very good year for the economy. That was something that every economist was projecting, that it would not be a very good year in the early part of the year. So we believed them and we sent out that signal when we said that those on the executive pay plan would be getting just a 5 per cent increase. Shortly after that - I do not remember the date, it was sometime in June or July - I cannot recall in what form this got out to the public but I am sure it did, that those on the management's pay plan would also only get 5 per cent and subsequently, in August, we indicated that the range of settlements we would see for those in the collective bargaining

DR. COLINS: units would be in the range of 7-6-5 for the first year and 6-5-4 in the second year. So we were indicating to the people of the Province that the budget was causing us difficulties. I think around the same time we were giving interviews with the press, and so on and so forth, indicating we would have to go into some sort of a formal budgetary review and we would ultimately end up in informing this hon. House at the earliest possible moment what that review indicated.

MR. SPEAKER (Russell): The hon. member for the Strait of Belle Isle.

MR. ROBERTS: Mr. Speaker, this is not the place to debate, so I will not draw any attention at all to the fact that when the government announced their 6-5-4 formula it was after the federal government had brought in the 6 and 5 formula so we were a punt bobbing along in the wake of the ship of state (federal). So again let me simply note that the minister did not tell us why he and his colleagues did not man-fashion make a statement to the people of this Province saying we were

MR. ROBERTS: heading for an horrendous deficit on current account. So let me then ask him why he saw fit to tell people outside the Province that in all likelihood we were heading for a significant deficit at a time when he did not tell the people of the Province that? That is the gist and the kernel of my question.

MR. SPEAKER (Russell): I will permit the hon. the minister to answer and that will be the end of the Question Period.

MR. ROBERTS: Ah, so quickly! Well, there will be other times, Sir.

DR. COLLINS: Well, Mr. Speaker, very quickly, as I think I indicated to the hon. member, we did indeed tell the people of the Province, perhaps not in the form that the hon. member now says we should have, but it is our view we did tell them. We told some people outside this Province in a more formal fashion, and the reason for that was that the credit rating agencies themselves had initiated a review of the financial status of various provinces, including our own, so we had to make a formal presentation to them and, as is our wont, we laid out to them not only where we stood but where we projected we would stand.

MR. ROBERTS: You told them the truth but did not tell the people of the Province the truth.

MR. SPEAKER: Order, please!

REPORTS BY STANDING AND SPECIAL COMMITTEES

MR. GOUDIE: Mr. Speaker.

MR. SPEAKER: The hon. the Minister of Rural, Agricultural and Northern Development.

MR. GOUDIE: Mr. Speaker, I want to table copies of the Canada - Newfoundland Crop Insurance Agency

MR. GOUDIE: report and also the financial report of the Farm Development Loan Board.

o o o

MR. NEARY: I move, Mr. Speaker, that the regular order of business of this House be suspended to debate a matter of urgent public importance, namely, a crisis in hospitals and health care programmes brought about by government budgetary miscalculations and mismanagement.

MR. MARSHALL: Mr. Speaker.

MR. SPEAKER (Russell): The hon. the President of the Council.

MR. MARSHALL: Mr. Speaker, the technical question is the adjournment of the House for the purposes that the Leader of the Opposition (Mr. Neary) has given. I might say, on the matter of substance, there has been no change in the budget at the present time and I can say this is another one of the wild assumptions again of the Leader of the Opposition in an attempt to get

MR. MARSHALL: a little bit of press that the other Leader of the Opposition squeezed him out of today.

But, Mr. Speaker, the situation, and I refer to Beauchesne on the matter of adjournment of the House on a matter of urgent public importance, and of course it is covered in our Standing Orders, and I refer to page 92, paragraph 286, "The "specific and important matter requiring urgent consideration", for the discussion of which the adjournment of the House may be moved, must be so pressing that public interest will suffer if it is not given immediate attention:"

Paragraph 287, "Urgency" within this rule does not apply to the matter itself, but means "urgency of debate", when the ordinary opportunities provided by the rules of the House do not permit the subject to be brought on early enough and public interest demands that discussion take place immediately.'

So on those two counts, Mr. Speaker, I would argue that the motion is out of order, But there is another rule as well, Mr. Speaker, that requires the substance of the motion to be accurate and in this case the substance of the motion is inaccurate because there has been no change in the Budget of the government.

MR. ROBERTS: Just pertaining to the reality, the Budget never did pertain to reality.

MR. SPEAKER (Russell): The hon. member for Port au Port.

MR. HODDER: To that point of order, Mr. Speaker. The motion refers to a crisis in hospitals and health care programmes.

MR. ROBERTS: And there is a crisis.

MR. HODDER: If the government opposite does not realize that there is a crisis in the hospitals and



MR. HODDER: in health care in this Province, they must have their heads in the sand, Mr. Speaker. Because every day in the public media we hear of more layoffs and more cutbacks in the hospitals of this Province.

SOME HON. MEMBERS: Oh, oh!

MR. HODDER: So, Mr. Speaker, I submit -

MR. NEARY: Why do you not cancel your cocktail parties and see that the hospitals remain open?

MR. HODDER: - that the resolution is in order and that it should be debated here in the House of Assembly.

SOME HON. MEMBERS: Hear, hear!

MR. NEARY: Right on! What could be more urgent than looking after sick people?

SOME HON. MEMBERS: Urgent.

MR. SPEAKER (Russell): Order, please!

While the Chair is cognizant of the fact that the matter raised by the Leader of the Opposition (Mr. Neary) is of some importance and of some concern to a great many people, the Chair does not consider it important enough to adjourn the ordinary business of the House to consider this matter.

#### ORDERS OF THE DAY

MR. MARSHALL: Order 47, Bill No. 60

MR. SPEAKER: Order 47.

Motion, second reading of a bill, "An Act To Amend The Judicature Act". (Bill No. 60).

SOME HON. MEMBERS: Oh, oh!

MR. SPEAKER (Russell): Order, please!

MR. WM. MARSHALL: If I may, Mr. Speaker, the Orders of the Day are Bill No. 60, Order No. 47, which I would ask Your Honour to take notice of rather than the obvious ascending blood pressure of the Leader of the Opposition (Mr. S. Neary).

Motion, second reading of a bill  
"An Act To Amend The Judicature Act." (No. 60)

MR. G. OTTENHEIMER: Mr. Speaker.

MR. SPEAKER (Russell): The hon. the Minister of Justice.

MR. OTTENHEIMER: Mr. Speaker, the principle of this bill is an important one but a quite straightforward one and it deals with the numbers of judges in the Trial Division of the Supreme Court of Newfoundland and the purpose of the bill is to increase the number of judges from six to seven. As hon. members are probably aware, all of these appointments are made by the federal government. These are federally appointed judges but enabling legislation is required on the part of the Province.

Hon. members may well recall that last year there were some additions to the judiciary. The Court of Appeal was increased from three to four, the Trial Division of the Supreme Court was increased to six judges, and this legislation will permit the appointment of an additional judge, which will give a total of seven. I should point out as well that next Fall it is the intention of the government to have a merger of the Trial Division of the Supreme Court and the District Court and that, of course, will mean that there will no longer be a District Court or District Court judges, they will all be members of the Trial Division of the Supreme Court.

There are at present eight District Court judges, I am pretty sure that is correct.

MR. G. WARREN: Nine. There is one in Labrador.

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MJ - 2

MR. G. OTTENHEIMER:  
is not appointed yet.

Nine. Yes. Of course, Labrador

MR. G. WARREN:

But there are nine possibilities.

MR. OTTENHEIMER:

Nine possibilities. Yes.

Eight there, and the appointment of an additional one would make nine. So, for example, if the House concurs with this legislation, and I would assume that it will, then with merger that would give a total of fifteen with the District Court judges as it is now, but in all probability it will give a total of sixteen because I would anticipate an appointment in Labrador within the next few months. Tenders were quite recently called. As a matter of fact, they were called some months ago and indeed about to be awarded and the lowest tenderer went out of business, went bankrupt or something happened. And now they have been tendered again, and

MR. OTTENHEIMER: there are some renovations or alternations to be made in the building, But certainly I would anticipate within the next few months that there would be an appointment there which will give a total of nine district court judges and with the seven Supreme Court judges, which would be the total complement with the enactment of this legislation and an appointment by the federal government, we would have then with merger a total of sixteen Supreme Court judges in the province altogether. So actually what this is is a bill to enable the appointment of one additional Supreme Court judge which would then bring the total to seven at this particular time, and with merger the total would be sixteen, that with the absorption of the district court judges into the Supreme Court of Newfoundland. But this particular bill, what this does of course is to allow the appointment of one additional judge, bringing the Trial Division of the Supreme Court from six to seven.

MR. SPEAKER (Aylward): The hon. member for the Strait of Belle Isle.

MR. ROBERTS: Thank you, Mr. Speaker. Before I go into details on the bill which the minister has so succinctly and so ably moved, let me first of all make a point which I believe has been made by a number of my colleagues, which I fully subscribe to, and that is to say that it seems - not it seems, it is a travesty and a mockery of the whole purpose of this House that we are here debating even a bill this important at a time when this Province is facing an economic disturbance - I do not want to call it a crisis, a crisis may be too strong a phrase - but economic troubles on the scale and of the magnitude that confront us, particularly when the government of this Province obviously

MR. ROBERTS: have not the least idea of how to cope with these problems, or how to deal with them, or how to alleviate them, or how to remedy them -

MR. CARTER: (Inaudible).

MR. ROBERTS: - in the period ahead.

I will not repeat that ad nauseam so the gentleman from St. John's North (Mr. Carter) will not be able to understand it, but I do want to make the point and having made it I will go on to talk about the details of the bill.

Let me say that we on this side will support the bill. It is not our choice that it be debated, but if the government are going to bring it in we of course will debate it. We are forced to. The government are masters of the rules, are masters

MR. ROBERTS:

of the orders of the House on four days of the week and this is one of them.

We are prepared to support this bill and, in fact, we will go further - I hope he is not going too far from the Chamber. He may be going out to feed his habit, his noxious habit of inhaling carcinogenic substances, and for the minister's own good he ought not to indulge in such a habit. I suppose he could say that his habit does help to balance the budget. But I would say to him that is a dangerous road because the return on it to the Province on alcohol is far greater than even the return on cigarettes. So if he is going to smoke in the hope that somehow he will balance the budget, he would be better advised to go into the Controllars and spend his sustenance there including his - what was it? - his 25 per cent raise, or whatever it is the ministers gave themselves last year - and I do want to say to the ministry, and in particular the Minister of Justice (Mr. Ottenheimer) and the President of the Council (Mr. Marshall), that there ought to be provision made for two extra judges in the Trial Division of the Supreme Court, not one. I am sure most hon. gentlemen are familiar with why we are doing this. The minister quite rightly pointed out that he and his colleagues do not appoint judges to the Supreme Court or to the District Court, they do appoint the judges of the Provincial Court. Only the Government of Canada, the Governor in Council under the Constitution Act has the right and the authority to appoint what are called Section 93 judges - 93 or 94 - anyway to appoint federal judges, but only the provinces can authorize the provincially constituted courts, which includes the Supreme Court of this Province and the Supreme Court of every other Province. It is not our court anymore than the Supreme Court of Canada is not their court. Those are terms that every jurist and every lawyer finds highly offensive. Some courts are created by virtue of statutes

MR. ROBERTS: enacted by Parliament, the Supreme Court of Canada and the Federal Court of Canada; some are created by statutes enacted by the provincial Legislatures, including the Supreme Court of this and every other province.

We do need extra judges in the High Court, the Trial Division of the Supreme Court, and I would suggest to the minister most earnestly that he ask to amend this bill. I am not sure if it need be done in Committee or it can be done in the House. We on this side would certainly give our consent if he wished to do it in the House and the rules said that it is a matter that required unanimous consent. I think we should provide for two extra judges, not one. Whether or not Ottawa chose to appoint them is, of course, a matter for Ottawa to decide - we do not know what Ottawa is going to do-but I think if we create not just the seventh Trial Court judge but the seventh and the eighth Trial Court positions we will have done our share.

MR. ROBERTS: Mr. Speaker, there is an old saying but a true saying that 'Justice delayed is justice denied,' and in this Province today, Sir, as the Canadian Bar Association -

MR. MORGAN: (Inaudible).

MR. CARTER: The hon. member is denied.

MR. ROBERTS: Mr. Speaker, if the Abyss from Bonavista South (Mr. Morgan), a gentleman who does not have the courage to say outside the House what he says in the House, and his soul mate, his heart mate, to quote the immortal John C. Crosbie, 'cheek to cheek, jowl to jowl, etc. to etc.' friend, the gentleman from St. John's North (Mr. Carter), cannot restrain themselves in the face of my eloquent advocacy of a position, then let them take themselves hence.

Now, the point I am making, Sir, is that justice delayed is justice denied, and in this Province today, people seeking the justice, which is meted out by the Queen's courts, are not getting it; and the reason they are not getting it is that there are not enough judges. The Canadian Bar Association and the Law Society of Newfoundland, one representing the trade union and the other representing the so-called professional interests of the so-called profession of which I am a member, have both told the minister, and subsequently the public through statements, that there is a great and urgent need for additional judges. We need not just one, we need two.

Today, here in St. John's, according to the information which I have, of the six judges who presently sit in the Trial Division,



MR. ROBERTS: only one is available to hear matters. As I understand it, Mr. Justice Noel is on circuit in Western Labrador, Mr. Justice Lang, I believe, is in Goose Bay, which I understand is his third trip of the year. This is the third circuit in Happy Valley - Goose Bay where it had fallen behind through no fault of the judges, with most unfortunate results. Mr. Justice Steel, recovered from his recent illness is now doing a circuit in Corner Brook. And I understand when he comes back another of the judges will have to go out because the number of matters set down out there is such that a judge will be needed. The Chief Justice, Mr. Justice Hickman, of course is doing the Ocean Ranger enquiry. He has just finished the Central Newfoundland circuit. Mr. Justice Goodridge is doing circuits and will be doing a circuit even though he had asked and been granted, very sensibly, leave to refrain from all other judicial duties until the end of March so that he could prepare and write his judgement on the CFLCo case, which is a matter of considerable importance to the House and the people of this Province, a matter which resulted from an action brought by the Attorney General of Newfoundland - he is the plaintiff in the action. Mr. Justice Goodridge has had to put aside his work on what is doubtless the most complicated matter ever dealt with in the courts of this Province, he has had to put that aside to do circuits and the result is that he will presumably be delayed in rendering his judgement on that most important matter, a matter which ought to be decided as quickly as possible. So that leaves us one judge, Mr. Speaker, to deal -

MR. CARTER: You will never be appointed.

