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UNEDITED
TRANSCRIPT

HOUSE OF ASSEMBLY
FOR THE PERIOD:
3:00 p.m. - 6:00 p.m.
TUESDAY, APRIL 3, 1984

The House met at 3:00 p.m.

Mr. Speaker in the Chair.

MR. SPEAKER (Russell): Order, please!

ORAL QUESTIONS

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

MR. NEARY: Mr. Speaker, there seems to be an awful absence of ministers these days. We have a lot of questions to direct to the Minister of Transportation (Mr. Dawe) and a number of other ministers. Unless they are sick or they are ill, why are they not in their seats so we can put some questions to them?

Mr. Speaker, in the last day or two Newfoundland's representative in the federal Cabinet has been quoted as saying that if the Province does not soon negotiate an agreement with the Government of Canada that the federal government will have to develop the offshore resources on its own. In view of these statements, Mr. Speaker, I would like to direct a question to the Minister of Energy (Mr. Marshall). I saw in The Daily News that Mobil has awarded a contract to the Offshore Development Corporation for the design of a concrete gravity based structure for the offshore for the Hibernia oil field. Now will the minister tell this House if the administration there opposite, either through the minister's office or the Petroleum Directorate, have had any input into the decision to go ahead with the production of offshore platforms or has Ottawa indeed gone ahead, as the regional minister suggested, with the development on their own?

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

MR. MARSHALL: Mr. Speaker, first of all, it is stunning to hear that a representative of Newfoundland

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MR. MARSHALL: in the federal Cabinet would
state, as obviously he must have if the Leader of the
Opposition (Mr. Neary) verifies it, that if Newfoundland
does not sign

MR. MARSHALL:

an agreement, Ottawa will go ahead on its own. Here we are in the throes of attempting to resolve an issue which is of prime importance to the people of this Province, both for the present and for the future, and we have a representative in the federal Cabinet who is obviously there for the purpose, amongst other things, of looking after Newfoundland's affairs, and it seems to me to be very, very unusual indeed that somebody representing Newfoundland's interest in the federal Cabinet would make a statement of that nature. As a matter of fact, I would say it was incredible. What really I would prefer to hear the hon. gentleman saying would be that there will be no development going ahead in Hibernia unless there is an agreement with the Province of Newfoundland -

SOME HON. MEMBERS:

Hear, hear!

MR. MARSHALL:

- rather than very meekly and weakly turning around and saying if the Newfoundland Government does not come to an agreement, they are going to go ahead with it anyway.

So I suggest, first of all, Mr. Speaker, that it is astonishing that a representative of Newfoundland in the federal Cabinet would be taking a position of that nature and I think that it is inexcusable that he does so.

With respect to the matter of concrete platforms, the hon. gentleman knows what the position is. I mean, Mobil is in the process of assessing the matter of concrete platforms. From the point of view of the Province, our position is well-known, that we made a policy statement to the effect that production, development would have to be by means of fixed floating platforms

MR. MARSHALL: unless there were very convincing and compelling reasons to show why it should be done otherwise. So the decision has not been taken yet. But I remind the hon. gentleman, who exults from time to time at the result of the court case from the narrow - and I say narrow in all of its senses - point of a legalistic decision, that this Province has no say with respect to whether it is concrete platforms or whether it is floating platforms. This is the position, and the net result that the hon. gentleman from time to time gets up and applauds and exults. But I want to tell the hon. gentleman that we are watching the situation, we are monitoring it very closely and we are going to do everything we possibly can to see that there is a logical decision made here for the benefit of the people of Newfoundland and not for the benefit of a federal government taking employment from the resources that we brought into Confederation and seeing the oil extracted by means of floating concrete platforms where the people of Newfoundland will neither see the construction of the platforms, nor will they

MR. MARSHALL:

see any jobs, nor for that matter, Mr. Speaker, will they see any of the oil brought ashore here. It will not be brought ashore here in that condition, it will be brought ashore on the Mainland.

So in summary, I say to the hon. gentleman instead of getting up and repeating what the representative in the federal Cabinet has said, I think he should get up and he should condemn such statements, if in fact they were made. He should urge his colleague to take the position that there will be no development unless there is an agreement with the government and the people of Newfoundland, and, on the matter of concrete platforms it has not been decided yet, but the position of this government is well known to Mobil, the federal government and certainly to the people of Newfoundland, and that is that we opt towards concrete platforms.

MR. NEARY: Mr. Speaker.

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

MR. NEARY: Mr. Speaker, that was a long-winded harangue about nothing. The hon. gentleman was so vague and general in his statement I can only assume that the Province had no input, the Petroleum Directorate, which is now a monkey on the taxpayers back, Mr. Speaker, had no input into this decision.

Now, Mr. Speaker, if indeed Ottawa has started the offshore development, and it looks to me that is the way it is, will the Province be waiting until the offshore has been developed, the resource has been taken out of the seabed, utilized all over the world, and the revenue stashed away before it gives up its silly, childish, stupid position of holding off on negotiations,

MR. NEARY: Mr. Speaker, until the development takes place and twenty years from now they will still be sitting back and holding off and the revenues will be stashed away, the oil will be shipped and we will still not have an agreement? Now does the hon. gentleman not think it is time to get over their little, silly, childish, political game playing and pick up the phone and call the Prime Minister or the federal Minister of Energy (Mr. Chretien) and get back to the negotiating table and get things settled before it is too late?

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

MR. MARSHALL: I do not know really how often you have to respond to a person who asks questions like the hon. gentleman. He proves over and over again, Mr. Speaker, he is a living example of somebody who can be in Newfoundland but not for Newfoundland, and he does it over and over again.

SOME HON. MEMBERS: Hear, hear!

MR. MARSHALL: He gets up and he talks about the revenues being taken away. Is the hon. gentleman not aware of the fact that if the offshore was developed under the regime of the Nova Scotia type agreement, which is the only agreement that has been offered to this Province, that it is conceivable that this Province would get absolutely no revenues whatsoever from this resource. And it occurs, obviously, in this way: The agreement is tagged to equalization payments, equalization payments are tagged to the strength of your economy. If, say for example, over a

MR. MARSHALL:

six or seven year period the fishery took off and there were extra mineral discoveries here so that our revenues increased, and increased onshore from onshore resources and from the fishery to the extent that we did not need equalization, you know what would happen, Mr. Speaker? We would not get one single, solitary cent under the Nova Scotia type agreement. That is the way it would work out because it is tagged to equalization. And that is what his friends are doing. That is what the hon. member gets up in this House day after day and urges us to accept that type of agreement that has been offered to us by Mr. Chretien and by Mr. Trudeau, which is the Nova Scotia type of agreement that has been condemned, which could result in no revenues. And the hon. gentleman has the unmitigated gall to get up and make statements of that nature. I notice he is reading them. He cannot get up and frame, obviously, the questions.

MR. NEARY:

I am reading here about 'group think'.

I am reading a description of the administration. I will send it over to the hon. gentleman. It is very interesting.

MR. SPEAKER(Russell):

Order, please!

MR. MARSHALL:

The member is probably reading questions sent down from Ottawa for him to ask because he is a handmaiden -

MR. NEARY:

Oh, oh!

MR. SPEAKER:

Order, please!

MR. MARSHALL:

- and a servant of Ottawa and he gets up in the people's House and asked such outrageous questions as he is asking.

SOME HON. MEMBERS:

Hear, hear!

MR. NEARY:

Mr. Speaker.

MR. SPEAKER:

The hon. Leader of the Opposition.

MR. NEARY:

If the hon. gentleman wants to know what I was reading from, Mr. Speaker, I was reading from a

MR. NEARY: paper that was given to me recently by a psychologist describing the administration and the hon. gentlemen there opposite. And from that I would gather that the administration has an acute case of 'group think', and the hon. gentleman should look up 'group think' and see what it means, Mr. Speaker. I think it adequately describes the gentlemen there opposite who has this great feeling of superiority and paranoia.

Now, Mr. Speaker, let me ask the hon. gentleman about the environmental impact studies that have to be done before Mobil or anybody else talks about getting into production. Is COGLA in conjunction with Mobil going ahead now with environmental impact studies? And, Mr. Speaker, I assume from the answer to my first question that the Province had no input into the -

PREMIER PECKFORD: Into anything?

MR. NEARY: No, they had no input into anything, that is right. That is the trouble. That is why I am asking the question. Just to point out to the general public how stupid the position of the administration is.

SOME HON. MEMBERS: Oh,oh!

MR. SPEAKER (Russell): Order, please!

MR. NEARY: As I said before they are like spectators at a hockey game. They can only watch the game being played.

MR. SPEAKER: Order, please!

Again I must remind hon. members that the Question Period is only for thirty minutes and the objective is for the Opposition to ask as many questions and to receive as many answers as possible. The hon. Leader of the Opposition (Mr. Neary) certainly entered into the realm of debate. I would suggest that he pose a question.

MR. NEARY: Mr. Speaker, the hon. Premier interrupted me there and provoked me and I had to respond. I know he is smarting because the questions were not directed towards him so he can get up and froth at the mouth and wave his arms. But the reason I am asking the Minister of Energy (Mr. Marshall), he seems to be a little more rational and he does not fly off the handle. Nasty, yes, but he does not rant and rave as much as the hon. gentleman.

MR. SPEAKER (Russell): Order, please! Order, please! Again I must ask the hon. the Leader of the Opposition (Mr. Neary) to pose a direct question. He is continuing in debate.

MR. NEARY: Now, Mr. Speaker, I would say that was a fair ruling. I would like to ask the hon. Minister of Energy if the answer to my question is the same as the answer he gave me to the first question that I asked about the concrete platform contract, no input. Now have they had any input into the environmental impact study that has to proceed any decision to go ahead with the production of oil and gas offshore, or are they just like spectators at a football game, they can sit in the grandstands and watch the players but they have no input into the game?

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

MR. MARSHALL: He would be so happy if we were, would he not, Mr. Speaker? He would be exulting. Look, he is right full of himself, smiling like the Cheshire cat over across the House. Look, Mr. Speaker, as to the environmental impact study, whether COGLA is going to have an environmental impact study, I suggest he ask his federal buddies that. I do not know whether COGLA is going

MR. MARSHALL: to have its environmental impact study. I know an environmental impact study will be conducted. I also know that the oil companies are referring to the Province and to the Petroleum Directorate, to that extent it is business as usual. I also understand and know, Mr. Speaker, that the Petroleum Directorate will monitor very, very carefully, very assiduously, each and every step that it is taking in the process. But in the meantime, if the hon. gentleman has any questions as to what COGLA is going to do, I would suggest he ask his federal counterparts.

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

MR.NEARY: Mr. Speaker, I see no point in belabouring the matter because we are getting vague, general, negative answers and response from the hon. gentleman there opposite. He keeps using the word 'monitoring'. Did hon. members notice that? All they can do is sit there and monitor. In other words, they have people watching the television, listening to the news and reading the newspaper and monitoring what is going on. Let me ask the hon. gentleman a straight question, and give me a straight answer, yes or no. Is there any dialogue between the oil companies now and the provincial government and/or between the provincial government and the federal government regarding the oil companies getting ready to produce oil offshore? Is there any dialogue at all, or have they just given up on the Province, and Ottawa and the oil companies have decided to go ahead with the production of offshore oil and gas and completely ignore the Province? Yes or no, is that the situation? Is there any dialogue, is there any communication at all or have communications completely broken down?

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

MR.MARSHALL: Mr. Speaker, of course, there is dialogue, There is dialogue between the Petroleum Directorate and between the oil companies, and this dialogue has continued since the decision in the case, it continued before the decision in the case, and it will continue in the future, Mr. Speaker, just so long as the hon. gentleman's friends in Ottawa do not exercise their whip and their strong arm as they did, for instance, in the South Hibernia instance and in the case of the

MR. MARSHALL: situation with respect to the Winter drilling and ordering the rigs to stay out there. There is dialogue with the companies, The companies desire to maintain this dialogue with the Province and I know they certainly will. The only thing in jeopardy with respect to that dialogue is the possible interference by an imprudent federal government.

MR. BARRY: Mr. Speaker.

MR. SPEAKER (Russell): The hon. member for Mount Scio.

MR. BARRY: Mr. Speaker, I would like to put a question to the Premier. I would like to ask the Premier whether it is correct, as quoted by Mr. Duhaime in the media yesterday, that the Province did not make a counter offer to the Quebec Hydro offer?

MR. SPEAKER: The hon. the Premier.

PREMIER PECKFORD: Mr. Speaker, there have been various offers during the negotiations between Quebec and ourselves and we had very early on made a substantial offer to the Quebec delegation and negotiating committee, and it was not until the eleventh hour that the Quebec delegation and committee made a proposal to us. The proposal that they made to us was significantly different from the one that we had talked to them about for six and a half or almost seven months,

PREMIER PECKFORD: and it was significantly different from the one that we had put on the table and had talked to them about for a long period of time.

MR. BARRY: Supplementary, Mr. Speaker.

MR. SPEAKER (Russell): Supplementary, the hon. member for Mount Scio.

MR. BARRY: Mr. Speaker, I would like to ask the Premier whether it is the intention of his government to make a counter offer to Hydro Quebec or the Province of Quebec on the Upper Churchill contract?

MR. SPEAKER: The hon. the Premier.

PREMIER PECKFORD: Mr. Speaker, the hon. member, if he had read our statement of last week which detailed the Province's position, we indicated in that statement that we are eager to continue negotiations with the Province of Quebec.

MR. BARRY: Mr. Speaker.

MR. SPEAKER: The hon. member for Mount Scio.

MR. BARRY: Possibly if the Premier were courteous enough to pass the statement on to the Opposition, we might be able to find out what he had said rather than have to rely on the media. But as I take it, in the media the Premier indicated that he and his government were prepared to continue negotiations. I would like to know whether the Premier or his administration intends to place a written counter offer on the table to Hydro Quebec or the Province of Quebec?

MR. SPEAKER: The hon. the Premier.

PREMIER PECKFORD: First of all, Mr. Speaker, there is a Newfoundland Information Services here in this building and I am amazed and appalled that the hon. member would not see fit after a major policy statement was issued by myself and the Minister responsible for Energy (Mr. Marshall) that he did not phone down and ask for a copy of that statement.

PREMIER PECKFORD; It is readily accessible to the hon. gentleman as it is to all Newfoundlanders, so it is no discourtesy on our part. If the hon. member was doing his job as an hon. member of this House, then he would have a copy of that statement. That is part of the job that he should be doing.

