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VERBATIM REPORT

Thursday, April 27, 1972

SPEAKER: THE HONOURABLE JAMES M. RUSSELL

The House met at 3:00 P.M.

Mr. Speaker in the Chair. (Mr. L. Barry)

MR. SPEAKER: Hon. members are informed that there are students visiting from St. Patrick's Central High, attended by their teacher Mr. William Vickers and also students from MacPherson Junior High, attended by their teacher Mr. Wilson Rich. On your behalf I would like to welcome the students and their teachers to the House and I hope that their visit will be informative and educational.

MR. ROWE (W.N.): Mr. Speaker, I rise on a point of personal privilege or explanation appropriate to the occasion, with reference to an article which appeared in today's "Daily News" April 27 which is headlined, "Sly, contemptuous worm' tells 'muttonchops' to sit down," and the substance of the article Sir, is as follows: "A discussion about road upgrading generated a brief flurry of insults in the Legislature Wednesday.

"William Rowe (L - White Bay South) said the amount of money available for road work would probably depend on the temperament of Finance Minister John C. Crosbie 'and it does not look good.' "

Well that is essentially what I said there, Mr. Speaker.

"Mr. Crosbie said Mr. Rowe was making 'contemptuous insinuation."

I believe the hon. Minister of Finance did in fact say that. Next however Sir we come to some inaccuracies and errors in the text of this "Daily News" article. The next paragraph says: "'Sit down, muttonchops,' said Mr. Rowe, apparently in reference to Mr. Crosbie's thick sideburns.

"That sounds like it comes from a sly, contemptuous worm,' Mr. Crosbie said.

"The exchange occurred as several petitions..."

Mr. Speaker, I would just like to correct for the record the sequence of events which did actually transpire during the course of that particular spectacle in the House. I did in fact make a statement while supporting a petition that the Finance Minister, the hon. Minister of Finance, his temperament was such that it does not look too good for paving or upgrading roads.

MR. ROWE: Subsequently the hon. Minister of Finance rose to his feet in support of the petition and made some reference to contemptuous insinuations. At that point, Sir, I rose on a point of order and sat down after making my point of order. Subsequent to that, Sir, the hon. Minister of Finance rose, as everybody here will remember, and said something to the effect that I, the hon. member was a sly, contemptuous or contemptable worm and subsequent to that again Sir, I stated, regretfully that the hon. member who I designated as "muttonchops" ought to sit down.

So I would ask the "Daily News" for the sake of the record, to make that correction, in its next issue of the paper if it would.

While I am on my feet, Sir, I would also like to say for the benefit of the House that I sincerely and genuinely regret having referred to my hon. and learned friend as "muttonchops." I did so Sir under extreme provocation having been called myself "a sly, contemptable worm" but in any event, I do sincerely regret having called him "muttonchops" and I withdraw that statement and I apologize to the hon. member for having said it. I do so, Sir, without any conditions attached. He may or may not want to apologize for his remarks which are clearly unparliamentary but that is not the condition of my apology or my withdrawal. I do it unconditionally, Sir, because I do not wish the debate in this House, no matter what the provocation might be to an hon. member, to be reduced to that sort of thing, to personal remarks and personal insults being passed back and forth across the floor of this House.

HON. F. D. MOORES: On a point of order, Mr. Speaker. I appreciate the remarks that the hon. member for White Bay South portrayed here. It is back into the original mood that lasted for two and a-half days.

Mr. Moores.

I would like to suggest, Sir, that possibly in the future the official documentation that can be referred to by members of the House will be Hansard and not the "Daily News."

HON. J. C. CROSBIE (Minister of Finance): The hon. gentleman's point of privilege, Mr. Speaker, apparently he said that I would not withdraw the words. I certainly withdraw "a fly" and "contemptible," and in fact I will even withdraw "worm." I will withdraw all three. I do not think there is anything to get too upset about. I withdraw all three since he has withdrawn "muttonchops."

HON. A. J. MURPHY (Minister of Provincial Affairs): Mr. Speaker, after hearing from the committee of the mutual admiration society, I would ask leave just to make a short statement with reference to the restoration of the tattoo. This will be released to the press following my statement and if the Leader of the Opposition requires a copy, he can have one.

" I have been advised by Colonel J. T. Allston, Commander of Newfoundland Militia District that the federal government, under its opportunities for youth programmes, will provide financial support to assist the Province of Newfoundland and the City of St. John's to have the Signal Hill Tattoo performed this year. The tattoo was first performed by the Newfoundland Regiment during Centennial Year and again in the following year. However, despite strong local support, it has not been performed for the past three years. I am, therefore, particularly pleased to announce its reinstatement this year and hope that it will in future become an annual event.

The federal government have authorized the employment through Canada Manpower Office of fifty students between the ages of seventeen and twenty-four, for a six-week period from 10th July to 20th. August inclusive, to take part in the tattoo. The rate of pay will be \$8.80 a day or approximately \$370 for the six week period. Preference will be given to students who have had some form of military training in the cadets or the C.L.B. or similar organizations. The Newfoundland Militia will provide instructors to train students

MR. MURPHY

and direct and organize the performances. Major Norman Bull will be in charge of the project and he will be assisted by Regimental Sergeant Major, Harvey Goodyear. Other militia personnel not yet selected will also be involved.

In addition to the performance of the tattoo, the students will be instructed in first-aid and will take part in physical training and organized sports. The tattoo will be performed eight times a week. It will be performed 3:00 P.M. and 7:00 P.M. every Saturday, Sunday, Tuesday and Thursday, unless prevented by the weather. The provincial government are providing the uniforms, muskets, ammunition, public address system, posters and other general public relations support. "(I might add here that these are on hand and there is no expense on any of these matters. I know the hon. Minister of Finance will be quite happy to hear that.)

We will also provide meals for the students as necessary and give general support and assistance wherever needed to supplement the federal aid without which the tattoo could not be performed. The City of St. John's will make city buses available to transport the performers to and from Signal Hill as required. The Royal Newfoundland Regiment will immediately start recruiting through the Canada Manpower Office and note that, "The Canada Manpower Office" and please do not beat a path to the Provincial Affairs Department. We hope to have all the preliminary details completed and the personnel signed up and fully equipped before July 10 so that on that date an immediate start can be made on rehearsals so that as many performances as possible can be held before the 20th. August.

In the past this tattoo was a great tourist attraction for the city and the Province. No doubt it will be again this year. It reflects a part of our history and tradition of which we are so proud and which now is part of Canada's heritage. I look forward to the Signal Hill Tattoo becoming a permanent annual occurrence and a visual historic display which will become as familiar to Canadians and tourists alike as Fort Henry or the changing of the Guard on Capital Hill.

MR.P.THOMS: Mr. Speaker, I beg leave to present petitions on behalf of the residents of Greenspond, Bonavista Bay. The prayer of this petition is that a causeway will be constructed from the island of Greenspond to the mainland of Newfoundland. Mr. Speaker, I wholeheartedly support this petition as I take notice that the town of Greenspond on the island of Greenspond is one of the oldest settlements in the district Bonavista North and the second oldest city in the whole of Bonavista Bay.

The Town of Greenspond, as it was at one time, had a very large population. It contained all of the fishermen of the north side of Bonavista Bay. Its population only forty years ago was over some 2000 people. It has since dwindled to a population of less than 500.

On Greenspond today we have a very active fishery. We have over fifty fishermen there. These people find their living in the waters of Bonavista Bay. These people do not want to resettle. They want to stay on the island of Greenspond. Because of the isolation of this community our young people are failing to stay behind. They are going afar and travelling to other communities and settling down. If such a causeway were provided this would eliminate the isolation of this area and would I believe encourage the population of Greenspond to expand. I note, Mr. Speaker, that the distance involved from the island of Greenspond to the mainland of Newfoundland is less than 2000 feet. This is to traverse over very shoal water. The deepest point between the island and the mainland is only ten fathoms.

Mr. Speaker, I sincerely support this petition and I accept the prayer of this petition. Mr. Speaker, I ask that this petition be placed on the table of the House and referred to the department to which it relates.

MR.R.WELLS: Mr. Speaker, I rise to support this petition. I feel there is a principle here that ought not to be overlooked. As the honourable member has said, the distance is approximately 2000 feet while 700 feet is approximately two or three feet deep. We are talking ~~in~~ all about 1300 feet -

MR. R. WELLS: one hundred feet of which the greatest is ten fathoms. The cost of doing this I would hesitate to estimate at the moment, but it is not a monumental cost. Against that and I think here the question of resettlement itself comes into the discussion when one considers something like this, but I think that the cost of doing such a thing ought to be balanced off against the social capital which has been invested over the years in a place like Greenspond. It well may be a more economical thing to do in the long run than to allow the town to be resettled and to call upon the taxpayer and private individuals to find the amount of money to resettle them in other parts of the province, probably without the employment opportunities which exist at Greenspond.

On principle and in this particular case I have pleasure, Mr. Speaker, in supporting the hon. member's petition.

MR. NEARY: Mr. Speaker, I would like to support the hon. member's petition so ably presented on behalf of the residents of Greenspond. Sir, having been born and raised on an island myself, I sympathize with the residents of Greenspond who are forced to live in isolation. I hope, Sir, that for the sake of a couple of thousand feet the government will see fit to establish a permanent link between this community and the local mainland.

I think it would probably be more economical but not for the same reason as the hon. member who just spoke stated, I think it would be more economical for the government to construct this causeway than to have to subsidize an adequate ferry service when the hon. Premier appoints his committee to investigate the feasibility of establishing ferry services as an extension of the highway system in the province.

I suggest, Sir, that this project, if the government were to carry it out, would make an excellent make-work project - that the Honourable House heard me talk about so much yesterday. I hope, Sir, that the residents of Greenspond will continue their efforts to

get this causeway and keep pressing the government until their request is granted and a permanent link is made between the community of Greenspond and the mainland as an extension of the highway system in the province, so as to give the people year-round access to all the social, cultural, educational and employment opportunities that are so readily available to people who are fortunate enough to live on the mainland part of Newfoundland.

MR. MORGAN: Mr. Speaker, speaking in support of the petition, after having grown up on an island, a next-door neighbour to Greenspond, I am fully aware of the isolation problem presently existing there. Seeing that it is only one of two remaining communities in Bonavista Bay, island communities, Greenspond has a very viable economic base with regard to the fishing industry. I feel that a causeway linking to the mainland of the island will be a potential development with regard to tourism and the continuing of the force of the fishery on the Island of Greenspond. Therefore, I fully support the petition.

MR. WINSOR: Mr. Speaker, I suppose I would be remiss in my duty in this Honourable House, having been born and brought up in Wesleyville, so close to Greenspond if I did not get on my feet and support the petition so ably presented by the hon. member for Bonavista North.

MR. WINSOR:

I support the petition for other reasons than the ones that have been outlined here because, Sir, Greenspond has a terrific historical background. All down through the early years Greenspond was the capital of Bonavista Bay and for years in the early years the people of Wesleyville, Badger's Quay, Valleyfield and all that line of coast used to have to go to Greenspond for their winter supply of rum. They used to bring it over from the other side in puncheons and tierces and store it in Greenspond. Some of the oldest buildings in Bonavista Bay are at Greenspond. For one period of time the only court house was at Greenspond, the only magistrate was at Greenspond.

AN HON. MEMBER: The only church?

MR. WINSOR: I do not know about the church, it could possibly be so. The only policeman was at Greenspond, everything centered around Greenspond.

Now I support this petition because I think it can become a tourist attraction, apart from the fishing there and that is very important and very essential to the people who are living there but it could become a tourist attraction, the island of Greenspond. It has, as I said earlier, a terrific background of history. It is surprising that the honourable member for St. John's North was not familiar with this background, having campaigned down there before the October election. He probably knew about it but it just skipped his mind.

So, Mr. Speaker, I have great pleasure in supporting that petition.

On motion petition received.