MR. NEARY: You may be up before that judge -

MR. ROBERTS: No. I say to my friend from LaPoile (Mr. Neary) that the gentleman from St. John's North (Mr.Carter) will not be up before any judge because the judge has nothing to do with sanity.

SOME HON.MEMBERS: Hear, hear!

MR.ROBERTS: The judge who is needed in the case of the gentleman from St. John's North is one with psychiatric qualifications and perhaps sociological qualifications,and certainly one with charitable instincts.

Now, Mr. Speaker, the point is an important one. There is today only one judge of the Supreme Court available to hear matters.

MR.ANDREWS: Judge not lest ye be judged.

MR.ROBERTS: I am sorry. The gentleman from Burgeo has once again honoured us with his thoughts whatever they were.

MR.ANDREWS: Judge not.

MR.ROBERTS: Judge not lest ye be judged. I say to him from the same source , 'Let he among you who is without sin be the first to cast a stone.' In which case the hon. gentleman, Sir, would be catching and not throwing,I am sure.

Now, Mr. Speaker, let me carry on because the point is an important one.

MR. ROBERTS: The criminal trials are being given precedence, Mr. Speaker, and so they should be. The result is that civil matters are not being heard. That, Sir, is not a matter of the Province coming grinding to a halt, but it is a matter of difficulty, hardship even, being visited upon people, people waiting for a period of time to get into court to have their motor vehicle claim heard and disposed of, people waiting to get into court -

MR. ANDREWS: (Inaudible).

MR. ROBERTS: Look, if the gentleman from Burgeo-Bay d'Espoir (Mr. Andrews) wants to be rude, of which he is capable, would he please be rude outside the House. I do not mind him being in here. He has a right to be here.

MR. ANDREWS: Go on, I am listening.

MR. ROBERTS: No, I do not care whether he is listening or not. I know he cannot understand. All I am asking is would he be rude outside the House and not be rude inside the House.

MR. ANDREWS: One ear is inside.

MR. ROBERTS: He can be crude anywhere he wants.

Now, Sir -

SOME HON. MEMBERS: Oh, oh!

MR. SPEAKER (Aylward): Order, please!

MR. CARTER: Besides, the hon. member's time is just about up. Sit down.

MR. ROBERTS: I can only say, Mr. Speaker, unlike the gentleman from St. John's North (Mr. Carter) my time may yet come whereas his past a number of years ago.

MR. ROBERTS: The point is, Sir, that the criminal matters must be given precedence, and they are. The point is, Mr. Speaker, that throughout the Province civil matters are not being dealt with expeditiously, and through no fault of the judges. So I say to the minister quite simply that he ought to authorize two new positions and then leave it up to Ottawa as to whether or not they create them or not. If they do not create them, if they do not appoint the people once the jobs are created, then of course let it be on their heads.

Now let me make another point, Sir. The minister spoke of merger, and perhaps he could refresh my memory. I do not think the House has yet dealt with the merger legislation. He confirms that I am correct. Presumably we will at some point be asked to approve legislation to merge the two federally appointed courts in this Province, the so-called District Court and the so-called Supreme Court, and he quite rightly said that will give us, with the new position being authorized here today, sixteen or seventeen judges in all. I will say to him now that the fact of merger will not in itself make any significant contribution towards expediting the litigation process in this Province. I say to him now that the District Court in St. John's, in which three judges sit regularly and more sit fairly steadily - Judge Cummings and Judge Barry both spend a great deal of time hearing matters here in St. John's - so five of the eight district court judges spend a great deal of time here. Three of them spend all their time here, the Chief Judge, Mr. Adams, and Judge McCarthy, and Judge Riche - they are two years behind

MR. CARTER: What is wrong with -

MR. ROBERTS:

The hon. gentleman - Mr. Speaker, look. I ordinary do not mind fun, but once in a while even the gentleman for St. John's North (Mr. Carter) becomes a will-not. Now I do not know if Your Honour knows what a will-not is, and if Your Honour does not, I will not tell you. But would he please, would the hon. gentleman for St. John's North, please shut up. And he only does it to try to get some attention.

MR. CARTER:

You have to be partisan.

MR. ROBERTS:

If he got that sort of paranoia and that sort of left-out feelings, he ought to speak to his mother or to his wife who may be able to do something for his ego.

MR. NEARY:

Or his dog.

MR. ROBERTS:

Or his dog. No, no, no.

What do you have against dogs?

MR. NEARY:

He could talk to his plants.

MR. ROBERTS:

Mr. Speaker, let me carry on.

MR. NEARY:

Talk to his savoury.

MR. ROBERTS:

Let me carry on, Sir, because the point is an important one. And the Minister of Justice (Mr. Ottenheimer) is not unfortunately involved in day-to-day practice. He is counsel to his firm, he has nothing to do with the firm, he is in here running the Justice Department. But the merger will not solve any problems. The District Court in Corner Brook, a year or two behind. The District Court in Brigus, for the Bonavista-Trinity-Conception District, a year behind. When I say a year behind, I mean if you were to set a matter down today, if you were to finish the paper work, Mr. Speaker, to the point where it is ready to go before the court, all the preliminary papers and so forth are filed and

MR. ROBERTS: all the lovely paper work that we lawyers so love to indulge in, when that is all filed you could wait a year or two years for a day to be available when the court can hear you. And until the court hears you, the court cannot decide; even when it hears you you may still have to wait a period of some time before the court gives its judgment, before the judge makes his judgment.

So merger is not going to solve that. There is no significant, under-used capacity in the district courts.

MR. CARTER: Oh, be quiet!

MR. ROBERTS: And that is the whole point of it, Mr. Speaker. You know, if the minister thinks there is significant under-used capacity, I would suggest to him that he perhaps should speak with Chief Judge Adams and ask him for a report. I am sure the Chief Judge will be delighted to give it to him. But my indication, Sir, is that there is no significant under-used capacity in the judges in the district courts, so merger is not going to help. All merger is going to do is spread the work load around a little more because it means that the district court judges, as they now are, will be able to hear divorces and deal with probate matters and do jury trials in the criminal matters, matters which now can only be dealt with by the Supreme Court.

So I say to the minister that is not an argument really that has any significant merit to it, when he says to us that we are going to have merger and that will help to solve the problems. It will not, Sir. Merger may or may not be a good idea, let us wait and see, but merger in itself will not in the least help to alleviate the problems.

MR. ROBERTS:

Let me make one other point. I share his wish that there be an appointment in Labrador, that there be an appointment quickly in Labrador.

MR. WARREN:

Hear, hear!

MR. ROBERTS:

It is not up to us to appoint in this House or in this government, but I think it is high time an appointment was made.

MR. NEARY:

Well, have they proclaimed the legislation for the extra appointment?

MR. ROBERTS:

I believe the legislation is proclaimed. And I am glad to see that this bill is not subject to proclamation. It will become law, assuming it is passed by the House, when it receives assent from His Honour. That will end the ridiculous situation we had in the past of the Province saying, 'After you, Alphonse,' and the feds saying, 'No, no, Gaston, you go first.' I mean, we are going to be straight about it, we are just going to enact the legislation and then let the federal government do what they want.

So I would say to the minister that he should amend it to put the second one in. The cost to the Province would be relatively minimal, and we should be aware of the cost, and even in this age of restraint, it is worthwhile. What we are talking of is perhaps an extra secretary, and I do not even know if we need a great deal of extra office accommodation given that the office accommodation currently being provided for the judges is nothing short of scandalous. I mean, there is no minister of the Crown, Sir, who would even think of working for five minutes in the kind of office conditions which the Province provides for the judges of the Supreme Court of this Province. Mr. Justice Lang operates from a room that was formerly used as the jury room in the Court House, and the other offices are sixty



MR. ROBERTS: or seventy years old but, you know, maybe we cannot have offices, maybe even the ministers will do without their plush offices and the carpet.

MR. NEARY: They have two offices, one here and one in their departments.

MR. ROBERTS: They have two, yes. If Your Honour wants to see what plush really is, go have a look at the 8th Floor and see what it cost, but anyway, put that aside. All I am saying, Mr. Speaker, is that the extra cost involved in creating the eighth judge in addition to the seventh judge will not be very great. Creating it does not mean that the job has to be appointed, but if we do not create it then we are putting it off for another year and it has taken us a year to get this far; the minister, I know, has had numerous representations, both from the Bar Association and from the Law Society officially and, I am sure, from lawyers throughout the Province. I am quite sure wherever the minister goes in amongst lawyers the first thing he is told is, 'Gerry' or 'Mr. Ottenheimer' or 'Sir' or whatever he is called, or 'Hey, you', whatever the type of salutation, 'How about some more judges?' You know, everybody is being clobbered. I am sure if he were to check with I guess his former and his future partners at Marshall, White, Ottenheimer and Green, that

MR. E. ROBERTS: illustrious law firm that has so contributed to the public weal in this Province - two Ministers of the Crown, the Chairman of the Board of Regents and heavens knows what else, we will see what come up. Watch next week's Gazette.

MR. S. NEARY: The bond issue.

MR. ROBERTS: No, the bond issues all go to Ed Poole in Corner Brook. Poor old Ed Poole. Ed Poole gets every single bond issue now in Corner Brook. But, Mr. Speaker, I am sure if the minister spoke to his colleagues in the profession they would echo what I am saying. There is a need for the eighth judge. So, I simply say to them that we will support the legislation even if it is only seven, but let us make it eight. Let us move now, let the President of the Council (Mr. Wm. Marshall) move that the word 'seven' be changed to 'eight' and the word 'six' be changed to 'seven' and then let us enact the legislation and leave it up to Ottawa to appoint the judges and we will carry on from there. I mean, I can say to the minister that if he really wants the job as judge, the way to do it is to send in the application up to Ottawa, I can assure him from what I am told there are a lot of other people who sent in applications as well, and I am sure his will be considered on the merits as well as everybody else's. But we ought to create the eighth judge. So, I would simply say to the minister, let us do it and let us do it now and have it done.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER (Aylward): If the hon. the minister speaks now he will close the debate.

MR. G. OTTENHEIMER: Mr. Speaker.

MR. SPEAKER: The hon. the Minister of Justice.

MR. OTTENHEIMER: Mr. Speaker, the essential difference,

MR. G. OTTENHEIMER: I think the only difference, between the hon. gentleman from the Strait of Belle Isle (Mr. E. Roberts) and this side on this particular bill is the number. The bill seeks for an increase from 'six' to 'seven', the hon. gentleman is proposing an increase from 'six' to 'eight', two additional Supreme Court judges. On that matter we are not at even. The government is of the opinion that we proceed with the addition of one. I would point out, and I have said this before and it is obvious, that of course there is an additional 'one' Supreme Court judge in the offing in terms of the appointment to Labrador. I mean, he will be a District Court judge when he is appointed but by next Fall there will in fact be two additional people, one appointed directly to the Supreme Court, the other one, presumably having been appointed as a District Court judge, then obviously will become a Supreme Court judge.

We realize certainly the importance, there is no difference of opinion between us on the importance of having a sufficient number of Trial Court judges and that justice should be expedited to the extent possible. There is no difference between us on that, and all I can say is that certainly we will continue to monitor the situation as a result of the appointment of the addition of one person and as a result of merger. We shall certainly continue to monitor the matter and nobody can foresee in the future

MR. OTTENHEIMER:

a number of months or so from now or a year from now what the situation will be. But I can assure all hon. members that we will continue to monitor the situation but as of now we feel that we will stick with the addition of this one.

Mr. Speaker, it gives me pleasure in moving second reading.

On motion, a bill, "An Act To Amend The Judicature Act", read a second time, ordered referred to a Committee of the Whole House on tomorrow. (Bill No. 60).

MR. MARSHALL:

Order 15, Bill No. 19.

Motion, second reading of a bill, "An Act To Amend The Provincial Court Act, 1974." (Bill No. 19)

MR. SPEAKER (Aylward):

The hon. Minister of Justice.

MR. OTTENHEIMER:

Mr. Speaker, what the enactment of this bill will do will provide that a Provincial Court judge, the same people who used to be called magistrates, may serve in a supernumerary capacity with retirement at fifty-five. Let me explain what that means: As the law now is, a Provincial Court judge is entitled under the relevant Pension Act to retire at fifty-five, It is optional, He must retire at sixty-five, he may retire at fifty-five. But there is an anomaly, or it would certainly appear to be an anomaly in that he may not serve as a supernumerary until he is sixty-five. Now a supernumerary would be a Provincial Court judge who is retired but who may, at the discretion of the government, of the Minister of Justice, be called back into service for a period of time to releave somebody who is ill or to do a Provincial Court inquiry. And there are no retired Provincial Court judges working as supernumeraries now, but up until fairly recently there were - Provincial Court Judge Cramm and Provincial Court Judge LeGrow. But there are none as of now serving as supernumeraries. What it means is that now

MR. OTTENHEIMER: provincial court judge must be sixty-five before he may act as a supernumerary: a provincial court judge has a right to retire at fifty-five and certainly it seems absurd if one wishes on an ad hoc basis or for some specific reason or specific period of time or a specific provincial court enquiry to engage the services of a judge that the government would be limited to those who are sixty-five and not be able to pick from whatever reservoir there might be between fifty-five and sixty-five. That is what it comes to, and I think it is pretty straightforward. It is clearing up what would appear to be anomaly that whereby they are entitled to retire at fifty-five, they may not be appointed in a supernumerary capacity until they are sixty-five.

MR. SPEAKER (Russell): The hon. member for the Strait of Belle Isle.

MR. ROBERTS: Mr. Speaker, the bill is straightforward and the minister has told us what is in it. The words of the bill confirm the words of the minister and -

MR. BAIRD: What is this, a one-man show today?

