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(Hansard)

Speaker: Honourable Patrick McNicholas

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The House met at 3:00 p.m.

MR. SPEAKER (McNicholas):
Order, please!

Before calling Statements by Ministers I want to refer to two matters brought up yesterday with respect to the point of privilege raised yesterday by the hon. Leader of the Opposition (Mr. Barry). I must rule there is no prima facie case. The hon. the Leader of the Opposition has raised a matter that, in essence, calls for an interpretation of certain provisions of the Financial Administration Act. In this connection, I would like to refer hon. members to Beauchesne, Fifth Edition, paragraph 117, page 38 which states, "The Speaker will not give a decision upon a constitutional question nor decide a question of law, though the same may be raised on a point of order or privilege." There are established mechanisms for dealing with issues such as those raised by the hon. member, and they are through the office of the Auditor General and the Public Accounts Committee of this House.

With respect to the point of order raised by the hon. the Government House Leader (Mr. Marshall) concerning a question put by the member for Bonavista North (Mr. Lush) to the Minister of Finance (Dr. Collins), there is no point of order. I refer hon. members to Beauchesne, paragraph 357 which states in part, "A question oral or written must not: seek information about matters which are in their nature secret, such as...decisions or proceeding of Cabinet...advice given to the Crown by law officers, etc." I have checked Hansard and determined that the member asked whether the Minister of Finance

had sought legal advice. In my opinion, it is in order to pose that question. It would not be in order, however, to ask what the nature of that advice was, and I realize the hon. member for Bonavista North did not ask that question.

MR. KELLAND:
A point of privilege, Mr. Speaker.

MR. SPEAKER:
A point of privilege, the hon. the member for Naskaupi.

MR. KELLAND:
Thank you, Mr. Speaker. I would like to, in my point of privilege, make reference to the sitting of March 25, which went on through the evening and into the following morning, and specifically to one particular incident. For reference sake, it is contained between L457 and R459 of Hansard of that date. If I can describe the occurrences as I recall them, Mr. Speaker and members of the House, it was during an exchange while one of my hon. colleagues was on his feet speaking, and involved the Minister of Public Works.

In the exchange, or interchange and outbursts, the minister very hurriedly left the Chamber and made what I classify as a improper or indecent gesture, in that he patted his posterior, I guess we could describe it that way, and left the Chamber. It was quite a heated moment and there were some points of order raised at the time.

A minute of two later, the minister re-entered the Chamber, or partially re-entered the Chamber through this center door, and was involved in conversation and comments across the House. Without recognizing the Chair, he

entered the Chamber and continued with his tirade.

Now, my point of privilege is simply this, Mr. Speaker: In the year I have been here I have heard quite a few comments off mike and so on, some of them quite unprintable, I suppose, and sometimes Hansard does not print them. Nevertheless, they can be kind of upsetting. I live with the fact that there is a certain amount of heckling and across-the-floor chatter and so on, but the gesture itself is what I believe to be a breach of my privileges as a member of the House and a breach of the privileges of every member of the House, in that it was an indecent, an improper gesture, certainly unbecoming to a member of the House of Assembly and certainly to a minister of the Crown. I think, since that was done without any sort of reprimand or admonishment by the House, by the Chair, that in effect the minister got off scot-free in making this particular gesture, it is unseemly. It was noticeable enough to be carried in the media all across our Province and raised considerable comment around our Province as to the decorum in this House.

I believe that in the House accepting that, not correcting that, or not reprimanding that, we have indeed breached my privileges as a member of the House. It is an insult to the Chair, an insult to the House and an insult to every member of the House, both sides. I believe, Mr. Speaker, if you would look at it in the sense of a direct insult, an improper gesture, an indecent gesture which should not be permitted under any circumstances in the House, that you would rule in favour of a

prime facie case that my privileges as a member of the House have been breached, as have the privileges of all other members of the House.

It seems to me, in the current definition of condoning of improper or illegal acts, which we have heard quite a bit about in another context of recent times, that any member of the House, whether he is government or Opposition, who feels that this was not improper would, in fact, be condoning such an act. Now, I ask Your Honour to rule on this as a breach of our privileges and my privilege.

MR. MARSHALL:
Mr. Speaker.

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

MR. MARSHALL:
I do not know why the hon. member had to take up that much of the time of the House. If the hon. member consults the provisions of those pages in Hansard, he will see that the hon. the Minister of Public Works withdrew and that it was accepted by the House at the particular time.

I also draw Your Honour's attention to page 25, paragraph 82 of Beauchesne: "A question of privilege must be brought to the attention of the House at the first possible opportunity. Even a gap of a few days may invalidate the claim for precedence in the House."

Privileges of that nature have to be brought up immediately, otherwise, Mr. Speaker, all we are going to be doing is debating alleged incidences recorded in

Hansard going back two days, two weeks, two years or what have you. Consummately, it is ridiculous for the hon. member to bring it up at this particular time. In any event, the matter was disposed of in the House, if he had read a few lines further than he obviously did.

MR. KELLAND:

There is another piece of information.

MR. SPEAKER:

I have heard more than enough on that point of privilege, because we were all here and heard the whole matter.

MR. TULK:

Is that so?

MR. KELLAND:

No, it is not.

MR. SPEAKER:

I want you to listen carefully. If I recall correctly, and I will check it in Hansard, I asked the hon. member to withdraw what he had said at the particular time and he did come in and do so.

MR. BARRY:

What he had said, yes.

MR. TULK:

What he said, but not what he did.

MR. SPEAKER:

Well, I did not see him doing anything. There is no prima facie case of breach of privilege.

MR. KELLAND:

A point of order, Mr. Speaker.

MR. SPEAKER:

A point of order, the hon. the member for Naskaupi.

MR. KELLAND:

My point of order is very brief, Your Honour. On page R458 of Hansard, March 25, the hon. the Minister of Public Works and Services said, "Mr. Speaker, I withdraw what I said. Unfortunately, I was provoked by the hon. the Leader of the Opposition. I withdraw those remarks." Now unless he is starting to speak through the other end of his anatomy, he certainly did not withdraw his gesture.

MR. SPEAKER:

There is no point of order.

MR. MARSHALL:

I rise on a point of privilege, Mr. Speaker.

MR. SPEAKER:

I ruled that there is no point of order.

MR. MARSHALL:

I rise on a separate point of privilege arising out of the conduct that just flowed from Your Honour's ruling.

MR. SPEAKER:

The hon. the President of the Council on a point of privilege.

MR. MARSHALL:

The Leader of the Opposition (Mr. Barry) was interrupting from his seat while Your Honour was making a ruling, and when Your Honour had made his ruling, the member for Naskaupi (Mr. Kelland) got up on a point of order. Now the point of privilege I am making, Your Honour, is this: There has to be some final authority in this House with respect to the proceedings of the House, and if Your Honour, when Your Honour makes a ruling, is going to be greeted every time with the Leader of the Opposition or any other member disputing a

ruling that Your Honour has made, or interfering, or shouting at Your Honour, which is in effect what happened, all we are going to get in this House is chaos. Now I think it is incumbent upon members of this House to observe the authority and the integrity of Your Honour as Speaker. It is not Your Honour as member for St. John's Centre, it is Your Honour as Speaker in this particular House, and if that cannot be adhered to, Mr. Speaker, we cannot have an efficient and effective way of dealing with the affairs of this Province, as the people of this Province are entitled to see their House of Assembly deal with them and conduct its affairs accordingly.

MR. BARRY:
Mr. Speaker.

MR. SPEAKER:
To that point of privilege, the hon. the Leader of the Opposition.

MR. BARRY:
Mr. Speaker, to that matter of privilege. For the second day in a row now we have, as the Government House Leader (Mr. Marshall) has stated, expressed concern about the fact that there has been a departure from the former approaches taken by Your Honour, from the traditions of this House, in permitting members to have the opportunity to fully explain. Your Honour is only human and we understand that there are matters which can be raised of which Your Honour may not have a full understanding, either because a member has not had the opportunity or has not fully elucidated on the facts. If a member raises, as the member for Naskaupi (Mr. Kelland) just did, a point of order or a matter of privilege and there is an

interpretation placed upon that by the Government House Leader or a member opposite, normally the practice has been, albeit only for a brief moment, to permit the member to clarify any distortion that has been placed on the words he uttered by the other side. This is an attempt to have Your Honour fully comprehend what a member is getting at.

Now, for two days in a row -

MR. SPEAKER:
Order, please!

The hon. member is speaking away from the point altogether.

MR. BARRY:
Okay, I will speak to this.

MR. SPEAKER:
The hon. member seems to be lecturing me at the moment and I will not accept that.

SOME HON. MEMBERS:
Hear, hear!

MR. BARRY:
Well, Your Honour, maybe that is part of the problem. Maybe that is part of the problem, that Your Honour considers it to be a lecturing of Your Honour when members stand up in this House and attempt to point out that there are practices and there are procedures which are designed to protect the rights of all members of this House, including members on this side.

Now, we saw the Premier get up yesterday and say, "Oh, your problem is that you think you form the government." Now, Mr. Speaker, that shows the error in the Premier's logic. Even the government is governed by the laws of the Province and the rules of

this House, and government is not able to run roughshod over the rules of this House or the laws of the Province. And when a member stands in this House to express a matter of privilege, that member is entitled to have the opportunity to fully explain what the point is that he or she is trying to get Your Honour's attention for. It is the same problem that arose yesterday -

MR. TULK:
Twice.

MR. BARRY:
Twice - when the member for Fogo attempted to get up on a separate point of privilege and where Your Honour assumed it was the same point because the member had not had an opportunity to give a full explanation of what he was trying to do. Now, we do not want to challenge Your Honour.

MR. SPEAKER:
Order, please!

It appears to me that the hon. member is lecturing the Chair and, if he continues in that theme, I will name him.

The hon. the Leader of the Opposition.

MR. BARRY:
If I could finish my brief remarks. Your Honour, we can understand and appreciate the pressures that Your Honour is placed under, particularly when Your Honour comes through with a ruling as we saw on Budget day, which Your Honour had no choice but to do, we submit, under the rules. We can understand where the pressure is coming from, when we saw the Premier and the Government House Leader threaten Your Honour on that occasion.

PREMIER PECKFORD:
What are you talking about, 'Leo'? Sit down.

MR. BARRY:
This is what I am talking about: I am talking about the pressures that are being placed on the Chair for being forced to make rulings which protect the rights and privileges of the Opposition. The Premier and the Government House Leader did not like the ruling made on Budget Day and they made that quite clear to the Chair.

Mr. Speaker, we will not accept -

MR. SPEAKER:
Order, please!

I have listened at length to the hon. member. I just want him to reply to the point of privilege, if he can make a point against the one raised by the hon. the President of the Council. What he is doing is making a speech, trying to lecture and that is not acceptable. If he has anything more to say I will listen, but very briefly.

MR. BARRY:
Mr. Speaker, the Government House Leader has risen and has expressed concern about the fact that we are pointing out that Your Honour is cutting off members on this side of the House before they are given an opportunity to fully explain their points of privilege or their points of order. That is the matter the Government House Leader has deigned to raise for Your Honour's consideration.

I am pointing out to members in this House why we are doing this. We are protecting the rights and the privileges of all members of this House, including the rights and privileges of the Opposition.

We are entitled, Mr. Speaker, -

PREMIER PECKFORD:

Go back to law, 'Leo', boy.

MR. BARRY:

I am entitled to be heard in silence, as well, Your Honour. I notice that not too often is there intervention to keep members, including the Premier, quiet when we are standing here on this side of the House attempting to make a point.

SOME HON. MEMBERS:

Oh!

MR. SPEAKER (McNicholas):

Order, please!

MR. BARRY:

We are entitled, Mr. Speaker, to ensure that members on this side, indeed all members, are given a reasonable opportunity, not at undue length, to express concerns if they feel that privileges have been breached or the rules of this House have not been followed. Now, that is what we are trying to do. We take the position that Your Honour has been cutting off members on this side of the House for the last two days. It is with regret that I say that, but I have to say it and I have to stand by it.

PREMIER PECKFORD:

Mr. Speaker.

MR. SPEAKER:

The hon. the Premier.

PREMIER PECKFORD:

Thirty seconds, Mr. Speaker. The Leader of the Opposition (Mr. Barry) did not deal with the point of privilege that is presently before us. The point of privilege is simply this: When a point of privilege has been dealt with by

the Chair, Your Honour, and, during the adjudication of that point of privilege, the Leader of the Opposition tries, from his seat, to lecture Your Honour, and, secondly, after the point of privilege has been adjudicated there is a point of order on the point of privilege already adjudicated, then this House is getting out of order, and I refer Your Honour and hon. members of this House to 'The Speaker as Presiding Officer of the House of Commons, page 38 of Beauchesne, Section 117.

MR. KELLAND:

Mr. Speaker.

MR. SPEAKER:

The hon. the member for Naskaupi.

MR. KELLAND:

Thank you, Mr. Speaker.

I would like to make it very clear that I totally agree with the points raised by the Government House Leader (Mr. Marshall), in that all due respect is afforded the Chair. I do make an effort as a member of the House of Assembly to honour the authority that you have, Your Honour, and in no way do I wish to question any of Your Honour's rulings.

However, I would simply like to, if I may, and if it is in order, Mr. Speaker, refer you again to L456 and R459 of Hansard with respect to the phrase I raised in my point of order, as it referred to entry through the centre door and not the departure of the minister, and would you take it under advisement and perhaps, if you have a chance, read through the total context and give us a ruling on that?

MR. MARSHALL:

Mr. Speaker.

MR. SPEAKER:

The hon. the President of the Council.

MR. MARSHALL:

I would like to reiterate: The two points I was making were, number one, when Your Honour was giving a ruling, it was quite clear that the hon. the Leader of the Opposition was interjecting, was, in effect, shouting at Your Honour. The member for Menihek got up a second time on the point of privilege.

Now, I will quote Page 38 of Beauchesne: "The chief characteristics attached to the office of Speaker in the House of Commons are authority and impartiality...Reflections upon the character or actions of the Speaker may be punished as breaches of privilege. His actions cannot be criticized incidentally in debate or upon any form of proceeding except by way of substantive motion." It goes on to say in paragraph (2): "The Presiding Officer, though entitled on all occasions to be treated with the greatest attention and respect by the individual Members, because the power, dignity, and honour... are officially embodied in his person, is yet but the servant of the House. He is selected and appointed..."

Mr. Speaker, I ask you whether Your Honour is being treated with the normal type of respect one would expect for a presiding officer of the people's House of this Province if, when Your Honour is on his feet making a ruling, the hon. the Leader of the Opposition is shouting, in effect at Your Honour, and, having made the ruling, the hon. member for

Naskaupi gets up on two separate occasions on the ruling that Your Honour has made and invites Your Honour to address Your Honour's ruling?

Now, I realize the hon. the member for Naskaupi is not as conversant with the rules of this House as perhaps some of the other members who have been here a longer period of time, but the fact of the matter is, one raises a point of order or a point of privilege and Your Honour deals with it. You know, it will be just utter chaos in the House if it is going to be debated from time to time. But the Leader of the Opposition, Mr. Speaker, was quite clearly, when you were making your ruling, shouting at Your Honour, giving the appearance that Your Honour was acting impartially. Even when he was making the long point of privilege which he made, he made the observation that Your Honour was adjudicating one side of the House differently than the other.

