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VERBATIM REPORT

Tuesday, October 30, 1973

SPEAKER: THE HONOURABLE JAMES M. RUSSELL

The House met at 11:00 A.M.

Mr. Speaker in the Chair.

MR. SPEAKER: Order!

PETITIONS

MR. SPEAKER: The honourable the member for Placentia East.

MR. F. J. AYLWARD: Mr. Speaker, I beg leave to present a petition from the residents of Ferndale, in the Municipality of Jerseyside, in the District of Placentia East. The petitioners are the parents of forty-three school children who reside in Ferndale and are obliged to attend school in Jerseyside. These children range in age from five years to thirteen years of age and are obliged to walk to and from Jerseyside four times a day over very, very difficult terrain and in what certainly any circumstances particularly at winter could be considered very, very dangerous to the safety of children.

The petitioners point out that this is a very, very dangerous piece of highway. That the children are very, very young. Also this particular piece of road, the maintenance of this is in dispute between the Town of Jerseyside and the Department of Highways. In addition, there are two very, very severe turns and a very, very blind hill on the road all of which makes it, as I have said before, very, very dangerous for these children during the winter.

Now, Mr. Speaker, I realize that the government have a policy on transportation but there would be a very, very small amount of money required in this instance to accommodate the school board of Placentia St. Mary's and would enable them to provide the financial assistance required to continue and to accommodate these children. What makes it more difficult is that during the past years the bus operating in the area as I understand, the bus driver, without remuneration, picked up these children and brought them to and from school. Now the time of the year is approaching when it is very, very cold, the driving conditions are very, very dangerous and these children are still compelled to walk to and from school in Jerseyside.

In the circumstances I ask for this petition to be tabled and referred to the department to which it relates, which is the Department of Education. I hope the Minister of Education can find it possible to convince his colleagues to devise some formula which will enable them to provide extra assistance to boards in circumstances like the one in which Placentia - St. Mary's finds itself and thereby provide transportation for the children of Ferndale.

MR. SPEAKER: The honourable member for Bell Island.

MR. S. A. NEARY: Mr. Speaker, I rise to support the prayer of this petition presented on behalf of the residents of Ferndale in the District of Placentia East. There is no doubt about it, Mr. Speaker, this is an extremely dangerous stretch of road. There is no question about that. It is a reasonable request. But I am not quite sure, Mr. Speaker, whether it should go to the Minister of Education or the Minister of Highways. I think the prayer of the petition is to have the road improved.

MR. AYLWARD: Transportation and financial assitance made available to the board so that they can hire a bus to transport the children.

MR. NEARY: Well, Mr. Speaker, if that is the case, I was not quite clear on -

MR. AYLWARD: One of the reasons being that the road is so dangerous. But the prayer of the petition is that financial assistance be made available to the board to enable it to accommodate these children by providing bus service because of the condition of the road.

MR. NEARY: Well, Mr. Speaker, if the road is too dangerous to walk over, these children have to walk to school now. If it is too dangerous to walk over, my God, what will happen if you put a bus there, one of these big school buses, Sir, especially in the wintertime? But it is a reasonable request, Sir, and it is just another example of the deficiency in the government's school bus policy that they brought in about one year ago. We are very happy to support the prayer of this petition, Sir, and we hope that the Minister of Education will be able to find the amount of money the school board requires to provide this service for the children in the Ferndale Area.

MR. SPEAKER: The Honourable Minister of Education.

HON. G. R. OTTENHEIMER (MINISTER OF EDUCATION): Mr. Speaker, to comment briefly upon the petition presented by the honourable member from Placentia East and which a few days ago we discussed: Certainly I think in the general area here all of us who represent rural districts and perhaps those representing urban districts as well have the problem of school children living less than one mile from school. As all honourable members know it has been the policy ever since school bus transportation was introduced the policy of the former administration and the policy of this administration in terms of distance. The formula for making money available has changed. It will change again. But in terms of distance the formula has always been that public funds will be made available for the transportation of children living a mile or more beyond the school. There are hundreds. I have no doubt there would well be a couple of thousand, certainly hundreds of students living less than one mile.

The question is obviously to have a limit somewhere. If you change it from one mile, is it four-fifths of a mile. What happens with those a few yards in or three-quarters of a mile or two-thirds of a mile? Whatever you make it there are always going to be some people, some children living a hundred yards inside that boundary. That is an obvious problem no matter where the boundary is.

I should point out because I presume all honourable members are aware of this but they may not be, that the policy has been and is of the former administration and of this administration to make public funds available for the transportation of children living a mile or more. Now for those living within a mile no public funds are available but the school board may without receiving public funds transport those pupils if it wish and in many areas where children live less than one mile and there is room on the bus then there is transportation of those children without cost to them and the school board does it without receiving (a) Aid from the government in so doing because the bus passes the road anyway, the kids are there, it is on the route.

So in many areas where there is space available children living within one mile are transported. I would presume, I do not know, that in the instance referred to by the honourable member for Placentia East there is in fact no room because otherwise if there were room, then certainly there is no great cost to the board or to the bus operator en route to pick up those pupils.

But I certainly appreciate fully the problem raised by the honourable gentleman which we have all encountered in various districts. It is a matter that we are aware of with respect to the condition of the road. I will certainly discuss that with my colleague responsible in that area. We will bear in mind the problems referred to by the honourable gentleman. I do not think realistically there is any more than I can say on it.

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

HON. E. M. ROBERTS (LEADER OF THE OPPOSITION): Mr. Speaker, if I may say a word or two in support of the petition brought in by the gentleman for Placentia East. I supported it. I am sure every honourable member does. I am glad that the Minister of Education is undertaking a review of the school bus financing provisions and policies as is requested by this petition.

Now this petition touches upon one of the absurdities or one of the weaknesses in the present system. As it is well known, Sir, there are many others. Of all of the unfortunate steps, I do not want to put a stronger word on it right now, but of all the unfortunate steps taken by the present administration, the decision two or three years ago to change the school bus formula or the financing formulas was a disaster. We saw it again this year in St. Barbe North and White Bay North where the money allotted by the government simply was not enough to do the job. That is the problem in Placentia East, as I understand the point of the petition presented by their representative, the gentleman for Placentia East.

The programme just does not take into account reality. It is the old question of Procrustes bed, and if there are too many children

for the money then some of the children just do not get service. Well we think that is wrong, Sir. We do think that the Minister of Education and his colleagues should review the policy and should change it. I realize the costs amount when we were in the miristry. One of the horror stories was the Minister of Education at that time, whoever he was coming before the treasury board and the cabinet saying, I must have more money for school bus transportation.

It was as much an uncontrollable and unavoidable expense as the Minister of Health coming in and saying that 5,000 extra people showed up at Medicare last night more than we predicted and we have to pay their bills too. Well I hope the Minister of Education will adopt what I believe to be the only sensible and logical attitude on this; namely, that where there are children who should be transported to school then those children shall be transported to school and the government will pay the cost. To say otherwise, Sir, is to fly in the face of reality or to place an unfair burden on the parents. These are usually schools in rural areas of the province and by definition these are the people who can least afford to pay extra costs. Here in St. John's the people might be a little better able to pay the costs. Whether they are or not, the people in the rural districts cannot afford to pay the extra costs.

Let me close by saying that in White Bay North, to show how absurd the present policy is, tenders were put out and brought in low bids of $17,000, $18,000 and $20,000 for individual routes. The government formula which the present minister inherited (I do not blame him for it. Sir, he inherited it from the disastrous tenure of his colleague or his predecessor) alloted $2,000 or $3,000 and yet the low tender , open,public tender was $17,000. The minister made a flying trip to St. Anthony and has half patched up the problem. I do hope that spurred by the gentleman from Placentia East, by his eloquence and by his forcefulness that the minister will now go the whole way and do the right and proper thing.

NOTICE OF MOTIONS

MR. ROBERTS: Mr. Speaker, I wish to give notice that I propose to move the following motion, seconded by the gentleman from White Bay South:

"In view of the unprecedented action of the Deputy Speaker (who I am glad to see, Sir, is in his seat this morning) in making a

public, personal attack outside this House on the member for Bell Island, whereby serious doubts have been cast on the ability of the Deputy Speaker to preside in this House in a fair and impartial manner, this House resolves that it no longer has any confidence in the Deputy Speaker."

I have only one copy here, Sir, but it is the same motion I supplied Your Honour and the table clerks with yesterday. I assume copies of it are available. If not, I shall gladly provide others, if Your Honour should wish it.

MR. MARSHALL: On the motion, Your Honour, if I may, very briefly. Motions of this nature are quite serious and have to be brought up at the earliest possible opportunity. I would submit that this has not been in the proper form; and secondly, it relates to statements made outside the House and therefore is not in order and thirdly, it relates to matters which are statements as between individual members.

MR. SPEAKER: I shall take the motion under advisement and rule on it later.

MR. W. N. ROWE: On the point of order, Mr. Speaker. Firstly, Mr. Speaker, there is no question of the Hon. House Leader's argument with regard to earliest opportunity which might be valid on a point of privilege but this is not a point of privilege. This is a motion, a notice of motion before the House. His argument on that score, earliest opportunity, has no validity whatsoever. The second thing that the honourable member said, about outside the House, I would like to hear some authority cited for that. The whole point of this motion is that doubts have been cast on the ability of the Deputy Speaker to be fair and impartial. Now whether he said something inside the House or outside the House, the same doubts are cast on his ability so that point has no validity at all. The third point I do not even remember what it was. Does the honourable member?

MR. ROBERTS: It was specious anyway.

MR. W. N. ROWE: It was specious, Mr. Speaker, I am sure. There is nothing wrong with this notice of motion. It is a normal, substantive notice of motion, debatable when it comes up for debate in the House. There is just nothing wrong with it. The House Leader again raises a point of order which has no basis to it.

MR. SPEAKER: I shall, as I have said, take the motion under advisement and rule on it later.

ORDERS OF THE DAY:

MR. NEARY: Mr. Speaker, I do not really know to whom to direct this question, to what minister, so I am going to direct it to the Hon. the Premier. Will the Hon. Premier inform the House what steps the government have taken to distribute a substantial amount of money that has been accumulated as a result of collecting rents from homes on Bell Island that were purchased under a special housing programme paid for by the Government of Canada and by the province a few years ago? I have asked this question a number of times in the House, Mr. Speaker. Maybe the Premier may need notice of it but I would like to have the answer to it. This is the only opportunity we will probably have to ask the question in this session of the House. There is a substantial amount of money held by the Newfoundland and Labrador Housing Corporation, Sir, that should be distributed to the people of Bell Island. I would like to ask the Premier what steps the government are taking to see that this is done?

MR. MOORES: I will have to take notice of the question, Mr. Speaker as soon as I get the information, I will make it available to the member and to the House.