MR. ROBERTS: My friend from Corner Brook understands the meaning of Kipling's words, 'Take up the white man's burden, / Send forth the best ye breed.' and on that basis -

MR. BAIRD: Is that Richard Kipling?

MR. ROBERTS: Richard Kipling, yes, an old relative of John Kipling. I have always understood, Sir, that the hon. gentleman from Humber West (Mr. Baird) is a great Kipler and he is pretty good at Kipling in his spare time. I will tell you this, he is a first-class Vice-Chairman of the Public Accounts Committee.

SOME HON. MEMBERS: Hear, hear!

MR. ROBERTS: I will say if any member of the House, Sir, wants anybody to be in charge of vice the one to do it is the gentleman from Humber West (Mr. Baird). I know I speak for all of my colleagues.

MR. ANDREWS: Who is the Chairman?

MR. ROBERTS: Who is the Chairman? Ah, the Chairperson. We are liberated, the Chairperson. Anyway, Mr. Speaker, we stroll down the byways and highways from the provincial courts into the Public Accounts and then let us stroll back up to the provincial courts.

First of all, maybe the minister in closing could confirm again an understanding I have that when a judge of the provincial court retires at fifty-five he does not necessarily get full pension. He gets whatever rights are his under the Public Service Retirement Act. And am I correct in understanding that service as a judge counts as service under the Public Service Pensions Act? If so, so it should. There is no reason why a judge should not be able to retire early in the sense of fifty-five of being early. He does not have to retire, and I do not know really if many of them do or not. But let me also ask the minister, while we are speaking on the provincial court, if he could bring us up to date on the situation with respect to the provincial court facilities here in St. John's. Now I ask that because, as the minister has publicly announced, tenders have been called for the provision of new courtroom space and new office space, I guess, as well for the judges. I believe some 20,000 square feet is being sought, I understand that tenders have been called and have closed.

MR. ROBERTS: and can the minister tell us when we might expect some announcement? I do not care who gets it, what I care is that somebody gets the tender, some person or company, And furthermore, when it might come about that we see the provincial court move for two reasons, first of all their present facilities are inadequate for them, and, secondly, when they move my understanding is that the space which they now occupy in the courthouse will become available for use by the high court, the Supreme Court. So perhaps the minister could tell us that. Now we are into November month, will there be any award of a tender by the New Year? I know the Public Works Minister is the spokesman on these matters but the minister surely is consulted, he is the client department and since the Public Works Minister is working publicly elsewhere, publicly or privately as the case may be, and is not here in the House, it is only the minister I can ask. So could the minister tell us where we are on the question of provincial court as well, Mr. Speaker? But the bill itself is straightforward and we are certainly quite prepared to support it.

MR. OTTENHEIMER: Mr. Speaker.

MR. SPEAKER (Aylward): If the minister speaks now he will close the debate.

The hon. Minister of Justice.

MR. OTTENHEIMER: Mr. Speaker, in answer to the two questions from the hon. member for the Strait of Belle Isle (Mr. Roberts), my understanding is that the tender call is now completed and that the various bids are under review with respect to their suitability, and cost, etc., that they are now under review. And indeed it would be the hope that they would be suitable and that the necessary moves

MR. OTTENHEIMER: could be made, but they are under review now.

With respect to the hon. gentleman's question, yes, the provincial court judges do come under the provincial, or the Public Service Pensions Act, and there is not a compulsory retirement at fifty-five, there is, I believe, at sixty-five, and if a person takes early retirement his pension, depending on his years of service, obviously would not be the same as if he had stayed until sixty-five, or whatever age for that particular person.

Mr. Speaker, I move second reading.

On motion, a bill, "An Act To Amend The Provincial Court Act, 1974," (No. 19), read a second time, ordered referred to a Committee of the Whole House on tomorrow.

Motion, second reading of a bill, "An Act To Amend The Law Society Act, 1977," (No. 41).

MR. SPEAKER (Aylward): The hon. Minister of Justice.

MR. OTTENHEIMER: Mr. Speaker, much of this legislation is housekeeping, tidying up, although this does bring in some substantive matters.



MR. OTTENHEIMER: One of the things that the enactment of this bill will do is provide that a Provincial Court judge, after he has completed law school and his period of articling and has been admitted to the Bar, he will be enrolled as a member of the Law Society and then be struck off as a member. One has to be struck off because judges, of course, cannot be members of the Law Society. But in order for that Provincial Court judge's tenure, if one wishes, or years of service to be recognized perhaps for some position he might apply or become eligible for in the future, he has to be enrolled prior to being struck off. That is about what it comes to. This provision is made at the request of the Provincial Court judges but with the full agreement of the Newfoundland Law Society. Furthermore, also, the present practice is that a Provincial Court judge is admitted to the Law Society only after he has completed three years of service as a Provincial Court judge after receiving a law degree. In other words, after three years of service as a Provincial Court judge, after his law degree, he may be admitted to the Law Society. This amendment would permit recognition for the years that person may have served as a Provincial Court judge prior to being admitted to the Law Society. It is made with those people in mind who have benefitted from the professional training programme whereby what used to be called lay magistrates, lay provincial judges, are enabled to get a law degree through an arrangement worked out with Dalhousie. So that with this amendment, after a person has received his law degree, been admitted to the Law Society and is back operating as a Provincial Court judge, there may be recognition of his years of service as a Provincial Court judge when he was a lay judge during the period of time before he got his law degree. This, too, is at the request of the Provincial Court Judges Association and with the agreement of the Law Society.

MR. OTTENHEIMER: The only other matters covered here are that the articling period for students will be increased from nine months to one year. It has been nine months in Newfoundland for, I do not know, many year, decades, I suppose.

MR. G. OTTENHEIMER:

I am not sure if it is one year in every province but I believe it is one year in every province, and I do not think that that is an unnecessary hardship on the articulated students and it should provide a person with an additional three months presumably of supervised articleship. Then the person should have greater maturity or professional competence or more practical experience by an increase of three months, in the period of articleship - not that that is necessarily a reason for doing it but it does bring the period of article - shipping into conformity with the practice in the other jurisdictions of Canada. And the other matter which is covered is that the Law Society under the Law Society Act has a Discipline Committee and the Discipline Committee may number from three to seven, and this will permit the Discipline Committee to sit in a panel. In other words, it would not be required that the entire Discipline Committee hear a particular matter, but a panel of it, bearing in mind that the Committee may be a minimum of three and a maximum of seven and that is brought in at the request of the Law Society and appears to be a -

MR. E. ROBERTS:

A maximum of seven? Where does it say that?

MR. OTTENHEIMER:

A maximum of seven. No, I do not think it said that. No, it is now. That would be in the Law Society Act, not in the amendment. That would be in some section of the act which I do not have with me, but the Discipline Committee may be from three to seven. Well, what this does, what the amendment here does -

MR. E. ROBERTS:

Mr. Speaker.

MR. SPEAKER (Aylward):

The hon. the member for the Strait of Belle Isle.

MR. ROBERTS:

In the new Section 44 (2) (1), it is

MR. E. ROBERTS: Section 6 of the amending bill, the panel is not less than three and there is no maximum specified. So, in theory it could be thirteen, which is the total Discipline Committee created by 44 (1). So perhaps the minister might wish to look that through with a view to amending it in Committee, because I agree with him that three to seven is fair enough.

MR. G. OTTENHEIMER: Mr. Speaker.

MR. SPEAKER (Aylward): The hon. the Minister of Justice.

MR. OTTENHEIMER: Mr. Speaker, what 44 (1) does is it permits the appointment of a Discipline Committee of -

MR. ROBERTS: Of three to thirteen.

MR. OTTENHEIMER: - three to thirteen, which is a change from three to seven. And then what 44 subsection (1) would allow that Discipline Committee to hear matters as a panel of not less than three members, one of whom shall -

MR. ROBERTS: And not more than?

MR. OTTENHEIMER: It does not say 'not more than' but presumably it could not be more obviously than the thirteen because that is the whole Committee.

MR. ROBERTS: Right. But I do not know if the minister wants to make it 'not less than three and not more than seven.' You appeared to be under the impression, Mr. Speaker, that that is the way it read and that is not the way it reads.

MR. OTTENHEIMER: Yes. The hon. gentleman is quite correct. Yes. And I will have to check to see what precisely their intention is there.

MR. ROBERTS: Sure. We can pick that up at Committee.

MR. OTTENHEIMER: But what it would endeavour to do is it will enlarge the ~~maximum~~ size of the Discipline Committee from seven to thirteen and will allow it to sit as a panel, one year instead of nine months articling, and the alterations which are made with respect to provincial court judges, the essential matters; the other one is one of linguistic uniformity in which the words 'actually' and 'actively' are co-ordinated, but it is very difficult to understand what is going to result from that. I think it is linguistic purism.

MR. ROBERTS: Mr. Speaker.

MR. SPEAKER (Aylward): The hon. the member for the Strait of Belle Isle.

MR. ROBERTS: Mr. Speaker, I would speak first with reference to the minister's last comment. I am not sure it is linguistic purity as much as sheer tautology. The difference between 'actively' and 'actually' is the sort of thing that only my brethren in the Law Society could get uptight about.

Mr. Speaker, the bill is non-controversial in that it does not do anything of very great importance and we are prepared to support it. I do have one or two points though, growing out of the way the Law Society carries on its affairs, which I want to bring to the attention of the minister and the House.

First of all, let me say that, as one member of the Bar, and I am sure I speak for every member of the Bar, we welcome the fact that the Law Society - and this is reflected in this bill - is

MR. ROBERTS: becoming more active in a disciplinary process. The Law Society is like a lot of these self-governing so-called societies that exist by virtue of statute, exist by virtue of the beneficence of this House; it tends to forget that. Lawyers think they are self-perpetuating and an oligarchy of the worst sort, so do the doctors and the beauticians and the architects and heaven knows whom else we have incorporated. I would think that the history of the disciplinary process in the Law Society of Newfoundland has not been an edifying process. I would think that, if the truth were fully known, the members of the Bar have not disciplined themselves as fully and as properly as they ought to have done. I think, Mr. Speaker, now though that that is changing and I think this amendment reflects that. We in this House should encourage it and those of us who are members of the Bar should encourage it as well. But we have a great deal of power as members of the Bar and we have been given very great privileges. We do not discipline ourselves nearly effectively enough.

On that line, let me go on to another point and suggest to the minister that perhaps -

MR. CARTER:

(Inaudible).

MR. ROBERTS:

Speaking of discipline, Sir, there ought to be a need for self-discipline.

Let me carry on, Sir, to make the point, we have lay benchers in our Law Society - Mrs. Pratt, and I forget who the other one is, there are two, I believe, lay benchers - and that has been a significant leavening experience. I would suggest to the minister there ought to be more lay benchers. A bigger

MR. ROBERTS:

percentage of the bench ought to be lay. I would also suggest to the minister that the discipline process ought to involve lay people. Discipline processes tend to become incestuous, inbred to the point of incestuousness. Speaking of incest, there is an obvious product of incest over here, Sir, in imbecility, simplicity, assinity, sanility, all combined into one magnificent six-foot-three pile of something that I am not allowed to describe.

Mr. Speaker, the minister I would ask to have a look at this question of lay benchers and the question of perhaps lay benchers or non-bencher lay people involved in the disciplinary process. There is no reason that cannot be so. It may be said these people are sitting as courts. That is true. They are sitting in a quasi-judicial process. But, Mr. Speaker, let us not get so caught up in the legal technicalities that we forget that what they have to do is to hear a case, decide on some facts, make a finding, make a ruling, recommend to the benchers, because the disciplinary power itself is vested in the benchers - these panels that are dealt with by this bill are investigatory and consider a way and make a report, but they have no power to adjudicate as such or to levy a penalty - and I think it might help very much, Sir, it may help the Bar and it might help the Bar's image in this Province, the Bar's standing in the eyes of the Province if lay people were to be involved.

Next I wonder if the minister could tell us where we are on the rules of court. Now I know that he is not responsible. It is not that he is irresponsible, this is a matter beyond his responsibility. But where are we on the new rules of court? They have been in draft form, I know,

MR. ROBERTS: for a significant period of time, going back-what?-maybe to Mr. Curtis's time as Attorney General, certainly back to Chief Justice Hickman's time as Attorney General, and through all of the minister's distinguished tenure of that position.

AN HON. MEMBER: Some of them have been enacted.

MR. ROBERTS: Some of them have been enacted.

The Discovery proceedings have been enacted with whatever results, but the rest of them have not. Can the minister tell us where we are? And since they have not been enacted, could he tell us when they might be enacted? And can he tell us whether there is anything he can do to bring them in? I think I voice the feelings of the profession, no matter what their political adherences, that we really should have the new rules of court in. He may say they should be timed with merger. You know, I am not sure that is relevant because both courts operate under the same rules now. The quicker we get them in, the quicker we can come to grips with them to begin simplifying some of our procedures and bringing in new procedures, where they are needed, to deal with new types of problems.