My point is, Mr. Speaker, that this House cannot continue in any kind of an effective, meaningful manner, the way the House is supposed to deal with the public affairs of this Province, if hon. members on either side of the House conduct themselves in that way.

MR. TULK:

Mr. Speaker.

MR. SPEAKER:

The hon. member for Fogo.

MR. TULK:

What the Government House Leader says about section 113 - I think it is 113 - of Beauchesne is absolutely correct, of course. If Your Honour is to be challenged, he has to be challenged by way of

a substantive motion.

MR. BARRY:

The Premier is observing the rules of the House!

MR. TULK:

The Premier is observing the rules of the House as usual, Mr. Speaker. If that point is reached in this House, the House will decide whether that motion is in order or not. What the Leader of the Opposition is attempting to do is point out in a most reasonable fashion that - and he was not lecturing Your Honour. You cannot do that in this House - indeed the member for Naskaupi was talking about a matter other than what was apologized for in this House, which the Minister of Public Works committed, and believing that Your Honour did not see the relationship between the two, or did not see the difference between the two, rose on a point of order.

Now, Your Honour, if this House is to proceed, then there has to be some lenience for the misunderstanding of us all as human beings, and we do misunderstand certain things. We recognize the desire of the Government House Leader to muzzle this place. We believe the desire to muzzle this place is coming not from Your Honour but from the Government House Leader. He is famous for it. Mr. Speaker, we would ask you to take a look at Hansard, knowing full well that Your Honour was referring to a statement that was made by the minister from the doorway. If Your Honour feels he can do that, fine. If he feels he cannot, then he cannot.

PREMIER PECKFORD:

He has already adjudicated that.

MR. BARRY:

On the wrong thing, 'Brian'. He adjudicated on the wrong thing.

MR. SPEAKER:

Order, please!

To the point of privilege raised by the hon. the President of the Council. It has generated quite a lot of heat, as did the one before that, so I think the best way for me to deal with the matter is to give it some consideration and rule on it at a later date.

MR. TULK:

Mr. Speaker, on a further point of privilege, another point of privilege, no relation at all.

MR. SPEAKER:

A point of privilege, the hon. member for Fogo.

MR. TULK:

To put the government at ease and to put everybody at ease, another point of privilege. Mr. Speaker, one of the privileges of this House is that members of this House are able to carry out their duties, and that is the whole point of privilege anyway. The Government House Leader (Mr. Marshall), I have to inform Your Honour, has not informed the Opposition of the agenda of the House for this session. We know we are on Interim Supply and I want to make the point to Your Honour that even though the Government House Leader may wish to see the type of mismanagement that went on in this House this Winter, may wish to see the Opposition blamed for something for which it is not -

MR. SPEAKER:

Order, please!

Unless the hon. member has a point

of privilege or is trying to make one, he is certainly dealing, as I see it, with the agenda that we have here before us.

MR. TULK:

Mr. Speaker, I want to refer Your Honour to page 11 of Beauchesne. "Privileges are enjoyed by individual Members, because the House cannot perform its functions without unimpeded use of the services of its members." I have to say to Your Honour that if we were to pass Interim Supply in the next minute, the Opposition has not been made aware by the Government House Leader what is going to happen in this House next

MR. BARRY:

And he refuses to do it.

MR. TULK:

And he refuses to do it. I say to Your Honour, that in that circumstance our ability to function as members is being impeded by the Government House Leader.

MR. SPEAKER:

The hon. the Minister of Intergovernmental Affairs.

MR. OTTENHEIMER:

Mr. Speaker, the hon. gentleman rises on a point of privilege saying he does not know, or the Opposition does not know, and their privileges are impeded because they do not know what the agenda is and, if Interim Supply were passed right now, they would not know what the agenda was. I suggest hon. gentlemen look at the Order Paper. On the Order Paper they can see Order No. 1, which is the Address In Reply. That is the Speech from the Throne given some time ago. I presume the hon. member for Fogo (Mr. Tulk) would be prepared, if he would shut his

mouth now, to open it at the time, if that particular order were called. Order No. 2 is Committee of Supply, which is Interim Supply, which we are debating, and Order No. 3 is second reading of a bill. There are three particular orders which the hon. gentleman would have, and then, with respect to the motions on the next page, five of them deal with the budget, they are all budgetary matters.

It is quite obvious what the agenda is. The agenda: What has been printed by order of the Speaker, by order of the House of Assembly as the Orders of the Day and distributed to all hon. members. There is the agenda. There is absolutely no point of privilege at all.

MR. SPEAKER (McNicholas):

Order, please!

I must rule that there is no prima facie case of breach of privilege, the agenda is here.

Statements by Ministers

MR. SPEAKER:

The hon. the Minister of Justice.

SOME HON. MEMBERS:

Hear, hear!

MS VERGE:

Mr. Speaker, I am pleased to inform the House of Assembly that Gladys Courage has been appointed Executive Director of the Provincial Human Rights Commission. Ms Courage was appointed by the Cabinet on the recommendation of the Public Service Commission, following public advertising for the position.

Ms Courage is highly qualified to be the chief administrator of the Human Rights Commission. She has been employed by the Commission since March of 1982 and held the position of Human Rights Officer until her appointment as Executive Director. She served as acting director for four months during 1984.

From the end of 1984 until now, Herbert Buckingham, a solicitor with the Department of Justice, was the Commission Executive Director on a part-time basis.

The engaging of a full-time Executive Director is an important part of efforts of this government and the Commission to have the Commission become more active and more effective.

This government's commitment to improving the Human Rights Commission is demonstrated in the new budget, which includes a substantial increase in funding for the Commission. \$179,400 is provided in the Estimates for the new budget year, versus \$67,800 which was spent last year.

The increased funding was requested by the Commission primarily to have a full-time Executive Director and to add an education officer position, thereby increasing the staff complement from 2.5 to 4. The Commission intends to conduct a vigorous education programme for adults and children so that people throughout our Province can be better informed about human rights protections.

Gillian Butler is the Chairperson of the Commission and the other members are Anne Hart, Robert Joergensen, Irene McGinn, John Moore, Hubert O'Reilly and Yvonne

Power.

MR. SPEAKER:

The hon. the Leader of the Opposition.

SOME HON. MEMBERS:

Hear, hear!

MR. BARRY:

Mr. Speaker, I would like to thank the minister for giving me a copy of the statement beforehand. We are pleased to see the appointment of Ms Courage as Executive Director of the Provincial Human Rights Commission. We hope we will now see, Mr. Speaker, a commission with some teeth. We do not think that in the past we - from lack of resources, I suspect, to a great extent - have seen the Commission really dig in and help deal with - I will not say regular, but occasional - breaches of human rights that occur in this Province.

I would say, Mr. Speaker, we still have concerns with respect to the fact that the Chairperson is a person with a very close connection to a Minister of the Crown, a member of Cabinet, and we have to ask the minister whether the Commission can be the watchdog of government that it is supposed to be, which is one of its roles, when the Chairperson of the Commission is associated in a law practice with a Minister of the Crown.

Secondly, Mr. Speaker, we would ask the minister to have the Commission look at the operations of government itself, particularly what has now become a systematic and regular appointment of temporary employees throughout the public service. Under the guise of having a hiring freeze, what we have in effect seen is government

hiring just as many or more but on a temporary basis, often without going through the Public Service Commission, where you have employees who have very little in the way of security of tenure and are put at the whim of their employer, namely, the government. So we would ask the minister to keep this in mind and perhaps have the Commission take a look at whether the rights of these employees are being protected.

Finally, of course, we have the rights of those 123 individuals who were arrested during the recent labour dispute, and whether they are being treated with equality before the law, when there were some 4,000 - plus other individuals who were performing the same conduct but who were not called to answer for that conduct before the courts of the land. So government has to clean up its own shop and government has to ensure that the Commission is an active, aggressive Commission in the protection of human rights in this Province.

Oral Questions

MR. BARRY:
Mr. Speaker.

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

MR. BARRY:
I would like to ask the Premier if he could tell us whether he has a full grasp on the situation with respect to the ERCO plant at Long Harbour? We recently heard a senior member of management of that company express concern and create certain anxiety amongst members of the Newfoundland

community with respect to the viability of that project. Could the Premier give us an update as to what the current situation is?

MR. SPEAKER:
The hon. the Premier.

PREMIER PECKFORD:
Mr. Speaker, I would be very happy to respond to the Leader of the Opposition's question as it relates to ERCO. Government has met with the management and with company officials at ERCO over the last number of weeks. ERCO finds itself in a very competitive position in the world marketplace at the present time. There are a number of other producers who have come on the scene over the last number of years and they are competing very effectively with the product from Long Harbour.

For example, there is at the present moment some product from mainland China going into the marketplace at a very low price, primarily because that country needs foreign currency, and from producers in other parts of the world as well. ERCO has initiated an internal study of their own operations at Long Harbour to see how they can make their operations more efficient to get their price at a level which will be competitive so that they will still be able to sell large quantities of product from the Long Harbour operation. They have also spoken to government to see whether there was anything government could do to assist, especially after they have completed their study internally. That study was a two week to a month study which should be completed now in the next week or so.

The various ministers in the

government who have some jurisdiction in one field or another of this matter are now sitting down with the company, reviewing their operations, and will be reviewing, as soon as possible, when they get their hands on it, the study by ERCO on the situation there. It is not a question, I do not think, of a close-down or anything of that sort, but it is a question of refining their operations to make them more competitive given that they find themselves in a more competitive market now than they did a few years ago.

MR. BARRY:

A supplementary, Mr. Speaker.

MR. SPEAKER:

A supplementary, the hon. the Leader of the Opposition.

MR. BARRY:

Would the Premier indicate whether he has any information on the following two points? I understand that there has been some new technological approach by the parent company, Albrite and Wilson, which sees it requiring less use of phosphorus in its operations. I wonder if the Premier could inform us on that. And secondly, I also understand that the fact that we had a bridge lost on the rail system here in the Province meant that shipments could not get out from the Long Harbour plant for a period of time, and that the company, in fact, found that it was able to buy phosphorus more cheaply from its competitors for its operations than it was costing to produce it at Long Harbour. Does the Premier have any information on these two points?

PREMIER PECKFORD:

Mr. Speaker.

MR. SPEAKER:

The hon. the Premier.

PREMIER PECKFORD:

I am aware of those two points. Those are not the two salient points relative to the ongoing operations of ERCO and to keeping it competitive. I am aware of those two incidents or those two points. But those are not the salient matters now that are relevant to the company's ongoing operations at Long Harbour. There were some problems, as the Leader of the Opposition mentions, which were taken care of. I think Tenneco are their parent company now, not Albrite and Wilson.

MR. BARRY:

I am referring to Albrite and Wilson's the use of phosphorus. Tenneco is just a holding company.

PREMIER PECKFORD:

Yes, but that is not a real problem with Long Harbour as it relates to what Albrite and Wilson are doing. The overall problem is the question of the product being able to be sold at a price which is competitive world wide in the various markets that Long Harbour has been serving over the years. That is the problem that they have, and that is the problem that they are trying to solve now to rationalize their operations, to do studies on them, to see if there are more efficient ways that they can produce Long Harbour, these things of things, and that is the study they have ongoing within their own operations. We are now in negotiations and talks with them to see what it is they want to do and how they are going to make their operations more efficient. Those talks will be ongoing for the next several weeks, I would anticipate.

MR. BARRY:

A final supplementary, Mr. Speaker.

MR. SPEAKER:

A final supplementary, the hon. the Leader of the Opposition.

MR. BARRY:

Mr. Speaker, this information, I must say, came as a surprise to me because the last I heard about the plant was that it was operating well and that, in fact, it was generating a profit for Albrite and Wilson, and for Tenneco, the holding company. I am wondering, Mr. Speaker, to what extent there has been adequate consultation between government and the management of this company, and indeed whether government has sufficient ongoing consultation with industry generally in the Province, if this sort of information pops out of the blue.

PREMIER PECKFORD:

We knew about it.

MR. BARRY:

Well, then maybe the Premier would indicate how long has he known that there was a problem at Long Harbour and why did he not inform the House before?

PREMIER PECKFORD:

Mr. Speaker.

MR. SPEAKER:

The hon. the Premier.

PREMIER PECKFORD:

Well, Mr. Speaker, about every quarter, as Premier I meet personally with just about every industry in the Province, and the various ministers and the officials in the departments are meeting on an ongoing basis. As a matter of fact, when it comes to Long Harbour and that company, the relationship between government

and that company is absolutely excellent. They have been very forthcoming with their information. They let us know on a very, very timely basis, three or four or five or six months ago they indicated that they were changing some of their managerial personnel there, there is a new manager out there now, and a new person next to him. They had indicated back some time ago that the marketplace was getting extremely competitive.

So it has been an ongoing kind of relationship not only with Long Harbour but with all the industries in the Province. So we have no problem. If the Leader of the Opposition would like to call the management or the owners of the two paper mills in Grand Falls and in Stephenville, I am sure he will get the information as it relates to our relationship with that large corporate citizen; or if he wants to call Cleveland as it relates to Labrador City or to the people in Wabush or Kruger in Montreal, or any of the other industries that we are involved in. We have a very, very fruitful and ongoing relationship with all of them on a quarterly basis. We were aware that the marketplace was tightening up as it relates to the product out of Long Harbour, and that the company were looking very seriously at the situation which led to them initiating their own study on the operations to see ways in which it could be streamlined to ensure that the product remained competitive.

MR. SPEAKER:

The hon. the member for Port de Grave.

MR. EFFORD:

Mr. Speaker, my question is to the hon. Minister of Finance (Dr. J.

Collins). In his recent 'good news' budget, I wonder if the hon. Minister of Finance would be able to tell this House what effect the 50 per cent increase in taxes on building supplies is going to have on jobs and the creation of jobs in this Province this year?

MR. SPEAKER:

The hon. the Minister of Finance.

DR. J. COLLINS:

Mr. Speaker, the jobs that will be available in the construction industry arise from a multitude of factors. They do not only arise from the tax on building materials, they do not only arise on income tax or any other form of tax, they arise from demand, they arise from the availability of mortgage money, they arise from the confidence of people in the economy, and any number of things. I am sure that no one will look upon an increase of building material tax as a positive thing in terms of the activity in the construction industry, and government has never claimed it would. Government has claimed that it needs this revenue to carry out other needed programmes of government that people require and people have every right to expect. But we have determined in our own minds that there are many positives on the go for the construction industry this coming year, that we had given that rebate in tax from 12 per cent down to 8 per cent only for a temporary period anyway when the economy was in deep trouble and the construction industry particularly was having difficulties, and we now assess that now is the time, given our needs for revenues, to return it to the level of taxation that applies to most consumer goods.

MR. EFFORD:

A supplementary, Mr. Speaker.

MR. SPEAKER:

A supplementary, the hon. the member for Port de Grave.