MR. NEARY: I thank the Hon. Premier for the answer, Mr. Speaker. I have another question (the honourable minister is not in his seat) I will direct to the Hon. Premier also. On May 13, last year, Sir, when we were discussing the estimates, the government promised

twenty-four housing units to Shea Heights. My understanding is that nothing has been done and I would like to ask the Premier what steps the government have taken to see that these twenty-four units are built this year on Shea Heights?

MR. MOORES: Once again, Mr. Speaker, I will have to take notice of the question. I am sorry that the minister is not here who is responsible. He is out of town today. Once again the answer is the same as previously. I will let the honourable member know as quickly as possible and also the House.

MR. NEARY: Before the day is over?

MR. MOORES: He is out of town.

MR. NEARY: Can I get the information on both questions before the day is over?

MR. MOORES: I will do the best I can.

MR. WINSOR: Mr. Speaker, in the absence of the Minister of Fisheries, may I direct a question to the Hon. Premier? Can he tell the House when the fishermen who suffered storm damage last June will be reimbursed for that loss?

MR. MOORES: Mr. Speaker, at the present time negotiations are going on with Ottawa, not just for the storm damage last spring but also for the late ice conditions of this year, to work out a formula that will incorporate both (not disasters exactly) misfortunes and that with a cost-sharing formula between the province and Ottawa, that should be worked out and action taken on it within the next month.

MR. NEARY: Mr. Speaker, I have another question for the Hon. Premier. Will the Hon. the Premier inform the House if there are any negotiations at all at the present time going on between the x-ray and lab technicians and the government or have both parties now adopted a stand-off attitude?

MR. CROSBIE: Mr. Speaker, the honourable gentleman well knows that the President of the Treasury Board -

MR. NEARY: No, I do not know.

MR. CROSBIE: The honourable gentleman is displaying his usual astonishing lack of knowledge. I will not call it ignorant. The position of the x-ray and lab was explained yesterday. It has been explained ad infinitum . What negotiations mean I do not know. There has been contact every day to see if there can be anything achieved within the bounds of what the government have set our position as. I do not doubt there will be further contacts today.

On motion that the House go into Committee of the Whole, Mr. Speaker left the Chair.

MR. CHAIRMAN: Order!

A bill, "An Act To Govern Collective Bargaining Respecting Certain Employees In The Public Service In The Province."

On motion clause (1) carried.

MR. ROBERTS: Mr. Chairman, with respect to clause (2). When I spoke on second reading I made a point which I thought then had some validity and I may say that everything I heard since confirms my opinion. It is with respect to subclause (c) wherein there is a definition of board and saying that board,as it appears in a number of important and material places throughout the bill,shall mean the Labour Relations Board. When I spoke at second reading, Your Honour may have been staggering about in Port au Port so if I may refresh Your Honour's memory on the point.

The Labour Relations Board has on it no specific expertise in the public service fields or in hospitals. The Labour Relations Board has on it representatives of management and representatives of labour. I think of recent years, the last four or five at least, the Confederation of Labour are consulted and their nominations are generally accepted for appointment to the board on the labour side. The present chairman is Mr. John O'Neil, generally regarded as an independent man. He has been on that board for about fifteen or twenty years, has he not?

Is John O'Neill chairman or is it Geoff Steele?

AN HONOURABLE MEMBER: John O'Neill.

MR. ROBERTS: John O'Neill. Well, anyway he is a man, a lawyer here in town who has been on the board for a long time and represents nobody except the public interest.

None of ministers who spoke dealt with the point so I raise it again. I realize this bill does not amend the Labour Relations Act nor I suppose could it unless some major amendments are moved. I think the point has some validity and I wonder whether the Minister of Finance - we seem to be missing the gentleman from Labrador West again - could speak on the point. I do think there is something to it.

The board, if it is to determine essentiality - we will come back to that question later. Mr. Chairman, the board surely will need expertise. Now, I realize there is an adversary process which will appear before the board. The employer will say that he wishes the following employees designated as essential and the union or the bargaining agent will say that they do not agree and we will have spokesmen, perhaps even counsel and in due course we will have a body of case law. Even with that, Sir, there is no expertise on the board and I would compare it to the situation where one had a judge who knew nothing of the law, where a judge could only hear the lawyers who appeared before him and sort of on his informed laymen's impression give a decision. Well, I think that is putting a heavy burden on the baord. I wonder if the minister could tell us whether there is any thought being given to expanding the board or strengthening it or adopting some other device that will allow the board access to expertise should they be called upon to determine who are essential and who are not. It is going to be a very contentious issue.

MR. CROSBIE: Mr. Chairman, the point is well taken. It is planned, the Minister of Manpower has plans to expand the Labour Relations Board now that they are going to have these new duties on which there would be representative of the public service union side and a representative of the public service. This will be coming in when the new labour code is introduced by the minister in the next session

of the House. In addition to which, if the Labour Relations Board of course needs expert advice when they are dealing with this matter, it will certainly be free or it will certainly be provided to them. If they feel that they need additional assistance or expertise in deciding these questions, steps will be taken to make sure it is available. The bill will be amended and it is going to be expanded to include public service representatives.

MR. ROBERTS: Mr. Chairman, I think that is a reasonable position and we will await the further legislation.

Come down then, Sir, to subsection (i). I have not got the Labour Relations Act in front of me. Perhaps I will get it in a second or two. The definition of employee is a very broad one indeed. Now, I realize that under the Labour Relations Act there is a well established body of law and of jurisprudence that provides for exclusions of managerial and confidential employees. Indeed the determination of the bargaining unit is one of the chief functions of the board in the setup that has developed in Newfoundland and elsewhere in Canada over the years.

I wonder if this section is not a little too broad and if perhaps there should not be added at some point a subclause or a word or a phrase or something making it quite clear that employees obviously are people employed by these various bodies but at the same time the term employee is for the purposes of this bill and these definitions are only for the purposes of this bill and, Mr. Chairman, employees do not include managerial nor confidential employees. If that be not the case, if that be not needed, does the minister take the position that the case law is sufficient?

Again it is an important point that we should not be in the position of having confidential and managerial employees, for example deputy minister or for that matter whole units, for example the treasury board bargaining staff, Mr. Blanchard and his staff in the collective bargaining division or whatever it is called down in treasury board. Obviously, while they are employees within this definition, they are not going to be covered by any bargaining unit, I suggest may be

bargaining with themselves. I wonder if the minister could perhaps speak to that point?

MR. CROSBIE: Well, Mr. Chairman, we think that the definition here is sufficient because we already have collective agreements that apply to most of these situations. Under those agreements managerial and confidential personnel are not members of the bargaining unit or personnel such as the Leader of the Opposition mentioned. There are some areas of dispute perhaps that may have to be decided by the board. For example, it is a contentious issue between us and NAPE as to whether the employees of the Auditor General should be included in the bargaining unit or not. That will have to be decided, I guess, by the Labour Relations Board.

It was felt by the draftsmen that it was not necessary to include the definition that is in the Labour Relations Act.

MR. ROBERTS: Mr. Chairman, I have a further question on subclause (i) again. The employees include people who are employed by corporations, bodies or authorities managing hospitals. Now, that is a small series of words, Mr. Chairman, but it embraces an extremely large point and one which raises a very great issue of policy. In this province today - and it was the policy of the previous administration, it was the policy while the present Finance Minister was Health Minister, it was the policy which I developed further as Health Minister and the gentleman who succeeded me has carried on with it, that the hospitals of this province should no longer, if they were hitherto should no longer be operated by the government directly. The government's role was a different one of funding and of supervising and of planning and of that sort of thing but the operations should be left to the boards. In some cases private boards, the Roman Catholic Church, the Salvation Army Grace Hospital and so forth in other cases public boards, for example we have seen them appointed recently at Gander and for the Waterford Hospital and so forth.

One of the chief concerns of any employer of any board managing a hospital, of course, Mr. Chairman, would have to be negotiations with

their employees because negotiations cover much more than just salaries and wages. They will include a whole range of things from working conditions to classifications, the whole bit.

Under this bill the boards effectively have no voice. Now, I realize that down in section, somewhere down below - I am not sure of the section, I think it is 15 or 16, Mr. Chairman - but there is a section which says that if the minister or chief government negotiator so desires, he may add to his staff, to the bargaining teams, people representing in effect the hospitals. I forget the exact wording but it is there. Now, that is fine if the minister so desire. My concern is that we have here a situation - it is a lot of people, Mr. Chairman, there must be 7,000 or 8,000 or 9,000 people employed in the hospitals. Possibly well over one half the people who are in theory covered by this bill would be employed in hospitals. More than that? There used to be 6,600 nonprofessional employees and add on 1,500 or 2,000 nurses and you have I suppose maybe three-fourths of the public service of this province. I do not know, maybe it is half, maybe it is three fourths but it is a large percentage that are employed by hospitals.

As this definition reads, Sir, there employers and there is nothing in the bill to change this, have no direct say, they have no right to a say in these all important negotiations.

I realize the government must have a major say as well. That goes without quarrel because of course the government have to foot the bill. The government obviously have to consider not only the financial consequences of finding the dollars but also the consequences as we have seen with tragic effect of giving one group in the public service a higher raise than another group. There is a relationship. There always has been and there always will be. So, I wonder if the minister would consider some amendments either here or a little lower down in effect giving the employers in fact in law, hospitals in the case of employees, giving them a right to take part in collective bargaining.

I do not think we need to worry about a confrontation between the government on one hand and the hospitals on the other. The government

puts up the money and that has the effect of the old saying that he who pays the piper calls the tune. But I am not sure that he who pays the piper need play the instrument as well as call the tune. So, I wonder if the minister would undertake to speak to the point and would undertake to accept some amendments on that point.

MR. CROSBIE: Well, Mr. Chairman, the reason, of course, that employee is defined to include persons employed by a corporation, body or authority in managing any hospital is that it is the government's opinion that all hospitals should come under this legislation because they are all in the public service category. They provide an essential public service and therefore the provisions of this legislation should apply to them.

Now this section just says who an employee is. It just gives jurisdiction over those employees or just makes clear that those employees come under this legislation. It does not deal with the employer. The employer is just defined to mean an employer of an employee. So, this

legislation does not affect the fact that the hospital boards, for example, are the employers of the employees. There is no way in which we can bargain collectively with the bargaining units representing these employees unless we do it with their employers. The hospital boards have just as much influence as we have. If they do not want to co-operate, if they do not agree with the way we are acting or they feel they are not treated properly, the remedy lies in their hands. It is with them the union signs an agreement.

For example, at the Western Memorial Hospital Corporation, CUPE signs an agreement with the Western Memorial Hospital Corporation. They do not sign it with the treasury board, they do not sign it with the government. We are involved in the negotiations because the hospital knows that they have to receive the money to pay these wages and salaries from the government. I do not think any amendments are necessary to protect their position. The mere fact that they are the employer really gives them the whip hand. If they said to us that they do not agree in some partciular way or another,then there is no way we can force them to enter an agreement.