Mr. Speaker, the rest of the bill is straightforward with only one comment: Can the minister tell us what the policy of the government is with respect to a situation which has not yet to my knowledge happened but which may? Ladies and gentleman are appointed to be magistrates - well Provincial Court judges; not federal judges, but Provincial judges. One is selected each year, by some process to go to Dalhousie



MR. ROBERTS: to take a law course, and since it is a three year course there are three there at any given time. And they are there on full salary and with perks and all that, and that is fair enough and they take their law degree and in due course they write their exams and in due course they pass them and in due course they are admitted as members of the Bar. And there are provisions in this bill, Mr. Speaker, that permit them to do that and to count their service, and that is all fine and good and very much to the point. None of these men or women has ever practiced law. They have sat as judges, as magistrates, and they carry on sitting as magistrates. There may even be a contract, I do not know whether there is or not, there may even be a contract, a written contract between the individual and the Crown by which in return for being sent off to law school and getting the benefit of a legal education at the expense of the Province, three years salary, three years expenses, three years educational leave, there may be a contract saying they will carry on on the bench, not go into practice. My question then is just this; What happens, and it has not happened yet but it will happen sooner or later when one of these judges, not benchers but men sitting on the bench, to draw a distinction, having been educated legally by the people of the Province, not by his own financial involvements, what does the minister do when that judge says, "Well, Deputy Minister or Minister, I am going to resign now, I am fifty-five, I got my full pension, I am going to resign and I am going to go set up the practice of law"? You know, is there any restriction? Ought there to be any? In my view there should be. There is a restriction on federally appointed

MR. ROBERTS: judges in the Judges Act; they are now allowed to go back into practice for five years, as I recall. There have been cases where men have actually resigned from the Supreme Court of Canada to go back into practice and so as a result a rule has been brought in. I think it is five years. But

MR. ROBERTS: the minister will concede that what I am suggesting could happen and in all likelihood will happen. I do not know how many people have gone through that course at Dal now - ten, fifteen, twenty - but at some point one of them perfectly genuinely, perfectly honestly, perfectly properly, is going to terminate his time as a provincial court judge and then go into the practice of law. Now I do not know if that is proper or not but he goes into the practice of law. What I am asking the minister is if he could tell us what the policy of the government might be; will if there is no policy, as may be the case, would the minister have a look at it with a view to letting us have some statement perhaps embodied in legislation? After all, remember, these men or women as the case may be are members of the Law Society only because of this act and because of the Law Society Act. They are in a very unique position. They have not gone through the process that everybody else goes through to get to the Bar. They come by a different route designed to reflect the fact they are judges. So, fine, they are a judge, therefore they get to be a member of the bar, a member of the Law Society once they complete their legal education. When they cease to be a judge, should they still be able to claim the benefit of being a member of the bar, a position which they garnered legitimately and properly, but garnered as a result of the fact they were on the bench? The minister, I think, will follow my quite strong line of argument. In any event, it is not a matter of politics, it is a matter of judicial administration. Perhaps he could tell us what the story is on that and what we might anticipate. Thank you, Sir.

MR. SPEAKER (Russell): If the hon. minister speaks now he closes the debate.

The hon. Minister of Justice.

MR. OTTENHEIMER: Mr. Speaker, to review and comment on some of the matters referred to by the hon. gentleman for the Strait of Belle Isle (Mr. Roberts), certainly I think he is absolutely right when he says that the Law Society is much more conscious now of the need to assiduously pursue its responsibilities with respect to protection of the public good, the unique kind of position, in a loose sense of trusteeship that it has. I am inclined to agree that more lay benchers would be a good move, not only from the point of view of the image of the profession of the Law Society but also to bring in viewpoints from knowledgeable people with interests and background in other areas, and not lawyers by profession.

With respect to the rules of court they are, my understanding is, now completed after more consultations with numerous groups over the past few years. There are apparently, if you wish, two lines of thought that argue that they should come in with merger. I have also heard it argued they should come in perhaps six months after so as not to have too many radical, if one wishes, changes at the same time. I suppose that is a matter that we shall have to decide and get the best advice we can on; either they come in with merger or they come in some period of time after.

MR. OTTENHEIMER:

With respect to the Dalhousie law programme, that will soon come to an end. I think in two years that programme will be over because there will be no other lay provincial judges in the system who want to take advantage of going to law school because we do not require it. There are some who opted not to so do. But all appointments to the provincial Bench in the future will be people who are already lawyers. So in two years that programme will be over.

The hon. gentleman asked with respect to if a person who has gone to law school through this system and then worked as a Provincial Court judge for a period of time then decided to go into private practice, or even on retirement went into private practice; as he mentioned the situation has not arisen, but our policy to date has been not to put an impediment in his way. Now this is not the same case, of course, as if somebody went and then they have to sign a contract to work as a Provincial Court judge for so many years. Obviously if they broke that contract you have an actual breach of contract, but that is not to matter. Let us say you have a young man or a young woman of twenty-five in the Provincial Court and they go to law school; at twenty-eight they come out and they are lawyers and they are Provincial Court judges at twenty-eight; and then at forty years of age, after twelve years of service, they want to go into private practice. I really think it would be an undue restriction upon them to preclude them from going into private practice. It is a matter that certainly could be discussed with the Provincial Court judges, but I think it would be an unnecessary restriction upon them. That is my view anyway.

Mr. Speaker, I move second reading.

On motion, a bill, "An Act To Amend The Law Society Act, 1977," read a second time, ordered referred to a Committee of the Whole House on tomorrow. (Bill No. 41).

MR. MARSHALL:

Order 17, Bill No. 34.

Motion, second reading of a bill,

"An Act To Amend The Jury Act". (Bill No. 34).

MR. SPEAKER (Aylward):

The hon. Minister of Justice.

MR. OTTENHEIMER:

Mr. Speaker, this bill will do two things, one of which, no doubt, the hon. member opposite will wish to comment on because it deals with the geographical area from which jurors are drawn. It does two things with respect to the jury.

It will be recalled that when we brought in a new Jury Act a couple of years ago the provision with respect to clergymen was, and I will

MR. OTTENHEIMER: read it: "A person may apply to be exempted from serving as a juror on the ground that he belongs to a religion or a religious order that makes service as a juror incompatible with the beliefs or practices of the religion." Now after that we have representation from a number of clergy, different denominations, who said something to the effect, "It is not against our religious convictions as such, you know, to serve as a juror, it is not something we regard as immoral or improper or wrong, it is not incompatible with our beliefs, so we do not want a total exclusion, a disqualification, to be disqualified, but we feel that it might be at variance with our pastoral duties." There is a difference. It is not against a religious conviction, but it is -

MR. WARREN: Contrary to our background.

MR. OTTENHEIMER: Yes, but it might be contrary to our pastoral duties.

So what we have done, therefore, what this amendment will do will say to the effect - not to the effect, it will say, 'where a person's pastoral or religious duties or beliefs would conflict with his service as a juror, that person shall on application be exempted from serving as a juror.' All he has to do, or she, is make an application and say, "Look, it is contrary to my pastoral duties," or whatever and there is an automatic exemption. But we did not want to have disqualification because there might well be some clergy who might wish to serve. So, you know, we do not want to disqualify, so what it is is that any clergy person who believes that it is in conflict with their pastoral or

MR. OTTENHEIMER: religious duties may apply for an exemption. This has been done in consultation with and with the agreement of the various clergy who were in touch with us on it. So that is that matter.

The other thing that this amendment to The Jury Act does is to extend the boundaries with respect to the enumeration for jury duty in the Happy Valley-Goose Bay area, and I believe I gave an undertaking during the estimates to the hon. gentleman that we would do this so that not only is the Happy Valley-Goose Bay community included for purposes of jury, but also the communities of Northwest River, Sheshashit, and Mud Lakes, these are included also. The hon. gentleman will probably say that the whole area should be included, you know, and empanel jurors from all over Labrador, and I am aware of his feelings, and indeed I share them, that the involvement in jury duty should be available to everybody, even those living in



MR. OTTENHEIMER: quite isolated communities, and it should be possible to have jury trials in these smaller communities. And he knows that I essentially agree with that principle. I do not think it is practicable to do it right now. I think that after there is the appointment of a judge in the Happy Valley/Goose Bay area who will be there permanently, then it should well be possible to achieve some of those goals. But now, of course, all that we have in terms of federally appointed judges are circuits, people going up from St. John's on circuit because the only place the Supreme Court exists now is in St. John's, and that is one of the great benefits of merger, then we will have a Supreme Court judge actually resident in Happy Valley/Goose Bay and I think it should be possible to achieve those objectives. But this is certainly an improvement because it enlarges the enumeration area for jury duty to include Northwest River, Sheshashit and Mud Lake.

MR. SPEAKER (Mr. Aylward): The hon. member for Torngat Mountains.

MR. WARREN: Mr. Speaker, I would like to thank my colleagues for giving me the opportunity to say a few words on this bill. We on this side do agree, Mr. Minister, that you have made an improvement in the Jury Act. However, Mr. Speaker, I am just wondering if we are probably not going out on the limb a bit when we say, 'A person may apply to be exempt from serving as a juror on the grounds that serving as a juror may cause serious hardship or loss to him or others. I am just wondering if we are not making it too flexible for a person to ask for exemptions from the jury. That is my only concern there, Mr. Speaker, to the minister.

MR. WARREN:

However, on Section (3)

and I have to compliment the minister for taking the advice of an Opposition member, not very often do we get a minister agreeing with the Opposition, but in this case the Minister of Justice (Mr. Ottenheimer) did agree to undertake

MR. WARREN: what I requested some two and one-half years ago, that the jury enumeration in respect of Happy Valley - Goose Bay should be expanded. I think the minister has gone halfway in this regard. However, Mr. Speaker, I believe the minister still is not taking in the geographical area and the population of Labrador when he was talking about just extending it to Mud Lake, Sheshatshit and North West River. I believe, Mr. Speaker, that the minister should seriously look at not necessarily extending it all along the Labrador Coast but he should seriously look at the possibility of giving the people - in particular I am thinking about the native people North of Goose Bay - the opportunity of sitting on a jury. And, Mr. Speaker, I think we have read in Atlantic Insight magazine some two years ago of how a native person from Davis Inlet was tried and convicted by a jury made up completely of white people, an Indian person who could speak very little English, and he was tried and convicted by a jury of twelve white people. I am sure that if we were in his position I do not think we would agree to having twelve Indian people deciding our fate.

So, Mr. Speaker, I would like for the minister to take upon himself what he said a few minutes ago, that once we have the extra judge stationed in Labrador that the minister will see fit to extend the boundaries to Nain, Hopedale and Davis Inlet where there are native people. In fact, I do not see any reason at all why there cannot be court hearings in Nain - Nain is a thriving community, facilities are available, hotel accommodations are available - but I think it is practically impossible in Hopedale or Makkovik or Postville and these smaller communities to hold trials.

MR. WARREN: But the community of Nain is the furthestmost Northern point in the Province and the minister should seriously look at having judges hold court hearings in that Northern community.

We cannot forget, Mr. Speaker, that the native people are just as important in this Province as are you and I.

MR. ROBERTS: Mr. Speaker.

MR. SPEAKER (Russell): The hon. the member for the Strait of Belle Isle.

MR. ROBERTS: Mr. Speaker, I agree with this bill but I want first of all to underline the point which my colleague from Torngat Mountains (Mr. Warren) made. I think it is a very, very good point, the problem inherent

MR. ROBERTS: in providing a system of law and justice - the two are not always the same - to the native people. I do not really like that phrase because really we are all natives, but the Inuit and the Indian people .

MR. SIMMS: Aboriginal.

MR. ROBERTS: Well, I am not even sure on 'aboriginal'. The Indian people are not aboriginal in this Province, the Inuit are. The Indian people, who are Algonquin if my memory serves me - the Naskapi and the Montagnais are both members of the Algonquin family of tribes - the Montagnais and Naskapi people, I say to my friend from Grand Falls, came fairly late to the Province, to the area of the Central Plateau of Labrador. About the mid-nineteenth century, when Lord Strathcona - Donald Smith as he then was - was at Northwest River in the 1820s and the 1830s, I think there were Indian people who migrated up. The reason they came in a Northwesterly direction from the North Shore of the St. Lawrence on up into Labrador was that there was a general population move during the seventeenth and eighteenth centuries of the Algonquin people who are less warlike than the Iroquois people - the two great Indian families in Ontario and Northern New York, that part of North America - and the Iroquois were a very fierce people and the Iroquois drove the Algonquin peoples North and West. That is how the Montagnais and Naskapi came to the Labrador, but they are not aboriginal. The Inuit have been in the Labrador seven, eight, nine, ten thousand years, that kind of time frame.

MR. SIMMS: Almost as long as the hon. member over there.

MR. ROBERTS: Yes. And no doubt the hon. member will be there long after the hon. minister has gone to whatever reward, perhaps a permanent job with the Piper's Hole Park, or whatever reward the future holds for him.

But in any event, the problems are very real and I thought the comments of my hon. friend were

MR. ROBERTS: really very much in point. This is not the place to go into it in detail, but the story of what the white man, the white person has done to the Indian and the Inuit in Labrador with the best of motives, they very best of Christian and charitable and humanitarian motives, but the story of what we have done is one of the saddest chapters in our history. We talk of the Beothuks - although I think that historical myth has now been exploded. Dr. Fred Rowe, among others, has shown it to be a sham that the Beothuks were wiped out and annihilated by the European peoples on this Island, at least by direct action. They may have been wiped out by smallpox and by tuberculosis and diseases which were unknown to them until they were brought to this Island by the European people from North Europe who had these diseases - but that story is not one of any substance, not one of any truth that the Beaothuks were wiped out. What is true is that the results of fifty or a hundred years of white man's caring, and

MR. E. ROBERTS: legitimately, honestly, honourably caring for the Indian and the Inuit people of Labrador has been a very sad chapter in our history. A very sad chapter, one of which no Newfoundlander and no Labradorian, be he settler or be he Indian or be he Inuit, could be the least bit proud, and we seem to be carrying that on. We have destroyed their way of life and substituted the worst features of our way of life, the alcohol. You know, any member in the House - I know the gentleman from Grand Falls has been into these communities, I know he is familiar with the problems - anybody who wants to see the underside of what can happen in this Province should have a look at what we as a society have done to the Indian and Inuit people. And the type of problem my friend speaks of is entirely a very real one and I would hope the minister would heed what my friend said and carry it through.

I wanted to make just two points,  
Mr. Speaker: First of all the amendments are relatively straightforward and we are broadening the exemptions from jury duty. I think that is fair enough. If somebody has as a matter of conscience a belief that prohibits him or here from serving on a jury, then he should not be required by the civil authority to serve on a jury. And equally, of course, where a person can convince the judge that there would be a hardship visited on him, equally he should be excused and I am quite content to leave it to the judge.

Mr. Speaker, there is, however, another problem that the minister might look at.

MR. J. CARTER: He is looking at one now.