MR. EFFORD:

The answer that the hon. the Minister of Finance just gave is not a very encouraging one to the people of this Province. I think he should take a look at the psychological effect alone that the increase of 50 per cent on the tax is certainly going to cause decrease in jobs, and the number of housing starts is already down this year.

Mr. Speaker, I would ask the Minister of Finance if he would really take seriously his job in promoting and encouraging the people of this Province to spend money in the construction field and take a serious look at decreasing the sales tax from 12 per cent to 8 per cent and then down to 6 per cent, and realize that it would probably encourage people to spend money instead of discouraging people from spending money.

MR. SPEAKER:

The hon. the Minister of Finance.

DR. COLLINS:

Mr. Speaker, the government, in its recent budget, presented any number of ways in which we are encouraging job creation, and specifically in the construction industry. We have a very large roads programme, we have quite a large building construction programme, and we have many other programmes to help out there. On the other hand, we do have to weigh what is desirable with our means, and we do have to collect taxes. We felt that it was not

inequitable at this time to increase the tax, remembering that we dropped it by 4 per cent a couple of years ago when interest rates were high and when the economy needed that extra stimulus, particularly that part of the economy.

We have other needs now that have to be funded and we did not feel that this was an inequitable thing to do at this time considering the stimulus that already present in other directions for the construction industry.

MR. EFFORD:

A supplementary, Mr. Speaker.

MR. SPEAKER:

A final supplementary.

MR. EFFORD:

Mr. Speaker, I would like to ask the Minister of Finance if he agrees with the Construction Association saying that the increase in sales tax will lose 200 jobs this year in the construction industry and, at the same time, it will raise the cost of an average house to the home builder in this Province by \$1700 and that not only is it going to have a detrimental effect on the number of jobs in the construction industry, says the Construction Association, but also in the private sector?

MR. SPEAKER:

The hon. the Minister of Finance.

DR. COLLINS:

Mr. Speaker, that is one side of the argument. If I were the Construction Industry Association I would be making that argument myself. But that is only one side of the argument. The other side of the argument is that the construction industry is getting a

big boost in other directions, that the economy is going to increase quite significantly this year in other directions. So there are two parts to it. As I said, the other part of the argument is that this government and the people of this Province need funding for services, whether they be in Education or Health or Justice or Consumer Affairs or whatever and we do have to lay on taxes, we do it in the most equitable way we can, knowing that no one likes taxes and that taxes are relatively high in this Province in any case.

MR. W. CARTER:

Mr. Speaker.

MR. SPEAKER:

The hon. the member for Twillingate.

MR. W. CARTER:

Mr. Speaker, my question is to the Minister of Fisheries and it concerns statements coming out of the Department of Fisheries and Oceans in recent days in which the wisdom of the minister's middle distance fishing proposal has been questioned, in fact put in doubt. The doubts, Mr. Speaker, obviously resulted from an experiment undertaken by the department wherein the results were not too encouraging.

MR. SPEAKER:

The hon. member is expanding the question.

MR. W. CARTER:

Mr. Speaker, I am trying to explain, Sir, the basis for my question. The fact, Mr. Speaker, is that the Department of Fisheries and Oceans have seen fit to criticize the minister's plan, have pointed out some of the problems - the fact that the

operation is not economically viable, that the quality of the product, Mr. Speaker, was not up to par. The question, Mr. Speaker, is has the minister taken this into account? Since that these criticisms came from the government that is going to have to issue the licences, is he now confident that licences to operate the mid-distance vessels will be forthcoming as planned?

MR. SPEAKER:

The hon. the Minister of Fisheries.

MR. RIDEOUT:

Mr. Speaker, let me first of all say to the hon. gentleman that it is not correct to say that the federal Department of Fisheries has criticized our policy decision to move further into the development of the experiment of middle distance fishing in this Province. If the hon. gentleman wants to quote certain officials of the federal Department of Fisheries and quote their documents, then he should quote them in their entirety. Because what the document that the hon. gentleman is talking about says is that based on one experiment by the operation of the Keltic for about a year, there were certain recommendations made and certain observations made of the middle distance concept. Also, the document goes ahead to point out, for example, the price paid for bait by the Keltic was 51.25 cents per pound, whereas the price paid for bait from the Newfoundland Bait Service by the Glen Clova was 16 cents per pound, a major difference if you are going to access economics and economic viability.

The report goes on to state, Mr. Speaker, that the captain of the Keltic was a very difficult

gentleman to make any progress with in terms of producing top quality fish. For example, one trip of the Keltic only produced 28 per cent Grade A quality fish, which means that it never came close to getting the top price that was being paid for fish that year. So you have to access, Mr. Speaker, I am saying the hon. gentleman why the report that this Mr. Mercer refers to from the Development Branch of the federal Department of Fisheries is so negative bearing in mind the negative aspects on which the report is based.

PREMIER PECKFORD:

The Keltic is owned by the federal government, is it?

MR. RIDEOUT:

It was leased by the federal government for a year.

PREMIER PECKFORD:

And the Glen Clova.

MR. RIDEOUT:

Then, Mr. Speaker, on the other side of the coin you have to assess what is the result of our own three year experience with the Glen Clova, and we find that she is consistently bringing in top quality fish, bled and boxed and iced at sea, coming in fetching a top quality price, 31 to 33 cents a pound. She is buying bait from the Newfoundland Bait Service at 16 cents a pound rather than 51.25 cents a pound. The Glen Clova was a shining example of success and it is a shining example of why we should continue to move, albeit cautiously, to develop that concept of middle distance.

On the second part of the hon. gentleman's question, Mr. Speaker, on the licences, we have it in writing from the federal

Department of Fisheries that we have approval for three more permits so that we can continue to expand our interests.

SOME HON. MEMBERS:

Hear, hear!

MR. W. CARTER:

Mr. Speaker.

MR. SPEAKER:

A supplementary, the hon. member for Twillingate.

MR. W. CARTER:

Mr. Speaker, the hon. member puts great stock in the cost of bait. Well, I should inform him and the House that had they been able to buy bait at the Bait Service price the loss during that year would not have been \$290,000, it would have been well over \$100,000.

Mr. Speaker, my supplementary question is to the minister. I am not opposed to the concept of the mid-distance fishery, but in light of the contents of this report, Mr. Speaker, that the fifty-five to sixty-five foot class vessels, certainly in the opinion of the authors of this report, would be sufficiently large and capable -

MR. SPEAKER:

Order, please!

The hon. member is now making a speech and this is a supplementary question.

MR. W. CARTER:

Mr. Speaker, in view of the fact that it has now been pretty well proven by this report that the mid-distance fishery envisaged by the government and by the minister can just as easily, and in fact more economically be undertaken by vessels in the fifty-five to sixty-five foot class, in view of

the fact that we now have in this Province registered 181 such vessels, and I would suspect most of them are heavily in debt, would the minister not think it wise to investigate the possibility that maybe equipping those vessels to prosecute that fishery rather than going to the expense of building large vessels, and I might add, Mr. Speaker, more than likely operating them at the expense of the owners of these 181 smaller vessels?

MR. SPEAKER:

The hon. Minister of Fisheries.

MR. RIDEOUT:

Mr. Speaker, it is amazing that a gentleman who served for four or five years as the Minister of Fisheries of this Province would stand and say in light of this report that it is proof positive, proof conclusive, that the middle distance concept that we are still experimenting with and developing further in this Province is not going to be a success. It is really sad that he would say that this report says conclusively that we could probably do with the fifty-five to sixty-five foot class vessels what we want to do with this other class of vessels that are in the range of ninety to one hundred and twenty feet. The facts of the matter are, Mr. Speaker, that this fishing jurisdiction called Newfoundland and Labrador is the only fishing jurisdiction in the Atlantic rim today that does not have a middle distance class of vessel, and that is a fact. The second fact, Mr. Speaker, is that this class of vessel has historically and in every other way proven to be a better harvest sector lander of fish than any other class of vessel that we have in Iceland, in Norway, in the Faroese Islands and

in the rest of Atlantic Canada. The third fact is, Mr. Speaker, that this was the class of vessel that this Province historically developed and fished, called bankers. What we are doing today is returning with an enhanced technology to a type of fishery that we had long ago developed in this Province and for some reason or other let go down the drain. The other fact of the matter is, Mr. Speaker, that the Kirby Report, which the hon. gentleman no doubt is very familiar with, and every other report that we have been able to get our hands on, with the exception of Mr. Ken Mercer, says that the fifty-five to sixty-five foot class of vessel does not have the range, number one, do not have the capacity, number two, and are not the right kind of vessel for life safety reasons to be fishing in 2J3KL in and around ice packs. That is why we are going ahead with this experiment, Mr. Speaker.

MR. SPEAKER:

Before recognizing the hon. member for a final supplementary, I would ask him if he would pause a brief question, and also ask for a brief answer to it, because I would like to recognize at least one other hon. member.

The hon. the member for Twillingate.

MR. W. CARTER:

Mr. Speaker, the hon. minister should be informed that at this present time there are sixty-five foot vessels operating in what he now refers to as the middle distance. In view of that fact, Mr. Speaker, in view of the fact that these vessels have been proven to be satisfactory and quite capable of prosecuting that fishery does he not consider it

wise that maybe an opportunity should be extended to the owners of those vessels, many of whom are probably bankrupt, before embarking on an expensive programme that I think, and I think most of these people agree, will have a detrimental effect on the future of the existing longliner fleet, most of which, I might add, are capable of the middle distance fishery?

MR. SPEAKER:

The hon. the Minister of Fisheries.

MR. RIDEOUT:

The hon. gentleman, as a former minister, should know very well that the middle distance concept that we are trying to develop is based primarily in the 2J, 3KL zone and that when he says very flippantly that those vessels have proven their capability to operate, what in fact he is talking about is their capability to operate in the Southern zones, in the 3NO region, that in certain parts of the year that they could in fact, and do, operate in 2J, 3KL, but there are other parts of the year that in order to shoulder out the seasonality of the fishery along the East and Northeast Coast of Newfoundland, we need vessels that can fish consistently for hopefully twelve months of the year. That is what this is all about, Mr. Speaker, not based on vessels that can perhaps only fish for three or four or five or six months of the year.

MR. SPEAKER:

The hon. member for Menihek.

MR. FENWICK:

Thank you very much, Mr. Speaker. My question was for the Premier. If he is around, I would appreciate him coming back, but if not I guess the Government House

Leader (Mr. Marshall) can answer some questions about the expedition to Norway that has been undertaken by the Minister of Development (Mr. Barrett), his deputy minister, and what appears to be a long list of businessmen. Could the Premier give us some general idea of the objectives of this particular expedition?

MR. SPEAKER:

The hon. the Premier.

PREMIER PECKFORD:

Mr. Speaker, it is an ongoing kind of thing that we have been doing now for a number of years, and that is to try to expose as many people as possible who have any interest in the development of the offshore, especially the industries that would be developed on land to support what is happening offshore, to be exposed to what is going on in Norway, because that is a very like kind of environment and situation as we have in Newfoundland. So what we have been trying to do and will continue to do is -

MR. WINDSOR:

We had the union leadership over there, too.

PREMIER PECKFORD:

Yes, we had the union leadership of the Province, which the hon. member might have some familiarity with, over there with us several months ago. As a matter of fact, a number of them came back and started to support the floating platform concept for Hibernia, which was highly inconsistent with what the majority of people see when they go to Norway, because most of their developments have been based on a gravity based system which is more labour intensive for the adjacent jurisdiction. But, in any case,

it is an ongoing process of trying to expose as many businessmen as possible. You know, it comes right down to the carpenter or the cabinetmaker. If the platform is being built there has to be a hotel on it in which the employees are going to live and, therefore, there have to be cabinets to go into the kitchens that go into the hotel. There have to be tiles. There have to be 2-by-4. So there are a lot of things there, not only the business of steel and welding and the more sophisticated mechanical parts to the thing.

So we are trying to expose as many business people as possible, and opinion leaders and so on, to what is going on in Norway as we can so that then they will see what corner of the whole development that they too can exploit from Newfoundland as Newfoundland businessmen. So that is the overall philosophy of it. We hope that it will be very successful in encouraging people to get involved and invest some money in it.

MR. FENWICK:

A supplementary, Mr. Speaker.

MR. SPEAKER:

A supplementary, the hon. the member for Menihek.

MR. FENWICK:

I take that as an excellent explanation of the reason for the expedition. I think it is a laudable one and so on and so forth.

My question, however, is: As I go into the article on it in the Telegram, my supplementary is if these business leaders and these businessmen are involved, what is the reason for Ray Baird from Humber West, Glenn Tobin from Burin - Placentia West, William

Patterson from Placentia, James Reid from Trinity - Bay de Verde, Roger Simmons from Fortune - Hermitage and Wilson Callan from Bellevue going? What is the point of having them along on this business trip?

MR. SPEAKER:

The hon. the Premier.

PREMIER PECKFORD:

Mr. Speaker; we are trying to get, as I say, as many business people as well as opinion leaders along as possible. We had indicated to the official Opposition that we were prepared to include a number of their people in the delegation to show that we are out for Newfoundland, we are not just out for the government or for the P.C. Party. We are out for Newfoundland and expose as many as possible.

Mr. Baird is there because we want to spread the benefits around. There are a number of Scandinavian interests today who are interested in setting up in Corner Brook to do certain things and in the Deer Lake area as it relates to spin-off from Hibernia directly and to the gravity based structure. The same thing goes for Mr. Reid and Mr. Patterson, because they are in districts which are going to be impacted directly upon by the development. I would assume that the official Opposition sent Mr. Callan along, although they will have to answer for themselves, because he is in that general Come By Chance - Argentia area. Mr. Simmons, that is something that the Opposition will have to decide. They had to choose their own. I do understand, though, and I think the member for Menihek should know this, that we have found out from our sources that there was a great

debate on in the official Opposition as to who was to go from their side. We took whomever they appointed, whomever they designated. The reasons why members from our side are gone are quite obvious. The West Coast had to be represented because we want to spread the benefits around. Mr. Reid and Mr. Patterson are there for obvious reasons; their districts are going to be impacted and there is going to be a lot of industry started there. Mr. Tobin is there because of Marystown Shipyard and its connection with Moss Rosenberg Verft.

MR. FENWICK:

A supplementary, Mr. Speaker.

MR. BAKER:

Mr. Speaker.

MR. SPEAKER:

The hon. the member for Gander.

MR. FENWICK:

Mr. Speaker, you have been recognizing them all day. One final supplementary.

MR. SPEAKER:

I ask the hon. member for Menihek to sit down. I have recognized the hon. member for Gander.

MR. BAKER:

Thank you, Mr. Speaker.

I have a question for the Minister of Transportation (Mr. Dawe) having to do with the international flights using Torbay. The IL 1011 can carry 322 passengers. I know that the Minister of Transportation has investigated this, or I assume he has, but in the event of mechanical trouble or an illness aboard the aircraft, or any number of other causes, and the aircraft has to unload all of its

passengers at Torbay airport, I understand in that case they would have to isolate the terminal building because there can be no mixing of domestic and international passengers. The terminal building would have to be isolated, the domestic traffic interrupted for the duration that the plane is on the ground. My question to the Minister of Transportation is simply this: What actions has he sought to ensure that there will not be such major disruptions in domestic travel out of Torbay in the event that this would happen? It is not an unlikely event.