REPORTS OF STANDING AND SELECT COMMITTEES:

MR. HICKEY: Mr. Speaker, I wish to table the annual report of my

MR. HICKEY:

department for the year ending March 31, 1971. I might say I do not have any responsibility for this report. I would like to disassociate myself.

MR. MAYNARD: Mr. Speaker, I would like to table several reports actually. The first one, the annual report of the Workman's Compensation Board for the year 1971. Secondly the annual report of the Department of Labour for the year 1971 which includes in it the proceedings of the Labour Relations Board, the proceedings of the Minimum Wage Board and attached are various regulations that have been brought in regarding the Apprenticeship Act, the Elevators Act, the Weekly Day of Rest Act and the Minimum Wage Act. In case anyone wants some light

MR. MAYNARD: reading tonight, Mr. Speaker, the long awaited labour report of the Royal Commission on Labour Legislation in Newfoundland and Labrador.

I have by the way received enough copies for all of the honourable members of the House and the press and I do have a certain number for the general public. The government feel that no real comments can be made on the report today. However, I would like to say that I will be calling a press conference at eleven o'clock tomorrow morning at which time we will outline at least the procedure by which we hope to analyze the report and see exactly what its contents are. Thank you!

MR. E. M. ROBERTS: (HONOURABLE LEADER OF THE OPPOSITION): Mr. Speaker, since this was announced in his press conference, are we to understand that copies will be made available to us today in the House?

MR. MAYNARD: Yes, the copies will be brought in in a minute or so now.

MR. ROBERTS: Okay! Good! Thanks!

MR. MURPHY: Service with a smile.

MR. ROBERTS: Inaudible.

MR. CROSBIE: We do not want to hear any more apologies tomorrow, Mr. Speaker.

I ask leave of the House, Mr. Speaker, to present the Report of the Auditor General to the House of Assembly for the financial year ended March 31, 1971. This is of course a year ago at the end of last month. It is not even the financial year just ended, it is the one before that and, of course, this present government have no association with any remarks that are made in this report. Also a copy of the Public Accounts of the Province of Newfoundland for the year ended March 31, 1971, which I have had to sign, which I do not vouch for, and a copy of the accounts of Crown corporate agencies, boards, authorities and sundry funds administered by the province in 1971.

MR. CROSBIE: There are two volumes this year because it would be too bulky to put them altogether, so each member should get three copies of this, and the press. It is also proposed by the government, Mr. Speaker, to establish a Public Accounts Committee to which the Auditor General's Report and the Public Accounts will be referred and the honourable the House Leader will be taking action, and I believe this week.

AN HON. MEMBER: Inaudible.

MR. CROSBIE: The government intend to propose to the House that they establish a Public Accounts Committee.

AN HON. MEMBER: Inaudible.

MR. CROSBIE: I wish the honourable member would get on onions, I am tired of mushrooms.

NOTICE OF MOTION

MR. CROSBIE: Mr. Speaker, I beg leave -

AN HON. MEMBER: Inaudible.

MR. CROSBIE: Mushrooms and mutton chops. A tremendous meal.

Mr. Speaker, I give notice that I will on tomorrow ask leave of the House to introduce a Bill, "An Act Further To Amend The Revenue and Audit Act." A bill, "An Act To Provide For The Exemption of Atlas Construction Company Limited From Taxes Imposed By The Social Security Assessment Act, 1963," A bill, "An Act Further To Amend The Constabulary Pensions Act, 1970." There are two amendments to that Act, Mr. Speaker, one has already been introduced. This is the second one.

I give notice that I will on tomorrow ask leave to move the House into a Committee of the Whole to consider certain resolutions respecting a measure namely: an Act Respecting Succession Duty.

I give notice that I will on tomorrow ask leave to move the House into a Committee of the Whole to consider certain resolutions respecting a measure namely; an Act Respecting A Gift Tax.

I give notice that I will on tomorrow ask leave to move the House

MR. CROSBIE: into a Committee of the Whole to consider certain resolutions respecting the amendment of the Income Tax Act, 1961.

MR. CROSBIE: The latter amendment, Mr. Speaker, has to do with the new Government of Canada Income Tax Act and amendments that are required by it. It is our intention in connection with the proposed Succession Duty Act and the proposed Gift Tax Act to have those Bills tabled here in the next several days when they come from the printers. I would doubt that they would be debated until after our adjournment but interested parties would be able to get copies once they are tabled in the House.

MR. WINSOR (E.W.): Before we get into Orders of the Day, I would like to direct a question to the hon. Premier in his capacity as Minister of Fisheries. In view of the reported damage caused by extreme ice conditions to the fishermen's wharf at Joe Batt's Arm, has the government been approached to have those repairs carried out as quickly as possible? Because it is essential, Mr. Speaker, that the repairs be carried out before the fishing season starts in that area.

MR. MOORES: Mr. Speaker, we have been approached regarding that, as the hon. member well knows, this falls under federal jurisdiction in the main but we are preparing at this time and in this case an estimate of what the cost will be, and the action on the matter will be taken within the next week.

MR. WINSOR: Mr. Speaker, I think I need a little correction there. That wharf is not a federal wharf. It is the wharf adjoining the old fish plant which was owned and operated by Fishery Products and in course of events it was passed over to the Fishery Authority, so I think the wharf now, together with the Plant, is the responsibility of the Provincial Fisheries.

MR. MOORES: Mr. Speaker, I apologize to the hon. gentleman. I could not figure out why I was just advised that we were doing the study to get the job done and now I know it. Thank you very much!

MR. NEARY: Mr. Speaker, I would like to direct a question to the hon. Minister of Health. I wonder if the hon. minister could inform the House what steps have been taken to bring the compliment of medical practitioners on Bell Island up to its full compliment of two.

As I understand it, one doctor is presently on sick leave, another doctor is about to go on a month's vacation because of being over-worked and

MR. NEARY: the patients are becoming frustrated. We have one doctor semi-retired...

MR. MARSHALL: Point of order, Mr. Speaker, the point of order is this, that the question is to be asked and there are no ancillary facts to be added to it and I think the hon. member for Bell Island is trespassing the bounds of the Rules of the House.

MR. ROBERTS: I agree with what the hon. gentleman has to say about the form of the question. The question is all that is asked. There is no argument. As I heard the hon. member for Bell Island asking his question, he was in effect stating what the question was. Questions on the Orders of the Day, this oral period, have to be urgent and the hon. gentleman was stating the facts as briefly as he could. That in his view, and I submit correctly so, made the question urgent, otherwise it would be a most appropriate question for the Order Paper and could be answered by the gentleman who is the Minister of Health at a later period. I really do not think that the point is well taken.

MR. MARSHALL: I think, again to the point of order, the question has already been asked and I think this answers the question.

MR. NEARY: Mr. Speaker, I hope we do not get back to high-handed tactics in this honourable House.

I would like to continue asking the question, Mr. Speaker, in my own mind.

MR. SPEAKER: I would like to point out to the hon. member for Bell Island, it is a question of degree. The remarks at this time in the question period are to be brief because there is no motion but it is a matter of degree and if you will keep this in mind.

MR. NEARY: Mr. Speaker, this is a very serious matter, a matter of life and death, as Your Honour will understand. It is my understanding that at the moment there is only one doctor on Bell Island, who is semi-retired, taken out of retirement, so, I would like to ask the Minister of Health what steps his department is taking to see that this serious matter is rectified immediately.

HON. DR. A. K. ROWE: Mr. Speaker, I think the hon. member for Bell Island is aware of the present situation. The Senior Medical Officer on Bell Island has been on sick leave for some six to eight weeks. He returns to duty on Bell Island this week. The doctor who stood in for him is going on vacation and a relief doctor for the cottage hospital is going to Bell Island, there will be two doctors on Bell Island, a senior medical officer due back from sick leave and a relief medical officer, both will be there this week.

MR. ROWE (F.D.): I would like to address a question to the hon. Minister of Education, In view of the recent publicity and controversy in the security surrounding the Halifax School for the Blind, could the honourable Minister of Education inform this House as to whether the provincial government has entered into negotiations with the other Atlantic Provinces regarding plans for the construction of a new school for the blind and if not, does this present government have any plans of its own for the construction of a Newfoundland School for the Blind?

HON. J. A. CARTER: Mr. Speaker, the answer to that is necessarily complex and I will take it under notice and have an answer for the hon. gentleman tomorrow.

On motion of the hon. Minister of Justice, a Bill, "An Act Respecting The Application And Effect Of Certain Acts Passed In The Present Session Of The Legislature Upon The Revised Statutes of Newfoundland, 1970," read a first time, ordered read a second time on tomorrow.

On motion of the hon. Minister of Justice, a Bill, "An Act Further To Amend The Constabulary Pensions Act, 1970."

MR. ROWE (W.N.): On the motion to read the Bill for the first time, I wonder could the Minister of Justice tell us whether this Bill and the Bill introduced earlier today when the notice of motion was given, are these two Bills going to be consolidated into one and if not why not?

MR. HICKMAN: They may be consolidated, Mr. Speaker, but as of now the staff of the Department of Justice are not satisfied with the plan.

On motion of the hon. Minister of Justice, a Bill, "An Act Further To Amend The Constabulary Pensions Act, 1970," read a first time, ordered read a second time on tomorrow.

On motion of the hon. Minister of Justice, a bill, "An Act Further To Amend The Wildlife Act," read a first time, ordered read a second time on tomorrow.

On motion of the hon. Minister of Justice, a bill, "An Act Further To Amend The Public Service (Pensions) Act, 1968," read a first time, ordered read a second time on tomorrow.

On motion of the hon. Minister of Justice, a bill, "An Act Respecting The Award Of An Increase Of Pensions To Or In Respect Of Certain Employees Of The Government And Certain Teachers," read a first time, ordered read a second time on tomorrow.

On motion of the hon. Minister of Justice, a bill, "An Act To Amend The Civil Service (Transferred Employees) Act, 1956," read a first time, ordered read a second time on tomorrow.

On motion of the hon. Minister of Justice, a bill, "An Act Further To Amend The Civil Service Act," read a first time, ordered read a second time on tomorrow.

Motion second reading of a bill, "An Act To Amend The Statute Law."
HON. T. A. HICKMAN (Minister of Justice): Mr. Speaker, in moving second reading of this bill, I will not trespass upon the time of hon. members so as to go into any detail. It is simply a bill designed to correct certain errors in the statutes referred to in the bill. Particularly, in the amendment to the Judicature Act last year, it was overlooked that on occasions the third Friday in the month comes before the third Tuesday. This amendment relates to the fixing of dates for the holding of the circuits of the Supreme Court and the circuit sits in Grand Falls on Tuesday, the third Tuesday in the month mentioned there and then in Corner Brook it commences on Friday. I move second reading.

MR. ROWE (W.N.): Mr. Speaker, as the hon. minister said, there is nothing argumentative nor anything in this bill. It is very straightforward, very simple. I doubt very much if there will

MR. ROWE (W.N.):

be wild celebrations and cheering in the district of Burin tonight as a result of the passage of it but I think it is necessary. We agree to it.

On motion bill read a second time, ordered referred to a Committee of the whole House on tomorrow.

Motion, second reading of a bill, "An Act Further To Amend The Registration Of Deeds Act."

MR. HICKMAN: Mr. Speaker, in moving second reading of this bill, again it is a very straight forward act to provide that when a deed is presented for registration to the Registrar of Deeds it must not only be in the proper form but must also have the fee. The registration fee must be presented at the same time. It has been found that documents have been sent to the Registrar of Deeds without the registration fee and apparently some argument has then ensued as to the effective date of registration.

The other amendment, Mr. Speaker, is to provide that in cases where there has been a reproduction, a photostat copy of the deed, it is not necessary that the registrar verify that he has personally examined the deed. As Your Honour is aware, under another provision of the Registration of Deeds Act the original document does have to be certified and verified by the Registrar of Deeds. This is simply an attempt to recognize that the era of photostating is now upon us and has been for the last twenty years.