MR. ROBERTS: And that is the question of a juror who is involved in a long trial and thereby loses his wages. Now, I do not do any criminal law but I am tempted to, when I see the hon. gentleman from St. John's North (Mr. J. Carter)

MR. E. ROBERTS: and Bonavista South (Mr. J. Morgan), I am tempted to think of certain offenses in the Criminal Code - justifiable homicide and things like this, the insanity defense, diminished responsibility, all of these apply to the hon. gentlemen. That is without getting into the weirder categories. We no longer have sexual offenses. Aggravated assault, if ever there was an aggravated assault in this House it is the hon. gentleman from St. John's North (Mr. J. Carter).

SOME HON. MEMBERS: Oh, oh!

MR. ROBERTS: Mr. Speaker, I may be on soft ground -

MR. R. BAIRD: Do you like the member for St. John's North?

MR. ROBERTS: My friend from Humber West (Mr. R. Baird) - was it? - I thought I heard his stentorian tones - said, 'Do I like the gentleman from St. John's North?' I love him. I love him dearly. As an attempting practicing Christian I am told to love everybody. And what better example of how far I am prepared to go.

SOME HON. MEMBERS: Hear, hear!

MR. J. MORGAN: You certainly love yourself.

MR. ROBERTS: The gentleman from Bonavista South is the last one to talk of self-love. Narcissus, Mr. Speaker, was a piker compared to the gentleman. By the way, a hair is out of place: It is the fourteenth one from the back of that gorgeously shaped head.

MR. MORGAN: Loan me your mirror.

MR. ROBERTS: 'Loan me a mirror.' The hon. gentleman carries his own mirror with him, Sir, along with his powder puff.

MR. L. SIMMS: Your guys (inaudible).

MR. ROBERTS: I agree. I thank my friend from



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Tape No. 2333

MJ - 3

MR. E. ROBERTS:

Grand Falls (Mr. L. Simms). I

would call him by his Ministerial title but I can never remember it. Is it Parks and Wildlife or Wildlife and Parks or Recreation and Parks or Procreation and Tourism or what is it?

MR. SIMMS: Culture.

AN HON. MEMBER: Culture, Recreation and Youth.

MR. ROBERTS: Culture! Now that is a subject of which the hon. gentleman may be at home but which is foreign to most of his colleagues, I assure him.

MR. BAIRD: Relevancy, Mr. Speaker.

MR. ROBERTS: Yes, relevancy, I say relevancy to my friend from Humber West (Mr. Baird), and I am glad he raises this issue of relevancy, because if ever, Sir, there was somebody who was relevant to culture and the jury - Mr. Speaker, I do not know where all our pages have paged off to, but if one of them would do me the kindness to get me another glass of that delicious water, which is about the only thing we have not taxed until Thursday.

Now let me come back to the question of the jury. If a person is selected - and I want to get the minister's attention when we are ready there - if a person is selected to serve on a jury he or she of course must serve or face a contempt of court proceeding and there have been one or two instances recently when some of Her Majesty's judges have had individuals in and said, "You have not responded to a summons for jury duty," and quite properly taken him to task. Now that person then loses his wages. I do not know if he gets reimbursed.

MR. CARTER: We are losing our patience.

MR. ROBERTS: The hon. gentleman has lost his reason, not his patience.

Let me say to the minister that that is something we should look at. Equally, and here I know I am on strong ground, and my friend from Torngat (Mr. Warren),

MR. ROBERTS: and more than that my friend from Eagle River (Mr. Hiscock) are very much aware of this, a witness who comes into a Supreme Court trial, and we have had a very poignant and pointed example in the Fowler case, the lady from Capstan Island, who has been convicted thrice of an offence in connection with the death of her husband - I am not sure if it is second degree murder or what - but anyway has thrice been convicted, twice the Court of Appeals threw out the conviction; the third time round, I do not know if there has been an appeal or not, but a jury has convicted her and I believe the lady has been sentenced and presumably is serving her time.

Now, in each case, of course, the same witnesses were called, they had to be, the people in Capstan Island who happened to be there at the time that what was found to be a murder of some sort took place, the lady the jury found did in fact shoot her husband and caused his death. Now, Mr. Speaker, these men came in - most of them happened to be men, I think, who gave evidence - they came in, they had to be here the opening day, and they were here throughout until they were called, some of them lost two or three weeks at the height of the fishing season. The season in Southern Labrador is short enough anyway, and some of these men, I understand, have lost in effect a year's wages, a year's income, because they had to come as witnesses at a trial. It is bad enough to do it once or twice, but the trial that was held a month or two past, whenever it was held, was three times, and there is no way to compensate these people.

So I say to the minister two things; number one, could he have a look at introducing a

MR. ROBERTS: reform, not to compensate a person for the first two or three days but a man who is called as a witness, subpoenaed as a witness and loses two or three weeks, in effect his whole season, If the minister were to lose two or three weeks it would not

MR. ROBERTS:

be his whole year because he is paid fortnightly or monthly or however he is paid throughout the year. But these men only have a very short season and the season on the on the Straits of Labrador is very, very short, a matter of weeks at the most, and they lost -

MR. CARTER: Did you complain about it at the time?

MR. ROBERTS: Yes, Mr. Speaker, I complained about it at the time. The hon. gentleman from St. John's North (Mr. Carter) will be relieved to know that when these people were my constituents, as I am sure my friend from Eagle River (Mr. Hiscock) has done subsequently, I was in touch with the minister on more than one occasion, and the minister will confirm that, to ask what could be done about this problem with the witnesses. So for once he has made a sensible comment and I am delighted to give him a sensible answer and demolish him again.

MR. CARTER: What was done in the end?

MR. ROBERTS: What was done in the end was nothing. So I now say to the minister again could he give some consideration, even to an ex gratia grant. These people have little enough of this world's goods. Capstan Island is a very small community. Are there twelve voters there now? There used to be twelve or twenty.

MR. HISCOCK: Thirty-nine.

MR. ROBERTS: Thirty-nine. Twelve families. A very small community. The tragedy was tragedy enough. One of their own relatives shot, murdered, an incredibly

MR. ROBERTS: torturous legal process, three jury trials, two courts of appeal hearings.

MR. HISCOCK: There may be another.

MR. ROBERTS: Well, there may be another. I do not know if it has been appealed or not, I have no idea. But, you know, all this trauma in a very small community. They are all related to each other. The lady was from Buckles Point in Forteau. She was from another community. But could the minister - as an act of charity, let the government have some heart - could the minister have a look at this situation and see what hardship may have been visited upon these people and then consider making an ex gratia award? You know, the Cabinet can do these things. They have done far less worthy things, in my view, far less worthy things. This present Cabinet has, perhaps for good motives, done far less worthy things than that. Let them consider the case of these - I do not know even how many, Are there six or seven or eight men involved in it, called in as witnesses in the Fowler trial?

MR. HISCOCK: Probably nine.

MR. ROBERTS: Nine, my friend from Eagle River says. Let them have a look, They thrice had to come forward and give their evidence. These murder trials, of course, tend to be lengthy and tend to be involved. We are dealing with a very serious matter and they have had to suffer very great financial loss because of that. So I know it is not strictly speaking part of the Jury Act, but we are talking about the court process and could the minister consider that and hopefully, you know, make some ex gratia award to them.

MR. ROBERTS: I suspect the truth of the matter is most of those men have not made any income this year. They lost a large part of their fishing season. I am looking at my friend from Eagle River (Mr. Hiscock).

MR. HISCOCK: Three.

MR. ROBERTS: It is three years. There have been three separate trials. So on that note, which I leave with the minister, let me say again that we are prepared to support the bill. It is hardly the most crucial legislation, but since the government insists that we deal with these bills as opposed to dealing with the realities of the financial picture of the Province, then so be it, we have to deal with them. Thank you.

MR. SPEAKER (RUSSELL): If the hon. minister speaks now he closes the debate.

MR. OTTENHEIMER: Mr. Speaker, certainly the problem of witnesses, especially with respect to a lengthy trial and one which is some distance from people's residences is a serious one. Obviously there is an obligation for people to co-operate with the administration of justice and this applies to witnesses and can apply also to jurors. What measures could be taken in terms of, you know, lengthy trials, if one put a time in excess of three days or four days or five days or whatever it happened to be, certainly is a matter we would certainly look at. It is difficult, I know the hon. gentleman will agree, to handle these matters on an ex gratia basis, although matters are handled on an ex gratia basis, yes, but it is difficult to get a pattern of consistency on an ex gratia basis. But certainly I will look at it with respect to the matters referred to on the geographical boundaries. Certainly there is no difference of opinion that the people throughout all parts of the Province should have as much involvement as possible in the serving on jury function.

MR. OTTENHEIMER: It is to be hoped that with improved facilities and with a full-time judge in the Happy Valley-Goose Bay area, it will be possible in the future to further extend that area from which people serve as jurors. Mr. Speaker, I move second reading.

On motion, a bill, "An Act To Amend The Jury Act", read a second time, ordered referred to a Committee of the Whole House on tomorrow. (Bill No. 34).

MR. MARSHALL: Order 18, Bill No. 39.  
Motion, second reading of a bill, "An Act To Amend The Parliamentary Commissioner (Ombudsman) Act". (Bill No. 39)

MR. SPEAKER (RUSSELL): The hon. Minister of Justice.

MR. OTTENHEIMER: Mr. Speaker, this is an amendment to the Ombudsman Act and it will accomplish two things.



MR. OTTENHEIMER: Number one, it will bring the Waterford Hospital within the area of jurisdiction of the Ombudsman and, number two, it will give the Ombudsman authority with respect to complaints against the Royal Newfoundland Constabulary. These are the two things it will do, to give a bit of background. It will be recalled that a couple of years ago there was a reference to the Supreme Court as to whether the Waterford Hospital was covered by the Parliamentary Commissioner (Ombudsman) Act and the decision of the Supreme Court was that it did not. The act did not cover the Waterford Hospital, the Ombudsman did not have authority to investigate any alleged incidents at the Waterford Hospital. It will be recalled as well that there was a report to the House of Assembly by the Ombudsman in which he stated his opinion that the Waterford Hospital should be brought within the ambit of the act and certainly the government concurs with this view. So with the enactment of this legislation, the Waterford Hospital will be within the area of jurisdiction of the Ombudsman, that is one thing it does.

The second thing it does is that if there are any complaints with respect to the Royal Newfoundland Constabulary, the Ombudsman will have jurisdiction to investigate those complaints and to make whatever report he deems necessary.

So it is very straightforward. It amends the act to give the Ombudsman jurisdiction in those two areas that he has not previously had, one, the Waterford Hospital and, two, with respect to the Royal Newfoundland Constabulary, complaints against them.

MR. NEARY: Mr. Speaker.

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

MR. NEARY:

Mr. Speaker, we support this bill. As the hon. the minister indicated, the Ombudsman has been lobbying for several years now for an amendment to the Parliamentary Commissioner (Ombudsman) Act to include access to records of the Waterford Hospital and I would assume that there must have been a little bit of pressure put on by the Police Brotherhood to also include the Newfoundland Constabulary.

Mr. Speaker, this is a step in the right direction, because if members will recall, I think it was about three years ago when the Ombudsman used as a test case, was refused access to a person's records at the Waterford Hospital, and the Ombudsman has been lobbying for this change ever since. As a matter of fact,

MR. NEARY: I would suspect that in recent years that I am the only member of the House of Assembly who called on the Ombudsman in his office, called on him, made a courtesy call on the Ombudsman, and up to that time, that was last Fall I think it was, up to that time I was the only member of the House of Assembly -

MR. SIMMS: How do you know that?

MR. NEARY: The Ombudsman told me that some other member had called on him but -

MR. SIMMS: But not a courtesy call.

MR. NEARY: No, not courtesy - it was courtesy all right, but it had to do with some other business. It did not have to do with his job as Ombudsman. But I called upon him as a member of the House of Assembly, I made, I suppose, what you would call a semi-official visit to the Ombudsman's office -

MR. SIMMS: Were you Leader then?

MR. NEARY: No, I was not Leader-this was one of the matters that we discussed at that time. And it was a sore spot with the Ombudsman. Whether members care to accept it or not it is a major item, Mr. Speaker, it now opens up the whole field of examining hospitals records. So it is a major piece of legislation. I am surprised that the hon. Minister of Justice (Mr. Ottenheimer) did not play it up a little more. It is a major victory for the Ombudsman and for the people who have been lobbying for this. We on this side of the House mentioned it before in our various speeches that we have been making every year when the Ombudsman tables his report in this House.

But, Mr. Speaker, having praised the bill a little bit, I have to again come back to our pet peeve on this side of the House regarding the Ombudsman. Mr. Speaker, we argue that the Ombudsman does not have enough authority and we have been arguing for some time that there is

MR. NEARY: a great need to put some teeth in the legislation establishing a Parliamentary Commissioner or an Ombudsman in this Province. We have been arguing, Mr. Speaker, that the Ombudsman should be able to go a step further than just table his report here in the House, that when a minister of the Crown is found in violation of any of the statutes of this Province, when he is found to be in violation of established practices and procedures that the Ombudsman should be able to recommend a penalty. Because we have seen, Mr. Speaker, from

MR. NEARY: experience in this House, the uselessness in the Ombudsman bringing to the attention of members of the House some practice carried out or policy carried out by a minister that is not in keeping with the established practices and policies laid down in this Province.

MR. HODDER: In particular the Minister of Fisheries (Mr. Morgan).

MR. NEARY: I am thinking about the Minister of Fisheries in particular, whom the Ombudsman singled out in his report last year, singled out, and all was forgiven by the Premier. And it would not be so bad, Mr. Speaker, if that was the first time that hon. gentleman was singled out for recognition.

MR. HODDER: The man did not get his compensation.

MR. NEARY: That is right, the man did not get his compensation and the Premier did not see fit to overrule or to discipline the Minister of Fisheries. That was the third, if not the fourth violation on the part of that minister. We sometimes wonder on this side of the House, as well as the people all around the Province, what that minister has on the Premier. Now, the Premier can argue all he likes. The Premier can argue, Mr. Speaker, as he does, that the Minister of Fisheries, the member for Bonavista South is electable and the Minister of Social Services, the member for St. John's East Extern (Mr. Hickey) is electable, that is the only argument the Premier can use, they are electable. In other words, he puts politics before their jobs. The Premier says, 'Oh, we cannot discipline the Minister of Fisheries or the Minister of Social Services, they are electable. So they are allowed to do what they like because they are electable.