MR. SPEAKER:

The hon. the Minister of Transportation.

MR. DAWE:

Mr. Speaker, first of all I would like to just point out again that the hon. member opposite usually talks about hypothetical situations and asks for a hypothetical reply which, unfortunately, I cannot give in this House. Secondly, of course, Mr. Speaker, it is obvious to everyone that the jurisdiction to which he is referring belongs in the federal domain, and the rules of this House, Mr. Speaker, are clear as they relate to questions asked of ministers that they must pertain to their particular department. I am sure that the hon. member opposite has a closer contact with people in the federal area than perhaps I do in the representation of his brother. I am sure they keep on constant dialogue as it relates to this and perhaps he would address the question more appropriately or perhaps, Mr. Speaker, more appropriately have his brother address the question to the Minister of Transport (Mr.

Mazankowski) in the House of Commons.

MR. BAKER:

A supplementary, Mr. Speaker.

MR. SPEAKER:

A supplementary, the hon. the member for Gander.

MR. BAKER:

Thank you, Mr. Speaker.

The question that I asked the minister applies to the domestic traveller from St. John's using domestic flights that I assume the minister is concerned about. It is not a hypothetical question. At International airports all over the world this is a regular occurrence, that flights have to be completely deplaned for one reason or another. I would suggest to the minister that it is in his domain and would ask him to look into this possibility and to absolutely insist that the proper facilities are provided at Torbay Airport for this particular service, otherwise not to have it.

MR. DAWE:

Mr. Speaker.

MR. SPEAKER:

The hon. the Minister of Transportation.

MR. DAWE:

Mr. Speaker, that is still clearly in federal jurisdiction. But I might refer the hon. gentleman to the St. John's Airport master plan which has been an ongoing dialogue between provincial officials, the federal government and other interest groups in and around the immediate St. John's area. And the conclusions from that particular study and the developments that will be going ahead at St. John's Airport over

the next number of months and years is there for anyone with any sort of intelligence to read.

MR. SPEAKER:
Order, please!

The time for Oral Questions has elapsed.

Presenting Reports by
Standing and Special Committees

MR. MATTHEWS:
Mr. Speaker.

MR. SPEAKER (McNicholas):
The hon. the Minister of Culture Recreation and Youth.

MR. MATTHEWS:
Mr. Speaker, I would like to table audited financial statements for the Canada Games Park Commission for the year ended March 31, 1985. I would like to point out to this hon. House that things are going very well at the Aquarena and the members of the Commission are doing an excellent job. To highlight that, Mr. Speaker, I would like to point out that net programme revenue increased from \$180,000 in 1984 to \$318,000, an increase of approximately 74.5 per cent.

As well, Mr. Speaker, I would like to point out that the Province, through the Commission, has really created a vehicle which is creating a significant amount of employment at this particular facility for the youth of our Province. Most of the staff there are young Newfoundlanders who are doing an excellent job.

In tabling the report, I would like to take this opportunity to commend the members of the Canada

Games Park Commission for doing an excellent job year after year.

MR. BRETT:
Mr. Speaker.

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

MR. BRETT:
Mr. Speaker, could we revert to Notices of Motions, Mr. Speaker?

MR. MARSHALL:
By leave!

MR. SPEAKER:
By leave.

MR. BRETT:
Mr. Speaker, I give notice that I will on tomorrow ask leave to introduce a bill entitled, "An Act To Amend The Social Assistance Act, 1977."

MR. POWER:
Mr. Speaker.

MR. SPEAKER:
The hon. the Minister of Career Development and Advanced Studies.

MR. POWER:
Mr. Speaker, I give notice that I will on tomorrow ask leave to introduce a bill entitled, "An Act To Amend The Marine Institute Act", and I give notice that I will on tomorrow ask leave to introduce a bill entitled, "An Act To Provide For Payment Of Financial Assistance For Students Attending Post Secondary Educational Institutions."

MR. SPEAKER:
I must apologize for that lapse on my part.

Petitions

MR. FENWICK:
Mr. Speaker.

MR. SPEAKER:
The hon. the member for Menihek.

MR. FENWICK:
Mr. Speaker, you will be pleased to know that this petition is not asking for the 12 per cent sales tax to be knocked off cablevision. This is a different one. As a matter of fact, this is quite a serious one and one that I would like to hear some participation from both sides on. I will read the petition because it is the first time I have introduced one like this. It reads: "To the hon. House of Assembly of Newfoundland and Labrador,

"WHEREAS Kruger, Abitibi Price, Wabush Mines, The Iron Ore Company of Canada and other large corporations were given freedom from municipal taxation because they provided much of the early services in their town; and

"WHEREAS for the most part they have ceased providing any municipal services at all; and

"WHEREAS paying municipal taxes would not put an onerous burden on these corporations when compared with their overall cash flow and profit; and

"WHEREAS exempting these corporations from taxation means higher taxes for other businesses and for residents,

"THEREFORE we, the undersigned, petition the provincial government, through the House of Assembly, to enter into negotiations with these companies to end their municipal tax free status."

Mr. Speaker, it is signed by individuals primarily from the Corner Brook area.

Mr. Speaker, I think this is an important way to start looking at the situation that we have had in the past. Back in 1904, when the mill was constructed in Grand Falls, we made a number of major mistakes, one of which was to exempt these corporations from paying any kind of municipal taxes at all. The argument at that time was that they built the townsite and they provided a lot of the services. At that time, that was a legitimate argument. Unfortunately today, that situation no longer exists.

For example, in the town of Labrador City, which I represent, the Iron Ore Company of Canada now pays somewhere between \$1 million and \$1.3 million per year to the town of Labrador City. It is now in a dispute over it and is arbitrarily reducing the amount it is contributing from \$1.3 million down to \$1 million. By contrast, a smaller operation, owned by that same corporation in Seven Islands, which is in Quebec, pays something like \$6 million to the town of Seven Islands in order to support its municipal structures.

What it means is, because we have been unlucky enough to trap ourselves into this kind of legislation, we have not been able to put appropriate taxation on these corporations and they have been able to escape a lot of the obligations that most businesses and private individuals have in supporting their municipalities.

Mr. Speaker, last year we could have gotten at Kruger and we could have made Kruger pay taxes but, unfortunately, the 1938 exemption

that was given to Bowaters was renewed and we are now in a position where we have to negotiate it down.

My petition, Mr. Speaker, is that the government now look at all these corporations which are exempt from municipal taxes, enter into negotiations as they did with ERCO in terms of the power agreement, and make them start paying their fair share for municipal support services.

I argue that this is not an overwhelming burden. If you are talking about several million dollars for Iron Ore Company of Canada, you are talking about a corporation that last year had net revenue in the range of \$600 million or \$700 million. We are looking at a couple of million dollars. This is not an inordinately heavy burden for a company like that to carry.

If we are looking at the example of last year where they made close to \$100 million, depending on what numbers you look at, it seems to me that they are well within their financial capacity to make this kind of a contribution.

I think it is about time we stopped giving these corporations the free ride that they have had up to this point. Thank you very much, Mr. Speaker.

MR. MARSHALL:

Mr. Speaker.

MR. SPEAKER:

The hon. the President of the Council.

MR. MARSHALL:

I want to have a few words on that. I think that petition should be responded to before the

hon. gentleman and some members of the left-wing press in this Province take it and carry it to its extremities. The hon. gentleman refers to Kruger. The fact of the matter is in this Province one has to do what is possible and what is possible to this government and what is imperative to this government is the provision of jobs for Newfoundlanders and Labradorians.

The hon. gentleman should understand and understand quite well that what happened a few years ago was a disaster to the Province of Newfoundland and the West Coast in particular, where we were threatened with the close down of Bowaters in a very meaningful and a very realistic way. There was nobody around to take up the management of Bowaters. We saw not only Corner Brook losing its major employer but the whole of the West Coast of this Province.

This government, Mr. Speaker, is not shy about negotiating for the rights of Newfoundlanders and has proceeded always on the basis that we will develop in this Province, where at all possible, without granting the types of concessions that have been granted in the past with respect to the forgiveness of retail sales tax and the myriad other concessions that have been granted in the past for development.

As the hon. gentleman indicated, Bowaters had enjoyed an agreement that was there since 1904. It is alright for the hon. gentleman to get up after the fact and talk about Kruger and talk about these other companies and say that we should tax them. If the hon. gentleman's party had their way, we would be continuing to tax

companies of this nature. That might be all very well for a year or two but, before long, what you would see are companies closing and there would be not only no municipal taxes, there would be no income taxes, no sales taxes and there would be no prosperity in this Province.

So what we have to do is what is possible. What was possible was to bring Kruger into Corner Brook and we are very proud in this government that we brought Kruger into Corner Brook. We saved the mill in Corner Brook. We have Kruger operating there now and we have number seven machine about to operate again, that very machine that was closed down.

What the hon. gentleman wants to do, as soon as he sees that there is any rise in the level of employment, immediately he sees, with his left-wing philosophy, that what we should do is tax them and try to tax them out of existence. The end result of all of that, Mr. Speaker, will be disaster for this Province.

I think the people of this Province, by far the majority of the people of this Province, knows that this government, when it develops, develops without excess concessions.

I think, Mr. Speaker, we can do without that particular type of argument that the hon. gentleman was giving because what it would really result in would be Kruger being driven into the ground and it would result in employment and other industries in this Province driven into the ground. It is hard enough to get economic development in this Province anyway. When the hon. gentleman gets up and he emits statements

like that, without any background to them, it is philosophical and it is theoretical. He is very sincere. I know that but he is also very philosophical and very theoretical.

The net result is, if the hon. gentleman had his way and was able to put his hue on a government, that not only will we have no development in this Province but we would have the closure of businesses such as in Corner Brook and elsewhere.

Mr. Speaker, it sounds all very well in the universities and from the people who are getting their salary from the public purse and do not have to generate the business which pays the taxes to pay these salaries. It sounds all very well and fine in theory but, Mr. Speaker, it does not work out in practice. This government is a practical government and the people of Corner Brook today are feeling the effects of our practicality as a result of which there are a lot of people now employed that would have been unemployed. There is a healthy future for Corner Brook where there was not a few years ago.

I say to the hon. gentleman, in conclusion, that that kind of philosophy that he espouses would mean nothing, not only for Corner Brook, but there would be no development of any business.

MR. BAKER:
Mr. Speaker.

MR. SPEAKER:
The hon. the member for Gander.

MR. BAKER:
Thank you, Mr. Speaker. Very briefly to that petition, first of all a comment on the Government

House Leader (Mr. Marshall). I thought that when you stood up to speak to a petition you, by our rules, had to support the petition and I did not see any support coming from the Government House Leader.

I would like to respond to one part of that petition, Mr. Speaker, and that has to do with the municipalities and their right of taxation. I feel, in the case of Kruger for instance, and the same thing happens in Grand Falls and some other places in this Province, where municipalities have to go cap in hand every couple of years and sort of beg the companies for a certain amount of grants in lieu of taxes, that it is a rather humiliating and debasing experience.

Municipal governments are elected by the people in the communities. The concerns of the municipal councillors that are elected are the concerns of the community, that the community remain viable and that business be carried out in the community in the best way possible. I would suggest that it would perhaps be better if the municipalities were given the right to tax these companies. Surely they are not going to drive the major employer out of town but it would create the situation where they would have the right to tax.

If they felt like writing off taxes, if they felt like giving incentives and so on, that is very possible for a municipal government. In this day and age, when these municipalities are very responsible, maintaining very expert staff, the people who are elected are concerned about the communities. I kind of resent the Government House Leader indicating

that they are not responsible and that if given the right to taxation, these municipal leaders would tax the one industry out of one industry towns. I think that is a horrendous statement for the Government House Leader to make.

MR. DECKER:
Mr. Speaker.

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

MR. DECKER:
Mr. Speaker, I have a petition from the residents of Bide Arm. The prayer of the petition requests, Mr. Speaker, that the hon. Minister of Transportation (Mr. Dawe) contact the hon. Don Mazankowski and try to come up with a secondary roads agreement so that the road which links Bide Arm to the Northern Peninsula highway could be completely upgraded and paved. This petition, Mr. Speaker, is signed by 185 residents of the community of Bide Arm which, I believe, would take in practically all of the people of that community who are of voting age.

I am pleased to lend my support to this petition, Mr. Speaker, because the road that it refers to is a road that I am very familiar with. As Your Honour knows, I grew up in that area and I still maintain a residence there.

Route 432 is approximately thirty-five miles long and it goes from the Northern Peninsula highway into what is referred to as the Canada Bay Branch. When you get to the Canada Bay Branch, Mr. Speaker, there are approximately 5,000 people. This road mentioned in the petition is referred to as the life line of

the area. When they say life line, Mr. Speaker, they mean exactly that.

Some years ago, when road construction was begun around the Northern Peninsula, there were some trade-offs and the Coastal boats were traded off so that money could be made available to put roads into the area. I am not criticizing that because I think it was a reasonable trade-off but, the trade-off was not complete, Mr. Speaker. The roads which were put there were barely more than cow paths. The coastal boats were traded off for roads which were completely unable to handle the flow of traffic which goes into a place to support 5,000 people.

Every bit of food which is consumed by the residents of Bide Arm as well as the surrounding communities must come over Route 432. Every drop of fuel that is burnt in the longliners which go to the fishery, which is burnt in the automobiles, which is burnt by the local people to heat their homes has to come in over this Route 432.

Some years ago, over the protest, I might say, of the Minister of Transportation, we were able to get some \$8 million from Ottawa to upgrade Route 432. I, personally, attended the meeting where the Minister of Transportation admitted to the public that he did not agree with this \$8 million going into that road but, wisdom prevailed and he was overruled. The \$8 million did go in there so that now, Mr. Speaker, the road is almost completed. There is approximately three kilometers of road which requires upgrading but it is not yet paved.

What the people are asking is that

the hon. Minister of Transportation (Mr. Dawe), who says that the Province cannot afford to complete upgrading and pave this road, consider their petition. The people of Bide Arm are being very considerate. They are not out blocking traffic, Mr. Speaker, which we have seen happen so many times. They are not out breaking the law. They are not blocking open line shows and berating the government. They are approaching this in a very level-headed, reasonable manner, Mr. Speaker, and they are asking that the hon. Minister of Transportation take some action so that their road would be completely upgraded and paved.

Mr. Speaker, I am pleased today to see the wisdom and the good sense of the people of Bide Arm who are asking that this road be completely upgraded and paved. I am pleased and proud, Mr. Speaker, to be able to stand in this House today to represent them and to support their petition and ask that that thirty-five miles of road be completely upgraded and paved, Mr. Speaker.

Thank you.

MR. W. CARTER:
Mr. Speaker.

MR. SPEAKER:
The hon. member for Twillingate.

MR. W. CARTER:
Mr. Speaker, I am very proud to support the petition so ably presented by my colleague, that the road to Bide Arm be paved. It only takes awhile for a person to drive around this Province to find out and to see just how neglectful the present administration is when it comes to maintaining and keeping the roads in a reasonably

good condition.