Secondly, Mr. Speaker, we have indicated in that statement that we are prepared to continue negotiations with the Quebec Government and Quebec Hydro and all that that entails. I do not intend today, nor does any member of this administration intend in the next few days to say anything more about it than that. We have made our position quite clear, given that we had started negotiations with the Province of Quebec back in 1976 and even before that time. A number of negotiations had occurred, I think, when Mr. Crosbie was the minister and Mr. Moores was the Premier, and then later they continued and we had extensive negotiations when I was Minister of Energy and Mr. Moores was Premier. They broke down, and then we had more negotiations when the hon. member was involved. We have had now seven months of negotiations, we have been ongoing on this since 1976. So, you know, one has to, in answering a question like the hon. member poses, put the whole thing in context. For almost now eight years we have been

PREMIER PECKFORD:

trying to negotiate some changes to the present situation as it relates to the Upper Churchill and we have been unsuccessful. And the latest round took seven months, in which we deferred twice a decision on the Water Rights Reversion Act. We have been involved in proposals and counter-proposals and so on in those negotiations which are normal for negotiations. How can you have negotiations unless there are proposals and counter-proposals? We have reached a point, Mr. Speaker, as we said in our statement last Friday, where after seven months and eight years we still find ourselves with a large gap between our two positions which has led this administration to say that, obviously, we cannot defer one of the actions that we have taken, which was the Water Rights Reversion Act, any longer, we need to have a decision on it, but at the same time we are still eager to continue negotiations with the Province of Quebec and to that end we hope that the Province of Quebec will feel the same way.

MR. WARREN:

Mr. Speaker.

MR. SPEAKER(Russell):

The hon. the member for Torngat Mountains.

MR. WARREN:

Mr. Speaker, I have a question for the Minister of Health(Mr. House). I understand that the federal Minister of Health and Welfare (Ms.Begin) has made public that there will be programmes, administered by her department directly, for the Native groups in the Province, including the Native group in Conne River, and also the Native groups in Labrador. Could the minister advise if, by the federal government taking this action in funding directly some health services and projects within those designated communities, this will have an effect on the minister's department carrying out its duties toward health services in this Province?

MR. HOUSE:

Mr. Speaker.

MR. SPEAKER(Russell):

Health.

The hon. the Minister of

MR. HOUSE:

Mr. Speaker, today I did receive a letter from the Minister of Health, the hon. Monique Begir in which she states that she has been authorized to enter into contribution agreements to fund committees representing the Inuit Association, and the Naskaupi Montagnais Innu Association, and Conne River, to manage certain aspects of the health care programme.

As the hon. member is aware, we do have a Canada/Newfoundland health agreement. Certain things have been added to that. One is the community health programme - I forget the exact title - the other is the alcohol programme, and there is one other. Because she is very vague in this in what she is saying - she said, 'To enter into certain agreements', I have to wait - I just received this letter today - to see what the agreements are. But there is one, of course, that we do know of, the community health workers, and the other is the alcohol programme. I believe these are two that she is talking about.

MR. WARREN:

Speaker.

A supplementary, Mr.

MR. SPEAKER (Russell): The hon. the member for Torngat Mountains.

MR. WARREN: A supplementary to the minister. Could the minister find out later and tell me approximately the number of dollars that the federal government will be directly putting into those communities without going through the minister's department? Roughly what numbers of dollars would be involved per year?

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

MR. HOUSE: Mr. Speaker, I cannot give that information. The other one that I was trying to think of off the top of my head, the other part of the programme, was the Interpreter programme. I believe these are the three, the Alcohol, the Community Health Representative and the Interpreter. I do not have a dollar figure, but it is not a significantly large amount of money. It will not have too much of an impact on our health care delivery. We have been doing that for the federal government, these three aspects that I just mentioned, and we will still be carrying on our provincial government agreement to assist in medical care and public health services. I will get the dollar figures involved.

MR. WARREN: Mr. Speaker, a final supplementary.

MR. SPEAKER: The hon. the member for Torngat Mountains.

MR. WARREN: Would the minister see anything wrong with the federal government taking over the complete health care package for Native people in this Province? Would the minister see anything wrong with the federal government doing as they are doing in the Northwest Territories, completely taking over the health care package for the Native people in this Province? Would the minister's department go along with that?

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

MR. HOUSE: Mr. Speaker, the Province of Newfoundland, at this point in time, has the responsibility of delivering health care to Native people. We have been assisted by the federal government at their request, and, of course, we are very happy to have them assist us in that; but, at this point in time, we would prefer it to be the way that it is.

MR. ROBERTS: Mr. Speaker.

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

MR. ROBERTS: Mr. Speaker, a question or two to the Minister of Health growing out of the general answers he has just given. And I might add, it was not at the request of the federal government that that funding arrangement came into place. That funding arrangement was put into place twenty years ago at Jack Pickersgill's initiative at the request of the then Government of Newfoundland. Up until then the federal government had simply washed its hands of any health care provision for the Indian and Inuit people - Innu and Inuit, I guess, are the new words, the Innu and Inuit people in this Province.

I want to bring the minister back down to Conne River, the Indian people at Conne River. There has been a lot of attention paid them, some comments and criticisms about the Social Services Department regulations. I want to ask the Health Minister about his responsibility. There have been some changes made, this is accepted,

MR. ROBERTS: in the provision of health care services to the people who live in Conne River. Their ability to get Social Services to pay the cost of transportation to the Head of the Bay or to Milltown and St. Alban's, wherever the particular services are, has been restricted. Can the minister tell the House whether he has reviewed this with a view to ascertaining whether the people in Conne River - and it matters not whether they are Indians, Inuit, or anything else - whether the people in Conne River still have - there seems to be some sort of Tinker to Evers to Chance going on over there. Do I have the minister's attention? It is he who has to answer unless he asks one of his colleagues, and I have never known him to do that. Can he tell us whether he has reviewed the health care services available to the people of Conne River to ensure that they are adequate? Can he tell the House that the people in that community still have access to health care services comparable to those available to any other people in Newfoundland and Labrador?

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

MR. HOUSE: Mr. Speaker, as far as I understand it, the Native people in Conne River have always -

MR. ROBERTS: Indian people.

MR. HOUSE: The Native people in Conne River you are talking about over there?

MR. ROBERTS: The Indian people we are talking about.

MR. HOUSE: The people in Conne River have the same access to health care services as anybody else. As a matter of fact, I do believe that there is a special arrangement through Social Services where they have been getting, for instance, I would say ambulance service

MR. HOUSE: for optometric care and care other than emergency care. So they are getting the service better than a lot of people in that regard.

So, Mr. Speaker, I have not gotten any information that there has been any downgrading of the service. And I understand that Social Services has reviewed their last statements on the particular problem with ambulance service.

I cannot talk any further than ambulance service because I believe that is what the issue was about, the provision of ambulance service for social service recipients.

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

MR. ROBERTS: A supplementary, Mr. Speaker. Perhaps I could ask the minister if he would like to review that. He and I may meet again at the Health estimates tonight and we will have a chat or two.

Maybe he might want to review that. My concern is not with ambulance services but access to health services. Of course, the Minister of Social Services (Mr. Hickey) has imposed some Draconian restrictions which apparently have had the effect of -

MR. HICKEY: Not so.

MR. ROBERTS: Mr. Speaker, when I want to hear from the Minister of Social Services (Mr. Hickey) I will ask him. Otherwise, Mr. Speaker, he can speak when the rules allow him to speak, the same as I or any other member may. Now may I come back to the Minister of Health, because when I am after elephants I do not want to deal with rabbits. Now let me come back to the Minister of Health. The issue, as I understand it,

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MR. ROBERTS: is a restriction in access
because the Minister of Social Services (Mr. Hickey) has
imposed some relatively Draconian restrictions.

MR. ROBERTS: For the benefit of the Minister of Social Services (Mr. Hickey) that is D-R-A-C-O-N-I-A-N and he will find it in the dictionary if he wants to look it up.

Now, Mr. Speaker, can the Minister of Health (Mr. House) tell us whether he has reviewed the federal/provincial agreement under which funding is made available to provide health care for the Innu and Inuit people, or in this case the people of Conne River, to ensure that what his colleague has done by imposing these Draconian restrictions has not breached the agreement for which the Minister of Health is responsible? Because, Mr. Speaker, he is responsible, of course, as he will acknowledge, for administering that agreement, not the Minister of Social Services.

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

MR. HOUSE: Mr. Speaker, we are responsible for the administration of that agreement, and that agreement, of course, has been changed and extended a number of times. The Native people in Conne River are getting adequate service. And as I understand it, there is nothing in what Social Services people here done that has denied them of any kind of service. As a matter of fact, I believe in the discussions that I have had with the Minister of Social Services, that a lot of what had been reported has been grossly exaggerated and that there is no further restrictions placed on the Native people. I would suggest that he may be able to answer that because he does administer, of course, the Social Services programme, and ambulance payments come under that.

MR. ROBERTS: Mr. Speaker.

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

MR. ROBERTS: Mr. Speaker, I am not speaking of the adequacy of the reports, I know nothing about the adequacy or otherwise of the report. What I am concerned with, and the minister did

MR. ROBERTS: not answer the question, let me ask him again. Can the Minister of Health (Mr. House) assure the House that the health services aspects of the federal/provincial agreement, insofar as it relates to the people who live in Conne River, have not been detrimentally - or for that matter materially, but I am concerned with detrimentally-affected by the change which the Minister of Social Services (Mr. Hickey) has imposed which has had the affect, Mr. Speaker, of restricting the access of those people to the health care services which were formerly available to them?

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

MR. HOUSE: Mr. Speaker, the Minister of Social Services has not changed materially the situation that existed heretofore, and I am satisfied that there is a quite adequate service and that we are living up to our agreement.

SOME HON. MEMBERS: Oh, oh!

MR. SPEAKER: Order, please!

The time for the Question Period has expired.

Before we continue, I would like to welcome to the gallery a delegation from the district of St. Mary's-The Capes, the Mayor of St. Mary's, Mr. Sylvester Yetman and the Mayor of Branch, Tom Power.

SOME HON. MEMBERS: Hear, hear!

PRESENTING REPORTS OF STANDING AND SPECIAL COMMITTEES

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

DR. COLLINS: Mr. Speaker, I will energetically say what I am going to say now. In accordance with Section 51, Paragraph (3) of the Financial Administration Act, I would like to table the details of guaranteed loans paid in whole or in part since the last sitting of the House.

And, Mr. Speaker, whilst I am on my feet I would like to table copies of two special warrants which relate to the fiscal year just ended, and which relate to the Department of Public Works and Services, and the Department of Forest Resources and Lands.

ANSWERS TO QUESTIONS FOR WHICH NOTICE HAS BEEN GIVEN

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

MR. YOUNG: Mr. Speaker, I would like to table the answer to a question asked by the hon. the member for Eagle River (Mr. Hiscock). Once again, Mr. Speaker, this is one of these foolsh questions the hon. members asks. Because this was all tabled on December 16, 1983, when I tabled the Annual Report of the Public Service Commission.

MR. SPEAKER: Are there other answers to questions?

MR. HICKEY: Mr. Speaker.

MR. SPEAKER: The hon. the member of Social Services.

MR. HICKEY: In response to a question, asked of the wrong minister, regarding the people of Conne River -

MR. NEARY: On a point of order,
Mr. Speaker.

MR. HICKEY: You do not want the
facts, do you?

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER(Russell): Order, please!
The hon. the Leader of
the Opposition on a point of order.

MR. NEARY: Mr. Speaker, I give the
hon. gentleman credit for being brazen enough to try to
disguise what he is attempting to do over there as the
answer to a question.

MR. HICKEY: I learned that from you.

MR. NEARY: The hon. gentleman
has to learn a few more tricks yet but, Mr. Speaker, that
is not one of them. Mr. Speaker, if that is allowed to
be an answer to a question, well, then, all you are going
to do is allow more abuse and misuse of the rules of this
House to emanate from that side of the House.

MR. SPEAKER: Order, please!
The point of order raised
by the hon. the Leader of the Opposition(Mr. Neary) I think
is well taken. The Order of Business was 'Answers to
questions for which notice has been given.' Certainly I
do not understand that a notice was given for this
particular question. I have to rule the hon. minister out
of order on that point.

SOME HON. MEMBERS: Oh, oh!

MR. SPEAKER: Order, please!
Before we call Orders
of the Day, I would like to welcome another delegation from
community of Wild Cove, Local Service District, led by the
Chairman, Mr. Harold Small.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER(Russell):

Order, please!

Before we proceed with Orders of the Day, yesterday, while the House was in Committee, the hon. the Leader of the Opposition(Mr. Neary) raised a point of order pertaining to some language that was used by the hon. the member for St. John's North (Mr. Carter). The ruling on that point of order was reserved by the Chairman of Committees(Mr. Aylward). Later in Committee, the hon. the Leader of the Opposition raised a point of privilege having to do basically with the same kind of language, so to speak, again used by the hon. the member for St. John's North.

There are two points, perhaps, in this matter that should be dealt with. First of all, I would like to say that a point of privilege should rarely be raised in the Legislature, and only on rarer occasions still should it be raised in Committee.

I did understand from reading the transcripts that perhaps the reason why the Leader of the Opposition raised the point of privilege was because the previous point of order had not been ruled on. However, having read the transcripts, as I said there are two points perhaps that have to be dealt with. One is the point raised by the President of the Council (Mr. Marshall) as to whether or not the Chairman of Committees can deal with a point of privilege raised in Committee. Having done some research and having discussed the matter with the very capable table officers, and, indeed, in some other jurisdictions, it has been determined that the Chairman of Committees does not have any authority to establish whether or not a prima facie case has been established on a point of privilege raised in Committee stage.

MR. SPEAKER(Russell): The second point, as to whether or not the language used by the hon. the member for St. John's North (Mr. Carter) constitutes a point of privilege, or whether or not, it was more of an unparliamentary nature, having, as I said, read the transcripts, I have to say that the matter certainly does not constitute a breach of privilege of this House, it does not interfere, in the Chair's opinion, with the hon. the Leader of the Opposition (Mr. Neary) carrying out his duties in that capacity.

However, I certainly would think that the terms in reference to other members of this Legislature, of McCarthyism or being like Senator McCarthy, certainly are unparliamentary and I would ask the hon. the member for St. John's North to unconditionally withdraw those comments.

MR. CARTER: Mr. Speaker, I think possibly two apologies are in order. The first apology would be to the family of the late Senator Joseph McCarthy for comparing him to the Leader of the Opposition -

SOME HON. MEMBERS: Hear, hear!

MR. CARTER: - and the second, of course, is for referring to the Leader of the Opposition as harbouring the ghost of Senator Joseph McCarthy. He is dead and I think his ghost is probably in another world. Therefore, I apologize as you suggest, I apologize unconditionally to the Leader of the Opposition.

MR. NEARY: I accept the hon. gentleman's apology.

ORDERS OF THE DAY

Motion, second reading of a bill,
"An Act Respecting The Commission Of Offences Against The
Laws Of The Province By Young Persons". (Bill No. 11).

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

SOME HON. MEMBERS: Hear, hear!

MR. HICKEY: Thank you, Mr. Speaker.

Mr. Speaker, in introducing
this bill I should, first of all, allay any fears that might
have been created that young offenders in the community of
Conne River who might need their eyes tested or their teeth
checked can do so if the family are unable to pay as there
are no restrictions regarding that service, contrary to what
some hon. gentlemen had spread through the House.

SOME HON. MEMBERS: Hear, hear.