MR. NEARY: They can go out and do what they like, Mr. Speaker. They can overrule the Public Service Commission, as the Minister of Fisheries (Mr. Morgan) did in the case of the appointment of a fisheries officer in Western Newfoundland. And because he is electable in his district, it is all overlooked, Mr. Speaker, it is all overlooked. Now, Mr. Speaker, that is not good enough. It is not good enough, and the Ombudsman must be awfully frustrated when year after year he draws to the attention of members of this House, as is his right and his responsibility to do on, certain matters that he thinks have been a violation of the rules and regulations laid down by this House, and the policies established in the running of this Province. There is no recourse, the report is merely tabled in the House, Mr. Speaker, laid on the table of the House.

MR. S. NEARY: Members can take it home and read it, or take it to their offices and read it, or they can read it while they are sitting in their seats and that is the end of it. Mr. Speaker, is that good enough? Is that the way to treat a servant of this House? Is that the way to treat the Ombudsman, a servant of this House, one of the three appointments made by this House - the other two; the Auditor General and the Comptroller of the Public Treasury - the only three servants who are appointed by the Legislature? And year after year the Ombudsman brings his report in, lays it on the table of the House and it is just laughed at. We cannot do anything about it on this side of the House except bring it up like I am bringing it up now. That is all we can do, Mr. Speaker. We can only do our duty. What I am really saying, Mr. Speaker, is this: That the public really have no protection. They have no protection, Mr. Speaker. We have that precedent on public record of where the Minister of Fisheries (Mr. J. Morgan) overruled the Public Service Commission with the approval of the Premier. The Ombudsman said it was wrong, it was improper; it was wrong and the man should be compensated, the number one name on the list.

MR. TULK: And the minister dismissed him.

MR. NEARY: The number one name on the list.

MR. J. MORGAN: You had to say it again, did you?

MR. NEARY: Yes. Sometimes, Mr. Speaker - I have not said it for a long time - you have to put it in baby talk so that some hon. gentlemen understand the message that you are trying to get through.

MR. L. SIMMS: We have no trouble doing that.

MR. NEARY: All members on the opposite side are not as intelligent and as smart as the member for Grand

MR. S. NEARY:  
are not all geniuses.

Falls (Mr. L. Simms). They

MR. L. SIMMS:

Do not go attacking me now.

MR. NEARY:

You know, if you could buy the hon. gentleman for what he is worth and sell him for what he thinks he is worth you make yourselves a fortune, Mr. Speaker.

MR. B. TULK:

You know what his ministry is? He is the Minister of Wildlife.

MR. NEARY:

He is the Minister of Wildlife. I mean, you talk about slashing and cutting, Mr. Speaker. There are a couple of departments over there that were made for hon. gentleman. And so, Mr. Speaker, I am not going to belabour the point. The Minister of Justice (Mr. G. Ottenheimer) cannot answer it. It is indefensible. There are no penalties. It is left up to the government - mostly to the Premier - whether or not ministers



MR. NEARY: who violate established procedures and policies that are laid down and approved by this House, it is more or less up to the Godfather, the Premier, whether or not a minister should be disciplined.

MR. WARREN: They are safe enough.

MR. NEARY: And we saw what happened in the case of the Minister of Fisheries (Mr. Morgan). Unless, Mr. Speaker, that precedent is removed from public record, we can only assume in future that this administration will not take any recommendations from the Ombudsman seriously.

MR. HODDER: The hon. Minister of Fisheries is standing in the door and he is afraid to come in.

MR. NEARY: It is on the record.

MR. TULK: He is scared to come in.

MR. NEARY: It is on the record, and unless it is scrubbed from the record, unless it is erased from the record it will be a black mark forever on this administration in their dealing with the reports of the Ombudsman.

MR. BAIRD: Your time is up.

MR. CARTER: Terrible glanders.

MR. HODDER: No, Sir. Read the Ombudsman's report.

MR. NEARY: And so, Mr. Speaker, we are going to support this amendment,

MR. TULK: The minister should be dismissed.

MR. NEARY: But it gives us an opportunity, as Your Honour knows, as the minister knows to bring up this whole matter of the effectiveness of the Ombudsman in this Province.

MR. HODDER: The minister is out there and he is afraid to come in.

MR. NEARY: The Ombudsman can only deal mainly with mistakes that are made by ministers or their public servants.

MR. NEARY: And then they have to go back and ask the minister to remedy a mistake that he has made, and if the minister does not change it, then bring it to the attention of the House. And why is it brought to the attention of the House, Mr. Speaker? Why would Your Honour think that under that legislation the Ombudsman has to make a report to this House? Why? Why? Could the Government House Leader (Mr. Marshall) tell me why?

MR. MARSHALL: Why the what?

MR. NEARY: Why the Ombudsman is compelled to make a statement to this House, an annual report to this House?

MR. MARSHALL: So that the House can be informed of work that he does.

MR. NEARY: Oh, can be informed. Is that all there is to it? Mr. Speaker, the Government House Leader has responded to my question by saying all the Ombudsman has to do is inform the House. Then who is it up to? I ask the hon. gentleman this - he is now almost up to the head of the class -

MR. TULK: He is. He is.

MR. NEARY: - who is it up to then to see that the recommendations in the Ombudsman's report are carried out. Who is it then up to? Could the hon. gentleman answer that? Like the one where he recommended that when the Minister of Fisheries overruled the Public Service Commission that the gentleman whose name was number one on the list be compensated?

MR. MARSHALL: That is the Ombudsman's opinion. You know, he is not infallible.

MR. NEARY: Oh, I see. That is only his opinion.

MR. NEARY: The hon. gentleman is saying it is a judgement call then on the part of the Premier and the administration, it is a judgement call.

MR. MARSHALL: Everything is a judgement call.

MR. TULK: There is only one infallible source.

MR. NEARY: It is a judgement call then. Mr. Speaker, why is the Ombudsman's report, why is the report of the Ombudsman not debated in this House?

MR. SIMMS: The minister will answer all that when he closes the debate.

MR. NEARY: I see, he will answer it all. But he may not answer it to my satisfaction and that is why I am asking questions and giving argument now. Because this comes up year after year and it will come up again when the Ombudsman's report is tabled in this House.

The poor old Ombudsman must be sitting over there in the old Imperial Oil Building frustrated beyond words. Year after year he tables his report in this House and the Premier will stand in his place and say, 'Well, the Minister of Fisheries (Mr. Morgan) did not mean to do anything wrong. He consulted with me and I told him that he could hire number two or number three -

MR. TULK: And the Premier approved it.

MR. NEARY: - that is right, he approved it - so therefore he did nothing wrong. The Ombudsman said, yes, the Minister of Fisheries has done something wrong, something immoral, something that should have been rectified, and the person who made the application, who was number one on the list, should have been compensated. The Ombudsman said that, a completely independent servant of the House. Mr. Speaker, I do not want to open up old sores, but I remember

MR. NEARY: another incident in this House where a gentleman had done something wrong and he paid the price, he paid the penalty. A minister of the Crown admitted that he had done something wrong, and he must feel awfully bad, he must feel awfully let down by the Premier and by the administration when he sees a minister four times, not once, twice, three times, but four times he did something wrong and that minister was not disciplined like the former Minister of Transportation was disciplined.

MR. MARSHALL: The Leader of the Opposition (Mr. Neary) is getting unnecessarily low, even for the Leader of the Opposition.

MR. NEARY: What is low about that?

MR. MARSHALL: It is unnecessary and low.

MR. NEARY: It is unnecessary and low!

MR. MARSHALL: You are unnecessary and low.

MR. NEARY: Mr. Speaker, it is very necessary. What is sauce for the goose is sauce for the gander. And the hon. gentleman may think it is low but, Mr. Speaker, if I was the hon. gentleman I would not with the buttoned-down, narrow mind that he has, I would not consider anything very low.

Mr. Speaker, we have had occasions in this House when ministers were disciplined for far less.

MR. HODDER: The Minister of Fisheries (Mr. Morgan) broke the Public Tendering Act.

MR. NEARY: That is right.

MR. HODDER: Ignored the Ombudsman.

MR. NEARY: That is right.

MR. HODDER: And the Premier did that too.

MR. NEARY: He was brought to task by an independent committee in this House, the Public Accounts Committee, four members on the Public Accounts Committee from that side of the House. So, Mr. Speaker, I wonder sometimes if the Ombudsman is not sitting over there completely frustrated over these matters. Every year when the Ombudsman tables his report, this matter is bound to come up again. We suggest that the Ombudsman be given more authority. If the track record of the administration is any indication you cannot depend on the Premier and the administration to act on the recommendations, so maybe the House should give the authority to the Ombudsman to recommend punishment and penalties for anybody who breaks the law or who violates established practice and procedures laid down in this Province.

I would like to see the act strengthened considerably, Mr. Speaker. This is only one aspect, opening up the Waterford Hospital and the Newfoundland Constabulary to scrutiny by the Ombudsman. No doubt it is a step in the right direction, but I think the minister would be well advised when he is next bringing in amendments to "An Act To Amend The Parliamentary Commissioner (Ombudsman) Act", that he bring in some major amendments, amendments that will bring about major reforms so that the Ombudsman will be able to carry out his work more successfully than at the present time.

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

MR. HISCOCK: Thank you, Mr. Speaker.

I will be brief in supporting this bill, but I also have to reiterate what the Leader of the Opposition (Mr. Neary) has said. After twenty years of service in this House, I think that person has seen different Premiers come and go and knows that the main reason why we are here is to serve the people. As he pointed out, there are three servants of this House, one of them the Ombudsman.

MR. HISCOCK: I remember when I first got elected bringing a matter to the Minister of Justice and the Minister of Transportation, and finally I had to go to the Ombudsman with regard to construction of a road in the community of Charlottetown. A person had a house down there, a Mr. Turnbull. It was not a mansion by any means but it was his mansion. Early that February there was a very mild spurt of weather that flooded the house with two feet of water. By the time he got action from the Transportation Minister it had frozen and the damage was done and he had to move out, pay rent and whatever. When he tried to get some compensation, not much but try to get some, then the Minister of Transportation and the Department of Justice ended up saying it was an act of God.

MR. HISCOCK: Well it may have been an act of God, but again this year the same thing reoccured. He brought the problem to the appropriate people, and again they went on with the act of God bit. My reason in bringing this up is, as the Leader of the Opposition (Mr. Neary) said, it is only at times when we are on these bills that we can bring these matters up. I am not sure if all the provinces have Ombudsmen yet - we were I think one of the front runnes in this regard - but what is the sense of having these laws if they are not going to have some teeth in them. I feel very strongly that the Ombudsman should not only inform the House of these things but he should also make recommendations and that they should be impresed upon this House, and that they should have some teeth in them.

With regard to other matters, now that there are forty-four seats on the government side of this House, Mr. Speaker, if there was ever a need for the Ombudsmen surely he is needed now. There is a need for independent servants of this House, like the Auditor General and the Comptroller General, to recommend and to make sure that abuse does not take place with the overwhelming majority that now exists. Of course, again you can completely ignore it. As we have said, an example was when the Minister of Fisheries (Mr. Morgan) overruled the Public Service Commission and the Premier agreeing with the minister.

With regard to other things, the political patronages that will come up, and has come up, and keeps coming up with relation to the forty-four seats; a person applied for a liquor licence out in Trepassey and it ended up being a person retiring and ended up getting it, was in the front runner to get that liquor licence out in Trepassey, had all the requirements, was very sound

MR. HISCOCK: economically, had the parking space, had the equipment and the buildings that was necessary. And what happened? It was appointed to another strong backer of the Conservative Party and not given to the person that was in the front runner. Even the Chairman of the Liquor Board Commission has even suggested that there is something wrong with this matter. And I am sure that this will go to the Ombudsman but again the Ombudsman will come in and rule in the favour of the original person being favoured for this. Instead what will happen is he will bring in his report, table it there and, of course, the House will only be informed and the Premier again will override it. Of course I am talking about the situation in Trepassey where Mr. Devereaux was in the lead for it and Pennells Limited ended up getting it.

So I, for one, Mr. Speaker, feel that more things are going to go to the Ombudsman



MR. HISCOCK: then they have to be stronger for this. The Ombudsman Act has to have more teeth. And if it does not have more teeth, Mr. Speaker, then what is the use of having the position of Ombudsman. Maybe we should retire the position of the Ombudsman and the investigator and give it to the health workers in this Province if we are not going to have institutions that are going to have teeth and can actually do something to make sure that democracy lives in this Province. Because with forty-four seats, Mr. Speaker, you will find out that there is a tendency to feel that, 'Well, the overwhelming majority of the people supported me in the election, therefore they will continue to support me for the next four years and might is right and I am right' and all the attitudes that go with it.

So, Mr. Speaker, I would only caution to give the Ombudsman, the Comptroller General and the Auditor General a little bit more power. And when their opinion—and it is an opinion, I agree with that, it is an opinion but it is an impartial opinion, it is not a political opinion, it is an opinion that is taken after all the facts. And once that opinion is given I think that this House should give more serious consideration to it. And I hope that the Minister of Justice (Mr. Ottenheimer) will look back at the letter that I wrote to him with regard to Mr. Turnbull down in Charlottetown and see if we can have some compensation to help this man do something about acquiring a new home instead of having to pay out rent. Thank you, Mr. Speaker.

MR. SPEAKER (AYLWARD): If the hon. minister speaks now he closes the debate.

The hon. Minister of Justice.

MR. OTTENHEIMER: Mr. Speaker, let us review very briefly the amendment, what it does. Number one, it will give the Parliamentary Commissioner the authority to investigate

MR. OTTENHEIMER: complaints from the Waterford Hospital and, number two, it will give the Parliamentary Commissioner authority to investigate complaints from the public with respect to the Royal Newfoundland Constabulary. That is essentially what it does.