A fish plant was alluded to by my colleague. Of course, there is a fish plant in Bide Arm, a very important fish plant. It is very important, therefore, that roads to these plants, especially to the fish plant in Bide Arm, be paved.

Mr. Speaker, I am at a loss to understand why the government now with its much talked about and new-found spirit of co-operation and understanding with their federal counterparts, I am surprised that they have not succeeded in convincing their so-called friends in Ottawa the importance of providing money to provide paving in communities where we do have fish plants. I recall some years ago there was a programme that was initiated by the federal government, Roads to Resources, and I think it was a very good programme. I think it is becoming quite obvious now that the present government is incapable, for whatever reason, of providing decent roads to these plants. I believe it is incumbent on them to talk to their friends in Ottawa and see if it is not possible to get some recognition on the part of the national government for the need to pave these roads.

Fish is a very important part of Canada's export market and I think it is equally important that we produce and export a good quality fish. We have all heard references coming back from the marketplace as to the quality of Newfoundland-produced fish and I am sure that there are times when there is a lot left to be desired. Certainly, I think, Ottawa now does have a responsibility in view of the fact that the present government has

obviously abdicated their responsibility and duties in terms of paving these roads. Maybe the only course is for them to talk to their friends in Ottawa and to try and get some federal help.

Mr. Speaker, it is not enough for the Minister of Fisheries (Mr. Rideout) to talk about quality. I think the problem of quality and the matter of quality deserves more than lip service and that is all we are getting. All we are getting to date from the present government, from the Minister of Fisheries, from the Minister of Transportation (Mr. Dawe) and others is lip service on the question of producing a quality product in the fishery. I believe now they have to start to put their money where their mouth is and to come up with the necessary funds to provide better roads.

In my own district, I had the dubious distinction on this weekend past of driving my car over what must be, Mr. Speaker, the worst roads in Canada, certainly the worst roads in Newfoundland. I say that not wishing to downplay the importance of the petition presented by my colleague or his comments thereto. But certain roads in my district would certainly fall in that category being almost - well, in fact, they are - unfit to drive over. Broken shocks and broken springs and twisted chases and busted tires seems to be the order of the day. I think it is incumbent on governments, in fact, Mr. Speaker, it is disgraceful that a government that has been in power now for the past six or eight years, and just having received a mandate from the people, would expect the Newfoundland people to continue to be treated like second class

citizens, as indeed they are.

Mr. Speaker, I would strongly suggest to the government that, if they are unable, if they do not have the interest or the will to provide decent roads to our fish plants especially, then they should approach their friends in Ottawa, maybe the Minister of Transportation and Newfoundland's great representative in the Cabinet, so-called representative, the man who would see a town wither and die as Gander, as far as he is concerned, could, I think they should approach him to see if it is not possible to get some money to do the job, Mr. Speaker, and to pave these roads to enable the fishermen and the fish plant processors to provide a top quality fish and one that will be received in the marketplace on a par to that coming from any other country.

Mr. Speaker, I gladly support the petition and again I would urge the government to very seriously consider acceding to the request contained therein.

SOME HON. MEMBERS:
Hear, hear!

Orders of the Day

MR. MARSHALL:
Motion No. 6

SOME HON. MEMBERS:
Oh, oh!

MR. MARSHALL:
A point of explanation, Mr. Speaker. It just goes to show how the hon. gentlemen do not know the rules of the House. They get upset because we call first reading of a bill and say we are

departing from the norm. Now really and truly, you know!

Motion, the hon. the Minister of Forest Resources and Lands to introduce a bill, "An Act To Amend The Land Development Act," carried. (Bill No. 5).

On motion, Bill No. (5) read a first time, ordered read a second time on tomorrow.

Motion, the hon. the Minister of Forest Resources and Lands to introduce a bill, "An Act To Amend The Labrador Linerboard Limited Agreement Act, 1979 In Order To Ratify, Confirm And Adopt An Amending Agreement Entered Into Between Her Majesty The Queen In Right Of The Province Represented By The Honourable The Minister Of Forest Resources And Lands And Abitibi-Price Inc.," carried. (Bill No. 6).

On motion, Bill No. (6) read a first time, ordered read a second time on tomorrow.

Motion, the hon. the Minister Responsible for Housing to introduce a bill, "An Act To Amend The Newfoundland And Labrador Housing Corporation Act," carried. (Bill No. 17).

On motion, Bill No. (17) read a first time, ordered read a second time on tomorrow.

Motion, the hon. the Minister of Justice to introduce a bill, "An Act To Amend The District Court Act, 1976," carried. (Bill No. 9).

On motion, Bill No. (9) read a first time, ordered read a second time on tomorrow.

Motion, the hon. the Minister of Justice to introduce a bill, "An

Act To Revise And Reform The Law Respecting Corporations," carried. (Bill No. 20).

On motion, Bill No. (20) read a first time, ordered read a second time on tomorrow.

Motion, the hon. the Minister of Justice to introduce a bill, "An Act To Amend The Justices And Other Public Authorities (Protection) Act," carried. (Bill No. 8).

On motion Bill No. (8) read a first time, ordered read a second time on tomorrow.

Motion, the hon. the Minister of Justice to introduce a bill, "An Act To Amend The Prisons Act, The Royal Newfoundland Constabulary Act And The St. John's Fire Department Act, 1972," carried. (Bill No. 12).

On motion Bill No. (12) read a first time, ordered read a second time on tomorrow.

Motion, the hon. the Minister of Justice to introduce a bill, "An Act To Amend The Queen's Counsel Act," carried. (Bill No. 13).

On motion Bill No. (13), read a first time, ordered read a second time on tomorrow.

Motion, the hon. the Minister of Justice to introduce a bill, "An Act To Amend The Law Society Act, 1977," carried. (Bill No. 11).

On motion, Bill No. (11) read a first time, ordered read a second time on tomorrow.

Motion, the hon. the Minister of Justice to introduce a bill, "An Act To Amend The Department Of Justice Act," carried. (Bill No.

7).

On motion, Bill No. (7) read a first time, ordered read a second time on tomorrow.

Motion, the hon. the Minister of Finance to introduce a bill, "An Act To Amend The Income Tax Act," carried. (Bill No. 4).

On motion, Bill No. (4) read a first time, ordered read a second time on tomorrow.

Motion, the hon. the Minister of Environment to introduce a bill, "An Act To Amend The Department Of Environment Act," carried. (Bill No. 3).

On motion, Bill No. (3) read a first time, ordered read a second time on tomorrow.

MR. MARSHALL:

Motion 1, Mr. Speaker.

MR. SPEAKER (McNicholas):

Motion 1.

On motion, that the House resolve itself into a Committee of the Whole on Supply to consider certain Resolutions for the Granting of Interim Supply to Her Majesty, Mr. Speaker left the Chair.

MR. CHAIRMAN (Greening):

Order!

MR. LUSH:

Mr. Chairman.

MR. CHAIRMAN:

The hon. the member for Bonavista North.

MR. LUSH:

Mr. Chairman, I want to pursue the matter again that we had been so vigorously pursuing over the past

day or so relating to the issuing of Special Warrants, relating to the issue of the Lieutenant-Governor's Warrants. We again state, Mr. Chairman, and we state categorically that we believe that by doing this that the Minister of Finance (Dr. Collins) and the government were showing a complete disregard and a disrespect for the House of Assembly.

Not only, Mr. Chairman, were they showing a disregard and a disrespect for the House of Assembly, they were also contravening the province's Financial Administration Act. We believe in doing this that they downgraded this institution and, indeed, abused and misused the power and the trust vested in this government by the people of this Province.

Mr. Chairman, I think the issuing of Special Warrants, under the circumstances under which they were issued, is a precedent in this Province. Certainly we have the issuing of the Lieutenant-Governor's Warrants or Special Warrants, as we refer to them, but no government has the right to issue Special Warrants per se. No government has that right. There is a special procedure and it is given in our Financial Administration Act. No person has the right to go to the Lieutenant-Governor, nobody in government, the Finance Minister or any minister of the Crown has the right to go to the Lieutenant-Governor and say, "Sir, sign this." No one has that right. There is a procedure, and what happens is that the government, in their wisdom, collectively, or an individual minister determines that the money allocated by the Legislature are

insufficient to provide for the services that that particular department has to provide. Not only that, it has to be proven that the services not provided are of an urgent nature. Therefore, it has to be proven to His Honour, the Lieutenant-Governor that the monies are needed urgently. I think there used to be a reading which said that, if the monies were not allocated they would result in damage to persons and to property. We do not word it that way today, we just point out that it must be urgent. It has to be required, it has to be needed urgently or that there will be some damage done to the public good, something like that. So it has to be determined to be urgent and His Honour has to be convinced that it is urgent.

But the circumstances under which this was done, Mr. Chairman, are quite unusual. I do not know whether hon. members opposite know the situation in which they find themselves. But what happened, Mr. Chairman, is that we had a situation of a government trying to get Interim Supply through, which is normal procedure. When the budgetary arrangements could not be finalized and passed in this House, it is the normal procedure to ask for Interim Supply and it is normal to give longer notice.

The government closed down the House without approval of Interim Supply telling the people of this Province, "No longer do we need the approval of the Legislature. We will go and we will abuse the power given us. As a matter of fact, we will ignore all of the rules and regulations of the Province. We will ignore the traditions and customs of British Parliaments. We will ignore the

traditions established by British Parliaments and we will ignore our own Financial Administration Act." Our own Financial Administration states quite clearly two circumstances under which Lieutenant-Governor's Warrants may be issued, neither of which covers this particular eventuality. There are two particular cases given in our Financial Administration Act, two circumstances, two eventualities, neither of which apply to this particular eventuality. Here we were discussing, the Minister of Finance (Dr. Collins) had come and presented Interim Supply, presented the requirements and the House, as it should do, were debating them and, in the midst of that debate, the government decided to close the House. Now when they went to the Lieutenant-Governor to present the case of urgency -

MR. TULK:

They could have opened in February.

MR. LUSH:

Exactly. They could have done that, sure, and had it done.

I am trying to present a case. What did the Minister of Finance (Dr. Collins) say when he submitted his case to the Lieutenant-Governor for the matter of urgency and immediacy? For the matter, "If this is not taken care of there will be some damage done to the public good." Now I believe what he said what normally happens now, in this particular case, is that the minister goes to Treasury Board and Treasury Board writes the Lieutenant-Governor. I believe that is the way it is done.

SOME HON. MEMBERS:

Oh, oh!

MR. LUSH:

The hon. the Minister of Mines and Energy (Mr. Dinn) can laugh because he knows no more about the Lieutenant-Governor's Warrant than he knows about solving labour problems in this Province and he demonstrated that pretty well.

Mr. Speaker, on the technicality, a letter has to go to His Honour stating the emergency and the urgency of the matter. What did they say? Why did they say that the House could not approve Interim Supply? What did they tell His Honour about why it was that the House could not pass Interim Supply? Why did they tell His Honour that this procedure was necessary? Every government must take this liberty of Special Warrants given to them with great care, great prudence and not abuse it. What did they tell His Honour? Did they say we are closing the House because some of us got arrangements made to go to Florida, to go to Spain or to all parts of the earth? Was that a good reason? Did they say that the Opposition were not willing to meet? Mr. Speaker, it seems rather peculiar. I do not know how it was.

They must have bluffed His Honour.

Why do they not, in man fashion, do what one hon. Minister of Finance did a couple of years ago when he found himself, not in a similar situation, because I do not believe you will find a similar situation throughout our history, but in 1972. I have the Hansard here but it is too large to get into so what I will do is just quote the newspaper report of the day. The report is April 21, 1972 and the caption says, "Legislature gives speedy approval to record Interim Supply Bill." This was

after the election in 1972 which many hon. members will recall was the time they became the government.

MR. CHAIRMAN:
Order, please!

The hon. member's time is up.

MR. OTTENHEIMER:
Mr. Chairman.

MR. CHAIRMAN:
The hon. the Minister of Intergovernmental Affairs.

MR. OTTENHEIMER:
Thank you, Mr. Chairman.

The hon. gentleman did not ask for additional time and I do not know if he wanted it or not.

MR. LUSH:
By leave?

MR. OTTENHEIMER:
Three, four or five minutes, something like that, and I might ask for the same if I do not get my points completed later. Okay?

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

MR. LUSH:
I thank the hon. minister. I was trying to make the point that this was an unprecedented move. There was nothing in our previous history that was similar to what happened in this particular circumstance, where the House was open discussing Interim Supply and we closed it down. The government just decided they would ignore the traditions of parliament, close it down and go to His Honour for Special Warrants.

Now, I am saying I have a

situation that is close to that but listen to the difference. A situation that was close to that was when the hon. gentlemen opposite, and lady, became the government of the day for the first time in modern history, for the first time in Confederation, when we became a Province of Canada, in 1972. Naturally, with the timing of the election, it was difficult to get the budget ready by March 31. They had intended to open the House on April 10 but, again, because of election technicalities, because of recounts and this kind of thing they could not and they the House was not open until April 21.

MR. TULK:
What year was that?

MR. LUSH:
This was 1972.

Because they did not have a budget, they had to operate with Special Warrants. That was certainly not proper but the Finance Minister of the day admitted to it. Mr. Crosbie said the illegal special warrant was issued after the Treasury Board overruled Mr. Pepper's protest because it was necessary to have money available for salaries despite the expiration of the fiscal year on March 31.

MR. TULK:
What word did he use?

MR. LUSH:
He said it was illegal. Mr. Pepper was the Deputy Finance Minister at the time. They did not have a comptroller as we have today and when they went to the Deputy Finance Minister with the Special Warrants he said, "no." He would not do it because it was not appropriate, it was not voted

upon, it was illegal. He protested in the same way that the Comptroller of our Province protested. The Treasury Board overruled that and went to His Honour and got the Special Warrants. Of course, the Finance Minister of the day acknowledged that it was illegal and he said, "We will trust the House to forgive us." These were his statements and he explained it had been Mr. Pepper's duty to protest. He said they had to do what they had to do because they could not get the House open but, here we were in a situation where the House was open.

MR. TULK:

John was asking for forgiveness even though the House was not open.

MR. LUSH:

Yes. John Crosbie was asking for forgiveness knowing that it was illegal and Mr. Roberts, who was the Leader of the Opposition at the time, said he appreciated the government's dilemma when the House could not open as early as hoped and understood that all we are doing now is ratifying an unlawful act.

Mr. Chairman, I submit that that situation is analogous to what happen now, excepting that this government did not have to do it. They just blatantly abused the powers invested in them. They blatantly misused and abused the power invested in them as government of this Province because the House was open. As the hon. the Opposition House Leader (Mr. Tulk) pointed out a little earlier, they could have submitted Interim Supply before this House in February and it could have been passed without any pressure, without any of the hoopla that we had.

Mr. Chairman, one has to take some amusement in listening to the hon. the Government House Leader (Mr. Marshall) getting up and becoming the hero of the poor and the downtrodden in this Province, saying that the Opposition did not want to pay the salaries. Mr. Chairman, that was not the situation. It was a matter of doing what is correct. And we are asking -

DR. COLLINS:

Would the hon. member permit a question?