The honourable gentleman mentioned how many hospital employees there are. I notice from the Budget Speech of 1972 that there were then 7,200 hospital employees out of 24,000,approximately, people who are paid out of public funds.

MR. ROBERTS: The 24,000 would include the teachers who are not covered by the...

MR. CROSBIE: Teachers yes - well a brief breakdown - government departments 7,677; hospitals 7,200; teachers 6,500; memorial 1,600; commissions 1,015, corporations 363; boards, authorities and other agencies 572. The total was 24,927. We are suggesting an amendment to clause (4) principally because the Leader of the Opposition mentioned it in his remarks the other day. We have a section there that deals with the right of employees to form an association but we

did not have a section saying that the employers should have the right. That is why we are introducing that amendment to make sure that the Hospital Association is covered.

There is a detailed set of guidelines, Mr. Chairman, set down and agreed to by the Hospital Association and the Government through Treasury Board as to how negotiations are to proceed. I am sure they are at least four or five pages long. At every stage the Hospital Association or the Hospital Board and the Treasury Board act together. One does not negotiate with the union without the other being there. This is the way it is operated. There are lots of problems because of this dual role, one being the employer and the other providing the money. Hopefully, they can all be worked out over a period of time.

There is no danger in our view to the employer here. They have the final say,really, because no collective agreement can be signed if they will not agree to sign it.

MR. ROBERTS: Mr. Chairman, I appreciate what the minister says and I will not pursue the point. I think in practice what he says is correct. Certainly my experience has shown it and the gentleman from Twillingate who has been for many years and is today chairman of the board of a private hospital in this province, the Notre Dame Bay Memorial Hospital, Twillingate confirms it.

I guess what I am really saying is that this bill is sloppily drafted. It is a very bad piece of legal draftsmanship. It is surprising because normally the legislation that comes up before this House is well done but this one is badly drawn. I think the minister would agree that it could have been made a little clearer.

Let me come back to this same (7) of (i) of (2), Mr. Chairman. This again is a very small form of words embracing a very large principle. I think it is something worth looking at. This is the section which removes all of the hospital employees in this province - I wonder, Mr. Chairman, I have a good voice as do many

members of the House but I do not feel disposed to try to out-shout people in the lobby - this is the section which takes away from the hospital employees a right which they have had at law for many years, that is the right to organize and to bargain collectively under the Labour Relations Act of the province.

We may if you wish, Mr. Chairman, talk about the right to strike. We all know the history of that sad though it may have been. We know it but that is beside the point here. The point here is that the hospital employees in this province had the right, I suppose as long as there was a Labour Relations Act, to organize under that act, to seek certification and in due course,if certification were granted, to bargain collectively and to sign an agreement. The problems came when they could not attain agreement by negotiation and they resorted to strike action. Again, that is beside the point for this purpose here.

This is a major principle, Mr. Chairman. This section is taking away from all of these employees a right which they have enjoyed for twenty or twenty-five years in this province. The people who worked in hospitals operated by government may not have had that right, they had voluntary recognition. The people in Notre Dame Bay Memorial Hospital have been negotiating for years and the people in Corner Brook, Grand Falls, St. Clares, the Grace and other hospitals all had that right.

These few words, Sir, take it away. I do not think they should and I am going to move that this subclause (7) of subclause (1) of clause (2) of the bill be dropped, stricken, just not stand there. My reason for that is that these people have already bargained collectively, Mr. Chairman, under the Labour Relations Act. The only other reason to put these people under this bill, there would be two, one would be to bring them under this quite repressive original section (27). The government there have seen the error of their ways and they propose to amend section (27). Section (27) we will deal with

in due course but it will be largely meaningless. It will be a statement of principle and not a statement of law, not a statement of substantive law, so that has no bearing.

That only leaves the question of "Essential employees' section (10) of the bill as being the only possible reason, the only possible difference between the rights the hospital employees now have and have enjoyed for twenty years and the right that they would have under this bill. I do not think that that is enough reason to bring them under this bill, Sir. I do not think so for one minute. If the government feel, we disagree with them for the reason which my colleague so forcefully and so eloquently explained last evening in the second reading debate, if the government feel that we must have two categories of employees in our hospitals, essential and non-essential, then the way to deal with that I believe is to bring in legislation dealing just with hospitals and with the hospital services of this province.

MR. ROBERTS: That would not be decreed a new precedent at all, Mr. Chairman. We have a separate piece of legislation which governs, among other things, collective bargaining for the police, the constabulary, a separate force but only two hundred and fifty or three hundred men are involved in that. They have their own legislation.

A similar situation exists with the fire department which is a St. John's Fire Department even though it is paid for out of the Provincial Treasury.

The teachers of this province, 6,000 of them or 7,000 of them have their own bargaining legislation, their own special act to govern them. If they can have it I see no reason why we should not have a similar one for the employees of hospitals. You may want to lump together, Mr. Chairman, the government operated hospitals and nongovernment operated hospitals but as the declared policy of the administration is the same as was ours, to move hospitals out from under direct operation and into the hands of an independent board, some of them publicly appointed, some of them privately appointed, all of them publicly funded, I think that in itself is no argument against having a separate act.

So in moving the deletion of this subclause, Mr. Chairman, I am raising a very important principle. I do not think it needs to be debated at length although I, of course, am prepared to. I think the positions can be stated but our position simply is that the hospital employees should be dealt with under the Labour Relations Act as are all sorts of public service employees, Mr. Chairman.

The St. John's City Council sanitary workers I venture to say are every bit as essential to the health and safety of the people of this city as are hospital employees. They are not more essential but they are every bit as essential. It would be quite intolerable to have a situation where for example, if the garbage collection people were to strike for two or three months it would be equally unacceptable.

We have had strikes of four and five weeks in one hospital towns. Grand Falls has one hospital. Corner Brook has one hospital. We have had strikes of nonprofessional employees in those hospitals this summer, in one case I believe for five weeks and in the other case for three weeks. The pressures became intense but nonetheless we did not have that dire state of emergency, or if we did the government took no action until the boards forced them to, as the minister told us last night in his speech closing second reading.

So I think this clause should be dropped, Sir, but in moving it be dropped I do want to point out that it is a very major point because to delete this would mean, as I understand the law, that hospital employees would continue to be under the Labour Relations Act, an Act which has worked fairly well over the years. Of course. there have been difficulties but there will be just as many or more difficulties under this legislation and if the government, Mr. Chairman, feel that there should be a category of essential employees in hospitals, we disagree with that, we think the answer to their problem would be to bring in legislation governing hospital employees as such.

We did it for the police and the firemen. The present administration have done it for the teachers, with our support. I think everybody in the province supported that idea and I think it could be done equally well for the hospital employees. So I move that sub-sub 7 be deleted, Sir.

MR. CHAIRMAN: It has been moved that subsection (7) of subsection (i) Section 2 be deleted. Is it your pleasure to adopt the said motion?

MR. CROSBIE: Mr. Chairman, I would like to speak against the motion. I do not want to speak at any length. What the Leader of the Opposition says of course is consistent with the policy of the opposition as outlined by the honourable member for White Bay South last night. Of course it is not a motion that we can accept. This is a question of judgement. This is a question of policy. It is our judgement that for

the protection of the people of the province we must have the hospital services of the province come under this public service collective bargaining legislation so that we can ensure, through the device of the essential employee, that at least emergency services are provided in the event of a strike in hospitals.

Now this may or may not work. We can only point out again that the majority of thinking in Canada and the majority that practice in Canada is on a side in this matter. The fact remains, why should it be included under public service collective bargaining legislation? Well the fact remains, Mr. Chairman, that the only really private hospitals in this province were the Notre Dame Bay Memorial; St. Clare's, operated by the Roman Catholic denomination; the Grace, operated by the Salvation Army denomination and the Grenfell Hospitals.

MR. WM. ROWE: M. J. Boylen

MR. CROSBIE: There is a donation there. It is not really a private hospital. By far the greater number of the hospitals of the province and the largest institutions were entirely put up by public funds and they are entirely operated by public funds.

Now as a matter of administrative efficiency, or managerial efficiency, and as a matter of policy, it is felt that there should be hospital boards to operate and manage these hospitals. That was the policy of the last government in its last years and of this government. So that the General Hospital, the Mental and other large institutions now are operated by boards but the fact remains they were put there entirely by public funds. They are operated now almost entirely by public funds. It is an essential service and we feel therefore, that they must come under the provisions of this bill, which if administered properly is not going to interfere whatsoever with the right to bargain collectively. It is not going to interefer- with the right to strike except in minor, carefully controlled ways to protect the interests of the public and that therefore we cannot agree to this amendment.

I think really to speak any more to it would really be just hashing over what we have said in the last three or four days.

MR. WM. ROWE: Mr. Chairman, I would like to very briefly add my support to the motion proposed by the Leader of the Opposition and deal with one or two points that were raised just then by the Minister of Finance.

First of all, Sir, he says that the majority of the opinion in Canada seems to be on the side of the government in this, by which I would assume the majority of the acts governing public employees in Canada are either the same as or less progressive than this particular bill. That may in fact be so, Mr. Chairman, I do not dispute that at all.

I would raise the point that I raised last night about Nova Scotia I understand where there is no right to strike by public employees, in the case of hospital workers they are outside the ambit of that definition, the definition of public employees and they do have all the rights under the Nova Scotia Labour Relations Act, number one.

Secondly, Sir, I would like to say that most of the acts in Canada governing the collective bargaining of public employees are fairly old legislation at this point. This is a new bill the minister is now bringing in and it should be as progressive I think and as forward looking as possible.

The 1967 legislation brought in by the Liberal Government in Canada at the time, Mr. Chairman, was considered as epoch-making legislation. It was breaking new ground in the whole area of public employees collective bargaining.

If my memory serves me correctly, I did some study on the matter at the time and if my memory serves me correctly I do not think there was any other legislation in North America, I do not believe there was any other legislation in Western Europe with the exception of Sweden and perhaps England which was as forward looking at that time as the legislation brought in by Canada, which goes to show the

revolutionary forces which have been in effect in this whole area of collective bargaining for public services.

So when the honourable minister compares what has happened in Canada or what is the fact in Canada with this legislation, it is not a fair comparison at all. I would say that when the federal government under whatever government might be in power at the time, when they come to review their legislation concerning public employees in the next several years that they will change their legislation and that this government will find that the federal legislation will be further in advance again of this legislation which is proposed before the House.