Just to say a few words about the institution in general: Parliamentary Commissioner is the actual term. Ombudsman is used, but what that person is is a Parliamentary Commissioner, an officer of the Legislature, in that way analogous to the Auditor General. What he does is essentially investigate, review, recommend and report. He is not a prosecutor, he is not a judge. he cannot initiate legal action. He is an officer of the Legislature who investigates, reviews, recommends and reports to the Legislature. He does not and cannot usurp the Legislature's function. He is not a prosecutor, he is not a court, he is a Parliamentary Commissioner. And one could well ask, 'Well, what is the value of it? What practical benefit is there?'. But when matters are investigated and reviewed and recommended and reported to this House, in the final analysis it is the Court of Public Opinion. The main benefit of the office of the Public Commissioner is that these

MR. OTTENHEIMER: instances or allegations of maladministration, because that is what it is - it is not, you know, criminal matters or breaches of the civil law; -it is essentially maladministration - and these allegations of maladministration become public and any recommendations become public. But to say that because he is not a prosecutor, because he cannot on his own initiative effect certain things, the institution is without value, is not, I think, correct. And indeed in general throughout Canada the Parliamentary Commissioners' Acts are very similar to ours. It is one of recommending. And in the final analysis it is the Court of Public Opinion. We would not serve, I think, the institution well to confuse the role of the Parliamentary Commissioner with the role of a prosecutor. I move second reading.

On motion, a bill, "An Act To Amend The Parliamentary Commissioner (Ombudsman) Act," read a second time, ordered referred to a Committee of the Whole House on tomorrow. (Bill No. 39)

MR. MARSHALL: Order 19, Bill No. 40.  
Motion, second reading of a bill, "An Act To Amend The Automobile Insurance Act And The Highway Traffic Act To Increase The Minimum Liability Under Motor Vehicle Liability Policies."

MR. SPEAKER (AYLWARD): The hon. Minister of Justice.

MR. OTTENHEIMER: Mr. Speaker, the last time that the compulsory limits for insurance were increased in Newfoundland was in 1973. And what this bill does is amend the Highway Traffic Act and the Automobile Insurance Act to increase the compulsory limits of liability insurance and it will increase it from \$75,000 to \$200,000. As I say last time it was done was in 1973 and this bill will increase the minimum level of liability insurance from \$75,000 to

MR. OTTENHEIMER: \$200,000. It will come into force nine months after its enactment-or the first of the month nine months after its enactment in order to give the industry an opportunity to take the necessary action.

Now, let me point out what it will mean, and these figures are obviously approximate. The obligatory minimum now is \$75,000. For the 11 per cent of the population who only have the minimum, it will mean an annual increase in their premium of approximately thirteen dollars. Only 11 per cent now carry the present minimum of \$75,000.

MR. OTTENHEIMER: Approximately 42 per cent carry \$100,000, and for them it will mean approximately a nine dollar annual increase. What is interesting is that approximately 38 per cent now carry the \$200,000 and 9 per cent carry above \$200,000.

So, approximately 47 per cent or 48 per cent of the population, approximately half the population now are carrying \$200,000 as the limit and approximately half are not. But the largest portion of those 42 per cent are carrying \$100,000 and only 11 per cent are carrying \$75,000. So certainly with increased costs and with the way awards are made now certainly it is protection for the public. It is essentially a public protection measure to increase that compulsory minimum from \$75,000 to \$200,000. I think that covers everything that the bill does.

MR. SPEAKER (AYLWARD): The hon. member for the Strait of Belle Isle.

MR. ROBERTS: Mr. Speaker, this is a bill which I welcome and my colleagues welcome. It is a bill to implement a principle, a move, a measure that I have requested several times in the House in the last few years. And I am delighted that the ministry have seen fit to implement it and to require every driver in the Province to carry at least \$200,000 in third party public liability insurance.

It is an amendment that should have a very beneficial effect and, as the minister quite rightly pointed out, at remarkably little cost. I do not pretend to understand the actuarial process but the fact of the matter is that an insurance company will enter into a contract with an individual to insure him up to \$200,000 for not very much more than it would enter into a contract to insure him for up to \$75,000. So it does not place a very great hardship on any individual, on the

MR. ROBERTS: owner of a vehicle who is licensing - not licensing the vehicle, I will come back to that - but who is buying the insurance policy. It could convey an extraordinarily real benefit upon somebody who has the misfortune to be injured in an automobile accident. And I suppose, to be precise, an automobile accident for which is not legally at fault.

Let me just tell you very briefly, Mr. Speaker, of two cases that have occurred in this Province recently, both of them matters of public record so I am

MR. ROBERTS: not revealing anything that is not public, Just to show how the present sytem has worked, let me give you three cases, all matters of public record.

The first of them, a group of five or six men were driving in from Port de Grave to work here in St. John's. They commuted regularly back and forth from, I am not sure, somewhere in the Port de Grave district, it does not matter where but somewhere over on the Roaches Line. They came in every morning and went home every night. The driver fell asleep one day, the car went off the road, rolled over in the ditch, one man was killed and three or four or five were injured to lesser degrees. The driver who was legally at fault for the accident was insured to \$75,000. The driver had no other money, no other substantial money like many people. He had only what little he earned and what little he had left after he paid his taxes and his living expenses. As a result the only amount of money available was \$75,000 and that had to be split among the three or four or five claimants. The man who was killed left a widow and two children. Their total share was about \$40,000. That is what the system provided for them. And I do not know whether anybody here would like to try to explain that to a widow in her twenties with two toddlers, two children two, three years old, but that was what she got for her husband from the sytem of justice and law in this Province. That cannot happen again. Now there will be at least \$200,000 available.

Secondly, lest anybody think that \$200,000 is an exorbitant amount of money, let me tell you of another case that was recently dealt with in

MR. ROBERTS: the courts of this Province.  
A man and his wife one night were going home. They had been at a Christmas party. The man had had perhaps one or two beer. He was certainly not drunk within any meaning either of common usage or meaning of the criminal code. He was going out the Southern Shore road, he and his wife. Just on the other side of Waterford Bridge the car was struck by a vehicle coming the other way in their lane. Who knows how fast that car was going? It struck the van in which the man and his wife were driving with sufficient force that it spun it around and it ended up with its nose in the air on the railings of Waterford Bridge. The woman was killed instantly. The man spent a year in hospital at heavens knows what cost to the Province. I mean, what is a hospital bed today, I ask the Minister of Health (Mr. House)? Three hundred dollars a day? That kind of money, of that order?

MR. HOUSE: Around here.

MR. ROBERTS: So we are talking about, you know, whatever 300 times 365 is. That is \$100,000 conceivably on the people of the Province which was not recovered. The driver, who was convicted criminally of driving negligently, and so he should have been, and who



MR. ROBERTS: was convicted and sentenced, had \$200,000 insurance. That was what was available to that man to compensate him for -

MR. MARSHALL: Public liability insurance?

MR. ROBERTS: Public liability insurance, yes - to compensate him for the death of his wife and to help him to look after the child that they had had after fifteen years of marriage, who was then one year old. So, \$200,000 may be a lot of dollar bills piled up in cash, but it is not very much money. The Health Department, I think, has waived - and so it ought to have in my view - its claim to be reimbursed the money it had laid out in hospital and medical bills because it would have - let me give you a third case where again the Health Department did the right thing.

A family coming one day from Georges Brook to Clarendville, or through the Georges Brook area - I think it is probably in Trinity North or maybe in Bonavista South - a car smashed into them head on on the rise of a hill. They were in their own lane, the oncoming car was in the wrong lane. \$100,000 was what was available. The driver of the car which struck the car coming towards Clarendville was killed instantly in the accident. His estate was bankrupt, there was no money available there. There were three people in the car that was struck, a man and his wife, and a child who happened to have the affliction of cerebral palsy. That child had been making marvellous progress. His mother was devoted to him. I happen to know a little about the case. The mother was devoted to the child and brought that child - and a lot of help from the Social Services Department, from the Janeway, did a marvellous job.

The result of the accident was that child was set back probably seven or eight years in his development. He was physically fourteen and chronologically fourteen and probably had reached about the age of eight

MR. ROBERTS: or nine or ten through the help of his mother and the Virginia Waters School and the other support systems. He was set back five or six or seven years. The total available to compensate for all the injuries was \$100,000. If the Minister of Health (Mr. House) had not waived-I think, a \$45,000 hospital bill was waived and that allowed the money then to be put into a trust fund for the use of the child who will never work. That child will never be able to cope with the world. God has, for whatever reason, has laid upon him this condition. He will never be able to go out and make his living. He will be a charge on somebody all his life. But at least there is some money available now.

So, these are all real problems. Each of the three has been dealt with in the courts of this Province within the last two or three years and in each case the amount of money involved has been meaningless when compared to the injuries which it was intended to compensate. You cannot restore the man who was killed in the accident. You cannot restore the wife who was killed on the Waterford Bridge. That is not within this House or mankind to do.

MR. ROBERTS: We do try to compensate financially in this bill. By increasing the amount of coverage which drivers must carry will help towards that end and do it through the insurance system, which means, in effect, we will all pay a share and so it should be. I think it is a very fair system and I am quite prepared to see the insurance system carry on.

So, we welcome the bill.

Let me make two further comments to the minister which I hope he will deal with. I do not see any reference in here to the Unsatisfied Judgement Act. I would say to the minister that - again I want to be sure I have his attention -

MR. NEARY: He is being briefed by (inaudible).

MR. ROBERTS: No, I mean, unless the Minister of Health (Mr. House) has something urgent I would ask him to wait. I see no reference in here to an amendment to the sections - it does refer to Judgement Recovery Limited. Maybe that does cover it. Is the \$200,000 to apply to the judgement recovery situation? It should if it does not. It may be that section (7) of the bill does in fact provide that. Perhaps the minister could assure us on that. It is adding a new section to the part of the Highway Traffic Act that deals with the situation where there is no insurance carried.

Secondly and much more importantly, may I repeat something which I have said in the House before and which regrettably the minister either has ignored or has not acceded to. I do not know what he has done. We are now going to enact, and unanimously, a law which will make it a condition of the right to drive in this - the privilege to drive, it is not a right, it is a privilege to drive - a condition of the privilege to drive in this Province that the individual is insured, or the vehicle, to be precise,

MR. ROBERTS: . . . is insured for \$200,000.  
Not a lot of money. My friend from Stephenville (Mr. Stagg), when he was in practice, will agree that that is not an outrageously large claim. Judgement are going up, awards are going up and there will be lots of claims of \$200,000, lots of claims where it is justified, lots of claims where far more than that could be justified on the facts of the case.

We say that you must have that insurance before you can lawfully operate a motor vehicle. And yet the government refuse to take the simple administrative step that it will enable that law to be enforced. There is nothing today to prevent me wanting tomorrow to license my car from going into my friendly insurance agent, whoever it may be, booking my policy, paying down one month's premium

MR. ROBERTS: or a two month premium, getting my pink slip, or whatever it is called, getting my pink slip, then filling in the information on that on the motor vehicle application, and there is a space on the application where you fill it in- now there is a confab on. I am quite happy to wait.

MR. OTTENHEIMER: I can listen with both ears.

MR. ROBERTS: The minister may be able to listen with both ears but I want him to understand, not just listen. You know, I am quite happy to wait.

MR. BAIRD: You were going to say then they cancel.

MR. ROBERTS: Yes. What I am going to say is there is nothing - my friend from Humber West (Mr. Baird), who has a knowledge of the low life in this Province that I would find it hard to master -

MR. BAIRD: You would not be able to stand it.

MR. ROBERTS: I agree. The gentleman for Humber West -

MR. NEARY: Where were you when they needed you in Corner Brook to speak on the Fisheries College issue?

MR. ROBERTS: Now, Mr. Speaker, let me come back. The ministry have had their heads together. Heavens knows what comes out of it. But the gentleman for Humber West (Mr. Baird) is quite correct, there is nothing to prevent me from going, once I send in my license, nothing to prevent me from going in a week later to my friendly insurance agent and saying, 'Cancel the policy'.

MR. DAWE: Except you are breaking the law.

MR. ROBERTS: Except you are breaking the law. Sure you are breaking the law. But what help does that give anybody when I am out on the road - and the sort of person who cancels a policy is far more likely to have

MR. ROBERTS: an accident - I go roaring up the highway and crash into somebody and do untold damage and then I say, 'Well, I am not insured'.

MR. DAWE: Then there is judgement recovery, is there not?

MR. ROBERTS: Judgement recovery. Why not do it an even simpler - judgement recovery is complicated, provides a means of patronage for the Tory Party and -

AN HON. MEMBER: It does?

MR. ROBERTS: Yes, of course it does.

MR. BAIRD: Shame! Shame!

MR. ROBERTS: Yes, it is shameful. I agree with the gentleman for Humber West (Mr. Baird), it certainly is shameful. It is cumbersome, inefficient antiquated and means everybody has to bear the cost. Because where does judgement recovery get its money? It gets it from a levy which in due course is passed on to all the insured drivers, so the just pay for the unjust. It is not that the just and the unjust pay, the unjust never do pay. It is only those of us who are foolish enough to follow the law who pay. And every member of the House, who doubtless follows the law and has insurance - the Minister of Transportation (Mr. Dawe) no doubt has an insurance policy - I will tell him that part of his premium goes to the levy of judgement recovery, part of the levy goes to pay the cost of insuring against those people who are not insured. Now, there is an easier way to do it and a far -

MR. NEARY: Now, that is the first time, that is the first time he knew that.

MR. ROBERTS: Well that may well be. I have long ceased to be the least bit taken aback by the Minister of Transportation's ignorance of the facts. But let me simply say to him that judgement recovery gets its

MR. ROBERTS: money from the only source it can, from the insurance policy holders. So the just, the people who follow the law, pay the price. The Minister of Health (Mr. House) pays twice. He pays his premium, and then part of his premium goes to pay for the people who are uninsured.