MR. LUSH:

I am going to clue up my remarks and the next speaker can clarify to us how it is that in 1972 the Special Warrants were classified as illegal and today this government are not saying they are illegal but it is a routine thing, that this is what we can do all the time. Forget about the House, we are going to carry on and issue Special Warrants. Mr. Chairman, I will finish because I told the hon. gentleman that, at this particular point, I would not carry on any longer than three or four minutes.

MR. OTTENHEIMER:

Mr. Chairman.

MR. CHAIRMAN:

The hon. Minister of Intergovernmental Affairs.

MR. OTTENHEIMER:

Thank you, Mr. Chairman.

I do not expect to be very long in this. I do think that some very interesting points are certainly involved in this. Basically if one leaves all of the - I do not mean with reference necessarily to the last hon. speaker but hon. speakers in general - what one

could call bull or rhetoric, whichever you wish, if you leave all of the bull and rhetoric apart, I guess there are basically two points the Opposition is really making. One, they are saying that a Special Warrant has been issued without legislative approval and that is wrong. Then they are asking "what is the legal basis for that action?" I think essentially that is what it boils down to. What I will endeavour to do is to address my remarks to those two things.

A Special Warrant has been issued, according to the Opposition, without prior legislative approval. That is a fact. It is not only according to the Opposition. Then they follow up by asking, "what is the legal basis for this action?"

First of all, I would say that it is a false premise to suggest that all legal, all legitimate, exercises of public authority comes from legislation, that legislation is the sole statement of the law. That is not a fact. The Leader of the Opposition might disagree with conclusions I draw from it but he would not disagree with that principle. Obviously, legislation is not the sole source of the law. So I would start off by saying that. It is incorrect to say that all legal authority comes from legislation. It does not. There is legal authority quite apart from legislation.

I would say, number two, that the Financial Administration Act is not the exclusive source of authority or legitimacy for executive acts. The Financial Administration Act, like any act, is, in general, designed to provide for circumstances which are usually envisioned, or which

have happened before. These acts are drawn up by comparison in other jurisdictions on what appears to be the practice and the exigencies and the expectations of what is to arrive or what would happen in the jurisdiction for which it is operative.

Obviously, no piece of legislation can conquer all exigencies. In our system we do not go on the theory that a piece of legislation can govern every possible set of circumstances. I think it is fair to say that legislation deals with, for a lack of a better word, I would say ordinary circumstances. It does not and cannot deal with every extraordinary, outside of the ordinary - I do not mean extra ordinary in the sense of spectacular - but extra ordinary in the sense of outside of the ordinary sets of circumstances which arise.

When Interim Supply was introduced into the House before Easter and when the position came where Interim Supply was not passed, the Opposition were, in general, taking the position, "We will not pass Interim Supply unless a strike is settled, or people are back to work or any number of things have happened."

These matters were outside of the control of this Legislature as a legislature. The Opposition were saying, "We will not allow Interim Supply to pass unless certain conditions are met." Those conditions were ones outside of the control of this Legislature as a legislature. They may or may not have been outside the control of the executive as the executive, that I am not arguing. But we are talking about a parliamentary or legislative process in terms of the passing of Interim Supply and

hon. members opposite were saying that, "We will not allow Interim Supply to pass unless certain circumstances are met." I am not debating those circumstances now. I am just saying that is the factual case and those were circumstances which were outside the control or purview of the Legislature as qua legislature. So, the government was in this position.

The government has a number of responsibilities. Among them, I suppose, the most fundamental one is to provide for the public well-being. It is to answer questions in the Legislature. It is to endeavour to give the Legislature full and ample opportunity to debate bills. There are many and numerous responsibilities that a government legitimately has but, certainly at the very bed rock at least of the system of government that we practice in the West, there is an imperative, or a categorical imperative, but an imperative. If the hon. gentleman is not sure what a categorical imperative is, I could suggest where he look it up.

MR. TULK:

It is the way you went about it.

MR. OTTENHEIMER:

But it is an imperative. I think the hon. gentleman's colleague would agree. He may not agree with the inferences I draw but there is an imperative to provide for the public well-being. Not all of the requirements for public order, for public law, for the public well-being, for the common wealth, in that sense, is provided in legislation and, indeed in Canada, up until a couple of years ago, the basic fabric of the whole Canadian society was largely

unwritten. It is quite recent that we had a written constitution. Indeed, in the United Kingdom today, and in many other countries today, the basic bed rock, if you wish, of law and public order, of public responsibility, is not in written legislation. Whether it is written or it is not, the point is that there is a basic imperative requirement to provide for the public well-being.

Now, how one translates that, what one means by that and how one fulfills that mandate, those are the matters upon which a government is judged by the electorate in the election. But I do not think there can be any serious disagreement with the fact that there is that overall requirement to provide for the public well-being.

Indeed, it is pretty well summarized, as many things are, in a very short phrase from Roman law. It is at least a couple of thousand years old, and it may well be older, and I guess it describes practice which was recognized then. Whoever put the words together was not purporting, I am sure, to invent anything, but to describe something which was ongoing and recognized, and that is *salus populi suprema lex*, the basic well-being of the citizenry is the overall imperative.

The Financial Administration Act is not the only imperative, it is not the sole imperative. The written legislation drafted by the legislative draftsman of this House of Assembly does not provide the only or sole or main requirement or legal or political foundation for action. There is this basic concept that it is the overall security, well-being,

however you want to translate that word 'salus', the overall well-being of the citizenry is the basic and fundamental purpose of government. That is what it comes to. What that is, what that might be in given circumstances, they are questions of judgment and it is on the exercise of that judgment that governments are either remanded or refused a mandate when the legitimate time for an election comes.

When it comes to that, if the overall or prime responsibility of public authority or of government is to provide for the well-being of the citizenry, and that is the first imperative, that comes way ahead of the Financial Administration Act, that comes way ahead of anything else.

MR. BARRY:

What is that? It comes before the law.

MR. OTTENHEIMER:

It is the law. To the hon. gentleman, it is the law, salus populi suprema lex is the law.

MR. BARRY:

Do away with the House of Assembly (inaudible).

MR. OTTENHEIMER:

Oh, the hon. gentleman now is really quite out of it. I mean the hon. gentleman may or may not agree, but certainly if the hon. gentleman does not agree that the well-being of the citizenry is the overriding and most fundamental imperative for a government, then he would be standing fairly much alone, I would think, certainly in terms of Western democratic governmental institutions.

So that being the case and putting ourselves back in time, not very

long, just a few weeks, we there have an instance where members of the Legislature, the Opposition, I do not say they have the right to do it, I am not going to criticize them on that, they have a right to do it, they are accountable for their actions in elections, just as the gentlemen and woman on this side are, but they took the position that we will not allow Interim Supply to be passed unless certain things have happened, and those were things outside the purview of the Legislature. So really, it was something extraneous. Bearing that in mind, Treasury Board, which is an executive arm of government, a committee of Cabinet, what they did, and hon. members have their Minute, the Board noted that in the opinion of the ministers signing the report attached to the Special Warrant, if such expenditure is not made, grave damage to the interest of the Crown and to the public will occur from delaying the expenditure until legislative provision has been made. In the opinion of that committee of Cabinet, grave damage to the interest of the Crown and to the public, that is why I emphasize 'to the public' as the Crown is largely, I guess, a fiction, not a fiction, it is constitutional entity but, grave damage to the public will occur. That is an exercise of judgement. Whether grave damage would have occurred or would not have occurred, I guess, in the final analysis, only someone higher can know as a fact, but people have to act on judgements and an assessment of the facts. So the reasoning is quite clear, that unless these expenditures were approved, grave damage to the public will occur. That is putting it another way, is it not? The first responsibility of

government is to provide for the well-being of the citizenry.

Now, it is a question of judgement whether grave damage would have occurred or not. The reasons are obvious. Now, hon. gentleman opposite can get up and say, "No, grave damage would not have occurred. If the Department of Social Services did not have the funds to look after the long-term and short-term recipients of social assistance and the handicapped and the widows, there would not have been grave damage." That is arguable. This government feels there would have been grave damage. Hon. gentlemen opposite could also say, "Oh, no, there would not be grave damage if the health services and the people working therein were not paid and the appropriations to the health authorities were not made. That would not have been grave damage." Fair enough. The government felt that would have been grave damage to the public. The same in the area of education and of every area of government activity.

So, in the final analysis, that is what it comes down to. The Financial Administration Act could not reasonably be expected to provide for every kind of circumstance. It deals with, if you wish, the ordinary. It cannot and does not purport to - maybe it can if somebody used other imagination, but that is not the way our legislation is drafted in this system - purport to try to identify every possibility. The question came down here, then, of Interim Supply a couple of weeks ago, where hon. members said - and that is their right, I do not disagree with their right - "We will not pass it unless A, B and C have happened." A, B and C were

outside the purview of this Legislature, so they did not happen, and then, government had to address itself to whether there would be grave public damage by not putting into effect a Special Warrant. Government decided there would be grave public damage and thereby put into effect that Special Warrant. The only thing left really then is to say, "Well, what happens to the Financial Administration Act?"

MR. BARRY:

Your time is up.

MR. OTTENHEIMER:

Well, I may have expired my ten minutes but I did give the hon. gentleman opposite a few moments to complete his remarks. I asked him to have a few minutes. I certainly will not be long.

So all that comes then is, well, what happens with the Financial Administration Act? Now, surely, let us not think that the Financial Administration Act is the law of the Pers and the Medes. Let us not think it was brought down from Mount Sinai. I do not think it was. I do not think that it was written in tablets of stone. It is a human instrument for human circumstances, bearing in mind mostly ordinary circumstances, not the extraordinary circumstances where hon. gentlemen opposite said, "We will not pass Interim Supply unless A, B and C happen" and A, B and C are outside the purview of this Legislature, not outside the purview of the government, but outside the purview of the Legislature. So what happens with the Financial Administration Act? The same thing happens which happened on other occasions, and that is that when Interim Supply is passed,

whether it is today, next week or next month, when it is passed, what is extraordinary becomes regularized. And what has been saved? So what? What was an extraordinary action, extraordinary because of the tactics of hon. gentlemen opposite saying, "We will not pass it unless you do this, that and the other thing", which some people, if they were unkind, could say was Parliamentary hijacking, but that is a question of opinion; hon. gentlemen opposite would not agree with that.

MR. BARRY:

You would not say that.

MR. OTTENHEIMER:

You would not say that, no. That is fair enough. I will just say some people would say it. But certainly, the government, recognizing its responsibility to provide for the public good, took an executive action, had the Warrant approved, had the expenditures for welfare, for education, for health, for everything else made and then we get the regularization of that by the passage of Interim Supply, as has happened other times before. So really, there is nothing extraordinary about it at all.

It might be a kind of issue that hon. members opposite might think they can raise a great flag of a great patriotism about. "Oh, the Financial Administration Act has not been fully adhered to!" I say a damn sight more important is the few thousand people who are on welfare, is the people who are in the hospitals, is the people who are in the old age homes and then the matter becomes regularized the same way it has in the past, and that is by the passage of Interim Supply in this House of Assembly.

I would much rather, and this government would much rather take its chances with the people of Newfoundland, by having acted in what was in the best interests of those people, rather than being sidetracked and acting not in accord with the requirements of the people because of parliamentary highjacking by hon. members opposite.

Thank you.

MR. BARRY:

Mr. Chairman.

MR. CHAIRMAN:

The hon. the Leader of the Opposition.

MR. BARRY:

Mr. Chairman, I thank the Minister of Intergovernmental Affairs (Mr. Ottenheimer) and I compliment him on a serious attempt to deal with what is, I think the minister himself has admitted, a very serious issue and a matter of basic and fundamental principle, and a matter which goes to the very reason for being of this House of Assembly. I compliment him for one of the few serious speeches we have heard not just in this Session but in the last several Sessions, from the other side of the House. It did not involve partisan attacks. There was a little political barb now and then, but that is allowed. Mr. Chairman, it was the sort of speech that I think we want to see more of in this House. Now, Mr. Chairman, that is not to say that I agree with the logic and the reasoning of the Minister of Intergovernmental Affairs. I would have to say that that reasoning is seriously flawed, Mr. Chairman, and, in fact, is somewhat self-serving from the point of view of having the

administration get on with the minimum of inconvenience in pushing through the business of the Province.

Now I am prepared to say, Mr. Chairman, that members opposite have done this in all good faith. Let us not get into questioning motives, I am prepared to say that members opposite are so wrapped up in the problems they have in trying to deal with the mess they are making in the economy, the lack of jobs, jobs being lost in the Province, the problems they had with the labour dispute with NAPE, and so forth, they are into a survival mode, a bunker mentality has set in, and they just want to get the job done and get out of the House of Assembly; get the job done and not even go into the House of Assembly, wherever possible.

Let me point out the flaws in the minister's argument: You see, if his argument falls, then we have the admission now by a senior Cabinet Minister in government that what has been done is illegal. Unless the reasoning of that minister can be upheld, government's entire approach here has to be accepted as being illegal, as the Comptroller General said it was.

Here is the argument: First of all he says that all of the law is not contained in the Statutes of the Province. Agreed. Agreed, Mr. Chairman, all of the law of the Province is not contained in the Statutes of the Province, and there is such a thing as the right of the executive which comes from the prerogative of the Crown.

Historically, Mr. Chairman, before there ever was a House of Assembly or a British Parliament, there was

a law making ability in the Crown, in the King, at one time the absolute Monarch, and the history of democracy, the history of parliamentary democracy is the erosion away over time of those powers of the King or of the executive, and the increasing of the powers of the elected institution of Parliament or the House of Assembly. That has been the history of the development of British parliamentary democracy.

Now, the minister is right when he says that all law is not found in Statutes but, Mr. Chairman, when you have a Statute which clearly says, as does this one, that such a thing may not be done unless certain other things apply, then there is no question but that the executive power, the prerogative of the Crown, the executive power to act has been limited by Statute, by law. Therefore, Mr. Chairman, all one need do is look at the Financial Administration Act and one sees that that act sets out that Special Warrants can only be obtained in certain circumstances, when the Legislature is not in session, when it has been adjourned for more than thirty days.

DR. COLLINS:

Is the word 'only' in there?

MR. BARRY:

Only what?

DR. COLLINS:

You said the Financial Administration Act states that such-and-such a thing is 'only' done. Is the word 'only' in there?

MR. BARRY:

Oh, Mr. Chairman! The acts starts off by saying, "The Comptroller shall not approve any monies for which there has not been

legislative appropriation." Section 28 (3) sets out when Special Warrants are obtainable. Section 29 says, "The Comptroller shall see that no payment or commitment for the payment of any public money is made for which there is no legislative appropriation." Section 28, subsection (3) says, "If, when the Legislature is not in session or when the House of Assembly has stood adjourned for more than thirty days, any expenditure not foreseen and not provided for by the Legislature in respect of a new service is urgently and immediately required, then a Special Warrant - 'then a Special Warrant' - may be obtained." It sets out when a Special Warrant may be obtained.