I move second reading, Mr. Speaker.

MR. ROWE (W.N.): Mr. Speaker, nothing at all argumentative here. Just one question which occurs to me. Could the honourable minister tell us, if he has the information there, have there been many deeds registered in respect of which no fee has in fact ever been collected? Is the effect of this bill just a pecuniary one to make sure that

MR. ROWE (W.N.):

money is received into the Consolidated Revenue Fund of the province or have there really been legal problems in respect of the registration of deeds? Under the old law, is it the honourable minister's opinion or the opinion of his law officers that there have been serious questions of legality as to whether a document is effectively registered if not accompanied by a deed?

MR. HICKMAN: Mr. Speaker, I realize -

MR. SPEAKER: If the honourable minister speaks now he closes the debate.

MR. HICKMAN: I am sure the honourable member for White Bay South is aware that this is probably more properly dealt with in committee but it is a very simple answer. It is not done to strengthen the exchequer of the province but we are advised by the Registrar of Deeds that on occasion argument has transpired as to whether the date of receipt by the registrar, this apparently only happens in the case of documents that are mailed in to the registrar from outside St. John's, that registration is the date of delivery and this is only to clear up that to make it beyond all reasonable doubt.

On motion bill read a second time, ordered referred to a Committee of the whole House on tomorrow.

Motion, second reading of a bill, "An Act Further To Amend The Assignment Of Books Act."

MR. HICKMAN: Mr. Speaker, in moving second reading of this bill - this bill, I guess is designed somewhat to strengthen the exchequer but by not any stupendous amounts. The filing fee for the registration of an assignment of book debts up until right now has been fifty cents. This is becoming a bit of a burdensome task for the registrar because more and more assignment of book debts are being presented and the fee is not out of line. I understand it was submitted to the Law Society

MR. HICKMAN:

and I am sure it was and no objections were given.

I move second reading.

On motion bill read a second time, ordered referred to a Committee of the whole House on tomorrow.

Motion, second reading of a bill, "An Act Further To Amend The Direct Sellers Act, 1966."

MR. MARSHALL: Mr. Speaker, this order was called and it must have gotten out of order because this is a bill for the honourable the Minister of Provincial Affairs. What we were doing today was calling the bills for the honourable the Minister of Justice. So perhaps we could have this deferred and go on to number six.

MR. HICKMAN: Move second reading. Just move it.

MR. MARSHALL: Well, if the House agrees it is in order, I would move second reading of the bill. I do not know what it is about. It is very inconsequential, I think, something about mainland salesmen.

"Many mainland salesmen distribute printed advertising to prospective customers before the coming into the province and upon arriving in the province engage hotel accommodation and advertise that they have certain goods or services for sale if the prospective customers would contact them at a specified telephone number or a specified hotel room." It sounds like there is much more in it than the honourable Leader of the Opposition first intimated.

This is one of the situations anyway intended to be covered by the expanded definitions and I would move second reading of the bill.

MR. ROWE (W.N.): Mr. Speaker, although the act itself is not very large or very great and perhaps it is not the greatest thing that will ever appear before this House, I must say that the principle involved is definitely a good one because there was an act passed some years ago, 1966, which restricted the actions of direct sellers,

MR. ROWE (W.N.):

people going from door to door or canvassing people by telephone and to use a crude, I suppose colloquialism, "sucking people into buying things that they did not particularly want to buy." As a matter of fact the Better Business Bureau was down on this type of practice or some practices associated with this type of selling. I think directly as a result of some of those representations, the Direct Sellers Act was brought into this House.

Now what this does, of course, and I agree entirely with it, I think it is a very progressive piece of legislation for the protection of the people living in Newfoundland, what this does, as the honourable House Leader stated, is it extends the definition of direct seller from people who merely go from house to house or contact people by telephone and extends it to people who might come into the province and set up office in a hotel room or some such thing and entice people into the hotel room in order to sell them goods.

I think it is a very progressive piece of legislation and I commend I guess the honourable the Minister of Provincial Affairs, under whose jurisdiction this comes, for thinking it up and bringing it into the House. Perhaps he would like to have a word to say on it.

On motion bill read a second time, ordered referred to a Committee of the whole House on tomorrow.

Motion, second reading of a Bill, "An Act Further To Amend The Evidence Act." (No. 4)

MR. HICKMAN: Mr. Speaker, the explanatory notes sets forth very clearly what this amendment provides. The amendment is similar to section (16) of the Canada Evidence Act and the Evidence Acts of other provinces. What it really does is set forth in statute form what is the practice in courts. In any event, if there is any presiding judge in hearing or accepting the evidence of a child of tenders years he has to use his discretion as to whether or not the child shall be submitted to an oath and if not can take the evidence and accept such evidence for what it may or may not be worth.

At the same time, such evidence must be corroborated by other material evidence. I move second reading.

On motion Bill read a second time ordered referred to a Committee of the Whole House on tomorrow.

Motion, second reading of a Bill, "An Act Further To Amend The Commissioners For Oaths Act, 1954." (No. 13).

MR. HICKMAN: This Bill speaks for itself, Mr. Speaker, and unless some other hon. member has some other comment I simply move second reading of it.

MR. NEARY: Mr. Speaker, the only comment I would like to make on this Bill is that perhaps the hon. Minister of Justice will recall an incident that took place in Marystown during the strike against Motel Mortier when the hon. member for Burin was most critical of the fact that a welfare officer had been called into the motel to take affidavits or oaths from employees of the motel.

I am wondering, Mr. Speaker, how the hon. member feels now about granting such wide authority to welfare officers? I do not see too much wrong with it myself. There are areas of Newfoundland where the only person there who can administer an oath is the welfare officer. I think it is a good bill. It is a move in the right direction but I wonder if the minister could tell us now if he expects

any abuse of the authority that he is granting to the welfare officers?

MR. ROBERTS: Mr. Speaker, before the hon. minister answers that there is a small point that has always bothered me. As Your Honour is aware, as members of the House of Assembly we have the power to administer oaths. We have to write under our name, when we administer an oath, a great solemn, long screed. There is a similar one in this Act. Is it really done in practice that a welfare officer giving an oath writes under it the words "a commissioner for oaths in and for Newfoundland being a welfare officer acting under the Department of Social Services and Rehabilitation Act, 1971?"

If that does happen, cannot we find a simpler formula like just marking it welfare officer or something?

MR.HICKMAN: Mr. Speaker, that point is well taken. My understanding is that all welfare officers have a stamp which is provided them and they simply stamp it on -- the comment of the honourable member for Bell Island rather escapes me as to relevancy. Obviously welfare officers must and should have the right to administer oaths but their commission as such must terminate when they cease to be so employed.

The incident -- to answer again the question from the honourable member for Bell Island, let me assure him that there will be no abuse by any welfare officer, they are absolutely enthralled with the leadership they are now receiving from their new minister. The issue that the honourable member for Bell Island referred to had nothing to do with the administration of an oath at all. If you recall, the honourable members will recall the then minister stood in this House and said: that it was most improper and that he had been chastized. The then honourable minister was pursued as to what the chastisement was. "He was politely told not to do it again." I move second reading,

On motion bill read a second time, ordered referred to a committee of the whole House on tomorrow:

Second Reading of a Bill, "An Act Further To Amend The Prisons Act, 1969."

MR.HICKMAN: Mr. Speaker, the amendments proposed to the Prisons Act as set forth in the bill before this House, some of them are quite obvious and need no comment. I think it is worthy of note that it is proposed under this bill to change the name of the Salmonier Prison Camp to the Salmonier Correctional Institution. This institution on the Salmonier Line has been a model institution in so far as the treatment of offenders is concerned. We can take a great deal of pride in this Province that the Salmonier Prison Farm, as it was then, Camp, as it is still known, was one of the first of its kind to be established in North America. Certainly Mr. Speaker, after we became a province of Canada the other Canadian provinces and the office of the Solicitor General spent considerable time viewing with approval the functions and the working of this minimum

security organization. It was established under the leadership of the then superintendent William Case. Its record of rehabilitation rather than punishment has been one of which we in Newfoundland should be very proud indeed.

Most of the other amendments proposed in this Act are fairly straightforward. There is an amendment to which I would like to direct the attention of honourable members, that is the provision that allows for the entering into agreements with the Government of Canada for the detention or imprisonment of inmates of the penitentiary in St. John's who are serving sentences of more than six months but less than two years.

The situation, as honourable members may know, is that any offender who is sentenced for a term of two years or more is a federal prisoner, during the four years since 1967 the policy has been that any federal prisoner is taken to a federal institution because obviously the rehabilitation procedures and avenues that are open to them are far superior to those that you can find in what is basically a short-term institution.

But on occasion, Mr. Speaker, it has been found that there are prisoners serving a sentence between six months and two years whose conduct within the prison walls is not conducive to the proper functioning of a prison and has sometimes a very serious effect upon the inmates, most of whom as I say are there probably for the first time and are serving short term sentences.

The Province of New Brunswick has entered into an agreement with the Government of Canada which provides that the Government of Canada may upon request and at the expense of the province transfer a prisoner to a federal penitentiary if in the opinion

MR. HICKMAN: of those responsible for administering both institutions, it is in the best interest of both of the inmate and the others serving time in the penitentiary. This is, I think the main thrust of the bill that is before the House and I move second reading.

MR. W. N. ROWE: Mr. Speaker, in a bill such as this, which has two or three various and differing items in the one bill, a bit of a higgledy-piggledy bill, it is difficult to know what exactly the principle is, you know. Therefore, I could be accused I suppose in my following remarks, of not sticking to the principle.

I am referring to clause (5) of the bill and perhaps this could be dealt with at committee stage. But I would like to mention it now, Sir, because I would like the honourable Minister of Justice to consider clause (5) between now and the time this bill comes up for discussion in Committee of the Whole House.

Mr. Speaker, clause (5) says that there should be an amendment to the act, (11a) will be the section in that act. It states that any person who without lawful excuse, the proof of which lies upon him, enters or in any way trespasses upon or loiters near any grounds, buildings, yards, offices, premises appertaining to or forming part of a penitentiary is guilty of an offense and liable on summary conviction to a fine not exceeding \$200 and in default of payment to imprisonment for a term not exceeding six months.

Now, Sir, I am fully aware that this type of a clause is found in other statutes particularly the Criminal Code, as my honourable friend and learned friend for St. John's South so well knows. There are provisions of that nature where they state that any person who without lawful excuse and then they add - "the proof of which lies upon him." I am aware that is enshrined in statute law in Canada and in Great Britain.

But, Sir, I would suggest that the whole tenor of that kind of a clause lies in the face of the basic principles of criminal

MR. ROWE, W.N. law where it is incumbent on the state or the prosecuting party to prove what is known as "mens rea" a guilty mind. Indeed, Sir it flies in the face of the whole concept of burden of proof in criminal proceedings, where it is incumbent on the state for the prosecutor to prove beyond a reasonable doubt in matters of crime, beyond a reasonable doubt that the crime actually took place and that the person intended his action or the consequences of his action.

Now, Sir, here we see where the burden of proof is reversed completely and lies upon the accused person. It might be a little out of place to discuss at length or at any length at all this particular concept in this relatively minor bill. But it is a great matter of principle and one that concerns me, not only as a lawyer but as a member of this House and as a member of the opposition whose duty it is to bring these matters to the public view.

I do not think, in fact I find it offensive that in this day and age we need to have in our society this type of a provision where a person has to prove that he was not involved in some unlawful activity when he is accosted by police or some peace officer of the Crown. I do not see the need for this, I am not aware of the fact that there is a great problem with loitering down around the penitentiary although there might well be, but I do not think it is such a crucial issue that we have to violate and fly in the face of the basic principle of criminal law.

Also, Sir, I find it offensive that any person who might stop around the penitentiary, remembering that the General Hospital is not far away, and although the age of this particular House might be such as that they do not remember their courting days, the General Hospital with its nurses is not far from the penitentiary and I would not be a bit surprised that you do find the odd person, the odd young man waiting or it might be called loitering in the general vicinity.