I think, as the honourable Leader of the Opposition has said, that things have gone along reasonably well under the Labour Relations Act as far as hospital workers are concerned. I think that it is a retrograde step to now bring if not all then a great proportion of the hospital workers under this particular legislation. They have not done it

in Nova Scotia, as I understand it. That is no reason why we should not do it here now. I do not want to repeat the points which I made last night. Suffice is to say that we think our position is that there is no need of it, that when the government starts as it will under other sections of this bill, when it starts to designate employees as essential employees, depriving them of the right to strike, it will have a reverse sociological effect from that intended by the government. It will not solve problems. We still believe it will cause problems and that the best thing to do is to allow everyone in the province to have all the rights which are presently attendant on collective bargaining laws.

Let them have all the rights and then if an emergency arise, if certain employees are deemed to be absolutely essential to the health, safety and welfare of the province in the event of a strike, then let the government call this House together and debate it publicly. If necessary let the majority of this House legislate strikers back to work if the situation so demand but do that when the circumstandes demand it, Mr. Chairman, do not do it before the event. We think, as I said last night, that brings us half way along the road to disaster already. I do not think there is any need of it. We will vote in favour of the motion proposed by the Leader of the Opposition.

MR. NEARY: Mr. Chairman, my colleagues are absolutely right that this legislation, this clause, is going to rock the boat. There is no question about that. CUPE have already been certified under the Labour Relations Act, Sir, and as my colleagues have pointed out to the Committee things have been going along fairly well. Now the government are bringing in a piece of legislation with a clause included in it to put CUPE under this piece of legislation. That is going to rock the boat, Sir. The hospital employees the nonprofessional hospital employees are going to bitterly resent it. Sir, and there is going to be a backlash.

Mr. Chairman, let the House be perfectly clear on what the minister said about other provinces across Canada appearing to be on the side of the government. This is not a correct statement. Sir, it is not a correct statement. Hospital workers right across Canada, in Nova Scotia -

Incidentally, Mr. Chairman, Mr. MacMillan I do not think is from Ontario, I believe Mr. MacMillan is from New Brunswick. The Honourable the Minister of Finance last night said this red rooster came down here from Ontario. I think Mr. MacMillan is only a golden brown cockerel from New Brunswick. Even in Mr. MacMillan's own province, Sir, hospital workers have the right to strike. Only those who are in hospitals that are directly run by the Governments of Nova Scotia and New Brunswick, and all the other provinces of Canada do not have the right to strike. All the employees of the lay hospitals, the religious hospitals are outside of the ambit of the bill. They come under the Labour Relations Act of the provinces and they have the same privileges and the same benefits as all other employees in the private sector.

So the minister is not quite correct when he says that all hospital workers in other provinces of Canada are placed under the same restrictions as government are placing them under here in this Bill No. 123. Therefore, Mr. Chairman, I am supporting the amendment put forward by the Leader of the Opposition because I am afraid, Sir, that this is a backward step. The employees, the nonprofessional workers in the hospitals are going to consider this as a backward step, Sir. They are going to resent it. God only knows what trouble it is going to cause in the future.

MR. M. MARTIN: I must rise in support of the amendment put forward by the Honourable the Leader of the Opposition because I think, as has been said here already, most of the things embodied in this bill which make it different from the Labour Relations Act are in fact red flags to the labour movement and are quite unnecessary.

The honourable gentlemen for St. John's West and from Placentia West asked whether or not the opposition would put forward a suggestion - if we criticize this bill how it could be improved? I suggest, Mr. Chairman, that it could be improved by throwing it out altogether and simply changing one section of the Labour Relations Act, Section 68, allowing public employees collective bargaining under that act as in fact some of them now have. Then if the situation should arise where we have a strike which creates

an emergency situation then it is the time to deal with that. Then it is the time to take restrictive action. If in fact good will among men has broken down and we can no longer arrive at a satisfactory compromise then is the time to bring in restrictive legislation but not in the first instance. The fact of bringing in this legislation will make the labour situation even more critical than it is. The labour situation is critical.

Most of the things that are embodied in this Labour Relations Act, as insufficient as it might be, have been won by the labour movement after long and bitter struggles and these victories are cherished. Now if we are going to say that a certain segment of the labour movement are going to be denied these victories then I wonder, Mr. Chairman, how many people have heard at labour rallies the membership get up and saying, solidarity forever? They mean that. When one local or one unit of the labour movement is threatened then they have no choice but to rise up and support it.

I cannot but support the amendment as put forward by the Honourable the Leader of the Opposition.

MR. CROSBIE: Mr. Chairman, the honourable gentlemen opposite, I do not dismiss their views as not being worthy of any consideration because I think that obviously they are. We can only see how this proves out in the future I suppose, but I suppose there is a certain amount of emotionalism involved. Frankly the bill as I see it is not denying anyone's right to do anything. The bill is permitting hospital workers the same right that they have now. They have the right now to go on strike under the Labour Relations Act. Under this act they are going to have the right to go on strike. That is not going to be prevented. They will not be denied that.

The honourable gentleman for Labrador South says and the Honourable Leader of the Opposition has said, just bring them under the Labour Relations Act then if an emergency crops up you can call the House together and legislate then as to when to strike. Well that seems

to me to be completely contrary to a lot of the criticism that has been given to us for having the bill before the House when the x-ray and lab people are now on strike, and we are in a middle of a crisis. In other words, what the honourable gentlemen are saying is wait for an emergency. Wait until passions are aroused, wait until everything is at fever heat and there is a strike on which is dangerous to the public health and safety, then call the House together.

Well what this bill tries to do is to prevent that. If the essential employee sections of the bill operate successfully and rationally and the employer does not attempt too much, just attempts to have declared as essential the bare number needed to see that a hospital for example functions and if that be successful then there should never be any requirement for the emergency section to come into play unless there is some strike that goes on for an eternally long time and for that reason the public health and safety are in danger.

So what we are attempting to do is to avoid there being any of those kinds of emergencies that would require the House to be called together. If the Labour Relations Board administer this in accordance with what the policy is suppose to be and are rational and adopt a reasonable approach to it, it should prevent these kinds of emergencies coming up.

Now the only kind of institution that I can see where there is any possibility that a majority of employees might be held to be essential would be an institution such as a custodial one, the Hoyles Home perhaps or Exon House or perhaps the Mental Hospital. An active-treatment hospital but there is no chance in this world as we see it of anything like that happening. It is just to keep the minimum number of people on duty to provide emergency service.

So we take exactly the opposite approach to it. Instead of wanting to wait for an emergency and then calling the House together in the middle of a crisis, passions boiling and tremendous controversy, we want to try and avoid that. This is the means that we want to adopt to do it. Now Nova Scotia, I think the honourable member for Bell Island explained that properly. The government owned hospitals are not permitted to strike.

There are certain private hospitals that are. In New Brunswick the hospital workers have the right to strike, so do public servants but the legislation provides for the designation of essential employees by the Labour Relations Board or the relevant board in New Brunswick. So while they have the right to strike there, they have the same provisions in their legislation as we do. That is what they are operating under.

Now this is our approach to it. The honourable gentlemen opposite thing it should be a different approach. We cannot agree at this stage that all the hospitals should just be permitted to operate under the Labour Relations Act because that means that we are saying that in a hospital the complete service can be stopped one hundred per cent.

If all the members of the bargaining unit were to go on strike, they could bring the hospital to one hundred per cent dead halt. Now how can we have that? We could put up with that in St. John's, Mr. Chairman, if one of our hospitals or even two of them went down completely, we still have another two or three, we might survive it. If a hospital should go down in Corner Brook, one hundred per cent out, there is not another one in the area until you get to Stephenville or Baie Verte. There would be a huge area without any service. This is obviously something that we think cannot be permitted. An institution like that must be allowed to function in emergencies. The strike will still be just as valid a weapon. They will still be worked to death in the hospitals, the management will. It will still be a tremendous burden on the public, a burden on the people operating the hospital and the government. There will still be the same pressure that they want to exert on the employer and for all these reasons, we cannot accept the position taken by the opposition. We hope that the fears of the opposition about the results of this will not be borne out. If they are borne out, if this proves to be unworkable, as we have said repeatedly, then we will take a different approach.

MR. MARTIN: Mr. Chairman, I would like to leave the honourable gentlemen opposite with two thoughts. I refer to the Province of Saskatchewan which had the first public service collective bargaining legislation to that effect. They went for nearly thirty years with hospital workers having the right to strike. Never once did they have a strike in the hospital service until nearly thirty years later Premier Thatcher brought in his Bill 2, I think he called it, which forced compulsory arbitration. Immediately that bill was brought in, they had a strike.

Now I will bring it closer to home. This legislation was before the House and the labour unions had copies of the bill. It

was not until the House sat that the x-ray and lab technicians and technologists saw that they were about to be isolated against and about to be ordered back because of illegal strike action that they decided to quit. The effect that this bill had here was to impose upon us an emergency which we did not have prior to that.

MR. ROBERTS: Mr. Chairman, I do not propose to go over the arguments again but I do think that the remarks made by the Minister of Finance (I appreciate the spirit in which they were made) do call for one or two further comments. Let me first of all say that I think the points just made by the honourable member for Labrador South are valid points. He could refer as well to New Brunswick where they have had a state of uncontrolled chaos, periodically and spasmodically, in their hospitals since they brought in a somewhat similar bill there. I am not sure whether it was done by the administration of Mr. Robichaud or whether it was done by the present administration of Mr. Hatfield. The point is it is there.

Now the Minister of Finance, Mr. Chairman, in his remarks fell into the precise pit which he last night and quite rightly in my view warned the House against. It is the pit we have tried to avoid throughout and that is equating the x-ray and laboratory situation with this bill. I think there is a cause and effect relationship in it. I suspect the reason that led the x-ray and laboratory people to resign en masse. The Minister of Finance keeps referring to it as a strike and maybe it is a strike but in law I gather it is a resignation as such, unless one is prepared to to try to establish it a conspiracy. An allegedly concerted mass resignation is a conspiracy and therefore a strike. That I think would take some time to establish in law, just in the processes.

The point is that this bill does not deal with this situation at all. I quite genuinely do not see how the passage or

otherwise of this bill will affect the laboratory situation. Whatever is to be done about x-ray and labs, it cannot be done, as I understand, with this bill.

What concerns me though, other than this pitfall - I think the minister did fall into that trap. It is not the same. Many honourable gentlemen particularly on the other side have sort of made a great to do about connecting the two and they have done everything from questioning our motives to our ancestors and our descendants. That falls beside the point. The Minister of Finance is normally much more to the point.

What seems to me to be the case is as follows: The hospitals have had a right to organize and to bargain for many years. They had the right to strike previously but when it was exercised in 1967 the then administration, rightly or wrongly, but whether they were right or wrong they did act and they ended the strike by legislation. They went further, they prohibited strikes. That administration, Mr. Smallwood as Premier, subsequently brought in a bill which became law, which had in it a clause allowing the repeal of the Hospital (whatever it is called) Employees Act. That power was not exercised by that administration, which I was a member of during the last eight months we were in office nor was it exercised by the present administration in the first fourteen, fifteen, sixteen months they were in office. Subsequently, in July or August of this year, they decided as a cabinet to exercise that power and they did.