MR. HICKEY: Mr. Speaker, the bill that I
am introducing today is complimentary legislation to the
controversial Young Offenders' Act which was proclaimed
by the Parliament of Canada on April 2. The original bill
or the federal legislation, Mr. Speaker, received a great
deal of opposition from across the country because
it tended to inflict very high costs on all provinces and
territories, including this Province. And there has been
no agreement signed, to the best of my knowledge, with any
of the provinces or territories as yet. But the federal
government plowed it on through notwithstanding the strong
objections of provinces and territories.

Mr. Speaker, it is not my
intention to dwell any length of time on the position taken
by this government except to say that we viewed the
legislation retrogressive in the sense that it provided
for the incarceration of young people for less than very
serious criminal offences. Whilst the Welfare of Children Act

MR. HICKEY: tended along the lines of rehabilitation, taking into account the social factors which led to their breaking the law and committing offences, the federal legislation tends along the lines of the accountability model, which we do not necessarily disagree with in a total sense. However, the spirit of the Welfare of Children Act was, and was until the day it was eliminated by the proclamation a couple of days ago of the Young Offenders' Act, the spirit of that legislation was in fact to place young offenders on probation, to place some of them in training schools, but not necessarily to incarcerate them and place them in jail.

Mr. Speaker, based on what is determined to happen in other provinces, if this Province were to follow suit we would require five or six institutions, correctional facilities or jails as such, at a cost of about \$4 million to the people of this Province as the federal government have refused to enter into any agreement by way of cost sharing for capital expenditures. They allow some depreciation, they allow for leasing facilities; in other words, if someone wants to build a jail and rent it to the government, the federal government would pick up some of the cost there. However, Mr. Speaker, I am pleased to say to the House that it is the intention of this government to place the emphasis still on rehabilitation and, to be fair, to the federal legislation if it places emphasis on it as well. However, the views expressed by provinces

MR. HICKEY:

and territories is that in all probability a lot of young people will find themselves incarcerated who heretofore were treated in a different manner.

Mr. Speaker, as I announced some time ago, the training school at Whitbourne is now closed and is being renovated at a cost of approximately \$500,000 and when it reopens it will become a closed custody institution. We have a number of cells in the Pleasantville area, near the Pleasantville Boys' and Girls' School, which will be used as holding units, so to speak, for young people pending trial and so on. That is the extent, Mr. Speaker, that this government intends to develop close custody facilities. We believe that it is in the best interest of young people that alternate services and programmes be provided as opposed to locking them up.

Mr. Speaker, Section 2 of the bill deals with age. It is government's intention that the seventeenth birthday be recognized as the upper age of jurisdiction of this act during the phasing-in period from April 1, 1984 until March 31, 1985. As of April 1, 1985, Mr. Speaker, that age will change to eighteen. That is another change in the federal legislation which will make it mandatory by law that young people up to age eighteen will be treated as young offenders, while heretofore the people between seventeen and eighteen were treated as adults. That will cost some additional money, Mr. Speaker. In terms of policing and court proceedings and this kind of thing, there is no cost sharing by the federal government.

Section 3 is a declaration of principles which bears reflection, Mr. Speaker, because they are very important. The principles clearly reflect

MR. HICKEY: this Province's philosophy with respect to the treatment of young offenders and closely parallel the philosophy reflected under similar legislation in other parts of Canada.

Section 4 concerning alternative measures, will foster the development of community-based programmes such as diversion. Such programmes have already proven their worth as an alternative to the formal court proceedings and the department is highly committed to its further development.

Section 5 prevents young children below the age of twelve from being dealt with as offenders and thus being labelled as delinquents. This is consistent with this department's child protection and rehabilitation philosophy.

Section 8 provides for the notification and involvement of parents and guardians in all phases of the programme. This again, Mr. Speaker, underlines our belief in the importance of the family in the life of a young person, especially as it relates to case guidance, supervision and rehabilitation.

Sections 9 and 10 ensure that all the rights of young persons, including his or her right to legal counsel, are protected. Through these sections the courts are obligated to inform a young person of his or her rights and to ensure that he or she is fully aware of them.

Section 11 offers the court a broad

MR. HICKEY:

and realistic range of dispositions which deemphasize the imposition of institutional custody placement. The many options available to the court enables it to balance the need for the accountability of young persons and the protection of the community with this department's philosophy of rehabilitation.

Section 12, Mr. Speaker. While the maximum which may be imposed under Section 11 could be considered very high in some instances, this section provides protection to the young person upon whom a fine is imposed. Specifically it requires the court to give consideration to the ability of young persons to pay a fine and encourages development of community-based programmes through which the young person could perform suitable work in lieu of payment.

Section 13 insures that no young person can be detained for medical, psychiatric or other similar treatment without his or her consent or the consent of their parents.

Section 14; Whereas the intent of this act to reduce to an absolute minimum the imposition of custody placements, this section requires the court to thoroughly investigate the circumstances of young persons through a predisposition report. Such a report will examine all possible alternatives to custody.

Section 15 promotes and provides standards for the use of probation which will allow the young person to remain with his family in his community. Through the probation process, the young person

MR. HICKEY: and his family would receive services which would assist them in resolving any problems that they are experiencing.

Section 16, recognizes their special needs and the level of maturity. This section prevents the detention of young persons in facilities where adults are detained.

Section 20, Mr. Speaker, in consideration of the special needs of the young person, this section will prevent the disclosure by the media of young persons appearing in court as either a delinquent or a witness under this act.

Section 21 empowers the judge to prohibit public attendance at a court hearing where it is felt to be in the best interests of the young person.

Section 23, further protection for the young person. This section provides for the erasure of records relating to convictions under this act after a specific period. The period is three years, Mr. Speaker.

Section 28: Since offences by children under twelve years of age and those offences formerly known as status offences, unmanageability, truancy, etc., are no longer covered under the Young Offenders' Act or this new act, appropriate amendments are being made to the Child Welfare Act to cover them.

Mr. Speaker, the declaration of principles: All of the efforts and initiatives to be made to deal with young offenders by alternate means as opposed to incarceration clearly spells the philosophy by which this department has functioned very successfully

MR. HICKEY: for so many years. Section 4 of the act is an improvement over the present Welfare of Childrens' Act to the extent that it specifically makes allowances for diversion programmes, whereas before, Mr. Speaker, we were doing it on a pilot project basis. It is now a matter of law,

MR. HICKEY: diversion programmes and other alternatives, as opposed to locking those young people up.

Under Section 9, the court is required to read the information to young persons and advise him or her of their right to counsel if Counsel is not represented. The maximum punishment under the Young Persons' Offences' Act is a period of thirty days in terms of incarceration.

There are a number of other options open to the court under Section 11, including the possibility of a fine not exceeding \$500, an absolute discharge, community service orders, or an order for detention for treatment where the hospital, the young person and his parents all agree as to the treatment.

Section 11(8) indicates that no disposition shall be made with respect to a young person that results in greater punishment than would be applicable if an adult had been convicted of the same offence.

With respect to the custody orders, young persons must be kept in facilities separate and apart from adults, and a custody order cannot be imposed unless the court has received a predisposition report. It is considered unlikely that custodial terms will be imposed under the provincial legislation, since custodial terms are few and far between, even for adults who have breached provincial statutes or municipal by-laws.

Section 24 of the act allows the Lieutenant-Governor in Council to make regulations respecting facilities where young persons may be detained in custody, and it is anticipated that the regulations passed under the act will designate those open custody facilities which have been designated by the

MR. HICKEY: Lieutenant-Governor in Council
for the purposes of the Young Offenders Act.

Mr. Speaker, I am sure there probably will be some questions at some other point but I will wait until I close the debate. Basically, that is the spirit of the legislation. Whilst, as I said, the Province has vigorously opposed the proclamation of the Young Offenders Act, and whilst we realize that there are some things in that legislation which we strongly disagree with, nevertheless, I think that battle is over, it is now the law of the land, and I think this piece of provincial legislation emphasizes and highlights clearly the philosophy by which young people have been dealt with over the years under the Welfare of Children Act and, as I said, Mr. Speaker, in two or three instances, it strengthens our approach and programmes inasmuch as they are now legalized, as opposed to their being, before, quite voluntary and done, in some instances, on a pilot project.

So it is with some pleasure,
Mr. Speaker, that I move second reading.

MR. NEARY: Mr. Speaker.

MR. SPEAKER (Aylward): Order, please!

Before I recognize the hon.
the Leader of the Opposition, I would like all hon.
members to join me in welcoming to our galleries a
visiting delegation of Mr. McIsaac, Mr. McDonald,
and Mr. Van Diepen from the P.E.I. Milk Marketing Board,
together with the Manager of the Newfoundland Marketing
Board, Mr. Hammond.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER (Aylward): Before we continue - I am sorry to interrupt the hon. the Leader of the Opposition (Mr. Neary) - this being the first opportunity I have had of being in the Chair since one day last week, I wish to rule on a ruling I reserved on a point of order raised by the Leader of the Opposition concerning throwing of objects in the House.

I have given this matter very careful consideration and, obviously, it is right that the Leader of the Opposition raised the point of order concerning this matter. I have considered that there was no malice intended in the throwing of this object. It is a very serious offence and should never have happened in here; there was a lot of embarrassment to the member who threw this object and a lot of embarrassment to all members of the House of Assembly in this particular instance, but the fact that there was an

MR. SPEAKER (Aylward):

apology immediately offered, and an apology accepted by the hon. member for Mount Scio (Mr. Barry) with the words, "that this be the end of it," I would rule now that there be no further action taken on this matter, this particular instance, for now. But I do rule that there was a point of order and a very serious point of order.

The hon. the Leader of the Opposition.

MR. NEARY:

Thank you, Mr. Speaker. I would interpret what Your Honour said as a reprimand to the hon. gentleman for throwing objects across the House. I know there was no malice intended but nevertheless it is not the thing to do. It is not the right thing to do any more than it is the right thing for the hon. member for St. John's North (Mr. Carter) to hurl insults across the House and abuse across the House, Mr. Speaker. All that does is lower the decorum of the House. I thank Your Honour for upholding my point of order.

Mr. Speaker, the gentleman who just introduced the Young Offenders Bill went to great pain to tell the House that there were certain portions of the Bill that the hon. gentleman was violently opposed to. And then ended up by saying, "It gives me a great deal of pleasure to introduce second reading of the bill." Now if I ever heard a contradiction in my life that was it.

MR. HICKEY:

It is not this one, it is the federal one I said.

MR. NEARY:

Well, this complements the federal legislation.

MR. HICKEY:

It is not identical to it.

MR. NEARY: Mr. Speaker, this bill complements the federal legislation. It may not be identical to the Bill that was passed in the Parliament of Canada, but it complements that legislation. That is why today the gentlemen there opposite find themselves in a position where they have no choice but to enact this legislation, Mr. Speaker. As of April 1, 1984 the federal Young Offenders Act has come into force, Mr. Speaker, And Newfoundland must pass this bill here today. It has to be passed, by the way, I do not know if the hon. gentleman mentioned this or not, it has to be passed retroactively because the hon. gentleman dragged his heels, dragged his feet on this matter. And that is why today we are jumping back and forth across this House from Committee of the Whole, Committee of Supply and, lo and behold, right in the middle of our examination of the budget we find ourselves being sidetracked on to debating our first piece of legislation this session.

MR. HICKEY: Do you want an explanation?

MR. NEARY: The explanation is that the hon. gentleman procrastinated.

MR. HICKEY: No, the federal government copped out.

MR. NEARY: The hon. gentleman did not do his homework.

MR. HICKEY: The federal government broke their word.

MR. NEARY: Mr. Speaker, the hon. minister says the federal government broke their word.

MR. HICKEY: Yes, July was the month.

MR. NEARY: Well, let me say to the hon. gentleman, he was just on his feet, he had an hour to introduce this bill, and he could have mentioned that the federal government copped out or broke their work or whatever it was the hon. gentleman thinks they did.

MR. HICKEY: Did you hear what I said?

MR. NEARY: It was July.

MR. HICKEY: That is untrue. I said they forced it through and rammed it through against opposition right across the Country.

MR. NEARY: They forced it through. The hon. gentleman is making a statement now that Ottawa forced it through and rammed it through in the face of opposition from right across the country. Well, why did the hon. gentleman not say that when he was on his feet?

MR. HICKEY: I do not keep talking all day like the hon. member.

MR. NEARY: Mr. Speaker, that is a very important statement, because I can tell hon. members of this House that we here on this side of the House approach this matter with mixed feelings.

MR. HICKEY: You were pretty quiet for the last seven years when we were carrying on our battle. Where were you?

MR. NEARY: Mr. Speaker, we have mixed feelings about this bill.

MR. HICKEY: The Liberal team, like the offshore.

MR. NEARY: Mr. Speaker, the hon. gentleman is so pompous and arrogant that he cannot sit back in his seat and take a little criticism. They have that superiority complex. Is it any wonder that they are compared to 'group think'? Tomorrow when I get an opportunity I am going to elaborate on 'group think', but just to give the hon. gentleman a preview, Mr. Speaker, following the last provincial general election when the Premier ended up with such a large mandate, forty-four to eight, then the superiority complex set in, and the arrogance and following the Premier like lapdogs.

MR. NEARY: You can only describe that as 'group think,' but I will be dealing with that tomorrow.

So, Mr. Speaker, it was very important for the House to know that the hon. gentleman fought hard, put up a valiant fight against this bill, joined with a number of other provinces in Canada who are opposed to the Young Offenders Act. That battle has gone on -

MR. HICKEY: Before the election -

MR. NEARY: Mr. Speaker, the hon. gentleman will have an opportunity again when he closes the -

MR. BUTT: Mr. Speaker, relevancy! Relevancy, Mr. Speaker. The hon. member is wandering again, he does not know what he is talking about.

MR. SPEAKER (Aylward): Order, please!

MR. NEARY: I should wander up to Conception Bay South and try to get them a new school. That is more than the hon. gentleman could do.

Mr. Speaker, so the battle has gone on with Ottawa and the provinces for the last six or seven years; they opposed the Young Offenders Act. But now that it has been made the law of Canada and went into force on April 1, 1984, - today is what? April 3. As a matter of fact today is my twin's birthday, April 3, my twin's birthday today. They are sweet sixteen today. So, Mr. Speaker, whenever this act is passed it has to be made retroactive because we now are left with no legislation, no rules or regulations in this Province to deal with young offenders. This bill, Mr. Speaker, is necessary, therefore, to protect these juveniles who would otherwise have to be tried as adults. They would have to be tried under The Summary Proceedings Act and be subject to the same penalties as adults unless we pass this bill, because the Welfare Children Act no longer applies. Once this bill was passed, I assume that the Welfare of Childrens' Act became unconstitutional, the terms and conditions could no longer

MR. NEARY: be implemented to deal
with young offenders.

Mr. Speaker, if this act is not made retroactive, does not become the law, then it would not enable young offenders to notify their parents that they had been arrested and that they were going to be tried for various matters.