MR. ROWE, W.N. Now I would hate for such a person or any person in that area to suddenly find himself with a duty to absolve himself of an accusation of crime, Now it is not crime, it is a quasi crime, it is an offense, but he has to himself unburden himself of this accusation. He has to prove that he was not engaged in unlawful activities.

I do not think we need to have this, Sir, I am not going to vote against the bill on the grounds of that particular clause but I would ask the honourable Minister of Justice to reconsider this clause for committee stage and then perhaps one of his colleagues might move the amendment of the bill to that extent. I would like to hear one or two other members of the House on this issue, the honourable the member for St. John's South. I am sorry, Sir, that Your Honour is in the Chair today and cannot comment on this yourself, as a lawyer. Perhaps there are one or two others - the honourable Government House leader might wish to make a comment on it. I would be interesting in hearing what their feelings are on this particular thing, this particular provision which seems to me as "a fly in the face of all criminal law principles which have been ardously built up over the past several centuries."

MR. R. WELLS: Mr. Speaker, if I may comment on the principle of the bill, I most certainly support the bill with regard to the principles of it, the change of name to the Salmonier Prison Camp which I think is long overdue.

There is another section in the bill, Mr. Speaker, which I think is excellent and that is the section (4) subsection (R.b.) which provides for the payment by the province of allowances and other remuneration of prisoners or a specified class or classes of prisoners under certain terms and conditions.

I think, Mr. Speaker, that is an excellent provision because as I read it, it would allow the province under conditions which may be laid down

MR. WELLS: to pay allowances or salaries for work done by prisoners in the penitentiary and I think this would help in their rehabilitation when they got out, to have earned a certain amount of money to help them when they get out of prison and also of course to earn a certain amount of money for use while they are in prison, providing the small luxuries which are allowed. Another aspects of the bill of course have been commented on by the honourable the Minister of Justice. I would say with reference to the comments on section (5) by the honourable member for White Bay South that he is quite right of course that it is one of the cardinal principles of criminal law that the burden of proof is on the Crown. However, there are certain exceptions to that, I think committee stage is the proper place to go into detail but I might say that, and we will hear from the Minister of Justice on it but the reasoning may be that from time to time, I do not know if this has happened in Newfoundland but I think it has that persons have loitered outside of the prison and particularly in the prison camp to assist the escape of other prisoners. Now the escape of prisoners is an extremely serious thing, as we recall, perhaps about five or six years ago three prisoners escaped from the penitentiary here in St. John's, subsequently shot and killed an R.C.M.P. constable. And I believe that rather than getting at the young fellow who is courting with his girl near the General Hospital, I would rather think the principle of this might be to prevent people loitering near the penitentiary who have an evil intent or at least an unlawful intent related to prisoners inside.

Now, of course, the Minister of Justice can elucidate on this but I believe that is the sort of principle -

MR. ROWE, W.N. Would the honourable member permit a question on this particular point? On the grounds of principle alone should not this be the duty of the Crown, the prosecutor to prove that? Certainly it is difficult to prove that, the state of mind of any individual, you

MR. ROWE, W.N.: know, But when you balance all the risks in society we never acheive perfection in trying to maintain law, order or security. But when you balance the risks of needless prosecutions being made or the injustices of some person

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not being able to absolve himself of the burden of saying that, you know; I did not have any criminal intent in this matter, Your Honour. I think that if a reasonable case is put by the prosecutor or the Crown, it is pretty easy to prove that a person does have a criminal intent or a criminal state of mind if in fact he does. Should not the burden be on the Crown to prove rather than on the prisoner or the person who is accused to disprove? It is very difficult to disprove things.

MR. R. WELLS: Certainly as a matter of principle - do you remember the ancient case in the fourteenth century when someone said, "the devil knows not the mind of man." I think I would like to hear in committee stage from the Minister of Justice whether this sort of thing has proven a problem. I could visualize cases where it would and where you would ask the person concerned what his motivations were and get a perfectly bland answer. I think probably discussion of this is better suited to committee stage.

MR. ROBERTS: Mr. Speaker, if I can get in just a word or two, I think the point raised by my hon. colleague, and to which the learned gentleman from St. John's South has spoken, is a very good one perhaps. The minister will obviously discuss it at committee stage. I do think there is an item of principle here that is sufficiently broad that the minister might address himself to when he closes the debate. All of us realize that there are times when you must have a provision that in effect goes against principle. This one certainly does, the sound provision in the Criminal Code, I think, of being found on somebody's else's property at night and then the burden of proof is upon the foundee (founder), anyway the guy who is there, to show why he is there. Have we had this problem in Newfoundland or is this just another case that I saw so often and I think many members of the House have seen so often, Sir, of the draftsmen putting it in without any specific and concrete instructions? I do not blame the draftsmen but without instructions specifically on the point being issued by the ministry, by either the minister or by the cabinet through an Order-in-Council or a directive, the draftsman

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puts it in because the basic principle of drafting, of course, is to put in everything you can think of and it is almost as if draftsmen were paid by the line. I believe they are in some jurisdictions. It is a matter of principle, unless there is some real reason why it should stay in, unless there have been a number of incidents of people loitering in suspicious circumstances about the Salmonier Prison Camp or about the penitentiary here in St. John's, which have in fact lead to escapes or attempted escapes, perhaps the minister might at committee stage consider withdrawing it.

While we are at it, this may not be the appropriate time, estimates might be more appropriate, but has the minister anything to tell us (I realize he has only recently resumed the duties of the office) maybe he could tell us a little about his thoughts on the penitentiary here from two aspects: First of all the present institution, its adequacy , the need for it, realizing that there is a case that prisoners should be where, possible kept near their families so that there can be visiting and this type of thing but also with respect to the recommendations of the Archenbault Report and the other reports that have been derived over the years on this question to which he referred very briefly of the six month as opposed to the two year prisoner? The minister I know will recall that a number of years ago there was a recommendation made and I think it was in the Archenbault Report but it has become quite current. It is what John Kenneth Galbraith would call conventional wisdom in the penological field now. But really there should be no sentences imposed and this would require an amendment of the Criminal Code and an immense number of other statutes. No sentence is imposed at more than six months but less than two years and that with any offense, the punishment for which would properly fall within that period, there would have to be other means of punishment and of penance designed. The point behind it, of course, is the feeling that a prisoner who is less than two years realizes that that is far less than two years and you get the various ticketed leave and parole. A prisoner who is sentenced for a lesser period than that really has no opportunity to benefit from any rehabilitation programmes such as are offered in penitentiaries. I have a feeling that this would then mean all prisoners for more than six months would become federal whereas now I believe the dividing line is twelve months. It maybe

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a little out of order but as my colleague said in opening our side on this bill, Mr. Speaker, in a bill such as this, which is a bit omnibus or a catch-all bill, it should not be very hard to say what is the principle. I suspect that I am as close to the principle as many of us are on many bills. In any event, it is a good piece of legislation but there are these two or three points that perhaps the minister could address himself to.

MR. HICKMAN: Mr. Speaker, in closing the debate, the first point raised by the hon. member for White Bay South and the other hon. members who have participated in this debate is a very valid one. I do not subscribe to legislation which places the onus of proof on an accused person, a person accused of a crime or a quasi crime unless there are some very strong reason for it where security is of paramount importance and that the experience of those involved in operating the penitentiary dedicates this must be done. I assure this honourable House that before the bill goes to committee I will try to get some additional information and an indication as to whether or not this has been a problem.

There is another principle in the bill too that I should like to direct the attention of hon. members to and that is the provision that allows for the paying of necessary expenses for the transportation of any prisoners or class of prisoners to and from the penitentiary who may be out for special reasons. We have at the penitentiary in St. John's a very competent staff under the leadership of a highly trained and a most sympathetic and understanding superintendent in the person of Superintendent John Fagan. The senior officers a few years ago attended courses at the college in Kingston and the results of their efforts filled all of us with a great deal of pride. Superintendent Fagan is a man who, out of compassion as much as anything else, is very concerned over the rehabilitation of those people who are placed in his custody. He from time to time has embarked upon the gradual leave that has been functioning in some other jurisdictions. What has been found is that when a temporary absence is granted that unless there is some

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money available to pay transportation that this is somewhat restricted to either those who live in and around St. John's or whose relatives come and get them. This is not very desirable. This bill gives us the right to cover any costs that may be incurred in allowing temporary absence of prisoners and this is working very well. It is not the sort of thing that one should identify or particularize because these people are entitled to remain anonymous if at all possible.

The hon. the Leader of the Opposition has raised a question of the suitability of the penitentiary. A great deal of money has been spent on the penitentiary in the last four years. There is a great deal more to be spent but all of this is conditional upon the implementation by the Government of Canada - the programme that was embarked upon by the honourable David Fulton when he was Minister of Justice, and it seemed to have died shortly after he departed from that office. The plan was to build medium security institutions in various parts of Canada. One was built at Spring Hill; one I think was built in British Columbia and there were several others on the drawing board. I gather from what I have read in the press that the cost of these institutions were astronomical. They quadrupled the estimates. The theory is and the plan still is that if and when these medium security institutions are completed across Canada that attention will be given to eliminating all sentences between six months and two years. Experience shows, Mr. Speaker, that in an institution such as ours where most of the inmates are short-term, you do not have the personnel nor the length of stay of sufficient numbers to embark upon many of the rehabilitation programmes that you will find in an institution such as Dorchester or at Spring Hill.

MR. HICKMAN: They can have an ongoing . oh, I know of inmates who have come out of Dorchester with a university degree through the extension services of I think Mount Allison Univeristy or the University of Moncton.

The courses in stationary engineers, they come out with their first-class certificates but to carry on these courses there has to be a certain duration to stay. I think that penologists today are accepting the fact that these minor offenders or offenders who commit minor offences, that if rehabilitation is impossible then there is no point in keeping them there for any great period of time. I would hope that some day the Government of Canada will see fit to complete its programme because it has a great deal of merit.

When that happens, Mr. Speaker, when that occurs, then the penitentiary in St. John's will be really at the most almost the same as a county jail because it will house only those who are there for a very short time. With the facilities that are presently available the staff there in my opinion are doing a pretty good job. Some of the men who have gone through there, the inmates who have come out of there, not only have they not come back but many of them too have accomplished a great deal in the academic field and in the vocational field by availing of certain opportunities or certain courses that are open to them in St. John's.

I move second reading of the Bill.

On motion, Bill read a second time ordered referred to a Committee of the Whole House on tomorrow.

Motion, second reading of a Bill, " An Act Respecting The Registration Of Partnerships." (No. 19).

MR. HICKMAN: Mr. Speaker, in second reading of this Bill I think the Act sets forth, it pretty well speaks for itself as to what is intended. The Act was brought in or at least considered by government and officials in my department at the request of the Law Society. As we are the only province in Canada without a Registration of Partnerships Act it is designed primarily to, not again to fatten the coffers of the

province but to give some control, and I use control very advisedly in the sense of protecting the public to the extent that they can by attendance upon the Registrar of Partnerships ascertain the principals who are involved in any partnership operating in this province.

The common law is very clear here, as Your Honour is aware, that all partners are jointly and severally liable for any debts or obligations incurred by the partnership. That is not so much what this Act is all about. Many people go into business here and operate as Jones and Jones and go out and deal with the public and the public have no real way of knowing who is involved.

Under this Bill any partnership will be required to file with the Registrar of Partners a declaration setting forth the names of all those involved in the partnership, the type of business they intend to engage in and other particulars that the Registrar of Partnerships may deem necessary.

I should point out to this Honourable House that this Bill applies only to persons associated for trading, manufacturing or mining purposes. It does not cover, for instance, professional partnerships or securities.