Now, let us go back and let us look at the comments that have been made in this House of Assembly by members of the Conservative Administration. First of all, some of these comments were made when they were still in Opposition. But then they formed the administration in the early 1970s. Let us just see whether what the Minister of Finance is now saying is consistent with what was said in the early 1970s.

If I could just first deal with a couple of general points before getting into this. What we see here on the part of the Minister of Intergovernmental Affairs, a former Attorney General, is a very serious tendency to ignore the law of the Province. He said, "Dismiss the Financial Administration Act, the well-being of the people of the Province comes first." Whether it be the Financial Administration Act or whether it be a court injunction in the middle of a labour dispute,

let us ignore it. Let us ignore the law of the Province.

Let me quote from the current Chief Justice of Newfoundland when he was a member of the House of Assembly on April 14, 1971, the year in which we saw a change of government. This was not on the Financial Administration Act, that did not come in until 1973 and I will deal with that in a minute, this was on the question of whether Newfoundland should have a Public Accounts Committee. Do you know something? Alec Hickman ended up persuading Joe Smallwood and Joe Smallwood got up at the end of this speech and said, "Yes, we will vote in support of a Select Committee of the House to study the Auditor General's report," our Public Accounts Committee.

Now, what did Alec Hickman say about Special Warrants? I have copied some of this, but I do not think I have copied this one for the press yet. I will copy them when I have finished my few remarks. Let us see what the current Chief Justice and then member of the Conservative Opposition said. "A Lieutenant-Governor's Warrant, Mr. Speaker, I do not know if we realize this or not, but certainly it does not hurt to be reminded of it. A Lieutenant-Governor's Warrant is not a matter that government are entitled to as of right. No government have the right to go to the Lieutenant-Governor and say, 'Here is a warrant, Your Honour, sign it.' Because the basic principle is that the government can only spend the money that this House votes for it. But under the Revenue and Audit Act, in anticipation of certain unforeseen exigencies which may arise - I can

think of them ", he goes on to say, then there may be an application for a Special Warrant.

He says, "The hon. the Minister of Finance has to advise the Lieutenant-Governor that in his opinion the necessity is urgent and he must give reasons for his opinion."

But let us go on and let us look at what the Chief Justice said about the approach that was suggested by the Minister of Intergovernmental Affairs when he says, Oh, it is not the law of the Medes and the Persians, if the well-being of the people come first, then government can do it, Cabinet can do it, Treasury Board can do it.' The Chief Justice says, "So, Mr. Speaker, does the Revenue and Audit Act mean anything? Does the responsibility that is imposed on the minister mean anything?' Then he goes on and he gives an example and he says, "Now, Mr. Speaker, that is what the hon. the member for St. John's North meant." I think that was the hon. Nat Noel at the time, the member for St. John's North, who is now a member of the Supreme Court of this Province.

"Now, Mr. Speaker, that is what the hon. the member for St. John's North meant when he talked, last year, about the power of the purse. That is what he meant when he said, 'If we allow the power to shift to the executive', I think he used the words, 'that is how a dictatorship comes about.'" You see how fundamental this is, and you see how easy it is to slip into a dictatorship mode.

It is not very complicated. Now, it is not necessarily a bad, evil, malicious dictatorship, but it is a dictatorship if you have the

executive, i.e. Cabinet or a Committee of Cabinet, namely, Treasury Board, deciding whether or not money should be spent.

The member for Windsor - Buchans is going to make another interesting argument, and I am not going to steal his thunder by attempting to make it here now, but that will also totally undermine the approach that is being taken by the Minister of Finance and by the Minister of Intergovernmental Affairs.

You see, the current Chief Justice of this Province has set out very clearly that if the executive adopt the approach that is recommended by the Minister of Intergovernmental Affairs, we are into a dictatorship mode. It may be a benign dictatorship, people may be acting in good faith, but as soon as you take spending power away from the House of Assembly, then it is a dictatorship.

And do you know something, Mr. Chairman? That is already getting out around this Province. Today, when I spoke to people in Labrador, Corner Brook, the Southwest Coast, the Bonavista area, the concern was is that not an arrogant approach for government to be taking, to spend money without the approval of the House of Assembly? Is that not arrogance?

Now listen to what the Chief Justice goes on to say: "Mr. Speaker, the issue that is before this House is a very simple one: Does this House control the purse or does it not? If it controls the purse, it is entitled to have all the details that it requests, not the details that the government deems appropriate, not the government that decides on the

total amount of money that is to be spent. The government comes in and says..." they want so much money, and he gives an example. This is interesting, you know. This is back in 1971. How little it has changed. He says, "But when I hear people standing - one time it used to be the height of treachery to question the financial position of the Province." And what are we getting from the other side today? It is basically that we are traitors to the people on social assistance, we are not looking after the people who need cheques, the same thing. They are attacking the right of the Opposition to get up and question the financial approach being taken. The scare tactics: They wrap themselves in the flag of patriotism or they try and scare the people who cannot defend themselves, who do not know, who do not understand the complexities of what is happening here. The minister gets up and says your cheques are going to be late - and they have to believe the minister - or they are not going to come at all. And they play on the fears and the concerns of the sick, the elderly, the disadvantaged in this Province for cheap political reasons. Mr. Chairman, that is despicable. That is despicable.

MR. CHAIRMAN (Greening):
Order, please!

The hon. member's time is up.

MR. BARRY:
If I could by leave have a few more moments.

MR. TULK:
By leave.

MR. BARRY:
Or somebody could get up and say

you are making a good speech, or whatever. But the current Chief Justice went on to say, "You were being most unpatriotic to even suggest that the Province or the government were spending more money than they should." Back in 1971 - have we not heard the same thing now? The Chief Justice said, "That patriotism kind of wore thin. If you look at it, Mr. Speaker, from a point of view of patriotism, the most unpatriotic thing that any hon. member could do would be to allow a continuance of a system that is peculiar to two provinces..." - that is where only two provinces did not have a Public Accounts Committee.

Mr. Chairman, that is all that would come from the current Chief Justice's remarks. Now in 1971, when there was an Act To Amend the Revenue and Audit Act, let me give the comments of the current Government House Leader, the member for St. John's East (Mr. Marshall). Let us see what the member for St. John's East was saying. He was only talking then about Supplementary Supply, it is not even Interim Supply with a new session, he is talking about the fact that the government issued Special Warrants, and came in with Supplementary Supply, to meet the gap between what they estimated they would need and what they actually did need, an occurrence that has happened once or twice during the current tenure of the now Minister of Finance (Dr. Collins), I might add.

MR. TULK:
Does he realize that we have Supplementary Supply dating back to 1984 which has not been passed yet?

MR. BARRY:
Supplementary Supply back to 1984

not passed yet? I cannot believe that. Is that true?

Well, listen to what the current Government House Leader said then: "In other words," - listen - "in the secret Cabinet Chamber, some \$42 million odd more were borrowed than the public was informed originally, through this Legislature." And then he goes on - there is another \$55 million - "It is \$55 million that was borrowed in the secret Cabinet Chamber." 55 million. Peanuts! What are we talking about now, \$700 odd million?

MR. TULK:
\$715 million.

MR. BARRY:
\$715 million. He says, "After the fact we are informed of it, after the fact we are told what additional amounts the government has spent, and they used a lot of this money to spend extra money, which is a point to which I will revert in a moment. Now this is not right, it is incorrect and it is very wrong." This is from the current Government House Leader. And he goes on to say, "Furthermore, the public of this Province is entitled to a better budgetary set-up and a better budgetary management by this government, than to be out in the estimates by \$54 million." Does that sound familiar? What were we out this year? What is the deficit?

"As we see by the Lieutenant-Governor's warrants, \$43 million last year. It is ridiculous, Mr. Speaker, the bad effect of this legislation can be seen and can be seen rather patently and sorrowfully right now. The public of this Province have a right, particularly in

these very trying financial times, to know at all times when money is being borrowed, when it is being spent, and for what purpose it is being spent."

MR. TULK:
Are you going to send him over a copy of that?

MR. BARRY:
Oh, yes.

He goes on to say, "I know that there will be arguments presented by proponents on the other side, to the effect that this is a normal delegation of authority from the Legislature to the Cabinet." Now, was that not prophetic? "I know there will be arguments presented by proponents on the other side, to the effect that this is a normal delegation of authority from the Legislature to the Cabinet." This is the Government House Leader now, who just walked in, saying this. He says, "We have to look back into history, into the history of British Parliamentary practice and we can see far, far back in the fourteenth century, where there were delegations by the British Parliament to the executive arm of government, and that particular case was a statute, I think it was called the Statute of Proclamations" - remember that bill? - "Whereby the Cabinet was pretty well given authority at the time to enact all types of laws and legislation without meeting the House." Now why was that? "It was enacted, I might say, at that time because of the difficulty in convening Parliament, because of transportation difficulties in these ancient times."

The now minister went on, "However, that particular

delegation was not abused. It was not abused by the British Parliament, and it really came to mean as practice, this particular delegation only merely related to administration itself" - and listen to this - "and not to huge, mammoth decisions such as the one we have delegated to the Cabinet here."

Listen to this now: "Surely this Legislature, any progressive Legislature in the twentieth century should not be afraid, or any progressive government should not be afraid to come before the Legislature before it borrows millions of dollars and inform the Legislature of its intentions before so doing and get its approval, and thereby inform the public of this Province, through its elected representatives, of its intentions. It is not only necessary", said the member for St. John's East, "it is a safeguard."

SOME HON. MEMBERS:

That is enough. That is enough.

MR. BARRY:

Okay. I must say I am getting bored reading this myself. But I thought that that was all accepted conventional wisdom today.

"Mr. Speaker, that this power that has been delegated in '66 and '67, and amended again from time to time to make it more easy for there to be borrowing by the executive arm of government, to make it more easy for there to be borrowing of huge amounts in secret Cabinet sessions, that this particular power has been given by the Legislature to the government has been abused by the government. I do not see how anybody can say that it has not been abused...Nobody can tell me

that this was the intention of the Legislature when the authority was originally delegated to the Cabinet."

MR. WARREN:

'Leo' how about (inaudible)?

MR. BARRY:

Did I hear an intervention on a financial matter? Was that a participation in debate on the Special Warrants? Is somebody in the Premier's seat?

MR. FLIGHT:

The member for Torngat Mountains.

MR. TULK:

The gnome is in the Premier's seat.

MR. BARRY:

Well, I am going to be very interested now in hearing that member get up and participate in this debate.

Mr. Chairman, I realize I have gone over my time, but it will just be a matter of my getting up again. If I could just finish by logical progression and argument, when the current Minister of Justice for Canada (Mr. Crosbie) was Minister of Finance in the Conservative Administration, in 1973, he introduced the current Financial Administration Act, and let us see what the member for St. John's East had to say in the course of that debate.

MR. CHAIRMAN:

Order, please!

The hon. member's time is up.

MR. TULK:

By leave.

MR. MARSHALL:

No, the member's time is up.

MR. TULK:

No leave! You are back again. We did have a bit of co-operation, but you are back.

MR. MARSHALL:

Mr. Chairman.

MR. CHAIRMAN:

The hon. the President of the Council.

MR. MARSHALL:

Mr. Chairman, let us take up the great argument that the hon. member made. What the hon. gentleman does is he constructs scenarios all around him, and it is like he constructs little rooms, little isolation kits or rooms, or whatever, where nobody can get in, and he invents a scenario. From his own words he was quoting he should know the difference. What was said by the illustrious member in Opposition in those days was the fact that the Legislature should be informed of the intent, and that is precisely so. So it should be and so it was, Mr. Chairman. Because the whole point of the matter is, Interim Supply was then sought when the estimates were tabled and after the estimates were tabled, so the Legislature had been informed of the intent.

Secondly, what the hon. gentleman was referring to was an entirely different situation. The party that he has since joined or gone back to, really - it is like, I suppose, a gopher going back into a hole, as it were, which he did, and he is digging a bigger hole for himself now. In those days, he was a supporter of the Liberal Government of the time. Mr. Chairman, do you know you did not even have to convene the House of Assembly in those days, because they could borrow under the then

Revenue and Audit Act any amount of money by Order in Council, and that is what this hon. member was referring to then. Now, what did we do when we came in, the Progressive Conservative Party? We replaced the Revenue and Audit Act with the Financial Administration Act, and we provided in that Financial Administration Act that no monies could be borrowed without a bill of the government being brought before the Legislation. So that is why we have a Borrowing Bill which the Minister of Finance (Dr. Collins) will introduce into the House. So the situation is completely and entirely different.

Now, kinder people than me, namely, my colleagues, the Minister of Finance (Dr. Collins) and the Minister of Intergovernmental Affairs (Mr. Ottenheimer), have dinned the hon. gentleman to get up and answer his legal arguments that he put forth, but I would like to know what is the point of the whole three Ts that the hon. gentleman is getting up and giving? What is his aim? Is it to prove that somehow or other, in his own mind, the payments were illegal? Just let us presume that is what he is seeking to prove and let us say he can do it. Why is he trying to do it? There can be only one reason. If he can convince this House that these payments were illegal, what one would have to do then is ask for the monies back that have been paid illegally. So really what the hon. gentleman is trying to do, having attempted to prevent the social assistance recipients, the pensioners and the people in hospitals, providing essential services, from getting their salaries, as they did on April 2, now he consumes a whole period of time, in his own

theoretical thoughts, attempting to convince us that what we should do is ask for that money back.

Now, is the position of the official Opposition in this House that monies that have been paid through Special Warrants which had to be issued because of the way in which they could not conduct the affairs - they would not allow Interim Supply to pass, so we were forced to issue Special Warrants - they want the people of Newfoundland to pay back? Are they attempting to say to the social assistance recipients that the payments they received from April 1 until now, or until Interim Supply passed, should be paid back?

The member for Stephenville (Mr. K. Aylward) is nodding so obviously he is in assent, or at least he appears to be nodding over there. And that is the position. Now, what is the point of this great exercise? We are on Interim Supply, gentlemen. In effect, Interim Supply has passed because of the Special Warrants. We are trying to deal with the affairs of the Province in a logical manner, so why do the hon. gentlemen want to hang down on Interim Supply? Well, that is fine, let them hang down on Interim Supply, but, Mr. Chairman, let us ask what the point is. We issued those Special Warrants. We received advice that they could be done. The Comptroller did what he had to do under the Financial Administration Act, Treasury Board did what it had to do under the Financial Administration Act, the people of the Province have been paid, now what is the point of debating it? In the Financial Administration Act it says, 'For some unforeseen expenditure.' Well, they were unforeseen

expenditures, Mr. Chairman, because nobody thought that the Opposition in this House would be so totally irresponsible that it would deny Interim Supply, and what it would do is put at risk the receipt by people who were entitled to these cheques.

Now, as it happened, there were a number of people in this Province who received their cheques late, and they received their cheques late because there had to be a different procedure adopted, and they were inconvenienced because of the games that were being played by the members of the Opposition. So each and every person who gets a cheque late between now and when Interim Supply is passed can give thanks for that to the Leader of the Opposition (Mr. Barry), and the Opposition, for the way in which they have operated.