The Young Offenders Act, Mr. Speaker, deals with criminal matters, and criminal matters, as hon. members know, fall under the jurisdiction of the federal government. Prior to April 1, 1984 the Newfoundland Welfare of Children Act and the Child Welfare Act dealt with juvenile delinquency on both the federal and provincial legislative levels. If Newfoundland had chosen to ignore the Young Offenders Act, Mr. Speaker, the Newfoundland legislation that I just mentioned probably would have been declared unconstitutional since criminal matters are the jurisdiction of the federal government.

As the hon. minister indicated, other provinces were against the Young Offenders Act and along with this Province they lobbied hard and long against this passage in the Parliament of Canada, but without any success. Ottawa, Mr. Speaker, has both the dollars and the legislative jurisdiction to bring in this act.

MR. HICKEY: They certainly are not showing many dollars.

MR. NEARY: Pardon?

MR. HICKEY: They might have the dollars, but they certainly are not spending them.

MR. NEARY: They have the dollars? Well, Mr. Speaker, maybe they did not give the hon. gentleman the capital outlay that he needed to either build a new institution or to cost share the conversion of the Boys' Training Home at Whitbourne.

Now what the hon. gentleman should address himself to when

MR. NEARY: he closes the debate, Mr. Speaker, is when does this Province expect to have a cost-shared programme signed with the Government of Canada? Saskatchewan, as the hon. gentleman knows, signed an agreement yesterday with Ottawa.

MR. HICKEY: The only one.

MR. NEARY: That is right. The only one in Canada so far to sign with Ottawa on this matter was the Government of Saskatchewan, becoming the first province to sign under the Young Offenders Act. This agreement is important as the first payments will be made by Ottawa to the provinces on July 1st. So it is important that the hon. gentleman inform the House when we can expect to see the ink go on the agreement between this Province and the Government of Canada because payments will start on July 1st and, again, we will lose out if we do not have an agreement.

Fpr the past six or seven years, as I have said, the provinces have opposed the act which was proclaimed two years ago by parliament because it would cost them millions of dollars to implement its new measures. Now, as I understand it Mr. Kaplan has offered to share the cost of keeping young offenders, young people in prisons - the hon. gentleman should elaborate on that and clarify that situation - but will not contribute any money towards the building of juvenile prisons, Mr. Speaker. It will cost Ontario, for instance, according to that Province's Provincial Secretary of Justice, Gordon Walker, about \$70 million a year. The hon. gentleman should tell the House how much it is going to cost this Province to implement the provisions of this act. Ontario

MR. NEARY: also will be required to bear alone the capital cost of \$65 million to provide a new court and custody facilities. 'It is good news for the lawyers,' said Mr. Walker. Now, Mr. Speaker, that gives me a great platform, that gives me a great springboard from which to launch into the informal part of my few remarks this afternoon.

MR. SIMMS: A good speech. I knew it was coming.

MR. NEARY: Yes, Sir, it is coming. I would have hoped that the Minister of Social Services (Mr. Hickey), in introducing this bill, would have mentioned some of the things that I am about to say.

MR. SIMMS: He will probably comment in closing.

MR. NEARY: The only reason he will comment in closing is because I will remind him, I will refresh his memory.

MR. ROBERTS: I am all for attacking the lawyers. Was it Shakespeare said, 'The first thing we do, let's kill all the lawyers'?

MR. NEARY: Just so I will not be misquoted, it was not I who said it would be a bonanza for the lawyers, it was Mr. Walker. And who is Mr. Walker? Mr. Gordon Walker is the Provincial Secretary of Justice in Ontario.

MR. ROBERTS: Obviously a lawyer.

MR. NEARY: Well, he must be if he is the Provincial Secretary of Justice. He said, 'It is good news for the lawyers.' And I said that was a great springboard for me to get into the more important aspects of this bill.

MR. ROBERTS: Speaking of juvenile delinquents, let us talk about the lawyers.

MR. NEARY:

That is right.

Now, Mr. Speaker, let me say from the outset that what we have here before us today is a bill that will establish prisons in this country for juveniles, for young offenders. They will now be hauled into court the same as adults. The minister did not tell us whether young offenders, Mr. Speaker, would have a separate court, would have a court of their own or if they would have to go down and sit on the bench and wait with the adults for their case to come before the court.

Mr. Speaker, I heard what the minister said and I wrote it down. He said that they would not have to mix with adults - I wrote it down here somewhere - but my interpretation of what the minister said was that they would not be put in the same cells with adults. He said nothing about

MR. NEARY: the court proceedings, whether they would be trotted into the Supreme Court or into the same courts where adult hearings are taking place. Whether they would be going on at the same time or not, Mr. Speaker, is irrelevant. But the fact of the matter is, Mr. Speaker, that we have a system in this Province for dealing with young offenders and juvenile delinquents, I would say, that shows compassion, that shows some feeling for young people, that shows that the administration of the day that adopted that philosophy and the principles outlined in the Child Welfare Act and the rules and regulations that followed from that, showed that the administration and the ministers of that day had some heart. And I would think, Mr. Speaker, barring the odd hard case, that we had a pretty fair system of dealing with juvenile delinquents going in this Province.

MR. HICKEY: There is room for improvement.

MR. NEARY: Of course, there was room for improvement, there is always room for improvement in the system. But as far as I am concerned it is a hell of a lot better than this thing we have before us today, that we are forced to adopt in order to complement the federal legislation. It is a hell of a lot better than that, because you see, Mr. Speaker, in this Province we had a girls' training home and two boys' training homes. I was the one who introduced the open door policy. I was the one who changed the name of that department from Welfare to Social Services and Rehabilitation. And one of the reasons I changed it was because of the stigma, in the first place, the stigma of welfare. But apart from that, we had a lot of programmes in progress in that department where we were trying to rehabilitate people. And those were in the tough days,

MR. NEARY: by the way, the hard days when the drug scene hit Newfoundland. I happened to be minister of that department, Mr. Speaker, in those days. I succeeded my colleague, the member for the Strait of Belle Isle (Mr. Roberts) who no doubt will confirm what I am saying.

MR. CARTER: Did the Mifflin Report review your stewardship?

MR. NEARY: Mr. Speaker, the hon. gentleman should have learned his lesson from the Speaker this afternoon. The hon. gentleman was ordered by the Speaker to withdraw statements unconditionally and apologize to the House. Now that is the first time I have seen that done in this House where such an order was given to a member. So the hon. member should go back to his seat and hang his head in shame.

MR. CARTER: That was a serious question.

MR. NEARY: But, Mr. Speaker, we had a fairly good system going. I tell you what concerns me is the fact that that system could not be meshed with the federal system. I know that Mr. Kaplan and the Government of Canada wanted to bring in an Offenders Act, I know they wanted to make things uniform across this country, but, my God! they need not have gone as far as they have gone, did they? They are now going to keep records of young people, they will have criminal records. They are going to incarcerate young people. You know, Mr. Speaker, to me, to my way of thinking, and I had an opportunity for three and a half years to run that department and to deal with young offenders and, my God, what I saw, Mr.

MR. NEARY:

Speaker, was pathetic! I saw young people who were not criminals, who ran afoul of the law mainly because of their parents, the conditions in the home. They were not criminals and now they are being branded as criminals. Some of these young boys and girls were ill, by the way, they were sick, and because there was no other place to put them they were put into the Boys' and Girls' Training Homes. When a young boy or a young girl ran afoul of the law the court would make them a ward of the state, a ward of the Province, and the minister would be responsible then for looking after them. They were well cared for, they had a roof over their heads, they had a nice comfortable bed, they had three square meals a day, they had their occupational therapy.

I do not know if we still run the farm down at Whitbourne or not. They had privileges, they could participate like ordinary, decent human beings in the Cadet movement, recreation and sports, hockey, football, soccer. And, Mr. Speaker, it was not a bad system when you come to look at it. It was not all that bad. It may not have conformed or been consistent with what was going on in the other provinces, but at least it showed that we had a heart, that we had compassion for these young boys and girls, who, I say without fear of contradiction, are not criminals, they are not, but that is what we are branding them as. We are branding them now as criminals once we pass this bill, this piece of legislation that is being forced on the provinces.

Mr. Speaker, I would have to say that one of the most heartrending experiences that I had was going down to Pleasantville, to the Boys' Training Home one day, and, under the provincial legislation, when

MR. NEARY: a juvenile reached the age of sixteen the Province could not longer hold him, they had to get him go, And this young fellow, sixteen on his birthday, was called in in the morning and told, Look, we are sorry but we have to let you go. We can no longer keep you in the home. Well, the young fellow sat in the office - I just happened to do down there that day - and he was crying. I walked in and I said, 'What is the problem?' He said, 'I have no place to go. My parents do not want me home, I have no place to go.' And', he said, 'they are kicking me out of here today. I have to leave.' So out the door he goes. And I said to the people who ran that home, You know what is going to happen, do you not?' That little fellow, who was bright as a button, as keen as mustard in school and about recreation and sports, and the cadets, who had a magnificent record of achievement in the home, who probably would have won a scholarship if he was given a fair shake by society, had to be put out doors, put out! The best we could offer him was a foster home. And he went to a foster home and I said to the people who ran the home at Pleasantville, and I told my staff when I came back, Do you know what it going to happen to that little fellow? He is going to go out and deliberately break the law to see if he can get back into a place like this. And that is what he did. Sure enough, within a few days he had broken the law so he could be taken out of that foster home so that somebody would take care of him.

Mr. Speaker, what I am saying is. that I would say 95 per cent of these young boys and young girls are not criminals, they are the victims of circumstances. The hon. gentleman knows that. If he has visited the homes at all he knows that. I talked to, as I have no doubt the hon. gentleman has done, pretty well all of these young people. Sometimes they have to be put in to

MR. NEARY: be taught a lesson;
sometimes their parents would say to me or to my officials,
Well, you know, I could not handle him so I will see what
you can do with him. Is that not right? Am I right or
wrong? Mr. Speaker, as far as I am concerned that is a
true statement.

MR. NEARY: So I shudder here today. I tell you this, I am very concerned here today, And I am not at all happy about this bill, about this act and that is why I say that we approach it on this side of the House with mixed feelings. It is going to eliminate the humanitarian aspect of how we dealt with these young people in the past. As I said, the system was not perfect, there was a lot of room for improvement. But I can guarantee you one thing, Mr. Speaker, that anybody who had exposure to these young boys and girls could not help but feeling for them. They ran afoul of the law, sometimes in their innocence, sometimes being led astray, and many times because they did not get the proper guidance from their parents. There are a lot of pathetic and tragic stories down in the Department of Social Services that can be told. But, Mr. Speaker, as bad as that system was I do not believe it was necessary to go as far as we are going today. I would probably concede that we need a consistent programme across Canada, across the nation. But, Mr. Speaker, I tell you what frightens me, what scares the Hell out of me, is the fact that they are taking -

MR. STAGG: Is it absolutely necessary for the hon. member to use that word? Could the hon. member not find some other mode of expression?

MR. NEARY: Mr. Speaker, this is a very, very emotional matter as far as I am concerned. The hon. gentleman can interrupt and interject all he wants, but I am not going to be sidetracked. I am frightened of the thought of the Boys' Training Home at Whitbourne which is a beautiful, magnificent building overlooking the lake down there, being converted into a prison for

MR. NEARY: young boys and girls in this Province. That is what I strongly object to, these young people being incarcerated, thrown in jail just like common criminals, thrown in jail just like adults. Mr. Speaker, they will be casehardened, they will be toughened. I do not know if the hon. gentleman locked the doors after the open door policy I introduced but they could come and go within reason, they were given their privileges, they could go out to dances, they could go down to the Cadet parades, they were members of the Cadets themselves. As a matter of fact, one of the proud accomplishments in the home when I was minister of that department was the fact that these young people were put on the stage at the Arts and Culture Centre, as extras in a play at the Arts and Culture Centre. Hello, criminals! Just poor, sad, pathetic young boys and young girls who went astray and now, Mr. Speaker, they are going to treat these young people just like common criminals. Hale them into court, build up a record that will take three years to erase, and then they will learn the ropes. They will resent society as long as they live.

MR. NEARY: Can you imagine your own son or daughter between the ages of twelve and eighteen, your own son or daughter aged thirteen, fourteen, fifteen, sixteen - and I think I told the House earlier today that I have a twin aged sixteen years of age - can you imagine your own son or daughter going out some evening, getting into a little bit of mischief, and the next thing you get a call from the court: 'Mom, Dad, I am down in court; I want to let you know that I got in a bit of trouble and I am going to be put in jail for the night.' Now that is a pretty nice thing for parents to hear, is it not? What about all the rehabilitation programmes? What about all the money that is being spent trying to keep these young people from getting criminal records? It is a pretty, pretty sad day, Mr. Speaker, in my opinion. We have no choice, as I said in the beginning, but to go along with this bill. It is one of the few times that I have to say that some of the remarks that were made by the minister, I would have to agree with him. I know also, by the way, in addition to the serious implications that it will have on young people, I have to say this too, that I believe it is going to create some headaches and some problems for the minister's own department, because, as the hon. gentleman knows, on many an occasion, even though we often did it grudgingly, when you have a young person who is backward, a little bit retarded, no place to put him, you would put him in the Boys' Training Home, sometimes for his own protection, Mr. Speaker. You could not put him in the mental hospital because they would not take him down there, the Janeway would not take him, nine chances out of ten you could not get him in a foster home; so you would just take him in and try to straighten him out and do the best you could. Now, that is going to

MR. NEARY: create a bit of a headache and a bit of a burden for the hon. gentleman, because when we are talking about juveniles under the present system, we are talking about two or three different categories of boys and girls. So it is going to create additional problems and headaches for the hon. gentleman.

Mr. Speaker, the minister, when he introduced the bill, went through the various sections of the bill. He told us it is going to cost \$500,000. Can you imagine, Mr. Speaker! I think if I had been minister, I would have had to tell the Government of Canada, in this particular instance, and Mr. Kaplan, to fly a kite, if they asked me to convert Whitbourne, spend \$500,000 to convert it into a closed custody institution; in other words, to make it the same as Dorchester - that is what they are doing - make a prison out of it.

Mr. Speaker, I am against that principle, I think it is wrong, I think the Government of Canada is making a mistake. Whoever was responsible for these principles has no heart, no compassion for people.

MR. CARTER: Talk to Pierre Trudeau.

MR. POWER: Yes, like you do on the offshore.

MR. NEARY:

Well, that is a different matter, I call the shots as I see them. I happen to be against this kind of prison for juveniles, Mr. Speaker.

I remember young people when they came to our Homes. When we had the open door policy, they would run away occasionally and you would have to pay out a few dollars because they would break into a service station or they would get into a car on a cold night to have a nap. They would run away and then, by and by, they would come back again, Mr. Speaker. But what do you do now when the police pick them up? What do they do? They take them down to wherever it is, some police station, and they inform them of their rights. Now what are their rights? You have a right to call your parents, if you want to, and I suppose the right to call a lawyer - just the same as you would see on the television screen or in the movies.

You know, there is going to be an awful backlash, I believe, to this kind of a system. You are either going to make heroes out of these young fellows and these young girls or you are going to make common criminals out of them. It is just as simple as that, Mr. Speaker. And hon. gentlemen there opposite and on this side of the House I believe agree with what I am saying, and I hope they will participate in this debate and say so.