Again, there is some protection which I think is a very, very desirable protection requiring partnerships from outside the province who are doing business here to register and furnish the same details to the Registrar of Partnerships as a Newfoundlander is required to furnish and also to appoint a resident agent for the purpose of accepting service of process and other notices.

Also, the Registrar of Partnerships who will be the Registrar of Deeds has the right to disapprove of the use of any particular name for a partnership if that is in conflict or likely to deceive the public into believing that it is some other partnership or company or person or any name that is identical to it. That, Mr. Speaker, is basically what the principle of the Bill is and I

move second reading.

MR. W.N. ROWE: Mr. Speaker, I think this is an excellent piece of legislation, proposed legislation. The hon. minister has not been shattering any sound barriers or anything, or he has not been creating great upheavals in the realm of jurisprudence since he resumed his duties as minister, but he has brought in a number of small matters I suppose you might call them and some not so small which do need to be remedied by legislation or some gaps that need to be filled by legislation. I commend him for his efforts in that regard.

Coming back to this particular bill for a second, I am just wondering, Sir, if the hon. minister when he clues up this debate can give us some idea as to the policy of his government behind requiring the registration of partnerships involved in trading, manufacturing or mining whereas other partnerships like lawyers, doctors, architects, such partnerships are not required by this Act or any other Act that I am aware of to be registered. Therefore, the public is not given the same protection in respect of those partnerships as they are in respect of these other mentioned partnerships, trading, manufacturing and mining. Has it something to do with some disreputable insinuation or indication towards this type of partnership? Are they the types ...

MR. HICKMAN: The professional partnerships are pretty well covered by their professional acts.

MR. ROWE: Oh yes, but come on now, Mr. Speaker, professional, and - look, I am not about, for reasons of self interest, I am not about to stand up and say what a great guy the hon. member for Bell Island is on these matters...

MR. HICKMAN: Why not?

MR. ROWE: But I must say, Sir, that he sometimes hits very close to the mark when it comes to not only lawyers but doctors, architects and all manner and combination of men or women that get together to

and I hesitate to use the word mulct, but to get from the public a fee for services rendered. I see no reason why there has to be discrimination and there is no other word for it in this regard between so-called highfalutin high-class professional groups of people who happen to have a sort of an oligarchy, a plutocracy or something, a theocracy is probably what it is, anyway it is a self-perpetuating type of thing like the lawyers have under their Law Society Act and the Doctors, and the architects, and the pharmacists, and all manner of professional men and as the teachers will soon have. I certainly hope that the teachers will find themselves in the near future in the same category in all respect as other professional groups of people in Canada or in Newfoundland.

What I do not understand, Sir, is why the hon. Minister of Justice sees fit, acting on behalf of his government, to single out these particular occupations of trading, manufacturing or mining and require them to be registered and they are required to be registered for a variety of purposes, one of them is the protection of the public. There should be no silent partners in these matters. Anyone who has any money invested in such a partnership should be out in the open and should not be able

to hide behind some other name or some fancy name or the names of other partners, two or three other names. If a person is involved in this kind of activity then he should be known to the public as involved in this kind of activity. I do not see, and I agree with that in principle. I do not see why lawyers, doctors, architects, all manner of professional groups, if these groups are going to be required to do this why these other professional groups should not be required as well.

I just do not see any reason for it on principle. I think, Sir, that there is probably some feeling that these professional groups are perhaps above reproach or something, you know, they are almost as my honourable friend said they have almost created a theocracy, you know they are beyond reproach, the saviours of society. Although I have known several members of all professions, all professions, who I would not want to be associated with or have any one in my family or any of my friends associated with, I think Sir, that there is no need for this type of discrimination at all. I think that it is because there has been a bad taste in people's mouths concerning certain speculative occupations which have been going on in Canada, in the field of mining and manufacturing, you know, some patent medicine or something which is flogged on the market and trading such types of manufactured produce and mining of course is notorious for its speculative nature.

But, Sir, I think that the same consideration is applied to all groups in society who combine to provide a service for a fee. I do not see any reason whatsoever why these three particular groups should be singled out for restricted measures.

Now, Sir, there is another matter which I would like to bring up although it does not necessarily affect the principle of this particular bill alone. It affects the principle of this Bill certainly but a number of other bills which will probably be coming before this House in this session and other sessions, it certainly affects the principle acts which have been passed by this House, which I have been involved in passing

In this House, other members of this House have been involved in passing.

I refer to Clause 38 (2) of this particular bill. That says: "The Lieutenant Governor-in-Council, (the Government) may provide that any person who fails to comply with or otherwise contravenes any specified provision of the regulations is guilty of an offence, may prescribe penalties to which such person is liable on summary conviction, for failing to comply with or otherwise contravening such provision ..."

What this is, Sir, again this could wait until the committee stage. But I do not want to jump on the honourable minister when the committee of the whole House deals with the bill. I would like him to consider it and to ask himself as a progressive member, I think he considers himself to be that, a progressive member of the government and of the society we live in, whether that is the type of legislation which we in this province want to have. Whether we should have the government, a bunch of cabinet minister, belonging to a particular political party, gathered in secret to make regulations, Not only make the regulations in secret, although they have to be publicized at a later date and tabled in this House at a later date, but in making the regulations also prescribe offences for breaking those regulations and the penalties involved in the breaking of these regulations.

Now, Sir, again and again I appeal to my honourable friend from St. John's South, a noted criminal lawyer in St. John's and indeed in all of Newfoundland and Labrador. I asked him when he, honefully, speaks on this bill to give us the benefit of his experience, the benefit of his thinking on these problems. The basic principle of criminal law which has been developed throughout the ages in Great Britain especially Sir, is that no new offences shall be created unless there is a definite necessity. I think also Sir, although it is not stated in as many words, I think also that there is a basic underlying principle that if criminal offences or quasi criminal offences are going to be created then there should be the fullest possible debate on the creation of these offences, on the seriousness

of the offence on the penalty which should be imposed on a person for an infraction of a particular law or regulation.

I think Sir, and I am not blaming the honourable minister because this is the type of thing which again - to quote my honourable colleague - this is the type of thing which draftsmen automatically put in to Bills these days. It is a problem which has been met everywhere, in the United States, Canada and in Great Britain/ⁱⁿ regard to administrative law. Administrative law is a body of law which threatens to boggle the mind of every practising lawyer certainly and of any person who is involved in anything where administration can come to bear on it.

I think that, Sir, there is no need for this sort of thing. Under this bill or, if it is passed as an Act, under this Act, if it is thought necessary to bring certain offences before the public and to inform the public that if they commit these offences or if they break these rules or if they break any of these laws laid down in this bill then that type of thing Sir, should be brought to the floor of this House and debated by every honourable gentleman who has an interest in it and who is concerned with certain basic things like the liberty of the citizens and the non-infringement of the civil rights and liberties of the subject in Canada.

I would like to hear the honourable gentleman speak on this. We should not do this sort of thing, there is no need to do it. We should not fall in the hands of draftsmen who want to clue everything up in a bill - so a bill is left a little bit raggedy and there might be some loose ends which have not been clued up to a draftsman's satisfaction or to an official's satisfaction.

So, that, Mr. Speaker, the next session of this House, if the honourable minister has representations made to him on this particular matter let him bring into this House amendment to this Act where offences are clearly set out and debated in this House, where people in our society can as a result of that debate get publicity on the type of offence which is proposed, so

they know what is going on, so that the collective experience of members of this House who come from all over Newfoundland and Labrador can be brought to bear on whether such an offence is really serious or not, whether a penalty of such and such should be imposed or not. I think Sir, that this is in accordance with the received wisdom of the common law of England and the common law of Canada. I think Sir, all offences when they are created should be created publicly and after full debate. I will be interested in hearing my learned friend on the subject.

MR. WELLS: Mr. Speaker, I had not intended to speak in this debate but the honourable and learned member astounds me. You see, we are not talking in this bill Mr. Speaker about amending the Criminal Code, which is entirely outside the jurisdiction of this House. We are talking about putting what in effect would be a small monetary penalty, which if you do not pay would mean that you could be sentenced to a very short term of imprisonment which in practise would never happen under the Summary Jurisdiction. So that to talk of these regulations, which are permissible under this Act, as amending the Criminal Code or something of that order or magnitude Mr. Speaker, I just fail to understand the approach which the honourable member is taking.

The other thing is that the honourable member was a member of the government in the previous House which was notorious for doing by way of regulation things that ought to have been done a thousand times by statute and debated in this House. You talk of regulations, I cannot help but thinking back to last year when as a practising lawyer dealing with collective bargaining, when we found an act was passed to regulate collective bargaining in the public service with no guts in the act at all but everything by regulation. So it astounds me to hear the honourable member at this stage talk about the making of regulations.

Now

MR. WELLS: on the principle of the Bill there is one other comment I would make. For my part I would have no objection at all if the Bill said that lawyers, accounts, doctors or anybody else who are in partnership should be registered as such. It could not matter less but there is a big distinction I would point out to my hon. friend and to this House, between professional people and the necessity for registration, and businesses.

If a firm of doctors practice in partnership or of accountants, the only credit by and large they are seeking is the credit for office supplies and things of that nature. But when somebody goes into the manufacturing business they may well be looking for a line of credit of \$ 5 million and in fact I would like myself to see "The Companies Act" amended insofar as the controls over knowing just who is concerned insofar as people seeking credit because we know that three people can incorporate a company, a limited liability company, in this province today and go out and, if anyone is foolish enough to, they can be given credit of \$1 million or the sky is the limit. This is the sort of think that that Bill would help the public by providing information which would be registered with the appropriate registrar so that another business firm or individual dealing with this registered partnership, which would be a trading-manufacturing, a business partnership in the true sense of the word, would be able to go to the registrar and say, "Sir, with whom am I dealing? Is it all right to lend them \$100 thousand?" That seems to me, Mr. Speaker to make the essential difference between the professional man, for example, and the trading or business partnership.

I may say that I would have no objection to seeing the professions register also but I have to point out to the hon. member and this House that there is an essential difference and I may say, Mr. Speaker, that I fully support the principle of this Bill.

MR. ROBERTS: Mr. Speaker, like my hon. and learned friend from St. John's South, I had not intended to enter this scintillating debate on such things as limited partnerships, but like him I am astounded. The difference between us, Sir, is that he was astounded, he told us, by what my colleague from White Bay South had to say and I am astounded by what he had to say. Doubly astounded because

MR. ROBERTS: he made two points, astounded by each.

Let us take his second one first. I will not go into the story. But to say that the reason lawyers and such should not be required to register partnerships is merely a matter that lawyers allegedly do not require as much credit in the line of trade is surely to prostitute a principle to perdition if ever I heard one. The whole purpose of these statutes of this Partnership Act is so that the public do have a notice of who is involved and to what extent. I realize that law firms tend to put names of their partners and of their associates, to use a generic term, on the letterhead. That is good. That is the way it should be and lawyers of course do have professional ethics, despite what my friend from Bell Island sometimes has to say and there is at least in theory, a disciplinary procedure which applies to members of the bar. The fact that it has been used so seldom means either that the members of the bar do not need it invoked or it means that if it is needed to be invoked it has not been for whatever reasons one cares to read into that.

I will take him at his word when he says that he has no objections to lawyers, doctors, accountants, what have you, being brought within the provisions of this Act, I cannot accept his reasoning, because lawyers do not require the same line of credit, that to me is really quite beside the point here.

He also said, and this was the most astounding thing really, that we do not purport to amend the Criminal Code. Well that is very decent of him. It would be quite interesting if a provincial legislature, Sir, tried to amend the Criminal Code. It has been attempted in provincial legislatures from time to time. It may be the question of the mountain, the mole and the molehill, Sir, but I would submit that if one is put in one of Her Majesty's jails for a few months, that is as much an infringement upon the rights of a subject, or if one is sentenced under provincial regulations enacted by authority of a statute, that is as much going to jail it is as much an infringement upon your rights as if you had been there under the authority of the Criminal Code. In either case you are there.

AN HON. MEMBER: Inaudible.