The strikes had already occurred. There have been one or two completely wildcat strikes of a day or so duration. They had ended. In due course after the conciliation process and all the times that run as specified in the Labour Relations Act for a strike which would have been lawful except for the Hospital Employees Act, that strike went ahead and the government did not have it declared

illegal, the government in the face of the action by the unions in effect ratified it retroactively by repealing the act and saying; "Very well, we will allow you to strike." Now I happen to think that that was the right decision and I said so at the time.

Mr. Chairman, that decision by the government - the strikes at Grand Falls and Corner Brook, which as a result were retroactively made lawful or if you wish retroactively not declared unlawful, I think show the inconsistencies in the argument that the minister just advanced. He said (I am not quoting him word for word but I think I am reproducing accurately the gist of his remarks, the pith and substance of what he had to say) that we cannot afford to have our hospitals closed, particularly in a one-hospital area such as Corner Brook or Grand Falls or many others we could name and that this bill for essential employees will prevent it.

MR. W. N. ROWE: Nonsense.

MR. ROBERTS: Well, Mr. Speaker, I say, echoing my colleague from White Bay South, nonsense for two reasons: (1) This bill will not prevent it. If there is any connection, any significance to the x-ray and laboratory situation when we come to talk about this bill, that is it. Those people have not found the weapon. They were shown it by the nurses in Nova Scotia but the weapon is there. They obviously know how to use it when they wish to use it and one can only assume that they are determined to use it. They have been at it now for ten days or two weeks or a fortnight or so and unless something has happened since we entered the House, when I last heard a news report or talked to a reporter, there seems to be no change as of this moment. We still have a grevious situation.

It is nonsense for another reason, Sir. The action of the ministry over the summer showed that we could take

a strike, that the people of Newfoundland could take a strike in the hospitals without the hysterial statements. The Minister of Health nearly stumbled into it the other day. I do not know who wrote that statement for him but he should dismiss his speech writer and get a new one because that was the first time I had heard anybody in any authoritive position fall into this old boggie man of the sick and the dying will be laid at your door and somebody will come in with his heart attack and will not be able to get the treatment and it will all be the fault of - fill in the blank . Up until then the disputes have gone on without that. We took a strike of five weeks in Corner Brook and the hospital functioned. It was a strike of the nonprofessional workers. The other workers, the nurses, the x-ray and lab people crossed the picket lines and carried on the in the normal way. The hospital functioned at a greatly reduced level but it did function. I am sure it caused serious inconveniences to the people of Corner Brook and the area that hospital serves. It could not have lasted much longer.

The minister last night confirmed what I had said on Thursday night in my speech on second reading that the only reason the Premier and the government intervened to settle the strikes at Grand Falls and Corner Brook was that the board at Corner Brook had sent them what amounted to an ultamatium; settle the strike or we will close the hospital. They sent it twice. Once produced the minister going out to Corner Brook, as he confirmed last night, where he spoke to them and the second one subsequently on the weekend following, the one that led to the action.

Mr. Speaker, the point of what I am saying is that the essential services clause, which had as

the only purpose of bringing these employees under this bill. We cannot talk about - the House, the minister confirmed, because section 27 - I cannot debate it now, I shall in a few minutes - is meaningless, it is supposed to be amended. It is a motherhood, wishful statement, a statement of principle but no statement of substantive law. I think again the minister would agree on that.

The only purpose of the bill as it affects hospital employees is this essential services clause. For two reasons it is nonsense. It will not prevent strikes. It is not that I hope that there will be a strike, I fervently hope the opposite. It would be irresponsible for anybody to think anything else. The fact remains that in my experience and in my believe the fear is that this essential services clause will provoke strikes. I do not condone them but I cannot ignore the fact that I have received telegrams from Local 1271 of CUPE in St. John's - I do not know where they are but it is St. John's - CUPE 879 in St. John's, CUPE in Labrador City, the William Jackman Memorial Hospital. Local 1270 of CUPE, Versa Food Services and Modern Building Cleaners at the Janeway, St. Clare's, Grace and Mental Hospitals, one from Carbonear in the Minister of Health's district signed by Miss or Mrs.or Ms. Joan Newman, president of CUPE Local 1584, one from Mr. Ralph Parsons, president of Local 2351, the International Brotherhood of Electrical Workers at Churchill Falls who says, "It is my believe that this bill carries a detrimental effect on the labour force of our province. If this bill should be processed, I feel it should be revised with members of both labour and management expressing their views."

A similar telegram from Mr. Chester Sanford in - it does not say where it is from, Sir - but anyway he is president of the Atlantic Utility Council of the I.B.E.W., a telegram from Twillingate in the honourable gentleman's district, from Ms. Angela M. Jenkins, CUPE, Local 641. A similar one from J.F. Hughes of the International Brotherhood of Electrical Workers; Mr. David Hunt in Summerside, Bay of Islands, president of Local 488. I believe that is at the Western Memorial Hospital in Corner Brook, CUPE. Local 1560 of CUPE, Leo Adams, president,

Brenda Colé, secretary, members certified in respect of the Roman Catholic School Board for St. John's; Mr. Wayne Smith in Grand Falls, the president of Local 990 of the Canadian Union of Public Employees; Mr. A.J. MacDonald, president of the CUPE Local 670, the Broadcast Division - is that Aubrey Mac. whom we all listen to in the mornings? A.J. MacDonald, president of CUPE Local 670, the Broadcast Division, a request in the name of humanity to our brothers and sisters who work in the hospitals to withdraw all the - well, anyway, Aubrey Mac. has a very good program in the mornings.

Finally from Miss Josephine Shea of CUPE Local 1568 of the M.J. Boylen Hospital in Baie Verte. All of them say the same thing, Mr. Chairman. All of them say, "We are in opposition to bill 123. In the event that the government pass the bill we will take the matter to our membership and we will recommend the withdrawal of our services."

Now, I agree with the minister that we cannot act under threats. I have no doubt either that all these were organized in the sense that CUPE said to their people, "If you feel the way we do, if you follow our lead,send telegrams." These have all come to me as Leader of the Opposition. Similar telegrams, I am quite sure, have come to the Premier.

The Federation of Labour passed a resolution last week in Corner Brook, not quite the same as this, but to a similar effect. What I am saying is that this legislation will not prevent strikes in hospitals. It may make it worse and this is why we are moving that this clause should be deleted, that we should go on. The effect of deleting it would mean that we go on under the Labour Relations Act and that would mean - it would mean what? It would mean that strikes are lawful in hospitals. The government have made them lawful. The government have taken that action and we do not disagree with it. Indeed we do agree with it but it would mean that strikes are lawful.

What happens if we have a strike? We have the situation we had in Grand Falls and Corner Brook, Mr. Chairman, the strike would go on. It would seriously inconvenience the public at best. If it got to be

more serious than that, the government would act whether they act under threat of the board, as was the case this summer in the strikes, or whether they act for other reasons. What would they do? They would do one of two things. They would do either what they did this summer, negotiate, more money on the tables.

AN HONOURABLE MEMBER: Which is legitimate?

MR. ROBERTS: Legitimate. They got them back. That is the purpose of a strike. A strike is only collective bargaining, a normal stage in collective bargaining. It is part of the process as it is understood and laid down. The CUPE people won their strike and the NAPE people at St. Clare's won their strike. They got more money. That was the point of their strike and they got it just as the employees of NAPE over at Memorial University got it. They were on strike and they got it. They got more than they went out for as I recall it. They won their strike.

MR. V. ROWE: Surely that is the whole point of it.

MR. ROBERTS: Either the government would do that in response to a strike in a hospital or they would call the House together and end it by legislation. Under this bill, as they propose to amend it, they quite wisely put that power in the hands of the House, not in the hands of the cabinet as it was originally proposed. They have come now to put it in the hands of the House. So, that second alternative is not available under this bill.

The first alternative has nothing to do with legislation. Well, then why the essential services one? It is a red herring, Mr. Chairman. It has no validity, no meaning. It is inconsistent in logic and it is illogical and I do not think it will help. So, for all these reasons we think that those eight words in subsection 7, which are all of subsection 7, should be deleted. We do not think that to bring these people, these hospital workers in under this bill will help. I think that the experience over the past summer has shown that the government were on the right track. I think they were. I think they were ahead of us. When we were the government we took a blind turn. We had come

to our senses. We had not done it fully with legislation. The government were on the right track and now they have taken a backward step and I fear that this will lead to trouble in our hospitals. That is what concerns me. That is why we are making such a lot of noise or taking such a time on this point. It is a small number of words but, Sir, it is a very important point indeed.

MR. CHAIRMAN: I would like to inform honourable members of this point of order which should have been raised at the time the Hon. the Leader of the Opposition was reading that group of telegrams. They are now read into the record and it is largely because of my lack of vigilance that they are there. It is a very definite point of order that these things may not be read into the record.

MR. ROBERTS: Mr. Chairman, could Your Honour give us a citation. The one which normally comes up is 157. It is found on page 133 of Beauchesne, 157, (5) and (6).

I did not read any telegrams into the record. I referred to the fact I had received and I gave the names and offices and addresses of the people from whom the telegrams were received. If that is the citation. Now, there may be another citation of which I am not familiar. If it is 157, Sir, I submit there is nothing in that. Furthermore, Sir, I would point to precedent in this House. The Minister of Finance last night - I did not quarrel with this, I think it was good, essential to debate and it helped his point - referred to articles in newspapers. He read from them at some length and then commented upon them and then went on.

We raised no point of order nor did Your Honour who was then in his chair as a private member. I would like the citation. I think it is an important point, Sir.

MR. CHAIRMAN: The point is an important point and if the occasion should arise again during these proceedings, the research shall be done. However, at this point I think it is merely an academic exercise. It did occur to me subsequent to the telegrams having been read into the record that there could have been a point of order raised. However, I think we can proceed.

MR. ROBERTS: Mr. Chairman, I am genuinely confused now. Your Honour has the right and duty to raise a point or order at any point. We can raise it as members but Your Honour is our, for the time being at least our presiding officer. Your Honour said that I was out of order in reading some telegrams. Now I would like some guidance. There is this citation 157 in Beauchesne but I submit that that citation does not support the ruling which Your Honour made. There are no words in this saying that you cannot refer to telegrams but there are some words -

MR. CHAIRMAN: If the honourable member will permit.

MR. ROBERTS: Yes, when I am finished, sure. I would like just to finish my sentence if I might. May I finish my sentence?

MR. CHAIRMAN: The Hon. Leader of the Opposition has the right to finish his sentence. The Chair must apologize for interrupting him. It was very unkind of me.

MR. ROBERTS: Well, I thank Your Honour. I accept the apology in the same genuine spirit in which it is offered.