Then the section of the act dealing with disclosure, about appearing in court and the closure of records and so forth, seems to be very vague indeed, Mr. Speaker. Because these young people now go unnoticed by the press, they are not noticed except sometimes they run away from the Homes and then you will hear something or see something in the press that so many kids ran away, But now they are not noticed. But all the television cameras and the newspapers have to do now is go down and stand in front of the court and they can see who is

MR. NEARY: coming and going. There is no way you can keep that kind of information on a strictly confidential basis.

And how do you prohibit attendance in the courts? Section 21 of the Act says you prohibit attendance in the court. Mr. Speaker, it may start out that way but pretty soon these barriers will be taken down, there will be no prohibition of who can go to the courts, who can sit in on these cases. Before at least the names were kept out of the newspaper and off the television screen. And now they have to wait three years before they can get their record wiped out. Then, Mr. Speaker, of course, as Mr. Gordon said in Ontario, 'The real bonanza, the real killing, the real benefits of this bill will flow, again, to the lawyers, the legal profession'. Because heretofore, Mr. Speaker, previously it was not necessary.

I believe my hon. friend there opposite if he wanted to could tell some sad stories, but I have to say that in my three and a half years as minister of that department I may have had two lawyers come up to my office representing parents of some young boy or young girl we had in the Home. And you would sit down with them man-fashion, you would say, Look, boy, here are the facts and here are the circumstances.

MR. NEARY: Go pedal your legal fees somewhere else! And nine chances out of ten they would say to the parents, 'You know, Mr. Neary, is absolutely right. You know it is better to letting sleeping dogs lie.' And never once was I threatened with court action, once you levelled with the parents and levelled with people and tell them what is going on and the kind of programme you have, that these young boys and girls are not in jail. Although we had to have cells down at Pleasantville to take the people who were sent from the court, I think there was four cells there, but anybody who was put in there it was only on a temporary basis.

MR. TULK: Where is that?

MR. NEARY: That used to be at Pleasantville, but now the system has changed a bit since I left there.

So, Mr. Speaker, I would have to say that this legislation is going through the House, as far as I am concerned, with a heavy heart. The Province has no choice. The heavy hand of Ottawa in this matter has come down on the provinces. They have put the legislation through the Parliament of Canada and if we do not accept it here -

DR. COLLINS: They are a terrible bunch up there.

MR. NEARY: Well, in this particular case, Mr. Speaker, I might have to agree with the hon. gentleman. I would like to ask the hon. gentleman a few questions before he winds up. And I am sure my colleague, the member for the Strait of Belle Isle (Mr. Roberts), would like to have a few words on this bill, to look at the various sections of the bill. He is much more qualified to deal with the technical and the legal aspects of it than I am. I have spent quite a bit of time during my few remarks on

MR. NEARY: the humanitarian side of this whole matter, the philosophy, the ideology. The fact that they are making a prison for the young offenders frightens the life out of me, frightens the devil out of me, Mr. Speaker, and I do not like it and I am opposed to it. When I see Mr. Kaplan again I am going to tell him so. What a man! What a government! What a man! Mr. Speaker, would you like to have that recorded in the history book that you are the gentleman who built jails for twelve and thirteen and fourteen year olds in this country? Would you like to have that sin on your soul? I do not know if I am making myself abundantly clear or not, but I have seen these kids, I have dealt with them practically on a daily basis, I have seen them come and go, I have seen them grow up and leave the homes. Some of them succeeded and some of them did not. Some of them never had a chance from the beginning - victims of broken homes, victims of poor parental guidance, not criminals, Mr. Speaker, as we are led to believe in this act, not criminals by any stretch of the imagination. Some were a little bit evil and had a little bit of badness in them. We all had that, did we not, when we were growing up? Any of us who were exposed to society in our younger days, if we ever got caught for the things that we did, now they would be considered to be a criminal offense and you would be thrown in jail and you would have to get a lawyer to defend you, to interpret the complicated laws, to untangle the legal aspects of it. If we ever got caught ourselves, would that not be the case? Well, that is 95 per cent of what we are talking about here today. That is what they are. The hon. gentleman no doubt will agree with me when he rises to close this debate, Mr. Speaker. But there are a few questions about the bill probably that should be asked, and I think I asked the first

MR. NEARY:

one earlier; why was the bill not brought in before?
The hon. gentleman, no doubt, will give me the answer because it is retroactive to April 1, 1984. And with the proclamation of the Young Offenders Act on April 1, what protection is there for juveniles who now break provincial laws, such as the law on underage drinking? Hon. gentlemen might recall there a few moments ago I said we are going to have two or three different categories now. It is going to create headaches and problems for the hon. gentleman's department. But what about the provincial laws? What about laws that are broken that do not come under the Criminal Code, do not come under the Young Offenders Act? What happens to these? Will we have now two or three different homes? Will we have a halfway house, foster homes? What is it we are going to have now?

MR. HICKEY: All under one law except what comes under the Criminal Code.

MR. NEARY: All under one law except what comes under the Criminal Code.

MR. HICKEY: It will come under the provincial act.

MR. NEARY: This act?

MR. HICKEY: Yes.

MR. NEARY: And so these young people now who break the law, probably for underage drinking, could end up in jail over at Whitbourne?

MR. HICKEY: I hope not, but they could.

MR. NEARY: They could and that is what frightens me about this, that is what scares me about it.

MR. HICKEY: That is why we opposed it for seven years.

MR. NEARY: Now we have no choice. The minister says they opposed it for six or seven years and

MR. NEARY: had no choice but to bring it in to the House. We have no choice, because even if we said we were going to vote against it, the numbers there opposite would put it through the House and what point would there be to it if we said, 'No'? The Province would stand to lose, because Ottawa have already made up their minds.

MR. HICKEY: We have no law, because Ottawa have -

MR. NEARY: That is right.

MR. HICKEY: - wiped out the Welfare of Children Act.

MR. NEARY: I said that earlier, we would have no law because whatever law we have will be unconstitutional.

MR. HICKEY: They wiped it out.

MR. NEARY: They wiped it out. And this will fill the void. Now perhaps the minister can tell the House if the pre 1949 legislation on Child Welfare has been declared illegal, and could he elaborate on the fact that the provinces fought against the Young Offenders Act and why they were against it? How much will it cost the Province to have suitable facilities necessary under the Young Offenders Act, and where in the Province will such facilities be located? Will there be more than one, the one that is being converted to a jail over there at Whitbourne? How many social workers will be necessary once this act comes into force? Will the hon. gentleman need a different type of worker? Will the hon. gentleman need more social workers than he has now? The 1983/84 Social Services Estimates Committee noted that the hon. gentleman said that five positions would be required subject to Treasury Board approval. Does the hon. gentleman still think that that is the number that will be required, or will we now have to have parole

MR. NEARY: officers? I think the hon. gentleman mentioned five when his estimates were being put through. No, that may not have related to the Young Offenders Act, he was probably talking about five positions period, subject to Treasury Board approval. What has happened to the employees of the Whitbourne Boys' Home while the facility is closed to make renovations necessary for the Young Offenders Act? Will the staff down there be rehired or will they be terminated? Will we now, Mr. Speaker, in conformance with the thinking of the Solicitor General's office, will we now have wardens down at Whitbourne? Is that what they are going to be called now? A terrible, terrible thought, in my opinion, Mr. Speaker, it is an awful sin to have on your soul. Mr. Speaker, I do not know if there is anything else I can say. I know that I have dwelt at some length on the humanitarian aspects of this. I can understand why the provinces objected to it not only on the cost. I am sure the hon. gentleman and the other provinces were not merely concerned about dollars and cents, that they were concerned about the welfare of these young people.

Just let me repeat again before I take my seat, and I had quite a bit of exposure to these young people, by no stretch of the imagination were they criminals. You would want to have a warped mind to put them in that category.

MR. NEARY: They were just young people who were misled and went astray. They never had a chance, a lot of them, from the beginning. And now the tongues will wag and the gossip will start as soon as a young fellow or girl gets in trouble. They sort of accepted the Boys and Girls Training Home, they sort of accepted that. That was not a prison. There was a bit of a stigma, I suppose, attached to it, but not all that much. But now the tongues will start wagging, "Did you hear about So and So's daughter?" Or, "So and So's son broke the law, went to court, had to get a lawyer and was thrown in jail."

Mr. Speaker, anybody who has four teenage kids like I do could not help but be concerned about that kind of a law. Although we have no choice but to go along with it I suppose, Mr. Speaker, I personally, and my colleagues can speak for themselves, I personally do so with a heavy heart.

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

MR. ROBERTS: Mr. Speaker, I will not detain the House for long, but I would like to say a few words on this bill and let me make two opening comments. First of all, I did not have the opportunity to hear all of what the minister said so I may touch upon certain matters which he raised, if so, he is here, if he would be kind enough simply to interrupt me perhaps we could save ourselves that kind of exercise. I do not think this is a partisan bill, I do not detect any real difference between both sides of the House on this matter, and I think we can approach it in that way. Secondly, I listened with a great deal of interest

MR. ROBERTS: to what my friend from LaPoile (Mr. Neary), the Opposition Leader said and I agree with a great deal of it, particularly the points that he raised with respect to the construction or the renovation of the Whitbourne Home and making it into what amounts to a prison by whatever name it is to be called. I do not care if it is called a rest farm, a prison is a prison is a prison by any other name, to paraphrase - was it Dorothy Parker?

But having made those two points I do want to say that I am not sure that we in this House can do very much about it, and more importantly, I am not sure that this bill before us does require that the Whitbourne facility be changed into a prison. I think it is the federal legislation that requires it, if, in fact, anybody requires it. And I do not have the federal legislation here unfortunately, I only have the brumph, the brochure put out by Mr. Kaplan, the Solicitor General for Canada. And it is an explanatory piece of work and I am sure it is as valuable as any explanatory piece of work, but it is not the legislation itself and I cannot hold myself out as being familiar with the federal legislation.

But let me say that I understand to begin with that the bill now before the House, Sir, is a bill which complements the federal legislation. And whether we in this House particularly like it or not, the Constitution of Canada, which has been in effect as long as there has been a Constitution, 118 years I guess now since what was then the BNA was adopted in England, it has been less than 2 years since it came home to Canada, the Constitution has provided that the Federal Parliament has authority to legislate in certain matters and it includes criminal offences. And as I understand

MR. ROBERTS: the federal legislation,
the Youth Offenders Act I think it is called - is it? -

MR. HICKEY: The Young Offenders Act.

MR. ROBERTS: - the Young Offenders Act,
I thank my friend, the minister, it is enacted by
Parliament using the criminal law power. And I have no
doubt that the minister has taken legal advice and I
assume that he and his colleagues across Canada are of
one view, whether they like or not, that the legislation
federally is intra vires the Parliament of Canada, it is
constitutional and if it is not acceptable to the
governments of either or all of the provinces, the remedy
is a political one, to put into place a Parliament of
Canada that would change the legislation.

MR. ROBERTS: There is little that we can do here any more than if we do not like the laws that Parliament adopts with respect to defence or currency or anything else that is within their jurisdiction, we can carry on a political fight but we, in this House, can do nothing as a legislature. We may be able to do something as legislators and as political figures, politicians or what have you.

So, as I understand this bill, it is to do two things: it is to complement the federal legislation and it is to fill some gaps, because there are still some areas where federal writ does not run. I understand, for example, that a breach of a provincial statute, such as the Liquor Acts, which are provincial legislation, whatever we call it - I mean, there are a number of statutes - but a breach of the Liquor Act is a provincial 'crime' and if I break that law today and am brought up before a court, I am charged under the provincial statute and not under the Criminal Code or any federal enactment. So we have to fill in that gap because we have the power to legislate with respect to that. The criminal law power does not override it. Parliament, as I understand it, Mr. Speaker, does not have any power to legislate in respect of young people, it has a power to legislate in respect of criminal activity and it has designated certain types of activity as criminal activity and, therefore, the legislation follows on that principle. But we do have the power to legislate with respect to the types of activity that are not criminal activity within the meaning of that term as it comes in the Constitution Act. And also, we have the responsibility here, as a Province, as we do with respect to any of the criminal activity in Canada, criminal laws of Canada, of

MR. ROBERTS: administering them. The Minister of Justice administers the criminal law in this Province in that this House constitutes the courts and this House authorizes the salaries and this House hires the prosecutors and this House hires the police. There are, of course, federally paid police and some federally paid prosecutors. But the administration of the Criminal Code is left to the government of the province and to the officers and officials hired by the government.

So, Mr. Speaker, I do not think we should be under any illusions as to what we can do as a provincial Parliament. We have certain powers in the constitution and we can exercise them, but some of the points which we do not like, I think, are well beyond any power of this House of Assembly, this Parliament - and we are a Parliament - well beyond our powers to legislate; and I do think that the changes in the federal act, whether we like them or not - and I like some and I dislike others, in that, I think, I am with my friend from LaPoile (Mr. Neary) - that these changes are beyond our legislative purview. So there is no point really in our getting terribly uptight about them. We can express our views, and so we should, but we should not for a minute think we can do more than is within our constitutional power to do.

Now, having said that, Mr. Speaker, let me go on to say that I think there is a great deal to be said for the new Youth Offenders Act in Ottawa. It does some things, it makes some changes I think all of us should welcome, and these changes are reflected in this bill and implemented, in large measure, by this bill.

MR. ROBERTS: First of all, it replaces what must be one of the oldest statutes in Canada, the Juvenile Delinquents Act. As I recall, it was adopted in the early decade of this century.

MR. HICKEY: 1908.

MR. ROBERTS: 1908 - I thank my friend, the minister. And that is a long time ago. Surely, in the seventy-five years that have passed since that act was adopted, we, as a society, have come a long way in the way in which we treat young people who are offenders. And, let us remember, Mr. Speaker, there is nothing in one's age which prevents one from becoming an offender, from breaking the criminal law. There are cases where young people have 'murdered' - and I am putting it in quotes because there may not be the degree of intent - but there is no doubt there are cases where young people have killed other people deliberately and knowingly, and throughout, of course, I am talking of people who are sane.

MR. HICKEY: But our legislation was more appropriate.

MR. ROBERTS: Oh, I agree. The minister takes a point and I will deal with it because he is right and, you know, our legislation was better in many ways than the federal legislation. But, what I am saying is that we, as a society, have come a long way in three-quarters of a century in the way in which we deal with young offenders. And, what we are doing here, I think, is implementing a couple of changes which, in my view, are long overdue.

First of all,

MR. ROBERTS: Parliament has raised, and we are raising here, the age of criminal responsibility from seven years which was the Criminal Code age. In fact, in the English Common Law, a child of seven years could be taken up and tried on a criminal charge. Forget how they were dealt with, whether it was a so-called juvenile court or anything like that, they were faced with the criminal charge. We have ended that. Parliament has ended it in respect of its type of offences and this bill rightly, in my view, ends it in respect of the offences where we have legislative jurisdiction. So from now on, until you are twelve years of age you are a child not a youth, I guess, to use the words of the draftsman have evolved. And I think that is important, because there is nothing in this bill or the federal bill that deals with anybody under the age of twelve. The minister confirms that. The Welfare of Children Act, as I understand it, still - it does not carry on?