As I say, what is the point of this exercise? Suppose we conceded - which we do not concede - in this great legal argument that we have been treated to, you know, the books, the Statutes of Newfoundland coming in, the Statutes of proclamation passed in the 1600s being brought to bear, so what? Suppose you do prove that it was illegal, which you cannot, what is the point of it? The only point that can be is to try to prove the expenditures that were made ought not to be made, so we will go out to every person who has received social assistance - that is what the government would have to do - every person who has received a salary cheque, and we ask for the cheque back. Now, has the Opposition gotten so diseased in its opposition to government that this is what they are trying to force the government to do? It was bad enough that before the

Easter recess they did everything irresponsibly to preclude the people of this Province from receiving cheques that were due them from April 1, now what the Opposition, under the leadership of the Leader of the Opposition, is quite obviously doing is trying to get these people to be forced to pay the money back.

Now, he can get up, Mr. Chairman, and he can quote from everything that was said, but what he is quoting is completely and absolutely not relevant to the particular issue. We brought in a bill on Interim Supply, the Minister of Finance (Dr. Collins) brought in a budget, the Minister of Finance tabled the estimates. Every detail of expenditure was before this House on March 26. What we were asking the people of this Legislature to do was vote on expenditures that were there. We certainly were not asking them, as the hon. gentleman indicated, to vote us Supply without informing the Legislature fully and completely of our intent. So what the hon. gentlemen are doing is showing that they cannot operate in Opposition.

God help it if they ever got in government. We have been treated in this Interim Supply debate to an attempt by the Opposition to preclude people from getting their cheques. Now, Mr. Chairman, the Minister of Intergovernmental Affairs (Mr. Ottenheimer) and the Minister of Finance will do dignity to the hon. Leader of the Opposition by entering into very courteously, as they always do, a debate as to the legal issues they raise. But I prefer to deal with the practicality of the situation. What is the purpose of this particular debate? Is it for the purpose of asking the people

of the Province to repay the money? Why does not the Opposition pass Interim Supply and get into the general estimates where one can ask questions, which financial debates were meant to do, on specific expenditures? The hon. gentlemen there opposite are ineffective, they are a disgrace to this Province in their representation in this House of Assembly. They showed it last Fall, when they took fifteen days to pass Supplementary Supply, they showed it last March, when they refused to pass Interim Supply and put in jeopardy the receipt of cheques and, in fact, caused people to receive their cheques late, and now they are proceeding in a little game, the end result of which will be to have to recover cheques which are paid out, and they can answer to the people of Newfoundland for it, Mr. Chairman.

MR. BARRY:
Mr. Chairman.

MR. CHAIRMAN (Greening):
The hon. the Leader of the Opposition.

MR. BARRY:
Well, Mr. Chairman, there is an example now of two speakers from the other side of the House.

MR. TULK:
By the way, they are arguing oppositely.

MR. BARRY:
Yes, taking opposite approaches.

We saw the Minister for Intergovernmental Affairs, quite rightly, get up and attempt to put some legal face on the action of government, slight though it was. Obviously, it was the member for St. John's East, the Government

House Leader (Mr. Marshall), who had his way with the Premier, who had his wicked will with the Premier during the recent NAPE negotiations, during the recent labour dispute, when the advice was finally adopted to ignore the court injunction, because that is only law, that is only a legal technicality. 'Let us look at the practicality,' said the Government House Leader. 'Let us look at the practicality. How the hell are we going to get out of this mess that we got ourselves into?'

MR. TULK:

Retroactive legislation.

MR. BARRY:

That is the enlightened approach. Retroactive legislation in the Kruger situation. Whose point of view prevailed then? It obviously was not the very responsible view of the Minister for Intergovernmental Affairs, a former distinguished Attorney General and Minister of Justice, and, Your Honour, former Speaker of this House. No, no. A gentleman learned in the law? No, it was not his view. We have to respect the fact that we are a government under law, that the essence of a democracy is that government follows the law, lives by the law, abides by the law.

MR. FLIGHT:

And dies by the law.

MR. BARRY:

Yes, and dies by the law and the ballot box, eventually, in a very, very short time.

Let me get back, Mr. Chairman, to the remarks of the Government House Leader when the Financial Administration Act was introduced. Mr. Chairman, let us look at Page 6216 in the debate of

April 30, 1973. I am not going to read the whole thing, but just show the argument

"Another argument used", said the member for St. John's East, "was that it was necessary for flexibility of borrowing, to administer the affairs of the Province. This is an argument that is used frequently from time to time, as a matter of convenience, by the bureaucrats." Have we heard a similar argument in recent days? Where did this argument of convenience come from, was it from this side of the House? Oh, no! The member for St. John's East, all of the sudden, is ignoring his words.

He said, "This government have decided that all the flexibility that this government need and all the flexibility we should have is the amount that the Legislature is prepared to allow us to borrow within a certain stipulated time, plus extra amounts to meet our commitments to third parties plus, if urgencies occur, emergencies occur, there has to be an emergency borrowing power."

Now, without reading it all, let me get on to the Special Warrants here. I know it is terribly boring stuff but, then, again, it is the member for St. John's East's words. The member for St. John's East goes on, "If it happens to be a Liberal Government that gets back in, we can reasonably predict that we will be galloping away again with borrowing from the point of view of convenience, without reference to the people who are the ones who ultimately have to pay the debt" - i.e. reference to the House of Assembly - "and we will see an astronomical acceleration of the public debt all over again."

But here are the good words, talking about the Financial Administration Act: "But this restores to the people of Newfoundland the power to borrow money except in two instances: to refund existing indebtedness, which is the same as they have in the federal government, in Ontario and all over the place, everywhere." Now listen to this, "The only place you could compare us with is probably Russia or Communist China or something like that where a couple of people could just spend all the resources of the Province." He talks about The Financial Administration Act and he says, 'It restores to the people of this Province the sovereign power to borrow...which is the same as in other areas, and for temporary purposes etc. etc.'

AN HON. MEMBER:

Carried. Call in the members.

MR. BARRY:

No, Mr. Chairman, not yet.

The member for St. John's East has ignored what has been a respected precedent in parliamentary democracy. And what the Minister of Finance did, as the member for Bonavista North pointed out earlier, was done previously in Newfoundland; it was done by the current Federal Minister of Justice, when he was Finance Minister, and it was done after an election had been called and before the twenty-two days were up, when members could be called together in the House of Assembly. Now, what did the hon. John Crosbie, the then Minister of Finance do? Did he come in and arrogantly say, Listen I do not need the approval of the House of Assembly, I can get my Special Warrants, no problem, pshaw the problem, as Mr. Crosbie would say

in his French accent, pshaw the problem? No, Mr. Chairman, that is not what the then Minister of Finance said. It was \$119 million Interim Supply they put through then. Do you know what John Crosbie said? He came in and he meekly and humbly said, 'Ladies and gentlemen, we were caught in a bind. The House could not be called together and we had to make a rough and quick decision, quick and dirty, do we let people suffer in this Province, or do we go out and spend money illegally' - he admitted it - 'then come in and ask the House of Assembly to ratify it for us?'

The current Minister of Finance comes in with all arrogance and says, I do not need the approval of the House of Assembly, what I did was legal. Here is what John Crosbie said: 'We will trust the House to forgive us'. And do you know something, Mr. Chairman, the House did, as any reasonable House would, as this House would for the current Minister of Finance if, Mr. Chairman, we did not have the situation where members opposite could have brought in Interim Supply in February, before they hoisted their sails, or hoisted their tails, and ran out of the House and closed her down without bringing in Interim Supply. They could have had Interim Supply in all probability, Mr. Chairman, if they had been prepared to explain their policy, explain that they were going to adopt the suggestion of the Opposition for arbitration in the current labour dispute, and that they were going to go back to the bargaining table and adopt the Opposition's position with respect to parity. They could have had Interim Supply if they had gotten away from their arrogance and had been prepared to come into this House and explain their labour

position and the approach they were going to take. But, no, they would not do that, nor, Mr. Chairman, would they continue debating for another three days, as we could have, to give members opposite a chance to question the administration on this \$715 million.

Mr. Chairman, you can see how outrageous the position is that is being taken by the current minister. John Crosbie had the intestinal fortitude to say, 'Listen, I was caught in a bind and I had to ram through these Special Warrants. I do not think it is right' - and Dirk Peper rejected them just like the present Comptroller General rejected them - 'but will the House forgive me and will they give me ratification and approval now? I had to do it for the well-being of the people of the Province.' Naturally the House gave ratification.

MR. MARSHALL:

That is what you want. You want humility, do you?

MR. BARRY:

We do not want the money repaid, Mr. Chairman, we do not want the disadvantaged of this Province to suffer because of the arrogance, the incompetence, and the illegal actions of members opposite. What we do want is to have the prerogatives of this House respected, what we do want is to have democratic principles upheld, what we do want, in the words of the member for St. John's East (Mr. Marshall), in 1973, is to avoid going back to rule by executive, as he points out would be the case in Russia or Communist China. As the current Chief Justice pointed out, what we do want is to avoid a benign

dictatorship, an expenditure by executive decree by the President of Treasury Board and the political members of that body. That is what we want. We want recognition that what was done here was illegal, was wrong, and we will be prepared, Mr. Chairman, if we get this recognition, if we get this admission, to consider ratifying, after the fact, the action that was taken by the current administration. But that is something which must be put to the House.

And that basic principle can not be thrown out the window with this nonsense, 'Oh, we can do anything we want as long as we say it is for the well-being of the people.' Sure that is what Hitler was doing. He thought it was for the well-being of the German people. That is what Stalin was doing. He thought it was for the well-being of the Russian people. That is what Pinochet in Chile is doing now and Whats-His-Face in Argentina, Badela. That is what he was doing, that is what Marcos was doing. But do you know something? Even Marcos was not prepared to do away with the necessity of getting parliamentary approval, not even Marcos, he still had a parliament in place.

MR. CHAIRMAN:

The hon. the Minister of Finance.

DR. COLLINS:

Mr. Chairman, we have been at this poor old resolution now for I do not know how many days and we are no further ahead. The resolution relates to the Interim Supply Bill. There is hardly a question. The hon. the member for Gander (Mr. Baker) asked one question yesterday and it took me about five minutes to answer it, but that is about the only

question answered on the thing. We just get harangue after harangue.

The hon. Minister of Intergovernmental Affairs (Mr. Ottenheimer) decided to put this debate on a somewhat higher plane. After that the Opposition Leader spoke and immediately the whole tenor of debate descended, he got down to nitty, gritty little legal points. I am sure we have all seen Perry Mason on the television tube, where one lawyer gets up and makes a point and it sounds great, thumping the desk and all the rest of it, but then another one, on the other side, gets up and thumps the desk and makes great points and sounds great. That is the sort of debate the hon. the Leader of the Opposition (Mr. Barry) is getting into; he is advocating one point of view against another point of view. It is not really advancing the process at all, it is not really getting at the truth, it is just seeing a one-sided view of the whole issue.

I suppose if you come down to it, if we keep on that tack, we advocate a one-sided view and they advocate a one-sided view, the only way we could settle it would be to go back to the Constitution and say, 'Who is right and who is wrong?' That is the final law. Of course, we all know that the Feds have a final law which says that everything else is subject to peace and good order and that gives them the prerogative to do almost anything, certainly it gives them the prerogative to carry out things that are not covered by legislation.

However, we do not need to get into that. All we have to do here is to ask some very simple

questions. The first question is was it possible, before the end of the fiscal year, to get the Interim Supply through? Was it possible? The answer to that is no, the Opposition told us pointblank they would not pass the Interim Supply Bill. That is in Hansard. There is no questioning that.

SOME HON. MEMBERS:

Not true. Not true.

DR. COLLINS:

So there was no way. They said, 'We will stay here until next Christmas and we will not pass this Interim Supply Bill.' We can look it up in Hansard.

Now, if it was not possible, why was it not possible to pass the Interim Supply Bill? Was it because there was something defective in the bill? Was there some great issue at stake? Not, there was not, it was because the Opposition wanted to hold government to ransom. They said, 'We will not do something that is required of this House to be done unless you do something quite unrelated to it, quite unrelated to the issue before the House.' As the hon. Minister of Intergovernmental Affairs said, it was not something that the House itself could settle, it was an issue between government and another third party and this Legislature could not determine the other third party would do something they were demanding to be done. It was a totally impossible situation.

The hon. Leader of the Opposition says, 'We are getting into a dictatorship.' Well, now, I suggest that this is dictatorship. If you hold up the government from doing what is

correct and proper, and no one has said that the Interim Supply Bill is not correct and proper, if you hold government up from doing that, you are holding government up to ransom, it is a form of dictatorship, and it is a form of undermining the legislative authority of this House. I think it was a dastardly act created in regard to this Interim Supply Bill, it was a dastardly act of holding this government up to ransom over an issue that had nothing to do with the bill being discussed. Nevertheless, we were held up in that way.

So, what was government going to do? Was it going to say, 'Well, we am impotent in the matter. They are holding us to ransom and there is nothing we can do about it?' Now, Mr. Chairman, if we were impotent in the matter or if it was thought that we were impotent in the matter, are there any precedents whereby we can get out of this terrible situation that the Opposition has forced itself into? Of course, there are precedents. All we have to do is look back and see where similar situations arose before, when there was not legislative authority to expend money that was required to be spent.

We looked at those precedents and the precedents said, 'Sure, when there is a Supply Bill in place, you have the authority to spend money. When there is not a Supply Bill in place for reasons that are not within the control of government.' An example of that reason would be when the House is prorogued. The government cannot get authority from the House when it is prorogued. But that is just an example, just one instance where the House was unable to get the authority of the House. We

now had another instance, where the government was unable to get the authority of the House because the Opposition would not give it, it was blocked from it. It was as much an obstacle put in our way as if the House had been prorogued. So what do we do? We look to the precedents and say, 'What do the precedents show?' The precedents show that if government makes a reasoned case and goes to Treasury Board and Treasury Board gives the concurrence to spend that money, and it is government's intention then to ratify that decision at a later date by bringing in a bill, such as we are doing now, you are within the correct functions of government, you are within the law, for all practical purposes. And that is exactly what we did.

Now, Mr. Chairman, to say that we are breaking the law, that we are doing something against the welfare of the people of this Province, that we are doing something dastardly, that we are doing something criminal, is just legalistic debating. It is unfortunate that the Opposition has got itself once again into this fine, legalistic type of argument and is not really addressing the issues that the Opposition should be addressing. Now, we have seen this a number of times. We have seen other oppositions, where they got down to the important things that this House should be debating. Unfortunately, the present Opposition is not doing that, it gets us into these little, narrow, legalistic debates time and time again.

With that, Mr. Chairman, I move the adjournment of the debate.

On motion, that the Committee rise, report progress and ask

leave to sit again, Mr. Speaker returned to the Chair.

MR. SPEAKER:
Order, please!

The hon. the member for Terra Nova.

MR. GREENING:
Mr. Speaker, the Committee of Supply have considered the matters to it referred and have directed me to report progress and ask leave to sit again.

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

MR. MARSHALL:
Mr. Speaker.

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

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

On Motion, the House at its rising adjourned until tomorrow, Wednesday, April 9, 1986 at 3:00 p.m.