The citation in Beauchesne (157) particularly (5) and (6), Sir, do not in my submission lend support to a ruling that one cannot refer to having receipt of a communication and I may add, neither does our practise in this House. I could find, Your Honour, in Hansard, I would think, several thousand precedents to support my submission on this point.

MR. CHAIRMAN (STAGG): The citation (157)5, Beauchesne is as follows: "It is not in order to read articles in newspapers, letters or communications emanating from persons outside the House and referring to, commenting on or denying anything said by a member expressing any opinion reflecting on proceedings within the House."

MR. ROBERTS: I did not read any...

MR. CROSBIE: Mr. Chairman, I can take it that there is not a relevant point of order at the moment. If the honourable gentleman did not read the telegrams he may very well have a very good point there. Sometime when it comes up again the collective wisdom of the centuries will be produced to see whether it was in order or not.

I just want to make two brief comments or three. Fundamentally it comes down to this, Mr. Chairman, as I see it. The opposition say we are for the principle of unrestricted strikes in hospitals and other public institutions or services, while we say we are for an unrestricted right to strike in hospitals and other public institutions subject to a safeguard that must be provided so that in the essential institutions such as hospitals, a basic emergency service can be given. That is the difference as I see it.

This legislation is not designed to prevent strikes anymore than the Labour Relations Act is designed to prevent strikes. One hopes that having legislation like this there will be less strikes but it is not designed to prevent strikes. It permits strikes as a final step if the collective bargaining process does not lead

to a satisfactory conclusion.

The honourable gentleman mentioned these telegrams he had. There is a considerable difference I would like to point out, Mr. Chairman, to the telegrams sent by the Electrical Workers Union and the to the telegrams sent by the CUPE locals. The CUPE locals (and I am paraphrasing now) said that if you pass this legislation we are going to recommend that we go on strike or that we will go on strike. The electrical workers telegram say that they heard that this bill is not favourable to labour and they would like it delayed or looked over. They make no threats, in other words.

The major distinction between them...

MR. ROBERTS: (Inaudible)

MR. CROSBIE: Yes. The only units that would be affected, say, would be the power commission and maybe one or two others. There are no threats contained in their wires. There are threats contained in the wires from CUPE. No government, Mr. Chairman, can bow to threats. We can listen to reason, we can listen to arguments and we have. We have met with CUPE, we have met with NAPE, we had discussions with Mr. McMillan and Mr. Mayo from time to time. We understand their position, we are meeting their views where we think we can but we cannot bow to the threat of strikes, that if this bill be passed there will be illegal strikes, because we feel that there will not be. There is no reason to. It would be illegal for them to do so and far more can be accomplished in other directions than by attempting that kind of pressure.

The honourable the Leader of the Opposition said that the unions involved had won their strikes in Corner Brook, Grand Falls and St. Clare's. Perhaps in a certain sense it is true. They won their strikes but at the same time there was a penalty they had to pay. Nobody wins these things. They lost their wages and salaries for four weeks or two or three weeks. The public lost the services

of the hospitals and the government lost. The Western Memorial Hospital and the Grand Falls Boards lost. We all lost a great deal. Sometimes you cannot settle things any other way than by a strike. You cannot say too glibly who wins a strike. No one wins a strike unless it is against an intolerable situation.

MR. MURPHY: In a hospital you know who loses.

MR. CROSBIE: In a hospital, of course, it is the people who need care who are the real losers.

It is a difference in approach and we hope that with the essential services thing working properly there will be no emergencies and the strike weapon can be fully utilized.

MR. ROBERTS: Mr. Chairman, I just want to add one further word. The minister stated our position. I do not think he stated it correctly and I do not want to leave it standing on the record. We are not in favour of an unrestricted right to strike and just leave it at that. The government's position seems to be that they favour a right to strike specific to an essential services section or clause or procedure. Our position would be that we would think that the essential services procedure is unworkable and irrelevant. We think that if you are going to have a right to strike, you have a right to strike but not unrestricted, Sir.

The final power to end any situation rests right here in this House. As I said at second reading and will say again in a few minutes, the House can be brought together at any time. No right to strike, Sir, is unrestricted. The right of the people of this province to basic public services is surely something on which everybody in this province, unions, management, government, opposition, anybody would agree. That must be protected. I think that the essential services clause will not in any way help, it will hurt in a situation. On that the minister and I or the government and my party will have to agree to disagree. I only hope that in finding out the answer to the question we do not come to the position of having people suffer and people be hurt but that is beside the

point. The point now is that the two sides cannot agree and we will just have to let it go to a vote. I can predict the vote but my party are not in favour of an unrestricted right to strike. We are not in favour of any unrestricted action by anybody. Rights must be balanced against responsibilities.

MR. CHAIRMAN (STAGG): It is moved that section (2) - (i) - (7) be deleted. Is it your pleasure to adopt the said motion? Those in favour 'Aye," those opposed 'Nay,' I think the 'Nays' have it, on division.

Shall clause (2), carry?

MR. ROBERTS: I have a question on (j). The word 'influenced' is in there in the definition of employee organization. In essence it is in there to ensure that an employee organization is a genuine union and not a sweetheart or a company union or a yellow-dog union of some sort. That is what (j) means. It is copied from the Labour Relations Act but the word influenced is in there.

The advice I have, not from the union, not from management but from knowledgeable third-party sources, is that even though it is in the Labour Relations Act, that is a very broad word. I wonder whether the minister could tell us anything about it. Influenced is influenced and obviously there are acceptable influences and unacceptable. I wonder what it would mean if the word dominated - I wonder if any thought were given to change if we ever get this new labour code we hear so much about?

MR. CROSBIE: Mr. Chairman, all I can do is assure the honourable gentleman that I have no influence over these employees associations. I do not. Dominated is easy to understand or influence means - although they are not too dominated or too much under the influence of an employer. Really, it is only a matter that could be decided when the facts of an actual case were before you. I have not heard of any organization being found employer-dominated in recent years here, although I know it used to occur quite a bit in the past and

that there would be company unions and so on. I cannot really offer the honourable gentleman any help on it.

MR. ROBERTS: Can the Minister of Manpower say anything on it? It is not strictly relevant to this bill but it is in this bill and therefore it is relevant to the debate. It is a very broad definition. Is it the sort of thing that is being looked at if we ever get the new labour code?

MR. ROUSSEAU: There are a number of items in this bill that we are looking at as a matter of policy. Of course, as we suggested we will be looking at them with interest in the working of this bill. Whetherindeed or not they will be included eventually in the new labour code or in the labour standards code or any other new piece of legislation, it will be determined to a great extent on how workable they are in this bill.

MR. MARTIN: Subsection (p) which deals with the interpretation of the word "strike:" Now for those who have any knowledge whatsoever of the bargaining process, we must understand that it is a series of checks and counterchecks and that at any point of the proceedings the parties may or may not reach an agreement. Therefore I think we should not restrict this system to the point where we suddenly, without any checking and counterchecking, arrive at a strike situation.

One of the checks which a bargaining unit will use is to slow down their work effort. A work to rule or a general slowdown so that it will have an affect on the total output of that work unit. This is in effect telling management that they are approaching the point where it is becoming intolerable and that very, very soon strike action will be considered. What subsection (p) does is to eliminate this intermediate step. In the Labour Relations Act from which I gather much of this was lifted, the interpretation of the word "strike" stops with the phrase; "With a common understanding." In this interpretation it goes on to say; "...or a slowdown or other concerted activity on the part of employees designated to restrict or limit output."

I would like to see that whole last section deleted after the words, "common understanding." I would so move, Mr. Chairman, that we delete everything in subsection (p) after the words, "common understanding."

MR. ROBERTS: I realize that too, Mr. Chairman, that merely means the definition of strike would track with the definition presently found in the Labour Relations Act which now ends with the words, "with a common understanding," and leaves it up to case law to decide what all that may mean. Until such time as we get a new definition of strike, which I assume will be an integral and central part of any labour code, why clutter it up with meaningless definitions?

I had a note to speak at some length. I will not bother but that (p) - again I do not know who drafted this act, Mr. Chairman, it really is one of the worst, the sloppiest pieces of draftsmanship in the technical sense that has come up. To make an argument, Mr. Chairman, I have had it made to me, that the words, "after a common understanding," the words from there to the end of that definition of strike are absolutely meaningless. They can be interpreted a hundred ways and surely to heavens! in definitions of all places, we should be as precise as possible.

I think it makes sense to adopt a definition of strike, found in the Labour Relations Act, surely that is bound to be fairly adequate and where it is inadequate, a new labour relations code will obviously apply to this bill and to any other bill that has a definition of strike in it.

MR. A. J. MURPHY: Mr. Chairman, if I may just ask a question for my own information - slow down here- in other words in my department I have a man who sees twenty-four clients a day, so all right he does not like the way the government is treating him so he says, "Look, I am only going to see twelve clients a day." Is this what slow down means? In other words he will still expect full pay for doing a day's work but he is only going to do half the work.

Just to set the thing on record, you contract to do a job, a job calls for certain things to do, in my opinion, an honest day's work for an honest day's pay, an honest day's pay for an honest day's work, you either do the job you are being paid for or you do half of it and you say, "Look, we want someone to do the full job." Am I right in this? Is this what you say that it is perfectly legal to do half the job?

MR. ROBERTS: Mr. Chairman, the gentleman is right as such.

MR. MURPHY: Am I right or wrong? That is all I want to know.

MR. ROBERTS: You have asked the question, now let me try to answer it.

MR. MURPHY: Well all right, go ahead.

MR. ROBERTS: The gentleman is right when he talks of such principles as an honest day's pay for an honest day's work and an honest day's work for an honest day's pay. The problem of course is that nobody knows what a slowdown is, unless it was written down somewhere that a man must see or should see twenty clients or twenty-five a day. Take the minister's example. He would be months before the Labour Relations Board or in a court or whatever form we have trying to settle whether it was a slowdown or not. That is the whole point of it.

MR. MURPHY: The head of a department would have no authority to say that.

MR. ROBERTS: The head of a department might say it but I can assure the minister and he will be, as a management type now when this thing comes in, he may run into it. If a deputy minister says so and so is slowing down, he is liable to have the bargaining agent in saying, "Grievance, red flag." That is the sort of thing that touches off grievances.

MR. MURPHY: That is their right.

MR. ROBERTS: Oh sure, it is their right -

MR. MURPHY: Inaudible.

MR. ROBERTS: The gentleman asks, does the minister or deputy minister have the right to say it is a slowdown? He has the right to say it but that is a long way from proving it. The whole point of this section, you know -

AN HON. MEMBER: Inaudible.

MR. ROBERTS: Well that is fine. We carried our point. I was only trying to elucidate for the honourable gentleman's colleague and that is a difficult job.

MR. CHAIRMAN: Are we ready for the motion? It is moved that the words following "A common understanding" in subsection (p) of section 2 be deleted.