MR. HICKEY: No, no, that is wiped out.
The Child Welfare Act -

MR. ROBERTS: I am sorry. We have so many statutes it is hard to keep up with them. But our legislation, let me put it that way, I may have the wrong name of the act, our legislation still carries on, if a child of ten tomorrow or whenever this bill becomes law, and it is made retroactive to yesterday, April 2, to coincide with federal legislation, if a child of ten does something that is 'criminal' that child is dealt with under the provision of the Newfoundland law.

MR. HICKEY: The Child Protection Act.

MR. ROBERTS: The Child Protection Act, I thank the minister. He is more familiar with it than I am, much of it was on the books in my time, much came on subsequently. We have evolved. We have quite good child welfare, when I say child welfare, that is a small 'c' and small 'w', child welfare laws.

MR. ROBERTS:

So I think we should realize that in the House; anything that happens in respect of a child under twelve is not dealt with by the legislative scheme we are talking of here, it is dealt with under the existing Newfoundland legislation. And if we as a House want to change that, we can. The minister says, we have to, and there may well be some consequential amendments, but in respect of any child under the age of twelve - is it twelve and under, or under the age of twelve?

MR. HICKEY:

Under the age of twelve.

MR. ROBERTS:

- under the age of twelve, we carry on untrammelled. And that is a change, because hitherto the child of seven was caught by the Criminal Code. The Criminal Code has been amended by the federal act and that section, I forget the number of it, whatever it is, it does not matter, it is there, that section has been put aside. So that, to me, is an important change.

Secondly, Mr. Speaker, I think there is a lot to be said for the fact that the Charter of Rights has been embedded in this legislation and in the federal legislation. Much of the presently existing legislation, whether it is federal or provincial, was wrong in terms of the Charter of Rights. It certainly represented a consensus when it was adopted. It was validly adopted before there was a Charter of Rights. The Charter of Rights ends or would end many of the ways in which we dealt with children and, in my view, rightly so. Because the simple fact that one is of tender years, it does not matter in this sense whether you are under twelve or twelve and up, whether you are under this bill or whether you are under the other law of the Province, should not take away the rights that have been guaranteed to every Canadian citizen as embodied in the Charter of Rights; the rights to counsel, the rights to be dealt with in an open court subject to the

MR. ROBERTS: reasonable dictates of the law, all these rights, all the rights.

MR. CARTER: Have you spoken to your friend, Trudeau?

MR. ROBERTS: My friend Trudeau, and I am proud to say I am a friend of the Prime Minister. I say to my friend for St. John's North (Mr. Carter) the Charter of Rights, although he is not capable, it protects him too, it protects those of unsound mind as much as it protects Your Honour of sound mind. But my friend for St. John's North does not realize that the Charter of Rights is probably, in fact, is almost certainly the greatest single legislative change we have seen in this country since Confederation, and that is 118 years for Canada, in case my hon. friend forgets that he too is a Canadian. Whether he likes it or not, and whether we like it or not, he is one with us in Canada.

MR. CARTER: Does Trudeau know you though?

MR. ROBERTS: Ah, Mr. Speaker, I do not know if Trudeau knows me or not. Why does not the hon. gentleman ask the Prime Minister when next he sees him? We all know the hon. gentleman, we know him for what he is. The hon. gentleman is the only man I know who could walk across a field with four cowpaths in it and get five messes on his feet.

MR. ROBERTS:

Mr. Speaker, let me come back to the bill. Putting the charter of rights into place in the legislation dealing with young people in my view is a good move. And that is what this bill does, it is what the federal bill does in addition to raising the age of criminal responsibility from seven where it has been for, I guess, forever, as long as there was a law. Certainly in Canada it has been in the criminal code since the first criminal code was adopted and, as I recall my law school days, it was in the English Common Law 'a child of seven was an adult in the eyes of the law and would answer for his conduct'. That, too is a great step forward.

Now, Mr. Speaker,

this legislation and the complimentary federal legislation ends, in my view rightly, the treatment of young offenders as criminals. It provides a separate type of regime. Now, my hon. friend, the minister, is going to say that in Newfoundland we did not treat them as criminals and that was one of the strengths of our legislation. In fact, I do not think it is unfair to say that the federal legislation, the scheme, the spirit of the federal legislation is much closer to the legislation we have had in effect in this Province since Confederation than it is to the old Juvenile Delinquents Act. Canada has moved to Newfoundland in this sense. There may be some features we do not like in the Ottawa bill, but I think it should be noted that the Ottawa bill really is much closer in spirit to what we have had in Newfoundland as a legal regime for the past thirty-five years than it was to the old Juvenile Delinquency Act which has been

MR. ROBERTS: repealed. So, I think, it is worth noting that now, under this bill and the complimentary federal legislation, young people up to the age of eighteen are going to be treated not as criminals but dealt with in special provisions; their rights protected, yes, but there are a number of special provisions which I think are important, for example, the youth courts. And when the minister speaks in closing, if he did not deal with this, and he may have dealt with it in the opening, I did not hear all of what he had to say to the House, but the youth court is provided for in this bill. Section 2(f) designates any provincial court as a youth court. And I wonder if the minister could tell us, and perhaps his colleague the Minister of Justice (Mr. Ottenheimer) might wish to speak to the point. I am not sure - I know where the responsibility lies, it constitutionally lies with the Minister of Justice, but I am sure that the two heads have been together, the two hearts beat as one, and all that, what do we propose to do? Are we going to vest each provincial court in the Province with the authority to deal with young offenders or are we going to have a special youth court, one or more? There certainly, it seems to me, something to be said in favour of having a special youth court, one or more, or having specially trained judges dealing with it. I gather it is all provincial courts. I am not sure that is a wise idea. Maybe the minister could expand upon that a little in his closing. There is obviously some reason behind their decision, but it is not readily apparent. In fact, to me the desirable one is the other way around, but perhaps they could tell us. That is one thing.

April 3,1984

Tape No. 637

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MR.ROBERTS:

Secondly, the Whitbourne prison,as I said, is not required by this bill. In fact, this bill specifically says that you cannot be committed to closed custody for more than thirty days. The minister no doubt

MR. ROBERTS:

referred to that, but it is in Section 11 (1) (g) that the most you can be sent to an institution in closed custody for breach of a provincial law is thirty days and even that is restricted to children who are fourteen and over. Mr. Speaker, I think that we should note that. I can conceive of occasions where it may well be necessary to restrict a child of twelve to fourteen, just as I can see a case where a child of fourteen or fifteen convicted of a breach of the Criminal Code and dealt with under the Youth Offenders Act of Canada may very well require closed custody. And perhaps the minister in closing could tell us what have we done in Newfoundland where - I am sure there have been cases, but I do not recall the instances now - where young people have been charged with capital crimes, serious crimes and have been 'convicted' under the terms of our legislation, which is not quite the same as standing your trial in the Supreme Court or in a Court of Competent Criminal Jurisdiction here, but been 'convicted' and obviously cannot be returned to the community very quickly, obviously have to be held under what amounts to closed custody. Now, what have we done with these children? There are some. There are the exceptions of course, but there are still some. There are children who have deliberately committed arson, deliberately committed violent assaults. I am not too worried about offenses against property, to me they are of a very different nature than offenses against the person, but there are children who have been 'guilty' of serious criminal offenses, assaults against people and that type of conduct that cannot be tolerated and, for society's sake, they have to be dealt with in accordance with what they have done and in accordance with their needs. I am not saying they should be locked up.

MR. ROBERTS: In fact, in Canada we lock up a lot of people. Our prison rate is far above that of many societies in the world, it is well below the Americans but far above, for example, the UK or others. The UK has three times our population in round numbers, Canada, the last numbers I saw, had about three times as many offenders serving five year and up prison sentences as did the UK, nine times the rate. The recidivism rate in the Canadian prisons of course is frightful. Most of our prisons are nothing more or less than a graduation course.

MR. CARTER: Are they mostly Liberals?

MR. ROBERTS: I am sorry?

MR. CARTER: Are they mostly Liberals?

MR. ROBERTS: The hon. the gentleman from St. John's North (Mr. Carter) is incapable of any serious thought. Why does he not simply let us assume that he is an ignorant ass instead of opening his mouth and proving it?

Mr. Speaker, the Canadian recidivism rate, the point I was making is really very, very high. I think anybody who is concerned with this type of problem is aware of that and is concerned with it. I am not sure anybody has any real answers, because whatever we try in Canada it seems to, in the long run, not make very much difference. But we do have a very high rate of jailing people in Canada, not as high as many other societies but higher than a great number of others.

Mr. Speaker, there are a number of other provisions that I would like the minister to address; they mirror the federal ones and I do not blame the minister. I do not think, really, this bill was drafted under his instructions, I think in many ways it was a matter of Ottawa

MR. ROBERTS: sent down the legislation and our bill had to fit into the slots.

Here, I think, my hon. friend from LaPoile (Mr. Nearv) and I are on a little different ground in that we are approaching it from a different point of view. He is concerned, and properly, with the rights of children, I share that concern but I am sure he shares my concern with the rights of the press, the rights of freedom of information and these things. In Sections 20, 21 and 22 of the bill there are very severe restrictions on freedom of the press and very severe restrictions on freedom of information. And, Mr. Speaker, this is another one of these cases where we have competing interests, equally valid, the right of a child, the right of the child's parents and those responsible for that child to a degree of privacy, and then, on the other hand, the right of us all, and a very important right in society, to freedom of information and to the freedom of the press, rights which are pretty basic to the type of society in which we live and the type of society in which we want to live.

MR. ROBERTS: The sexual offences sections of the Criminal Code are somewhat similar in that they too represent a balancing of these interests. But I wonder if the minister could address them. They are very severe restrictions, these sections 21 and 22. And they trouble me. I realize that there may be a valid need to have them, but they do trouble me.

Mr. Speaker, let me end by saying that the one point that does not trouble me, although it may trouble the minister, is that we are, in Newfoundland, becoming uniform with the rest of Canada in our legislative treatment of young people who break "the law" and I say quote the law, end quote because the law in this sense represents social values and represents the rules by which we, as a people, have chosen to live and to govern ourselves and to order our day to day affairs.

Our Welfare of Children Act, I think, uses the correct name, and if I am wrong I would be grateful if the minister would correct me, our Welfare of Children Act has survived by virtue only of section 18 (1) of the Terms of Union. And I will not go into the details of that, but it is a legislative hangover and I think it is probably the only pre-Confederation legislation, in a now federal field, that is still in effect. I say probably because the other year, thanks to the inane asininity of Mr. Patrick Moore, we discovered that a section of the Seal Fishery Act, which had hung around since Heaven knows when, was also - I mean, it was there, nobody ever paid any attention to it, but when the courts had a look at it it was struck down as being an invalid exercise of what purported to be the provincial power, "The Province had no power to enact that section", the courts told us. But here we had a case where, in an admittedly federal field, provincial legislation was governing in it, and as far as I know it is the only

MR. ROBERTS: pre-Confederation legislation still on the books in an area that is within the federal legislative competence. And in that sense, I suppose, it is a brief moment in history and it has been ended now by the feds. The fact that our age for young people's responsibility is being made equal with the rest of Canada, eighteen, surely causes nobody any trouble including, I venture to say, the minister. I can see no particular problem. Surely we should welcome the fact that the thrust, the web, the woof and the warp, and that is enough of those analogies, of the federal legislation has moved closer, in fact very close, to the way in which we have always dealt with young offenders in this Province. The old federal scheme in effect declared them criminals by calling them juvenile delinquents, and actions which would not have been a crime if they had been done by an adult, became a crime because a young person did it. And that to me is unconstitutional and goes against the whole point of civil liberties. Why should a young person who does something be guilty of a crime when an older person who does it is not guilty of a crime? And that could happen and did happen under the juvenile delinquency head. I mean, juvenile delinquency was not a crime except by law, and it was a crime only because Parliament

MR. ROBERTS:

said, If you are young and do something, that is a crime. Well, that is over and done with now and to me it is well. We have always taken a very different view in Newfoundland, we have had a power, as I understand it, that the Director of Child Welfare can take custody and control of a child, and that is still there. That is not changed. If the parents or the people responsible for that child will not look after his or her interests, then, of course, the minister has the power or his officials have the power.

So what I think what we have done here is Canada has moved very much closer to us, and the minister may be able to expand upon that, but that is my understanding of the bill, the rest of Canada, through parliament, has now adopted our approach. So I do not feel any sense of loss at the sense that the Welfare of Children Act is being struck down. I think it is a moment in history and we should note it. It is probably the last of the pre-Confederate statutes still to hang around, pre-Confederate statutes in what is now a federal field. And I certainly do not like the idea which the feds have embodied in their bill, that children should be confined in prison, and I say to my friend, the Leader of the Opposition (Mr. Neary), that the only reason Whitbourne is to be a prison is the feds have said that there are cases where children will be sentenced to 'closed custody', I think it is called in this bill, and in the federal bill, and there has to be a prison facility. And, I suppose, if the minister refused to provide one, the children would be sent to a facility on the mainland and, so, that does not get us anywhere. That is, in fact, the other side of the argument, why we ought to have at least a minimum or probably a medium-security institution here. I do not think we need a Dorchester, we do need a Springhill in

MR. ROBERTS: Newfoundland so that Newfoundlanders who are convicted of criminal offences and sentenced to jail can serve their terms here in Newfoundland, and that has, I think, very great penalogical benefits.

But, Mr. Speaker, all in all I think the bill is a good one and I think my hon. friend from LaPoile, the Opposition Leader (Mr. Neary), said that, other than the Whitbourne thing, And we can all dislike that but our quarrel, and it is a quarrel, has to be with Bob Kaplan in Ottawa. That is fine. Sobeit.

But if the minister could address whichever of the concerns I have raised that he wishes to address, I would be grateful. I will not be able to hear him because my ride is about to leave. I am without a car and my colleague from Torngat Mountains (Mr. Warren) has volunteered to drive me to the place where- at my car is to, which is the garage, and hopefully he has fixed it, and so I either catch the train now or I miss it. And it is a long walk from here to Hogan's Pond, and unlike the gentleman from St. John's North (Mr. Carter), I cannot walk across the water, so I have to take the ride home as best I can. He can only walk across the water because at present it is frozen. That is the only reason he can walk upon the water.

MR. CARTER: Are you going to vote for the act?

MR. ROBERTS: Yes, I will vote for the act, but unlike my hon. friend from St. John's North I will know why I am voting for the act. He too will vote for the act, but that is the difference between us.

I think it is a step forward. It is not perfect. The new scheme is not perfect but I believe it is a long way forward from where we are. I have talked about what I consider to be the advantages,

MR. ROBERTS: there are some disadvantages, but hopefully time will ameliorate those. Nobody will go to jail under this act for more than thirty days and even then, I venture to suggest, there will be very few young people, between twelve and eighteen, committed to terms in closed custody, they will be dealt with as now, in an open institution or in foster homes, or on a form of probation, and all these are provided here.