MR. ROBERTS: I quite agree and that is just the point we were making. The hon. gentleman dragged in the red herring of the Criminal Code. There is no thought of that. The point is that a new offence would be created and the point which my colleague made, the gentleman from White Bay South, was that this should be done with extreme hesitation. The gentleman from St. John's South referred to the Collective Bargaining Act and I agree with him. That Act was never proclaimed. It was not proclaimed simply because the government of the day quickly realized that it was not a good piece of legislation, and efforts were then made to develop regulations and to develop a proper form of act. I assume the documentation can be found in the files of the Justice Department and the files of the Collective Bargaining Division of the Treasury Board and other appropriate offices in the government.

I assume and I hope that in due course the present administration will bring legislation along these lines to the House. It should be. We need collective bargaining and it needs a legislative framework.

The other reason why the work was not done on that, just for the sake of the record, was that of course the government of the day were in collective bargaining procedures some of which worked well and others of which I think did not work quite so well but they were in collective bargaining procedures. The hon. gentleman in his professional capacity was involved in those representing and quite ably, if I may say so, some of the groups involved, indeed one of these to which I am eagerly looking forward is the next time the Police Brotherhood contract comes up, to see the hon. gentleman appear before, not as a humble penitent, there is nothing humble about the hon. gentleman, but to appear before the Treasury Board for whoever is acting for the government, for the administration in the bargaining process. I will be quite interested in that. The conflict of interest legislation will have to take a new turn on that, but the hon. gentleman has real abilities in this field of negotiation and I will be quite interested to see what does develop. I understand the police are retaining professional bargainers to supplement their... you know the members of the constabulary force who in previous days had been the bargaining team. I have no doubt they will call upon the hon. gentleman. I think they would be well advised to.

MR. ROBERTS: upon the hon. gentleman. I think they would be well advised to. If I were the temperamental Minister of Finance I would shudder at the thought but unfortunately the gentleman is not here so we will not be able to see him shudder today.

To come back again, Mr. Speaker, it is no argument against a point to say that in the past this point or this principle has not been followed. There must be 100 statutes on the books of Newfoundland and most, if not all of them, would have been put there, Sir, since 1949 and there must be 1,000 on the books of other provinces, and there must be 10,000 on the statute books of Canada, saying that the Lieutenant-Governor in Council may make regulations creating offences. I think it is high time we had a look at this principle.

Ottawa, as the hon. gentleman knows, and as the Minister of Justice I am sure is well aware, has now moved both by statute and by means of a parliamentary committee to create some checks upon this principle of delegated legislation and upon its application. I think that we have an opportunity here, our administration is much less complex than most provinces. We are a smaller province and as yet we have not got as far into many of these fields.

I think the Minister should have a look at it, Sir. It should not be passed off with the specious argument that somehow we are not amending the Criminal Code. There is no thought of that. Sections 91 and 92 of the British North American Act are quite specific on that point. If the sections were not specific enough the reports to the Privy Council and the reports to the Supreme Court of Canada are filled with cases where provinces are purported to try to enact criminal legislation.

MR. WELLS: A rose by any other name.

MR. ROBERTS: Yes the hon. gentleman is quite right a rose or a robe by any other name is just as sweet. Mr. Speaker, I think the minister should consider this point. It is not the sort of thing on which people take to the barricades but it is the sort of thing that legislature should be concerned about and unless it is necessary to create these things quickly and immediately, is there any reason why this cannot be done by the parliamentary process. Maybe there is, if so, fine. I was

MR. ROBERTS: concerned about it for a while and perhaps I can say whether I did or did not raise the question in another place, at another time perhaps I did. It is easy to say, well the convenient thing is we will put the bill through the House then we will make the regulations. I can tell you, Mr. Speaker, what happened to the regulations, they come up before a busy cabinet that has 113 problems before it. Somebody says, "well what are these? Oh, these are the regulations under the direct sellers (amendment) No. 3 act of 1963" or whatever the piece of legislation is. Somebody else says, "well they have been done by the Department of Justice" oh, yes, they are cleared by the Department of Justice. The next thing you know they are in the "Gazette" as law. I do not think that is a very good process. The mere fact it has gone on for a number of years here and every jurisdiction in Canada does not make it any better process.

AN HON. MEMBER: Inaudible.

MR. ROBERTS: I am sorry?

MR. WELLS: It was made in his speech last year.

MR. ROBERTS: Mr. Speaker, if I made the speech last year because of the position I then held, I would have had to make it in another place. The honourable gentleman has yet not been summoned to the ministry, he may or may not be, that is a decision for the Premier to make and for the honourable gentleman when he is asked. I might say that "many are called but few are chosen." But when he becomes a member of the cabinet, as I hope in due course he will, he will realize that oftentimes one has to accept certain constraints that go with the privileges that you know appertain to cabinet rank.

Whether or not I made the speech I did not make it in the House. He is quite right. This is the first opportunity I have had to make it in the House. The first opportunity my colleague the member for White Bay South has had. I think it is a good point. It is not

MR. ROBERTS: the sort of point which people take to the harricade. It is not the sort of point that comes in the manifestoes of parties. It is not the sort of point that is even in Throne speeches, whether they be election documents or not. It is the sort of point which members should be concerned with. There are eight or ten of us in this House, Mr. Speaker, who are so-called learned, at least members of the Law Society and that makes us learned in the House. These are points that we should address ourselves to, Sir.

The minister, if he will assure us that he will at least consider the point between now and when the bill is taken in committee stage, we will be content. I could offer an amendment to committee stage, perhaps, we will. But there are these points and I think my colleague from White Bay South made them well. I think the gentleman from St. John's South, once he got his red herrings out of the way, spoke very much to the point. I quite agree with him on the Collective Bargaining Act. I will warm - if he will warm to me, I will warm to the present ministry when they bring in the Collective Bargaining Act. I must confess I will warm a little more when they start collective bargaining. I understand CUPE are looking for a twenty-five percent raise. I wish my colleague, the Minister of Health, all good luck with it. I hope they will get the twenty-five percent raise this year. It should do interesting things to the hospital insurance budget.

AN HON. MEMBER: Inaudible.

MR. ROBERTS: I am sorry?

AN HON. MEMBER: Inaudible.

MR. ROBERTS: No, no, no promise at all, Sir, but I understand that I think it is Corner Brook, Twillingate and Grand Falls, the so-called non-government. The gentleman I am sure is familiar with it, if not he should be because he will be very shortly. But it is a good bill, as far as it goes, we just think it should go a little further, Mr. Speaker.

I have gone on at some length but I think it is an important point

MR. ROBERTS: and perhaps the minister could say a few words on it when he closes the debate.

MR. T.A. HICKMAN: Mr. Speaker, in closing the debate let me refer to paragraph (5) it seems to me that the honourable members may have missed the point of the Partnership Act. It is not to regulate in all its form the partnership but rather to provide certain information the names, residence of all the partners, the type of business to be carried on, the time the partnership has existed and that the partners there are the only partners.

Now this is why it relates to trading. This is why it relates to business. It does not have to relate to the medical profession or the architects or the engineers or lawyers or dentists, because under their acts, under acts passed in this House they are obliged to give their names, their names are public. This is only so that the public will know who the silent partners are. It does not say that they have to set forth in their declaration that we are worth \$20,000 or \$100,000 or \$1 million. That is up to anyone dealing with a partnership to decide whether they want to make inquiries. It is simply to make absolutely certain and abundantly clear that we know who the partners are. So what is the talk all about?

The other section, the section on the creation, not so much the creation of the offense because the act itself sets forth certain offenses. We have debated the offenses, the offense is the failure to comply with this act, the failure to file your returns. We know what the offense is.

The point, I think, that should have been made was the question of the fine or the sentence that might be imposed in the event an offense is committed. Now this, you know, I will be kind and say that the reason why we saw bill after bill after bill go through in the last twenty years in this House and there used to be objection on this same point, even last year the honourable Minister of Finance used to

MR. HICKMAN: wax eloquently on this but needless to say sitting on the opposite side we did not get the same consideration that we have been getting, today at least we have had some debate and this is a good sign.

MR. ROWE, W.N. Would the honourable the minister permit a question?

MR. HICKMAN: Yes sure.

MR. ROWE, W.N. Surely, Mr. Speaker, the honourable minister is not now saying and he can tell me if he is saying this, but merely because we or another administration brought in this sort of thing that they are now following suite on it? Also, Sir, that is one question, the second question so I can sit down and proceed with the business of the House: The honourable minister has mentioned there are certain provisions of this act the contravention of which is an offense. Will the honourable minister state whether or not there is, he feels, a need for this section (38 (2)), if he could state it distinctly where there is a need for this section (38 (2)) to be in the act now that is providing for regulations, the breach of which can also be an offense, providing for the penalty for that offense, or whether this in fact could wait until legislation is brought in - if further offenses should be created. Does he not think that or not?

MR. HICKMAN: Well, Mr. Speaker, there is no point in, you know, bringing legislation before the House unless we are prepared to make the necessary provisions to enforce it. We have all sorts of well-meaning legislation on our statute books today that without the proper enforcement the clauses are only making a mockery of this House. What I was about to say before the honourable the member for White Bay South proceeded to ask me a question which was that the regulations, the offenses are there, The offense is very simple, that you have a partnership act that makes certain requirements that if you do not comply with them you commit an offense.

MR. HICKMAN: A point that is well taken and a point that I would be more than happy and will in committee expand upon if the committee so desires, is the question of the nature of the, not the conviction but the sentence of fine that is imposed after. I think there is a great deal of merit in including in legislations of this kind a maximum fine. It surely has to be left up to the regulators to decide on the fine but the nature of the fine, but the maximum, yes. These uniform bills and uniform acts that have been brought before this House and other Houses from time to time have, maybe they have been the results of, I do not know, frustrations, delays, maybe we are all following too much or we are being carried away by some of the problems that parliamentarians found, as opposed to governments that wanted to get on, particularly during World War II, this was when the regulations really came in vogue

Mr. Hickman

and the late C.D. Howe, as you know, was not an admirer of parliament and if he had had his way everything would have been done by regulation. But bearing in mind the necessity of any government to meet the demands of a society which is changing pretty rapidly, it is virtually impossible to bring any legislation before the House today that does not contain in it provision for the enactment of regulations to effectively carry out the act that has been debated and passed by parliament, in parliaments everywhere, in their anxiety to get on with the work and to get business done and today has not been the best example of it. It has left as well to the Lieutenant Governor-in-Council or the Governor General-in-Council the responsibility for imposing or fixing the maximum sentence. I am not a hundred per cent sold on that being good but be that as it may I will try and get - it is not the offense.

AN HON. MEMBER: (Inaudible)

MR. HICKMAN: The debate, Mr. Speaker, has been on the offense when the debate should have been on the sentence rather than the offense. I move second reading.

On motion, a bill, "An Act Respecting The Registration Of Partnerships," read a second time, ordered referred to a committee of the whole House on tomorrow.

Motion second reading of a bill, "An Act Respecting The Organization, Operation, Functions, Powers, Duties, Rights And Privileges Of The St. John's Fire Department."

MR. HICKMAN: Mr. Speaker, this is a fairly lengthy bill but I am sure hon. members will agree that it is not the type of bill that needs to generate lengthy debate. The bill setting forth the functions, powers and privileges of the St. John's Fire Department follows pretty much to the letter the bill that was passed last year in connection with the Newfoundland Constabulary. It is a bill that has been passed as a result of negotiations with the union and as representatives to the firemen. It is a bill that has had very careful consideration by Fire Chief Cadigan and it meets the approval of all of us. There are certain principles in the bill that I think

Mr. Hickman

are worthy of note. The bill provides that "no member of the St. John's Fire Department shall strike." It also provides, and this goes a bit further than the Constabulary Act, it also provides "for the recognition of a trade union as a bargaining agent for the St. John's Fire Department." They already have that collective bargaining unit and it also provides for "arbitration that is binding on government." In the event that collective bargaining breaks down, there are procedures to be followed in setting up the arbitration board and their findings are binding on government. Again there are provisions which set out in a fair amount of detail the regulations to be passed and which are necessary for the conduct of an efficient fire department. The St. John's Fire Department even though it is called as such does provide and is obliged to provide when at all feasible fire protection services anywhere in the province. The St. John's Fire Department have gone as far as Baine Harbour and Clarenville and these areas in fighting fires.