On motion amendment carried.

On motion section 2 as amended carried.

MR. ROBERTS: Mr. Chairman, a point here on clause (3) it is a point which comes up in one or two other clauses and perhaps we could dispose of it here and we would not have to deal with it under (12) or some other place.

This is as good a place as any to deal with the problem of management and employers in the hospitals now that the government insist that hospitals be covered by this or hospital employees. The minister and I exchanged views on it earlier and I think there is a measure of agreement and a measure of disagreement but I wonder if it is possible, certainly desirable in my eyes to write in to this section words to the effect that perhaps a subclause (3) "The president of the Treasury Board shall consult with the employers," I am thinking out loud. I certainly have not prepared an amendment in draft terms. I do not have access to the draftsmen, but something along those lines.

I think it is a very serious problem and while I have no doubt that in practice it will presumably be as the minister indicates, it always has been and I see no reason for it to change, I think it would be a very helpful thing for all concerned if it were to be stated as a principle, as a requirement of the legislation. I do not think that so to state would in any way hamper the government in their negotiations. In the long run they have the cash and he who pays the piper still calls the tune.

I have not got the formal words, if the principle is - Well perhaps we could let the clause stand and I would try to work out a few words and bang them over to the government side.

MR. CROSBIE: [illegible]peaker, we cannot accept an amendment to that effect at this time. As far as we know I cannot remember any request from the Hospital Association or anyone else that this should be done. I have explained how the system works now and the fact that there is no way in which we can force these other employers to do what they do not want to do, to do things that they do not accept in connection with collective bargaining.

If, however, the Hospital Association does raise a point or any of these other bodies and they feel there is some inadequacy here or it is not working properly and they want some sections put in the act, then we would be glad to consider it but right at the moment I think it would be very perilous just to accept some wording of our own here. So I can just say we shall consider that if it should appear to be something that needs to be corrected.

On motion clause (3) carried.

MR. WM. MARSHALL: Clause (6), Mr. Chairman, there is an amendment, to move that this clause be renumbered as subclause (1) and to be added as subclause (2) "Every employer has the right to be a member of an employer's organization and to participate in the lawful activities thereof."

MR. CROSBIE: The purpose of the amendment, Mr. Chairman, it appeared to be something that we should put in because there are associations, for example, there is the Hospital Association, which is an employer's organization, and that is the reason why we prepared this amendment. I believe similar wording appears I think in the Labour Relations Act.

MR. ROBERTS: We are for it. We suggested this originally so we support it. We are glad the government are putting it in.

On motion clause (4) as amended, carried.

MR. MARSHALL: Mr. Chairman, in clause 5 (5) (b), that is subclause (5), paragraph (b), I move that the words,"for proper and sufficient cause," be added at the end of paragraph (b). I think the amendment is self-explanatory, one cannot "suspend, transfer, lay off, discharge or otherwise discipline an employee but for proper and sufficient cause It has to be done with proper and sufficient cause.

MR. CROSBIE: There has been, Mr. Chairman, some worry for some reason I cannot quite fathom about subclause (5) of section 5, worry by the unions involved. As I see it, all it says is that nothing in the act affects the rights or authorities of the employer to do certain things and to fix the term and implement the organization of his business and to assign duties and classify positions or to suspend, transfer and lay off employees or otherwise discipline them.

The section just states what is a fact. This act itself does not effect any of that. What effects the employers' rights that he always had, to do what he wanted, are the collective agreements that are worked out under the provisions of the act. So subsection (5) does nothing for the employer as I see it, and nothing against the union, but there has been some disquiet felt by the unions involved.

The comparable section of the Labour Relations Act does not include the subsection (a) and therefore the Minister of Manpower and Industrial Relations and I feel that in addition to the amendment moved by my honourable friend, the House Leader, that the subsection should also be amended to remove (a), take the (b) out so it would read, "Nothing in this Act shall be construed to affect the right or authority of the employer," and then go on, "To suspend, transfer, lay off, discharge or otherwise discipline an employee for proper and sufficient cause."

It would then be

the same as the clause in the Labour Relations Act. Now if the Honourable the House Leader does not mind moving that rather than just the amendment that was moved. (A) Would be to delete it entirely.

MR. CHAIRMAN: Shall the amendment carry?

On motion amendment carried.

MR. CHAIRMAN: Shall Clause (5) as amended carry?

MR. W. N. ROWE: On Clause (5) generally, Mr. Chairman, I would like to say a word or two. The Minister of Finance says that the labour side seems to be a little concerned about this,that and the other thing in this bill. In other words, he has indicated, he has pointed up something which is wrong in this province, namely; a mistrust by labour of this government and the minister as President of the Treasury Board and whatever goes on in the province when there are negotiations going on.

Clause (5) of the bill, "No employer or person acting on behalf of an employer shall participate in or interfere with the selection, formation or administration of an employee organization etc. etc."

Now, Sir, some of the things that we were mentioning last night which caused the Minister of Finance, the President of the Treasury Board, to open up his soul and confess his sins as to the strong stands he has been taking in negotiating with the public employees, is indicated by this section. Last summer the NAPE negotiating team indicated to the government that they had accepted something or were willing to recommend to the executive and the membership that something be accepted. When it was brought back to the membership or the executive as the case may be, it was not accepted. We had the Minister of Finance come out in a public statement which could have no other effect, which must have been calculated to irritate labour generally in the province, come out with some kind of a statement as to how can we negotiate with NAPE or how can we negotiate with anyone if they are going to be doing this sort of thing.

I made a public statement at that time;in my opinion, Sir, I believe in the opinion of the members of this side of the House it was an unwarranted intrusion by the Minister of Finance in the internal operations

of a labour organization. Now I sincerely hope, Sir, that kind of a public statement by the Minister of Finance will cease in the future. I will hope as a result of what he had to say last night where he admitted that he had made statements in the past which were not calculated to soothe and to bring parties together but were more calculated to divide and to raise the hackles of all the parties involved in negotiations, I hope he ceases that kind of a statement, Mr. Chairman, because this more than anything else in this province I believe has raised the suspicions and mistrust of labour.

MR. MARSHALL: On a point of order, Mr. Chairman. We are engaged in committee now and clause by clause consideration of the bill, and the honourable the member for White Bay South is getting of into a long-ranging debate which is irrelevant to the present topic under discussion, which is Sub-clause (5) of Clause (5).

MR. ROBERTS: Mr. Chairman,to that point of order. The topic under debate is not Sub-clause (5) of Clause (5) it is Clause (5).

MR. MARSHALL: All right, Clause (5).

MR. ROBERTS: My colleague is speaking on Clause (5). He is speaking of the requirement of employers not to interfere with employee organizations. To refer to a side note: Surely what he is saying is quite in order, he should be permitted to carry on. He is not referring to anything except the principles set forth in Clause (5).

MR. MARSHALL: Mr. Chairman, nonsense.

MR. CROSBIE: On a point of order, Mr. Chairman. I cannot see any anything relevant, and I do not remember making such a tremendous confession last night as that. But in any event I cannot see the relevance as Section (5) deals with employer not interfering with employee organization, allowing them to confer on working hours and attend to their business during working hours. Not to discriminate for race and so on. Not to force membership. What the honourable gentleman is talking about has no relevance to this clause whatsoever.

MR. W. N. ROWE: On the point of order, Mr. Chairman, "No employer shall participate or interfere with (leaving out some of the words) the administration of an employee organization." Now part of the administration of an employee organization is the give and take, the negotiations and discussions which take place between a negotiating team and the membership or the executive of that union. Surely that is part of the administration.

The point I will make now, Sir, and sit down, I mean the point need only be made that the Minister of Finance publicly gets involved in things that he should not get involved in and has disturbed good relations between the government and the representatives of public employees in this province. Well he admitted it last night, Mr. Chairman.

MR. CROSBIE: Inaudible.

MR. ROWE, W.N. He admitted it last night. He got up here, I thought, I did not know what was going on,a revival meeting or what. He got up and confessed, he even said that his wife had joined with the unions in requesting him not to take such strong stands.

MR. ROBERTS: Inaudible.

MR. ROWE, W.N. I will not go into a strike action there or a withdrawal of services.

MR. CROSBIE: Always threatening a speed up.

MR. ROWE, W.N. Always a speed up or a slow down or a complete withdrawal of services. Maybe that is the reason why the honourable gentleman was so jumpy. Withdrawal of services had been threatened by certain parties mentioned by himself in the House.

The only point is, Sir, that the honourable minister has made it himself. He is too arrogant, too abrasive in dealing publicly with the other side in labour negotiations. That has led, more than anything else in this province,to the uproar we have presently in all public employee negotiations by this government.

AN HON. MEMBER: In other words, he is too modest.

MR. CROSBIE: I will not answer that.

MR. CHAIRMAN: The honourable member has had his say. It is very difficult to have it retracted. Even if we attempted to, it would be impossible. I

do not think he was really dealing with Section (5). But however, these meanderings are well documented in the history of this chamber. Probably the new rules might deal with just such a speech.

AN HON. MEMBER: Inaudible.

On motion Clause (5) as amended carried.

MR. CHAIRMAN: Shall Clause (6) carry?

MR. ROBERTS: Do not be in such a hurry to railroad it through "Willie". When you get your new rules you can railroad things through because I have not got them yet.

This one has the open-ended period, the waiting period. I understand it is Sub-section (4), Mr. Chairman. I understand that the Labour Relations Act has a similar clause but that does not make it right or it does not make it wrong, it is merely to say there is one in the Labour Relations Act.

I would rather and I suggest instead of the present provision here which says that there is an open period at anytime after ten months of the term of the collective agreement, in other words, if it is a three year agreement you have a twenty-six month waiting period. I think we should adopt the practice of other jurisdictions such as Ontario where, as I recall it, they open a two month period at the end of each year or at the end of each bargaining period, the peroid of each collective agreement for waiting, in the sense of a decertification or an application for another certification order. Of course, the board always have the supervening power at any time they are convinced on applications before them that the bargaining agent does not in any way truly represent the employees of the unit, then they could take the appropriate action.

I think this is just asking for trouble. The mere fact that it is copied from the Labour Relations Act, if in fact it is, that does not remove the fact that it could cause trouble.

MR. CROSBIE: Mr. Chairman, just on that point: The Minister of Labour as we all know is working now on a revision of the whole labour laws and are

we therefore prepare to leave this now, as it is comparable with the Labour Relations Act? What we have said to the unions involved under this legislation is that where the Labour Relations Act has changed relevant to this act, here we will make the same changes in this. So we prefer to leave it as it is at the moment. It will be revised as the Labour Relations Act is.

On motion Clause (6) carried.

On motion Clauses (7) through (9) carried.

MR. MARSHALL: Mr. Chairman, there are certain amendments which I presume will be debated so perhaps I can -

MR. ROBERTS: Why not move them and call it 1:00 o'clock?