I like the community service provision. I think that is a good thing. Some of these little so-and-sos who cause trouble, the way to do it is let them get out and do something useful for the community.

My hon. friend for St. John's North (Mr. Carter), for example, could usefully shovel snow for widows and do penance for many of his sins. It would help the widows. It might not do anything for him, but it would certainly help to remove the snow. He could start this afternoon.

Mr. Speaker, I' also welcome the fact that the day is ended in Canada when children, seven, eight, nine, ten and eleven years old can be branded as criminals under the Criminal Code. That may have been acceptable seventy-five years ago, I assume it was, but, Mr. Speaker, it surely is no longer appropriate in this day and age.

So I think the bill the minister brought in is as good as he could bring in. Where it is wrong I do not hold him responsible, I do not lay it at his feet, I think my friend from LaPoile and I have a quarrel with the gentleman in Ottawa, Bob Kaplan, about it, and while he is not running for the leadership I have no doubt we will see him around now. Or at least

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MR. ROBERTS: he was. I have not
seen today's News, but he will no doubt be around and
we will get a chance to talk to him.

Mr. Speaker, with
those few brief, incisive comments

MR. ROBERTS:

and with the helpful contributions of the gentleman for St. John's North (Mr. Carter), which are always appreciated - you know, he told me the other day, Sir, he has only once made a mistake in his life and that was when he thought he had made a mistake - but with those few brief remarks and his most helpful interjections, Sir, he is the great interjector, he is a baiter, he is a master at baiting, but, Mr. Speaker, with those few brief remarks -

MR. SIMMS: He is a master debater.

MR. ROBERTS: A debater? Well, he may be a debater, he may also be a rebater, he may be a probator, he is certainly not an incubator, he never incubated an idea in his life. But with those few brief remarks and his very helpful interjections, Sir, we on our side -

MR. SIMMS: You seem like you want to stay up a little bit longer.

MR. ROBERTS: Mr. Speaker, my ride is about to leave, I have to go, I am only entitled to half an hour. But my friend from Grand Falls (Mr. Simms), if he could make a speech I would welcome it. With him, Sir, speaking is like Dr. Johnson's dog on its hind legs; the wonder is not that he does it badly but that he does it at all.

MR. SIMMS: I am not surprised you know all about Dr. Johnson's dog (inaudible)

MR. ROBERTS: Mr. Speaker, I know about Dr. Johnson's dog and I know about horses. I see half of a horse everytime I look across the House at the minister.

MR. SPEAKER (Aylward): Order, please!

MR. ROBERTS: Mr. Speaker, with these few brief remarks, Sir, let me say that I understand that we on this side are supporting this bill with a heavy heart. We shall support it, Sir. Thank you.

MR. MARSHALL:

Mr. Speaker.

MR. SPEAKER (Aylward):

The hon. President of the Council.

MR. MARSHALL:

Mr. Speaker, I do not think that we should suffer to have three Liberals in a row speaking in the House, so consequently I would like to have just a few words with respect to this bill, because I think this is a momentous occasion. To all intents and purposes, I think probably for the first time, the hon. Leader of the Opposition (Mr. Neary) agrees with me, because there are many things that the Leader of the Opposition said that were perfectly correct. The hon. gentleman and his seat mate, those two, by the way, happen to be, as I style them from time to time, the rump of the Smallwood administration; they are the two remaining people, the rump roast of the Smallwood administration, sitting there beside each other.

Mr. Speaker, I want to say, seriously, with respect to the Leader of the Opposition, I agree with what the Leader of the Opposition said.

MR. SIMMS:

What?

MR. MARSHALL:

Yes. I could see that the member for the Strait of Belle Isle (Mr. Roberts) trying to cover over what the Leader of the Opposition said by saying that the Welfare of Children Act had gone on for so many years and, after all, what Canada had done was move a little bit toward the welfare of children and there was sort of like a melding of things. But, Mr. Speaker, that does not change the fact as to the method and mode of the way in which the school at Whitbourne is to be carried on in the future, and I concur with what the Leader of the Opposition has said, in many respects with respect to it.

Now, the previous Leader of the Opposition can say what he will, but it is a fact that all throughout our sojourn in Confederation to date, with respect to this matter, the Welfare of Children Act has occurred, has been in vogue. It is also a fact that

MR. MARSHALL: this happens to be within the jurisdiction of the federal government. But it is no more a matter of jurisdiction of the federal government right now than it was in 1949 or it was in the '50s, or in the '60s, or, for that matter, the '70s. Previous governments saw fit to allow this Province to continue on with an act which the Province thought in many respects was superior, the Welfare of Children Act. And I would just point out that they did not see fit in this particular case, no, they were not going to continue on with this, and we see an instance here of the failure of co-operative federalism once again. The federal government

MR. MARSHALL: waves a big stick. For the thirty-five years The Welfare of Children Act was in vogue in this Province, it was deemed to be superior, was superior in many respects, and throughout that time, the federal government could have taken the stance that it has taken at the present time but it did not choose to do so until now. This is an extremely important area. The matter of the liberty of people is infinitely more important than the matter of protection of property, but, for some reason or other, our laws seem to put, in many respects, a higher premium on the matter of protection of property rights than they do on the protection of the person.

But regardless of this, Mr. Speaker, we see once again what has happened, and what has occurred in the relationships of the federal government to the provinces as they occur from the administration of the present government. Even in this very, very critical and sensitive area, where for thirty-five years The Welfare of Children Act was allowed to be in vogue, now it is not allowed to be in vogue any longer and, in particular, the beneficial provisions that would see the treatment of young people in the way in which they had been treated in Whitbourne in years gone by will be no more. But let the record show that it is because of the position taken by the federal government, which has forced this, and let the record also compare, Mr. Speaker, the way in which both Opposition speakers have addressed this subject. On the one hand, the Leader of the Opposition (Mr. Neary) addressed it in a very direct way, the way we felt about the thing, and he spoke his mind with respect to the way in which this was to be implemented. On the other hand, we see the member for the Strait of

MR. MARSHALL: Belle Isle (Mr. Roberts) get up and try to smooth over the position taken by the Leader of the Opposition (Mr. Neary) which was much more correct than that which the member for the Strait of Belle Isle took.

I am not going to say any more, Mr. Speaker, except I would like to record this fact, that it is an indication of the way in which the federal government, this administration, is dealing with this so-called co-operative federalism. And people, if they want to, can ask why we do not have agreements on this and why we do not have agreements on that, but this is an indication once more that it is the federal way or it is no way. Mr. Speaker, it is the federal way with respect to the young offenders or there is no way; it is the federal way on the offshore or there is no way; it is the federal way on the fishery or there is no way.

MR. NEARY: You threw that.

MR. MARSHALL: The hon. gentleman will take up the cudgel in this particular case where he is right, so why will not the hon. gentleman pick up the same cudgel, as he ought to, and he would be equally right on matters of the offshore, instead of coming in and, trying to redeem himself for criticizing Mr. Kaplan, supporting Mr. Chretien and Mr. Trudeau? I realize that the hon. gentleman is looking for a Senate seat, but I say, unfortunately, he may have harmed his chances a little bit today. And we could see the way the hon. the member for the Strait of Belle Isle jumped to the occasion. Because now the leader in

MR. MARSHALL:

the race for the senate seat, Senator Cook's senate seat, as a result of his speech today, is the hon. member for the Strait of Belle Isle (Mr. Roberts), He has now pulled a little bit ahead of the Opposition (Mr. Neary).

MR. OTTENHEIMER:

in the senate seat.

I heard Rompkey had an interest

MR. MARSHALL:

wants it, really. No, I do not think that.

No, I do not think Rompkey

DR. COLLINS:

Is he part of the rumpt, too?

MR. MARSHALL:

might. Anyway they are all in it. Mr. Rompkey is after it -

Well, he might be, he

MR. NEARY:

Mr. Speaker, is this in order?

MR. SPEAKER (Aylward):

discussing Bill No. 11 and I wish to remind the hon. member of the rule of relevancy

Order, please! We are

MR. MARSHALL:

Well, Mr. Speaker, I realize we are speaking of young offenders and not old offenders. I am talking about offenders, and the hon. gentlemen there opposite are old offenders and they are offending against the interests of the people of this Province. The Leader of the Opposition was not on this bill, but I say watch tomorrow and he will try to pull his chestnuts out of the fire by supporting the federal government in another way. The hon. Leader of the Opposition was much more pertinent to the point and it shows, as I say, the reason why co-operative federalism is dead. Here is an act that was beneficial for this Province, was acceptable for thirty-five years, the administration

MR. MARSHALL: would have liked to see it continue but we have seen what has happened.

MR. OTTENHEIMER: Very good speech, boy.

MR. CALLAN: Mr. Speaker.

MR. SPEAKER (Aylward): The hon. member for Bellevue.

MR. CALLAN: Mr. Speaker, I obviously must have a few words to say on this bill especially as it pertains to the Boys' Home at Whitbourne. I have several questions for the minister regarding this bill and the ramifications of it, Mr. Speaker. I think some of the questions that I would have asked have already been asked by the Leader of the Opposition (Mr. Neary). For example, questions like how will this affect the employees? What will be the job total in six months time when the \$500,000 is spent and the necessary renovations are completed? Will there be the same number of jobs there as there are now? These are obvious concerns of mine because, of course, with the closure of the Markland Hospital and then the Come By Chance Hospital, it would be nice, it would be very nice for a change to see something good happening in Whitbourne, the birthplace of the Premier. By the way, this year, as the Minister of Social Services (Mr. Hickey) is probably aware, Whitbourne celebrates its 100th birthday.

SOME HON. MEMBERS: Hear, hear!

MR. CALLAN: So in that connection perhaps some members opposite may have read on the weekend an article by John Gosse about Whitbourne and the Bond estate and so on. John Gosse, by the way, a very fine gentleman, vice-principal of the school in Whitbourne,

MR. CALLAN: ran against Bas Jamieson for the nomination in the last election and unfortunately lost. Well, fortunately for me, because John Gosse would have won the election in Bellevue, handily I am sure, but I thank Bas Jamieson for that if nothing else.

By the way, Mr. Speaker, let me get on . Now the member who just took his seat, the President of the Council (Mr. Marshall) says, you "This bill has ramification for how the school at Whitbourne will be carried on in the future". And I quote him directly, I wrote it down when he said it. Well , of course, what the President of the Council is suggesting, Mr. Speaker, by that statement, I believe, is that things were rosy and things were done beautifully before now, which is not the case, And I am sure that all member in this House, Mr. Speaker, will remember that an unfortunate death occurred , a boy from the Burin Peninsula who escaped from the home for whatever reason , if the reasons that I am given are the right

MR. CALLAN:

reasons that, of course, you know, it should never have happened, and it impacts on what was happening at the Boys' Home anyway if that is the reason why he got out in the first place and the reason why he was not found. Because, as I understand it, there was a rule in place where, if a boy escaped from the home, four hours were allowed to search for him and if you wanted to stay out looking for him after that, there was no overtime for the employees. I am told that by employees. It may not be true, but I am told that by employees.

The other thing, of course, that was wrong - and it is all water under the bridge now, I suppose - but the other thing that was wrong is that we had small boys, small in stature, small for their age, mixed in with big boys, big in stature, who threatened them. And I am sure I do not have to tell anybody in this House that there is probably nothing worse in this world, nothing that you would want to escape from any more in this world than being threatened confined area. It is like the member for St. John's North (Mr. Carter) and myself, for example, being housed in some sort of a room with him threatening me! Here is a big man, about three times as big as I am, physically threatening me, you know, 'If you do not give me those cigarettes,' or 'If you do not let me have that pie during suppertime, you will get it come tomorrow or come tonight after "lights out"', or whatever!

MR. NEARY:

You could give him a Judo chop.

MR. CALLAN:

Anyway, I am told, at least, this was one of the bad aspects of the Boys' Home at Whitbourne, that they were all together. They should have been segregated, perhaps, a lot more than they were.

MR. CALLAN: I do not want to take very much time, Mr. Speaker. There is an inquiry, ongoing into that boy's death which will determine all of the factors and which will, I hope, make for better supervision and more suitable living conditions at the Boys' Home in the future. But, of course, this bill will make that possible anyway and that is what I find good about this bill. Unlike the President of the Council (Mr. Marshall), I do not think that here is an example of Ottawa shoving something down our throats. The way I look at it is that it was unfortunate that we had to have a death, and so on, that led this government finally to say, 'Well, we have to do something.' Thank God the federal government is forcing us to do it by this legislation.

Mr. Speaker, now for my questions.

I understand, for example, that those people are being laid off this Friday and the U.I.C. officers from the federal government will be out next week visiting them and, of course, setting up their U.I.C. claims and so on. When will they be rehired? When is this \$500,000 job due to be finished? When will they be rehired and will there be as many rehired as worked there before? These are the sorts of concerns that I have. We know that the physical living conditions for the boys will be better, obviously, because of this legislation.

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

SOME HON. MEMBERS: Hear, hear!

MR. HICKEY: Mr. Speaker, let me deal with the last couple of points from the last speaker.

First of all, let me say, Mr. Speaker, for record purposes, I want to completely and

MR. HICKEY: absolutely deny that there is even the slightest, the most remote connection between the death of this young boy at Whitbourne and the Young Offenders Act and the legislation that we are putting through the House today. I do not know where the hon. gentleman has been, but in 1978, Mr. Speaker,

MR. HICKEY:

I attended a conference in Cape Breton and opposed this legislation which was being discussed then and in place then, not as a statute, but as a bill, ready to be introduced into the House of Commons. For seven or eight years, Mr. Speaker, this Province has vigorously used every single thing that we could to oppose this legislation, primarily, first and foremost, for the reasons that have been clearly outlined by the hon. gentleman's colleague, the Leader of the Opposition (Mr. Neary), this afternoon, for programme reasons, not money, programme.

And, Mr. Speaker, it is not often that the Leader of the Opposition and I agree, we disagree on a lot of things, but let me say, Mr. Speaker, in moving this bill I did not get into a whole range of the issues very deliberately because I suspected they would have been gotten into by the Leader of the Opposition and some others, and I felt that I would close the debate by setting the record straight insofar as how vigorously this administration and the former administration opposed any suggestion of wiping out the Welfare of Children Act.

Now the member for the Strait of Belle Isle (Mr. Roberts) can say what he likes about some of the good things, and I acknowledge, as I am sure, anyone who reads the Young Offenders Act, the federal statute will acknowledge that there are some good things in it. But, Mr. Speaker, the best way I can describe the action by the federal government is they have used an elephant to kill a mosquito by bringing in a piece of legislation to eradicate once and for all time the prospects of a seven year old or an eight year old, as the member for the Strait said, being classed as a criminal. Surely God they did not have to bring in a piece of legislation to incarcerate young people from the age of twelve to eighteen - in this Province twelve to seventeen this year as of April 2

MR. HICKEY: and effective April 1, 1985 from twelve to eighteen. And that is what they have done. They have wiped out, Mr. Speaker, a programme which, as the Leader of the Opposition (Mr. Neary) pointed out this afternoon has been one of the foremost programmes in all of Canada, second to none.