If I may, Mr. Speaker, rather than get into the detailed discussion and debate on the terms and conditions of the fire department, if I may for one minute make reference to the St. John's department itself. It is a fire department which was established, I think, in 1895, certainly it was in existence in 1895 and there was an act passed by the Legislature creating a fire department in 1895. That was three years after the great fire. Over the years the St. John's Fire Department have, I am told and I have no reason to believe otherwise, become the envy of the city fire departments throughout Canada. It is a very efficient force. It is a force with a very excellent record, not only fire prevention but of fighting some of the rather serious fires or fires that could have been very serious in this city. When one bears in mind that the City of St. John's is an almost total wooden city with so many houses adjoining, one can see the necessity of maintaining at all times a highly disciplined, a highly trained force. Today in the fire department of St. John's there are 205 persons employed, officers and men including a clerk-stenographer. I found a little booklet, Mr. Speaker, rules and regulations for the government of the police fire department. As many hon. members are aware, the

Mr. Hickman.

St. John's Fire Department, up until a few years ago, came under the Newfoundland Constabulary and the Chief of Police was also head of the fire department. In this little booklet there is a forward in it which I would love to have time to read in its entirety but I will spare hon. members that. It sets forth the work and responsibilities of a true fireman. It sets it forth so clearly that really there has been no change in a sense in the responsibilities that we expected of firemen. They are the sort of people we like to have around. We would be most uneasy if they were not available. We would be most uneasy if they were not adequately and properly trained and equipped.

What I look forward to, Mr. Speaker and when I was in this office, that I now hold the portfolio of, two or three years ago, we started upon a programme of seeing strong fire prevention service extended to every major municipality in this province. We now have a fair number. In my district, we have strong fire brigades, well-equipped, in Fortune, Grand Bank, Burin and St. Lawrence. Glovertown, Placentia and other places do have the equipment and the brigades. I do not think the time will ever come when every municipality in Newfoundland is going to be able to afford three shifts of firemen. I do want to make it abundantly clear to this honourable House that the training facilities and the instructional facilities of the St. John's Fire Department are available and indeed two or three years I saw to it that they were made available to volunteer fire brigades throughout this province. We had officers going to these places giving courses of instruction which were reported back to me by these fire brigades to be of the highest order and most satisfactory and totally acceptable to those involved. At the same time, their inspection service which is vitally important was carried out in public buildings throughout the province. I move second reading of the bill.

MR. ROWE (W.N.): Mr. Speaker, ordinarily the loquacious Minister of Justice took me a bit by surprise over on the other side of the House, I did not think he was going to clue up so quickly. There are one or two things, Sir,

Mr. Rowe (W.N.)

that I would like to comment on on behalf of this side of the House. I was delighted to hear that this draft bill or this bill has been negotiated or has been agreed with by the association and the police chief. Did I understand the hon. minister to say that the association also had been involved in negotiations? Sir, that is agreeable. I am glad to see that we are not about to pass something in this House which is going to become the subject of dispute at a later

MR. ROWE (W.N.):

date. It is also interesting to see the no strikes provision in clause 19 of the act and a substitution therefore of a clause for arbitration or clause 20 of the bill and succeeding clauses of the bill provide for arbitration. Now normally, if my understanding is correct, the labour movement is not in favour of compulsory arbitration because they want to have, and rightfully so, the weapon of a strike in reserve in case negotiations and bargaining break down on any particular occasion.

So they have binding arbitration provision. Now I am not certain and maybe the minister can help me on this. The Constabulary Act which was passed last year did not have compulsory arbitration in it, is this the first time for this compulsory arbitration for a group of public servants? I mean in Newfoundland? I am not familiar with any others and it is interesting to see it. Now I do not know whether, to tell you the truth. Mr. Speaker, I do not know if this is a good thing or a bad thing because we have had a lack of experience not only in Newfoundland but in Canada on the over-all effects of binding arbitration, especially binding on a government. not binding on this House but binding on the government.

There have been some commentators on the binding arbitration aspect of public service negotiations and indeed negotiations in the private sector of the economy who say that it is a bad thing and that in all cases negotiations should be permitted to take its course and that one way or another the problems should be resolved without

MR. ROWE (W.N.):

binding arbitration because binding arbitration, according to some commentators, has the effect of usually giving more than is good for the economy especially when you are dealing with large, very large groups in society like Canada or Newfoundland.

I am not so sure that I agree with that idea. I think that certainly strikes ~~per se~~ and in themselves have not contributed any great benefit to the economy of Canada or the economy of Newfoundland. I think they are a necessary thing for unions to have because it is their last resort and it is something they should have as a weapon in dealing with management and in dealing with the industrialists of our society. I think perhaps that it is a good move forward and I think that we should not be fearful, I am glad to see the minister has not been fearful in bringing in this very controversial idea really of binding arbitration, arbitration binding on the government of the day in negotiations respecting wage increases.

I will be very interested and I am sure all honourable members will be very interested in seeing how this works out in the next two or three years. What kind of increases are we going to see in the next two or three years as a result of this Board of arbitration? It is going to be a very interesting exercise to observe that carefully and I commend the honourable minister once more for showing some guts and some imagination in bringing in this particular piece of legislation. I am sure that he was helped along his way by the association itself. I am sure that they were very happy about this arbitration. I am not sure, I talked to some of the members, I do not think that they wanted the strike provision, did they? I do not think they even had to negotiate on that, Mr. Speaker, if the honourable minister can - ? You know, they did not want a strike provision.

MR. HICKMAN: No, they did not. Anyway this was not an issue.

MR. ROWE (W.N.): That is right. It was not an issue and I had some brief discussion, Sir, and I am glad to see that the honourable Minister has brought in this binding arbitration provision. It might turn out to be unworkable when it is stacked up against all the other demands on the public treasury as the years go by in Newfoundland, I do not know. Maybe certain economic and financial constraints will make it necessary to get rid of this binding arbitration rule. I hope not because I think it is a good safeguard for the members of the association. It is going to be a very interesting thing to watch, Sir, and I wish the government well in their negotiations. I hope they never have to use this particular remedy of binding arbitration.

Now I notice also, Sir, in the act, although it refers to specific clauses I think it does affect the principle of the act, clause 22 (IV) and (V) for example, in the event of the failure to appoint arbitrators by any party and this would specifically and necessarily really refer to the failure on the part of the association to appoint an arbitrator or the failure on the part of the two arbitrators appointed both by the government and by the association to appoint a chairman. I notice that the bill provides that the Lieutenant Governor-in-Council in the event of a default of appointment has the right to appoint the arbitrator on the one hand or the chairman of the Board of arbitration on the other.

Now, Sir, I question that provision and again I mention it not because it is a matter of principle in this act but for the honourable minister's consideration between now and the time that this bill comes up for discussion in committee so that we can remove or amend certain clauses which might be offensive to us. I am not sure that the Lieutenant Governor-in-Council which is a party or could be a party to a dispute, labour dispute, should have the right to appoint,

MR. ROWE (W.N.):

especially say, the chairman, I cannot imagine the association not appointing an arbitrator themselves but in the case of a dispute between the two arbitrators the failure of the two people, the two arbitrators to appoint a chairman I am not sure that the Lieutenant Governor-in-Council, the government, which is a party in the dispute should have that right, Sir.

I think that again it is contrary to the whole idea that no man should be a judge over a jury in his own case. It is not necessarily that extreme but the principle is still there. I think that there is room in this bill for an amendment which might be moved by one of the honourable minister's colleagues during committee stage for an amendment to the effect that some other outside body appoint the chairman of the Board of Arbitration. Perhaps say a judge of the supreme court could appoint it or the supreme court itself or some other judicial body could appoint the chairman in the event of a default of appointment. I do not think a party to a dispute should also have the right, that kind of a right, to appoint the chairman of the Board of Arbitration.

That, Sir, I think, is about all I had to say on the bill except for this, and again this is a matter which affects the principle, I think, of this act and the principle of a great number of bills that might come before the House and acts which have already been passed by the House, and that is the idea that this act when passed will give a great deal of protection to the ordinary members of the association concerned, the fire fighters and in the case of the police, the constabulary and so on, the teachers, other bills and other public servants will have a great deal of protection because of the fact that they are involved in an association they are permitted to bargain collectively and they will have certain weapons

MR. ROWE (W.N.):

at their disposal to try to beat their point home.

However, Sir, I notice again, and this applies to most acts of this nature, that under section 72 the officers themselves which could be acquainted with management, for example the chief and the other officers hold office during pleasure. What that means, of course, is that the Lieutenant Governor-in-Council, the cabinet again has the power at its own whim to remove from office anybody in that capacity. They may have the power in respect of an ordinary member of such a force but, of course, the association would protect or attempt to protect one of their members who was wrongfully dismissed or concerning which there was any dispute. But in the case of officers, for example, they hold office during pleasure and I do not disagree with that at all. I think that a government should have the right, the absolute right to be able to appoint its policy makers and to dismiss its policy makers or officials who are involved in the making of policy.

If somebody has some problem, some disagreement with the government, and is likely to obstruct government activity then that man should go. There is no doubt about that in my mind at all. They should hold office during pleasure and they should take their job with that idea firmly in their mind. If they are involved in matters of high policy then they hold their office at pleasure. They cannot have views on a certain matter of government policy opposing the government's view on the same matter.

However, Sir, while I go along with the idea that they should hold office during pleasure, these officers and management positions should hold office during pleasure, I think it would not be wrong if the honourable minister would take this into consideration to prevent such a power being wielded by the government in a whimsical

MR. ROWE (W.N.):

or capricious fashion to the detriment of some officer or some member
in management or high policy capacity in the government or some
service like this that the government

MR. ROWE (W.N.):

in the event of a dismissal should be required by law to table in the House of Assembly probably with the fifteen day provision which pertains to all other acts, the government should probably be required to table in the legislature the reason for the dismissal of that particular member of the public service who occupies an officers job or occupies a high managerial position.

This would then not interfere with the right of the government to dismiss people who they did not want to have in policy making positions. But, Sir, it would put some obligation on the shoulders of the government not to use this very powerful weapon in a capricious or whimsical fashion because in exercising the power the government would know that it would have to table its reasons for dismissing such a man, in the House of Assembly, and although that would not have the effect of reinstating a man or anything like that the government's power would still be there and the government's decision would still hold, it would allow the House of Assembly, members of the House and the public generally to scrutinize the reasons for the man's dismissal and to see if it was done because of any vindictiveness or any capriciousness or any revenge or just merely because the government wanted to be rid of a man. If it was done for some wrongful or even unlawful purpose, if the man was thrown out of his job, I think it would not be bad for a government, and I would agree if I were a member of the government, I do not think it would be bad for a government to have that kind of a healthy constraint on it.

Now I realize this is not the principle of the bill, again I bring it up, Sir, so that the honourable Minister of Justice can take it into consideration for the committee stage. I think that it could be affected by merely moving an amendment during committee

MR. ROWE (W.N.):

stage to that particular clause of the bill, section 72, stating that officers hold office during pleasure provided that the government table in the House of Assembly reasons for dismissal in any particular case.

I recommend that to the minister for his consideration. He might think it is a bad idea but I realize that oppositions have different views of what happens to be right than governments do. Governments are in the process of trying to get work done. They want to be efficient. They do not want to be tied down by any unnecessary red tape. An opposition's job is to try to protect the power of the Parliament, the House of Assembly, and certainly to try to protect the interest of the people at large. I commend it and I recommend it to the honourable minister's consideration, Sir, and maybe he might want to say a word on it now.