Now, in the name of all that is scared, why do we not simply require every insurance company to notify the registrar of motor vehicles of every cancellation? Maybe there are 50,000 a year, I have no idea, but we have got a first class registry division, whatever it is called, motor vehicle division. It is all on computer. How simple! In comes the notification that John Jones has cancelled his policy. Now, how simple then for a phone call to be made to John Jones saying, 'Give us a new policy, It is a requirement of the law or we are going to send the police to take your plates away'. I mean, we can send people snooping around in the homes of unwed mothers to see who the father of their child is or whether they are living in a family unit. I mean the Minister of Social Services (Mr. Hickey) has a whole Gestapo at work on that going around taking rumors, saying, 'Oh yes, so-and-so over there who is unwed and has a child, she was away last weekend with so-and-so over there', and the result is they cut off her social assistance. We have that sort of Gestapo around. Why can we not make a very simple requirement? The insurance companies will not object. They will do it. It is just a matter of when they have a cancellation notice of sending a copy of that into the registrar of motor vehicles. And it might well lower our premiums. It would mean judgement recovery might go out of business. There would still be a need for it but not the need there is now. What possible argument against it? Administrative inconvenience? Look, this government has got so much paper work. I mean they are

MR. ROBERTS: now going to try to make everybody who lives in a development area get the ministers' permission before they can buy and sell a block of land. I mean if they want to talk about administrative inconvenience! There is no possible reason except the pigheadedness, the stupidity, the stubbornness of certain ministers who are afraid ever to admit that any wisdom could come from anywhere other than from their thick skulls.

Now, you know, I will leave the point by quoting to them them the word of Cromwell, a gentleman these gentlemen opposite often emulate, "I beseech thee, brother, in the bowels of Christ, thee could be wrong". I would say that to the Minister of Transportation (Mr. Dawe) on this issue. He could be wrong. He is wrong. Let them simply require it. And insurance companies would not object. Administratively it is quite easy, infinitely more effective. Heavens alone knows how many hundreds of people throughout this Province today are rocketing around on the roads, many of them drunk, driving reckless, accidents waiting for an opportunity to happen and not carrying insurance. The minister has no idea how many there are. He might say 5 per cent, it could be 55 per cent, because who knows how many people cancel their insurance and then go on? I will tell him it is far more than he might think.



MR. NEARY: He is too busy paving roads and country lanes to Summer cottages out in his district.

MR. ROBERTS: Ah, well, he will answer for that too.

MR. DAWE: (Inaudible) roads to Summer cottages.

MR. NEARY: Building roads to Summer cottages.

MR. ROBERTS: Well, that is the restraint programme, I say to my colleagues. That is what Tory restraint is.

MR. DAWE: What nonsense!

MR. ROBERTS: Yes, it is nonsense. I agree it is complete nonsense, and any government that does it is nonsensical. I agree, it is nearly as nonsensical as a minister who is in a flagrant conflict of interest complaining when the CRTC will not ratify it.

Now, Mr. Speaker, let me come back to the question of this bill, with deference to - my friend from Bonavista South (Mr. Morgan) gives me the grim look. I shudder! I quiver! I nearly equivocate! Except that is his track.

MR. MORGAN: I am just laughing at you, that is all.

MR. ROBERTS: Yes, he might laugh. If he had the courage to say outside the House what he says in the House we would see.

MR. MORGAN: I do.

MR. ROBERTS: Then go out and say it, go out and repeat -

MR. MORGAN: Say what?

MR. ROBERTS: I was not here on Friday.

MR. MORGAN: (Inaudible) what?

MR. ROBERTS: The whole

process of law in this country - I was not here on - when was

MR. ROBERTS:

it? Friday?

MR. MORGAN:

You should be in the House more often.

MR. ROBERTS:

That is right. I was not here on Friday. I was on a holiday for which I was paying, unlike the Minister of Fisheries who thinks the taxpayers should pay for his holidays. He takes his travel to Europe on the taxpayers.

SOME HON. MEMBERS:

Hear, hear!

MR. ROBERTS:

I paid for mine myself.

MR. MORGAN:

Be in the House once in a while and you will know what is going on.

MR. ROBERTS:

Ah, Mr. Speaker, I know what is going on in the House. And let the hon. gentleman have the courage to say outside the House what he tries to say in here in shelter.

AN HON. MEMBER:

What did he say? What did he say?

MR. ROBERTS:

What did he say! He made an underhanded attack on the whole CRTC. And he attempts to rationalize - he is paranoid about Bill Rompkey, you know, paranoid.

MR. MARSHALL:

I thought he had attacked Liberal members.

MR. ROBERTS:

Oh no, no. No, no. He is off that. He will be back on it. But, I mean, if you are known by the quality of your oponents, then I am pleased to have the hon. gentleman of Bonavista South (Mr. Morgan) as an opponent. But, Mr. Speaker, I stray.

MR. CARTER:

Say that stuff outside the House.

MR. ROBERTS:

What stuff outside the House.

MR. CARTER:

The stuff you are saying now.

MR. ROBERTS:

I would be delighted to, delighted

MR. ROBERTS: to. The hon. gentleman  
could get the Hansard and he might even be able to  
understand it because some of the words had two syllables.

Now, Mr. Speaker, let me come  
back to this bill.

MR. CARTER: That is slander. That is  
slander.

MR. ROBERTS: No, truth is a defence to  
slander. I would say to the minister that you know this  
is a good bill. But let us go the step further, and

MR. ROBERTS: let us require the insurance companies to notify the Registry of Motor Vehicles of cancellations in insurance policies. Maybe they have simply moved to another company, in which case a simple phone call would take care of it, or a letter. The computer could spit out a form letter. It spits them out for far less than that. But it would also catch, however, many hundreds or thousands there each year who have no intention, not the least intention of honouring this law passed by this House, who go and get their policy simply so they can have the pink slip and then go in and cancel it the next day - and that is their intention right from the start - and then drive on. They will never be caught unless there is an accident. The police do not bother asking. And how many of us are stopped by the police in the course of a year anyway on the road? How many honourable gentlemen here have been stopped by the police and asked to show their motor vehicle registrations?

MR. BAIRD: There are too many of them in Corner Brook after twelve at night.

MR. ROBERTS: The hon. gentleman ought not to be out after twelve at night, at his age and in his delicate condition. He, of course, was on a work of charity, a work of mercy.

MR. BAIRD: I was trying to get some diapers for you.

MR. ROBERTS: Could be. The hon. gentleman certainly knows what is in diapers when he looks at his colleagues, both who and what.

MR. BAIRD: I am looking at them back on but I am looking at you front on.

MR. ROBERTS: I am sorry? My hon. friend again.

MR. BAIRD: I am looking at them back on but I am looking at you front on.

MR. ROBERTS: Yes but the back on is the important end for the hon. gentleman's point of view. And given his approach to public affairs, it is the only side he knows. What to try again 'Ray'? Come on now, come on. We have got ten minutes to go. Bill is not going to drive us any harder today.

MR. NEARY: He should ask for the protection of the SPCA.

MR. ROBERTS: Who?

MR. NEARY: The member -

MR. ROBERTS: No, the SPCC.

Mr. Speaker, I -

AN HON. MEMBER: He is a good Chairman but a poor Speaker.

MR. ROBERTS: A good Chairmen but a poor Speaker. That is an insult to the Chair, you cannot have that.

AN HON. MEMBER: I withdraw it.

MR. ROBERTS: The hon. gentleman withdrew, yes. Speaking of the debate, the hon. debater for Bonavista South (Mr. Morgan), we used to have a school boy debater in this House, we used to have a kindergarten debater, we used to have a university debater. Now we have a toddler debater, the gentleman for Bonavista South (Mr. Morgan), a pre-schooler, a Jack and Jill debater.

MR. BAIRD: Surely there is a better one you are familiar with.

MR. ROBERTS: A better one I am familiar with?

MR. STAGG: Quit while you are ahead, Ed.

MR. ROBERTS: Quit while I am ahead!

MR. STAGG: I thought you were ahead there for a while but now you are going back.

MR. ROBERTS: The hon. gentleman for Stephenville (Mr. Stagg) has never been ahead in his life. Come on now, one

MR. ROBERTS: at a time fellas.

MR. TULK: One at a time now.

One at a time now.

MR. ROBERTS: One at a time, now, one at a time.

I mean, how about sending in the real heavy guns instead of the gentleman for Bonavista South (Mr. Morgan) and the gentleman for Stephenville (Mr. Stagg). How about somebody with real merit.

MR. MORGAN: We are just sitting in the House doing our work. You are just (Inaudible)

MR. ROBERTS: Doing your work. The hon. gentleman, Mr. Speaker, his work -

MR. MORGAN: Sitting here (inaudible).

MR. ROBERTS: Ah now, let me talk about that.

His work in the House is -

MR. MORGAN: You are down practicing law.

MR. ROBERTS: I make my living. His work in the House -

MR. SPEAKER (RUSSELL): Order, please!

MR. ROBERTS: Your Honour is saying something?

MR. SPEAKER: We have several kinds of debaters, maybe we could have a bill debater.

MR. ROBERTS: I think that is a marvellous thing, Sir, a marvellous thing.

SOME HON. MEMBERS: Hear, hear!

MR. ROBERTS: And speaking of this bill, I would say that the work of a member of the House is to debate the bills, not attempt to do his correspondence. You know, some hon. gentlemen believe that if they sit in the House they are somehow contributing something.

MR. ROBERTS: They seem to feel that simply having their rear end on the seat, which Your Honour so kindly provides, is making a contribution. The hon. gentleman for Bonavista South (Mr. Morgan) exemplifies that. He is here physically. I could say some -

MR. MORGAN: I do not make a fool of myself like you are.

MR. ROBERTS: Yes, the hon. gentleman makes a fool of himself very frequently. The hon. gentleman for Bonavista South makes a fool of himself often without even trying -

MR. MORGAN: Sit down (inaudible).

MR. SPEAKER (RUSSELL): Order, please!

MR. ROBERTS: - perfectly effortless.

MR. MORGAN: Come on, little school boy, come on, let us all debate in the proper way, and do not make a fool of yourself.

MR. ROBERTS: Ah my, the hon. gentleman for Bonavista South, a story in himself.

MR. NEARY: He is right beside himself now.

MR. ROBERTS: That is it. Now, does anybody else want to try any smart aleck cracks? I mean now that we have seen the children how about the men coming out.

MR. CARTER: When were you last in your district?

MR. ROBERTS: Mr. Speaker, when was I last in my district! In due course for the election. When did the hon. gentleman for St. John's North (Mr. Carter) last do something for his constituents?

AN HON. MEMBER: It is a secret.

MR. ROBERTS: It is a secret, yes. It is a secret. The best thing he could do for his constituents would be to resign. The only thing he could do.

MR. ROBERTS: Mr. Speaker, let me come back to the bill and risk the ire of the Minister of Fisheries (Mr. Morgan), the frightful - what is it? - the Battle Hymn of the Republic, 'The thundering wrath of the Minister of Fisheries.' If ever a child was sent to do a man's play! Here were are with the fisheries in crisis, companies on the verge of bankruptcy and we have the Minister of Fisheries. If ever a child -

MR. MORGAN: You got your plant opened in St. Anthony.

MR. ROBERTS: Yes. No thanks to the minister we got the plant open. If he had his way it would still be closed. But if ever there was a child sent to do a man's -

MR. MORGAN: (Inaudible) CRTC (inaudible)

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

MR. ROBERTS: If ever there was a child sent to do a man's work it is the gentleman for Bonavista South being sent to be Minister of Fisheries.

MR. STAGG: Relevance! Relevance!

MR. ROBERTS: Relevance! A very relevant comment indeed. Let me simply say to the Minister of Justice (Mr. Ottenheimer) that it is a good bill, a very good bill. I congratulate him on doing what we recommended two years ago. And I would suggest to him -

AN HON. MEMBER: The CRTC does not shine upon him.

MR. MORGAN: No more legal work for him with the CRTC.

MR. ROBERTS: If it will help the hon. gentlemen, the only time I have ever had any dealings with the CRTC was to appear in front of them. I was hired -



MR. MORGAN:  
work from the CRTC.

You were lobbying for the

MR. ROBERTS:

I beg your pardon?

MR. MORGAN:  
work from the CRTC.

You were lobbying for the

MR. ROBERTS:

I beg your pardon? The hon. gentleman is lying. The hon. gentleman is telling a deliberate untruth.

MR. SPEAKER (RUSSELL):

Order, please! Order, please!

I must admit that the relevancy of this debate has strayed somewhat from what I consider to be the principle of the bill, and I would ask the hon. member for the Strait of Belle Isle (Mr. Roberts) to speak to the principle of the bill.

MR. ROBERTS:

Thank you, Sir. Well I had about finished my remarks, which is to say that

MR. ROBERTS: I think it is a good bill but I would ask the minister to go one step further and to take the step necessary to make the principle of the bill truly effective and that is by requiring the insurance companies to notify the Registrar of Motor Vehicles when there is a cancellation of an insurance policy.

Thank you, Sir.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER (Russell): If the hon. minister speaks now he closes the debate.

The hon. Minister of Justice.

MR. OTTENHEIMER: Mr. Speaker, in answer to two questions asked by the hon. gentleman opposite, the \$200,000 does apply to judgement recovery. With respect to the automatic, or the system of notification from insurance to the Registrar of Motor Vehicles, I am told by my colleague, the Minister of Transportation (Mr. Dawe), that he has met with people on that and they tell him that it is very impractical to put into operation. Apparently people change insurance policies quite, quite frequently and, I am told, much more frequently in Newfoundland than elsewhere. That I was not aware of but that is what I am told. But more detail will have to come at some appropriate time from the Minister of Transportation, but he informs me that he has met with people on that and they have told him that in their opinion it is not workable. That does not mean that it cannot be looked at again and maybe there is a way of making it workable.

MR. ROBERTS: I am told by people in the industry it is perfectly workable.

MR. OTTENHEIMER: Well two hon. gentlemen have been talking to two different people in the industry, I suppose. Anyway I move second reading.

On motion, a bill, "An Act To Amend The Automobile Insurance Act And The Highway Traffic Act To Increase The Minimum Liability Under Motor Vehicle Liability Policies," (NO. 40), read a second time, ordered referred to a Committee of the Whole House on tomorrow.

MR. SPEAKER (Russell): The hon. President of the Council.

MR. MARSHALL: Mr. Speaker, I move the House at its rising do adjourn until tomorrow, Wednesday, at 3:00 P.M., and that this House do now adjourn.

On motion, the House at its rising adjourned until tomorrow, Wednesday, November 17, 1982, at 3:00 P.M.