Now, Mr. Speaker, before it slips my mind, let me deal with the remarks the hon. gentleman made about Whitbourne. It is absolutely incorrect to suggest that there was a policy of four hours to look for a boy who strayed or who walked away from that institution. There was an abysmal abuse of overtime, number one, and if any one of the employees there wishes to be so callous and so unconcerned about doing more damage to the parents of this boy, who unfortunately met a very, very unfortunate tragedy, that is the lowest form of overreacting and passing the buck that I have ever heard in my life. Because, let me say to my employees at Whitbourne, if in the name of paying \$12,000 a month in overtime this administration and my department had to turn a blind eye because we were afraid that the decency, the integrity, and the compassion and commitment demonstrated by a good many of the employees in Whitbourne over the years to go out and look for children who had walked away, have we got to buy compassion? Have we got to pay for concern? Is this what some of those employees are saying? Well, Mr. Speaker, if they are, I say good riddance to them if they do not ever find their way back in the institution to be reopened six or nine months from now, because it does not show very much concern.

The fact of the matter is, Mr. Speaker, this department could not tolerate any longer some of the things that were going on insofar as abuse of overtime. And I am not going to get into the details because it is water under the bridge now. The fact of the matter is

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MR. HICKEY: there were some clamps put
on, but the priviso was there, the provision was there that
any member of the staff who wished to phone the administrator,

MR. HICKEY:

say to the administrator when a boy or boys left that home, "We need more time. We believe there is a chance by staying out we can get them." All they had to do was say so. No request was made. They came back on their own and they reported to their supervisor that the boys had gotten away from them, they had gotten too much of a head start.

Now, Mr. Speaker, I did not the matter of Whitbourne as an issue, the hon. gentleman did. Let me go further for fear that there is going to be any credence given to what the hon. gentleman has said this evening. How many boys were in Whitbourne? He mentioned about the two boys walking away. The budget of the Whitbourne Training School is in excess of \$1 million annually, \$1.3 million I believe, but I stand to be corrected. I may be \$100,000 either way. But well over \$1 million annually, I believe it is \$1.3 million. There were 17 boys in Whitbourne when those two boys walked away from that institution. It has a capacity of 42, Mr. Speaker, and it has a staff of 48 when there were 42 boys. When this tragedy occurred there were 17 boys. How many staff were on the payroll? - 44. 44 staff for 17 boys. Does the hon. gentleman want to tell me there was any lack of supervision? If so, then we had better call into question some of the people who were doing the talking. That will be looked into, I guess by the enquiry - an enquiry brought on not by my department because I felt there was nothing wrong, because all the in-house reports, internal reports which I read of the incident, which I requested and which is normal anyway, did not indicate to me any negligence on the part of anyone. Statement by the people who were out looking for the young

MR. HICKEY: boys indicated they had gotten away from them, as many times before, had gotten up across the lake, onto the railway tracks, got ahead of them, and had probably found a shack, which was quite common for them to do to spend the night.

Mr. Speaker, 44 employees for 17 boys; in other words, when the population dropped from 42 to 17, did we cut the staff? No. We did not fill I believe it was four positions that became vacant; that is the only cutbacks we allowed by not filling them. We did not wipe them out, we just did not fill them. When there was a full capacity at that institution we did not have as many boys walk away from that institution as we had in the last year. So, Mr. Speaker, it is absolute nonsense for anyone to remotely connect that tragic incident with anything we have done much, less this legislation. Someone in the media asked the question if this was the reason for closing the institution. As a matter of fact, CBC are sharpening their picks down on the Burin Peninsula and digging and digging and digging to try to come up with something about the death of this young boy. And I say to CBC, Mr. Speaker, let them dig, and let them go to the blacksmith again and sharpen their picks; they will find nothing other than the competency which has been associated with dealings with young offenders and juveniles by my department's staff for all of those years, credit given this afternoon by the Leader of the Opposition (Mr. Neary) who once was minister. He knows what I am talking about. Young boys and girls and not put in those training institutions, Mr. Speaker, in any frivolous, irresponsible way. It is a last resort even when we put them in there.

MR. HICKEY:

Let me give the House, Mr. Speaker, a few statistics to give even more credibility to what the Leader of the Opposition (Mr. Neary) said this afternoon about the retrogressive move we are witnessing today, the Province being forced to come into the House with this legislation at the eleventh hour. And by the way, Mr. Speaker, before I give those statistics, let me deal with a point raised by the Leader of the Opposition in the form of a question. Why did we wait? We waited because the minister, Mr. Kaplan, through his officials, agreed to a postponement of proclamation to the month of July, which would have allowed us plenty of time. We were coming through this session with this bill. We knew we had lost the battle in opposing this legislation. And the minister, Mr. Speaker, in the presence of my colleague, the Attorney General (Mr. Ottenheimer) and all other ministers both provincial and territorial across the country, told us blatantly, 'She is going through April 2'. The hon. gentleman wanted to know who was in such a rush and who was the architect of this? I will tell him. Mr. Kaplan is the brain wave and the Prime Minister was sold on it. Mr. Kaplan made it crystal clear to us, caught in the squeeze, being put in the hot seat by all of us, myself included, we finally got it out of him what was the rush. The rush was to get this through - of course, he did not tell us all - get this through before the election, this great piece of legislation, this most forward-looking piece of legislation - which is retrogressive for Newfoundland and Labrador. And I said to him, 'You may win the battle, minister, but I will tell you right now, on behalf of the young people in my Province, you will lose the war. If in fact your interest is to protect the rights, which you seem to be parading out in front of us today, of young people and young offenders, you have been sadly misled.

MR. HICKEY: Because you will win your battle, you will railroad it through the House of Commons, as you have done already, and you will proclaim it by railroading it through your Cabinet, but you will lose the war because you will not service properly and adequately our your people in my Province, you will do them a disservice.' What the gentleman did not tell us was that he had an inkling that the Prime Minister would be resigning and retiring and he wanted one more notch on his gun of a piece of social legislation - notwithstanding the fact, though, it was going to be retrogressive and second-rate to the newest Province of Canada. But then again we do not expect them to care too much do we now about what happens in this Province because we are just an outpost. Everything starts and ends in the Prime Minister's mind in Quebec and Ontario - West are just a bunch of troublemakers and East are just a bunch of outposts, a bunch of satellites.

Eight years, Mr. Speaker, I have fought this legislation. In ending the debate let me say to the hon. gentleman who sits across from me, a former minister of the department; I said when I moved the bill, as the record will show and I chose my words very carefully, 'It is with some pleasure, not much, some.' There is a difference, Mr. Speaker, I have never been one to just paint anything totally negative. There are good things in this legislation and there are some good things in the Young Offenders Act, the federal statute, but I can tell Your Honour there is more bad than good, there is more retrogressive than forward.

And if one wanted to deal with the humanitarian side and the social side, let me say to my hon. friend who represents the area close by, it is not a great day for Whitbourne in

MR. HICKEY: celebrating its 100 anniversary, it is a dark day, Mr. Speaker, Because, as opposed to a training school that has turned out boys and put them back on the rails and on the straight and narrow, he will now have on his doorstep an institution similar to - not in size - but similar in programme to Her Majesty's Penitentiary with a chain link fence around it. That is how forward this legislation is. Let us not pull any punches on that. Let us be under no illusions, Mr. Speaker, what is going to happen to however many young people- I do not know- who will be incarcerated, but incarcerated they will be as though they were in Her Majesty's Penitentiary. Whatever way you slice the cake it is a jail, and it can be nothing else - if young boys are locked up with a lock and key, if they are not free to go out around the grounds, What else can you call it - if when they go outside the building there is a chain link fence around with wire around the top of it? That is what I visualize for Whitbourne and that is the sad part of this legislation and this initiative today, foisted upon us by an arrogant government that could not give two hoots. When they get something in their skull it is just railroad it through, give lip service at best to the whole issue.

Back, Mr. Speaker, to the statistics I was going to give. Last year, the year 1983, the Director of Child Welfare, under the programme that the Leader of the Opposition (Mr. Neary) described so accurately this afternoon, took into his care something over 300 young people. How many found their way into the two institutions we got? Fifty, the others were on probation. Only fifty. Even though 300 came into custody of the Director of Child Welfare, the populations both at Pleasantville Boys' and Girls' Home and Whitbourne have been operating at 50 per cent and less throughout

MR. HICKEY: the year. So even those whom we placed in the training school, Mr. Speaker, are there for short periods of time. The hon. gentleman talked about some of the cases and some of the stories that he has witnessed. He touched a cord in me. I know what he is talking about. Mr. Speaker, you have to be in the department to appreciate it fully. Let me very quickly tell him one. On the day that I received a Telex from Mr. Kaplan saying that the battle was finally lost, that proclamation was April 2, I received a letter in the mail - it was very ironic; a long Telex on the one hand to tell me and my colleague, the Attorney General (Mr. Ottenheimer) that in fact, despite our opposition, this law was going to be proclaimed on April 2 - I received a letter, a copy of which I sent to him with a note and I said, 'Reference my statements and comments to you when we met in Montreal approximately' - whatever date - 'a month ago. This letter will confirm everything I have said about how retrogressive your legislation is as regards to incarcerating young people.' And this was a letter, Mr. Speaker, from a lady who had a grandchild placed in the training school, who had been under no control of her parents, ran afoul of the law and, in a last desperate attempt, the girl was placed in the training school for six months. Four months ago the girl was released in the custody of her parents a completely changed individual. She was not in any cage locked up, Mr. Speaker, she was not in a jail, she was not barred in, she was rewarded for her good points and her good behavior and through the

MR. HICKEY: rehabilitative process
of rewards. She prospered, She saw the wrongs of her
way. Back in her home, the little girl she used to be, as
described by her grandmother, by way of thanks to my
staff who had dealt with this girl for a six month
period - I am sorry, a five month period, she was
released a month early. Mr. Speaker, if Mr. Kaplan
wanted some classic example of how creditable our
statements and our position was as stated to him so many times
by my colleague, the Attorney General (Mr. Ottenheimer)
and by myself, he need have done nothing else but read that
letter, a typical letter, a typical case. We heard
from time to time some of the media - not all, some
of the media - say so many boys escaped from
Whitbourne, 'Escaped' Mr. Speaker, except that it
was not funny it would make one laugh. 'Escaped,' as
though they had tunneled a way out underground or
sawed off bars and bent then and gotten out in the
darkness of night. They walked away. They did
something like young boys and girls would do; they decided,
'We are going to go for a stroll, We are tired of this, we
are going to go for a few days.' How many, Mr. Speaker,
since this programme has been in place, back so many
years, have gone from those training schools and have
not been found? I can count them on one hand. A
couple of seventeen year olds, or close to seventeen
year olds, skipped and went to the Mainland.
Mr. Speaker, the fact of the matter is that for the
good that is in the Young Offenders Act and, complementary
that statute, for the good that is in this, let there
be no doubt as to where the government stands. We
are here today not by our own initiative, but being
forced by an insensitive government. Let me very quickly

MR. HICKEY: trace where we have come from and why. The hon. gentleman from the Strait of Belle Isle (Mr. Roberts)-, I was surprised that as a former minister he was not aware of some of this. The Juvenile Delinquents Act applies to the rest of the country and that is dated back to 1908, as he said. The Welfare of Childrens Act is just prior to Confederation, not an old piece of legislation at all, forward in many respects, positive in many respects. The Government of Canada, through Mr. Kaplan and his predecessor, Mr. Speaker, decided that they wanted a universal programme across the country and, all in the name of universality for young offenders, to h-e two sticks with Newfoundland which has a good programme and good legislation, 'We do not care about that. You are going to step in line, you are going to fall in line with the rest of the country, even though it is backwards.' That is why we are here, that is why we had a piece of legislation rammed down our throats. Mr. Speaker, to answer a couple of questions from the member for Bellevue (Mr. Callan), one that I did not get to was: What is to happen to the staff?

MR. HICKEY:

The members of the staff who were laid off have two courses to follow: They can use their seniority and 'bumping' rights into the other institution or institutions, depending on their classification; or they can take time off, choose to take a layoff for six to nine months, and however many we will need - we do not know how many exactly - will go back into the institution when it reopens as a closed custody institution.

The hon. gentleman wanted to know how many institutions we will have. If we were to follow the true spirit of the federal statute, we have identified six in the Province. We have taken a different course than that, Mr. Speaker. The only thing that we managed to wrangle out of Mr. Kaplan when we met with him was an agreement with us that 'If you do not like this in Newfoundland and if you have got a good programme, do not build the institution and then they cannot be filled up.' Well, you know, what an attitude for a minister to take about a law that he had piloted through the House of Commons! However, Mr. Speaker, I put the problem to Mr. Kaplan and I told him that we were not going to build six institutions for even other reasons; because we did not have the money, we did not have \$5 million to spend on capital account to build institutions that we do not believe we need anyway, that we do not support, anyway, the very concept of it. Nevertheless, Mr. Speaker, he was not going to have any part of that; he simply said to me, 'You do not have any money, do not build them and then they cannot fill them up.' "They" - I do not know who he was talking about, I assume he was talking about the judiciary.

MR. HICKEY: Mr. Speaker, the best that can be said is we believe that the judiciary in this Province will in their wisdom see the value in the programme that we have had thus far and will only in the most extreme cases commit young people to incarceration. It is our fervent hope that they will use the alternative programmes which are available, be it work when it is developed, be it probation, be it a training school or whatever and, in that way, maybe, just maybe, the last hope or the last straw is that we might achieve something or make the best of what is a bad deal.

Mr. Speaker, let me conclude by saying let it be placed on the record of this House that this government opposed this

MR. HICKEY:

with all the vigor that we were capable of, that we have tried everything under the sun to convince the federal government, we even went so far as to almost capitulate when we knew they were going to go ahead and said, "Please, will you proclaim it for the rest of the country and give us a stay of execution and give us a couple of years and take a real good look at our programme?" And they even refused that.

Mr. Speaker, my time is up and with some reluctance and some pleasure I move second reading.

SOME HON. MEMBERS:

Hear, hear!

On motion, a bill, "An Act Respecting The Commission Of Offences Against The Laws Of The Province By Young Persons", read a second time, ordered referred to a Committee of the Whole House on tomorrow. (Bill No. 11)

MR. SPEAKER (Russell):

The hon. the President of the Council.

MR. MARSHALL:

Mr. Speaker, before moving the adjournment of the debate I would like to advise the House that at 7:30 this evening the Social Services Committee will conclude its examination of the estimates of the Department of Education and begin its examination of the Department of Health estimates; at 9:30 tomorrow morning the Social Services Committee will meet again to continue its examination of the estimates of the Department of Health; at 7:30 tomorrow evening the Government Services Committee will examine the estimates of the Department of Finance.

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.

April 3, 1984

Tape No. 651

NM - 2

On motion, the House at
its rising adjourned until tomorrow, Wednesday, April 4, 1984
at 3:00 P.M.