MR. HICKMAN: Not particularly, Mr. Speaker. I just want to thank the honourable member for contributing to this debate on this bill and I move second reading.

On motion bill read a second time, ordered referred to a Committee of the whole House on tomorrow.

Motion, second reading of a bill, "An Act Further To Amend The Summary Jurisdiction Act."

MR. HICKMAN: Mr. Speaker, the explanatory note in this bill is very clear. It simply confers jurisdiction on district courts as presently vested only in the Supreme Court for the judgement debtors obtain the judgement in the Magistrate's Court to have it filed in the district court when it affects land and to make it the subject matter of an attachment. I move second reading.

On motion bill read a second time, ordered referred to a Committee of the whole House on tomorrow.

Motion, second reading of a bill, "An Act To Amend The Attachment Of Wages Act, 1966-1967."

MR. HICKMAN: Mr. Speaker, the Attachment of Wages Act, it was a great pleasure of mine to introduce the original act into this House in 1966 and at that time there were certain exemptions set forth insofar as the attachment of wages were concerned. I have lost them now but I am sure they are very relevant if I can ever find them. The act that is now being amended, Mr. Speaker, provides that where a judgement is obtained against any person that the judgement creditor in attaching wages is faced with certain monthly exemptions. In the case of a married person with one dependent \$150.00, four or more \$175.00 and an unmarried person, widower or widow, supporting at least one but not more than three children, \$150.00 and if it is more than three \$175.00 and \$100.00 in the case of all other persons.

That was the act that was passed in 1966 but, Mr. Speaker, the bill that is now before this House will very substantially increase these exemptions. In the case of a married person supporting his spouse the exemption is \$200.00, a spouse and one dependent is \$250.00 and, in the case of a spouse, or more than one dependent the sum of \$250.00 plus \$25.00 for each dependent in excess of one and the other increases are the same and in the same proportion. I suspect but I am not certain of this, Mr. Speaker, I believe this is the highest exemption granted in any of the provinces where there are attachment of wages acts and I think it is in keeping with the social thinking of government and I have pleasure in moving second reading.

MR. ROWE(W.N.): Mr. Speaker, quite naturally we are very much in agreement with increasing the exemptions under this act. I think though, Sir, that probably the time has come for all members of the

MR. ROWE (W.N.):

House and particularly the government to think in terms of getting rid of garnishment altogether. I do not know whether it is the type of thing that - I know people, for example, Mr. Speaker, and I am sure that other members of this House know as well, I know two or three people or more whom I have met in the last few years who have actually quite their jobs rather than be subjected to this attachment of wages. Whether it is the way to be collecting debts for judgement creditors or not, Sir, I am not sure. I think perhaps if people are going to be giving credit, Sir, and enticing people to take credit then they should be prepared to take the rough with the smooth with them.

I am not sure at all that the attachment of a man's wages, a man with a family, even though I must again commend the minister on the very liberal exemption contained in this act. I think it probably is the highest. It is certainly higher than other jurisdictions I looked at. In New Brunswick, for example, I do not think it is nearly as high as that exemption and I commend the minister for that but I think we should, I commend to the government the recommendation that they look at the whole idea of garnishment of wages and attaching peoples wages to see if it is a legitimate way to be collecting judgement creditors debts.

On motion bill read a second time, ordered referred to a Committee of the whole House on tomorrow.

Motion second reading of a bill, "An Act To Amend The Chattels Real Act."

MR. HICKMAN: Mr. Speaker, this bill is of vital importance to the future of this province. It is a very earth-shattering piece of legislation that was recommended by the Gushue Family Law of Study. What it does in effect is abolishes the tenancies of entirety

MR. HICKMAN:

Well for the benefit of my learned and honourable friend, the honourable the Leader of the Opposition that, I am sure he will recall that before the Married Woman's Property

Act of 1882. Where an estate was conveyed or devised to a man and his wife during coverture there is said to be tenancy by entireties, that is each was to be seized of the whole estate and neither of a part. The consequence was that the husband's conveyance alone would not have any effect upon his wife's surviving him. The reason, Mr. Speaker, that the husband was being seized of the whole estate during coverture, either in his own right or during - but of course part of the interest was, to make complete conveyance of all the interest held in entirety the wife must concur.

Mr. Speaker, tenancy by entireties were said to be seized, *passé partout* and not *passé moi partout*. After the Married Woman's Property Act 1882, the husband and wife took as joint tenants the wife's share belong to her separate use but they were still to some extent regarded in law as one person. Or if a gift was made to a husband and a wife and a third person the husband and wife unless a contrary intention was indicated by the donor would take only a part as joint tenants, the third person would take the remainder.

Now, Mr. Speaker, I do not know if this bill is coming before the House in deference to women's lib. or what. Be that as it may, under the tenancy by entireties the husband seemed to have some rather unusual and paramount rights, in this day and age at least the Gushue Report felt we should bring to an end. That is what I understand the bill is all about. If that is not what it is all about, I move second reading in any event.

MR. ROBERTS: Mr. Speaker, I want to lead the debate from our side of it. It will obviously be a lengthy one. The explanatory notes are at least three times as long as the bill itself. Obviously Sir, the minister said this is a matter of considerable importance. Tenancy by entirety, the minister was glossing over the point when he said that the rule against perpetuity had nothing on it. As a rule against perpetuities - I will come to the statute of usus we will work back through the rule against perpetuities

Perhaps Your Honour recalls it from the days when it was drilled into us at law school with a vengeance. Was it Professor Leitch at Harvard who wrote it? Mr. learned colleague perhaps - was it Gray - they did not have it in the nutshell of course when Boyle Askew gave us the land law. The same notes that have been used ten years before even to the jokes. There were very few jokes that went against the rule of perpetuities. It is not a laughing matter.

Now the springing uses, under the Statute of Uses which as I recalled from 1535, perhaps Mr. Sneaker, the law clerk would undertake to have this exhumed and brought before the House. I think also we should have a look at the marriage bracket. What is the name of the bill that came into the House of Commons in England and can only be compared with it was brought in fourteen times I think - marriage with deceased - perhaps the assistant law clerk who is very learned could help me - deceased wives, sisters, marriage act or something. What it boils down to is if you are married to a woman and she died you could not marry her sister. It was a great reform in its time. It came before the House of Commons I think on fourteen separate occasions. It was debated at vast length. Really it can only be compared with this bill. I must say, having read the bill itself, having read the explanatory note several times, I rarely saw explanatory notes that so confused the point at issue, having heard the minister's elusive explanation of both the bill and the explanatory notes in addition to that section out of whoever it is on real property that somebody copied out for him over there. I am thoroughly confused. I wonder if the minister might explain what the bill is about. If not I will have to ask my colleague the learned member for White Bay South -

MR. ROBERTS: If not we will have to move adjournment of the debate because this is serious, Sir. When we talk about things like (in capitals) the 'Transfer and Decent of Land Act in Alberta, no less, Alberta. We talked about the Doctrine of Ten Years as developed in England and followed in Canada. Then we get into such serious matters as tenancies and entirety. Then we talk about creating successive interest in chattels personal so this goes to the roots of the problems facing this province today. It may go considerably beyond the roots, Sir.

Also, I would like the minister to tell me why the explanatory note says "that it is desirable that it be possible to create future interest in land inter vivos. Inter vivos, Mr. Speaker, what is this world coming to in Newfoundland without having to employ the trustee device? What has the minister got against trustees, that is what I want to know? Why is he for inter vivos and against trustees?

AN HON. MEMBER: (Inaudible)

MR. ROBERTS: Does the hon. gentleman think I am serious? Well, I am asking why the minister is against trustees and in favour of inter vivos? Perhaps the hon. gentleman from Labrador West could enlighten us, because there are eight or nine of us in the House who are in our professional capacity at least lawyers and we have all been looking at this Bill since it was tabled. It is a most intriguing piece of legislation.

AN HON. MEMBER: (Inaudible)

MR. ROBERTS: Well then, if the hon. gentleman can make any sense out of what I am saying he is doing better than I am I can assure him. Seriously, this is one of the three hundred and twenty-three pieces of legislation which have come out of the Gushue Royal Commission which on a per bill basis is probably the most productive and prolific royal commission or whatever commission of enquiry that was ever set up. The only thing I would say is that in the future explanatory notes are

supposed to guide hon. members and help them, particularly the so-called non-legal ones. Have we any gallant and learned members in this House, Mr. Speaker? We have all sorts of gallant people. Even the gentleman from Hermitage is gallant but he is not gallant and learned. It is back to school for the hon. gentleman, that consolidated school he was talking about yesterday.

Mr. Speaker, the House Leader of the government wanted us to chat a little about this and we have been delighted to. My colleague the member from White Bay South will now get up and tell us what the bill is about and perhaps the minister in future could have an explanatory note on the explanatory note. I think we would all find it very useful.

AN HON. MEMBER: (Inaudible)

MR. ROBERTS: The bill itself is a lot easier to understand than the explanatory note. If the gentleman from Labrador West can explain it I will give him full credit. I went to a very good law school and graduated...

AN HON. MEMBER: (Inaudible)

MR. ROBERTS: Well no, he is learned, perhaps not in the legal sense but he is quite learned. He is a little weak in his political views but other than that you know, while the light holds out to burn, as Mr. Smallwood so often said, the vilest sinner may return you know.

AN HON. MEMBER: Who was that?

MR. ROBERTS: A fellow named Smallwood. He used to be around here, a considerable ornament to this House for twenty-three years, Mr. Speaker.

The bill itself has to be done by legislation and I suppose there we are. The explanatory notes are usually very helpful. Maybe the gentleman from Placentia East would enlighten us on it.

MR. AYLWARD: (Inaudible)

MR. ROBERTS: The hon. gentleman

MR. ROBERTS: is in a good position to enlighten us because he now knows as much as we do. His colleague and friend, the Minister of Justice...

AN HON. MEMBER: Inaudible.

MR. ROBERTS: Well the hon. gentleman knows more about that than I do. I may know a little about some unmarried women but nothing about married women.

The hon. Minister of Justice introduced a Bill, Mr. Speaker, and the gentleman from Placentia East missed one of the great legal expositions, Blackstone, Kooke, Kent and other people are quivering, rolling in their graves literally. It is the Channels Wheels Act, Bill no. 23, the explanatory note, the only part that is explanatory is the opening words, "as to the intent of proposed section (4) set out in clause (2) of this Bill, The Gushue Family Law states as follows," it goes on with a quotation. Then it goes on to some different length about tendencies, and the hon. gentleman is familiar with it. He is barely controlling his wrath. Perhaps he can explain it but it is really very serious stuff, Mr. Speaker. It is the sort of thing that the House should be doing and if the House Leader wants us to go on to twenty to six, I have said about as much as I can, maybe he can get into this and add a few words and if not I will ask my colleague from White Bay South. Have I expressed our...

MR. W. N. ROWE: You have expressed our position.

MR. ROBERTS: Distinctly, lucidly, very much to the point and we are prepared to vote for the Bill. We will take the minister on faith. If I am quoting him correctly he said he did not understand what was in it but he moved second reading anyway and on that basis I will go along with it and if The Chattels Real Act and The Married Women's Property Act come back to haunt us, Sir, let it be on his head and let it be long remembered.

MR. HICKMAN: Perhaps there may be some involvement with Ecclesiastical Law too. It has something to do with ordination. The entitlement and...

AN HON. MEMBER: Inaudible.

MR. HICKMAN: But be that as it may I move second reading.

On motion a Bill, "An Act To Amend The Chattels Real Act," read a second time, ordered referred to a Committee of the Whole House on tomorrow.

MR. MARSHALL: Mr. Speaker, before the hon. members of this House turn into chattels unreal I think it is probably the best to move the adjournment of the House, so I move that the House at its rising do adjourn until tomorrow at 3:00 P.M, Friday afternoon and that this House do now adjourn.