MR. MARSHALL: I will move it and call it 1:00 o'clock.

Clause (10) Sub-clause (2) Sub-paragraph (a) that the words "Or otherwise in the public interest" at the end of Sub-clause (1) be deleted. Now that is a misprint here. This is in Sub-clause (1) of Clause (10), Mr. Chairman, "Or otherwise in the public interest," be deleted. Then under (b) of (2) that a new sub-clause be added as follows which reads, "If a majority of the employees in a unit are classifed as or determined to be essential employees under this section every employee within such unit shall be deemed to be an essential employee for the purpose of this act if the bargaining agent so advises the employer and the board."

MR. CHAIRMAN: Shall the amendments carry?

MR. ROBERTS: No, Sir, we now call it 1:00 o'clock.

MR. CHAIRMAN: It now being 1:00 o'clock I do leave the Chair until 3:00 o'clock this afternoon.

The House resumed at 3:00 P.M.

MR. CROSBIE: Before we adjourned the House leader had moved two amendments to clause 10. I am not going to speak at any length on it. The clause 10, of course, is the one that deals with the question of essential employees which in the case of disagreement is to be decided by the Labour Relations Board.

To tighten it up, the first amendment is to remove the words in the last line of the first paragraph, "or otherwise in the public interest", which will make it clear that the only reason why an employee or employees can be declared essential is that their duties involve duties necessary for the health, safety or security of the public. There might have been some argument that if the words, "or otherwise in the public interest," were left, that it was too wide. The only three reasons we are suggesting, necessary to determine, essentiality are health, safety or security. So, that is the purpose of that amendment.

The purpose of amending to add subsection 5 was suggested to us by NAPE as something that was missing in the bill. In other words it is possible or conceivable that the Labour Relations Board might decide that in some particular unit such as a hospital or in some unit they might find that more than fifty per cent of the employees were essential. So, they said that if that happened and over fifty per cent were found to be essential the point that the others could go on strike might not be of much use to them. So, there would be no remedy there in the original form of the bill. They said that we should provide arbitration in that case if that situation occur.

So, the new subclause would say that if a majority were classified as essential every employee would be deemed to be essential if the bargaining agent so advises the employer and the board.

Then under a later amendment to section 29, after the normal period of negotiations are over, after a conciliation board has reported or if one is not appointed, they could go to arbitration. So, that is the purpose of the subclauses. If the union involved do not want that to be the case, they do not have to advise the employer and the board that they want this to apply. Otherwise clause 10, of course, is

what we have been discussing for the last several days.

MR. ROBERTS: Mr. Chairman, before we get into a discussion of clause 10 - and as the minister said, it has been well canvassed in the debates at second reading and presumably we will not need a long time on it - I wonder if he could first of all address himself to a point where I am seeking information. I genuinely do not know the answer to this. The actual structure of the bill is that some employees may be deemed essential. I think we can assume that the government or the employers will try to have some employees deemed essential. Let us assume the Labour Relations Board agrees that some are essential, those employees are then denied the right to strike. That is in the bill and that is straightforward and whether you like it or not there it is. Now, what I want to know is whether those people then get arbitration. My understanding of the bill is that they do not. I may have misread it but would the minister set me straight on it.

Where an employee is eligible to strike and does strike and in due course section 27 comes into force, then by virtue of section 29 there would be what amounts to binding arbitration. My reading of section 29 - I am not debating section 29, Sir, but I have to refer to it to make my point clear - does not deal with the essential employees as such. It deals with only the proclamation of the order authorized under section 27. I wonder if the minister could first of all set me straight on that point?

MR. CROSBIE: As we visualize it and as we think the pact will be - let us take a unit that has a hundred employees and perhaps the board finds that twenty are essential - as I said last night, we do not expect the board to say that John Jones and Tim Smith are essential but twenty would have to remain on duty as essential if there were a strike in that sense. Well, these people are members of the bargaining unit so there is no arbitration provided for them. Their bargaining agent negotiates for them. They go through conciliation and they go through a conciliation board and if that is all unsuccessful, then there would be a strike. They will get whatever the outcome is of that strike. They can rotate or, you

know. I do not visualize that it is going to be names. It will be a certain number that would be deemed to be essential. We can see no reason why they would not rotate during a strike. In other words, the order would be that so many are essential. That is the way we think that it will be. It may be a percentage. That is what we would expect.

Now, the reason for subsection 5 is that it was the feeling expressed by NAPE that if the board said that half of them are essential or more, then if the strike went from there it would not be a strong one if half are remaining on and only half going on strike. Therefore they should have the option of going to arbitration in that situation if they want to.

Now we do not visualize that that will happen,as I say, except there is a possibility that in two or three or four institutions that might be found to be the case - primarily the custodial ones. I do not know if that answers the Leader of the Opposition's question.

MR. ROBERTS: I thank the honourable gentleman. It makes clear the situation as it exists in the bill.

That only makes it, in our eyes, all the more wrong - I will take my syntax out,"wronger","wrongest"- anyway it make it all the less desirable that we should have section 10 in its present form.

The section, Mr. Chairman, Section (1) which is the essential part of the essential employees section, it says that the board shall ask the employers and the employers shall provide the board and the agent with a statement in writing of the employees or classes of employees in the unit represented by the bargaining agent who are considered by the employer to be essential employees, that is to say employees whose duties consist in whole or in part of duties the performance of which at any particular time or during any specified period of time is or may be necessary for the health, safety or security of the public. I have left out the last six words because the government proposed to amend the subclause by dropping those words. Let us assume that is done and we shall support it and they will support it and well, there will be no argument on that point.

Mr. Chairman, let me approach this from two points of view. First of all, the question of whether any employees whould be essential. Well, this has been extensively canvassed and I do not think I need to go over it again except to say that our view remains unchanged. Now, if the government remain adamant on this point - and certainly they have given every indication that they do not propose to change it except two further amendments on it even though we were prepared to move them - then let us look at the question of assuming they are going to have a category of essential employees. I would then take the position, Mr. Chairman, that the definition of essential in this bill is entirely too broad, entirely too loose. I realize it is up to the Labour Relations Board to decide who is essential and who is not but they will naturally look to the bill. They have no place to look in the initial instance except to the bill.

Eventually case law will develope. There will be precedents. There will be standards and principles and rules but these may be years getting worked out. I do not know what the experience has been in other jurisdictions but I can visualize long months of discussion and negotiation and argument and finally decisions. Then, of course, I can see the inevitable appeals to the courts even though we have the privative clauses here. We all know what the courts do with privative clauses in bills when they are so minded to do it.

I would favour, if we are going to have it and I do not like the clause but if we are going to have it, if it must be at least for the time being, then I would think the government would be better advised just to say essential employees and leave the matter entirely open to an interpretation of what is the word "essential." Because what the draftsman has done here, as draftsmen inevitable do, is throw a net which is sufficiently wide to catch every fish in the sea in these words:

Employees whose duties consist in whole or in part of duties the performance of which at any particular time or during any specified period of time is or maybe necessary for the health, safety or security of the public.

Mr. Chairman, that is an incredibly broad definition. It is the sort of definition that a legal draftsman, a lawyer would come up with trying to cover every possible contingency. I am not so sure that that is what we should be doing here. I would think that if we have to leave it to somebody, then the board are probably as good as anybody else. I do not envy them their task. I still query the amount of time that they will need to put in this and whether we should not make the board full-time or certainly much more part-time than they are now or much less part-time to give them more time at their duties.

Those are very broad words, Sir. They are too broad. It would be hard to think of any employee in a hospital who could not be included under those words. I do not propose to go over the ground again. I think it has been well trod, it has been well established. We do not think this section adds anything to the bill. We think that it will prove difficult to administer. We think it will prove very hard to put into practise and to work with and we believe further that it will be the cause of a vast (is there any reason the pages are standing? Do not be uncomfortable boys unless you have to stand for some reason) we believe that it will cause and it is causing an era of bad feeling.

While I am on that point let me say something now that I shall say again later. Well, let me say it now and I will say it again later. I hear outside the House, I guess we all do, that there is some talk that CUPE may feel they have to walk out or something if this bill become law. I predict this bill will become law, not with our support, but the eight or nine of us on this side do not have the majority, we do not have the controlling voice. I hope

quite sincerely and genuinely that CUPE or any other union do not withdraw their services illegally or unlawfully or against the bill. Their cause is just in much of what they say and I am not saying everything they say is just but their cause I think is just. They have a cause but there are means to fight these causes. There are ways to fight them but I do not think walkouts are. I am scared that if we get a general walkout or even the talk of one, I am scared of the atmosphere that could produce in this province today and of what could come of it.

Mr. Chairman, the point of this clause is that it adds nothing to the bill. In our view it does not solve the problem. It is going to cause difficulty and bad feeling. All this could be solved if it were taken out, bearing in mind always that if a strike become intolerable, in the public interest the legislature can act to end it. The legislature can act quickly, speedily and effectively and the government themselves admitted that the legislature are the proper body to end this. When we come down below we will deal with their amendment under which they agree to leave that power here in the hands of this House and not to abrogate it under themselves as a cabinet as the Lieutenant Governor-in-Council.

So we shall move that clause (10) be deleted and we support that position. If the government do not accept the position and I candidly confess that I do not expect them to, they have made it clear they have not, unless there has been another conversion over the lunch hour, then I would appeal to them to think and give every consideration to taking out those extra words in the definition. Just leave it at "essential employees" and let the case law develop, let the board set the standards.

The words in the bill and the board must refer to those, the board would have to refer to them when argument was led before and when they came to take their decisions. Those words are so very broad that anybody in a hospital, everybody in a hospital would be

considered essential. If everybody is essential then nobody is essential and vice versa. I think it is a badly drafted section and I suspect it is going to be that is going to be very contentious for years to come.

Our basic position, as my colleague outlined it last night and I agree and we all agree with what he said, is that we do not think this section as a whole adds anything to the bill and so we move that it be deleted.

MR. CHAIRMAN (STAGG): Is the honourable member proposing an amendment to the amendment?

MR. ROBERTS: They want to dispose of the amendments and I want to make sure that in disposing of the amendments - we are going to accept the amendments if they do not make it any more offensive.

MR. W.N.ROWE: Why do we not pass the amendments and debate clause (10) as amended?

MR. ROBERTS: Would that be in order, Sir? It is okay by us but Your honour is the boss, temporarily.

On motion amendments, carried.

MR. ROBERTS: I now make the motion that clause (10) be deleted.

MR. CHAIRMAN (STAGG): The honourable member for Labrador South.

MR. MARTIN: Mr. Chairman, I have a very few words to say on clause (10). Again I would direct the attention of the Committee to areas other jurisdiction wherein the question of essential employees or employees who are performing essential duties, employees who at one time or another may be classified as essential.

In the case of fish plants, for instance, there is a quite workable arrangement now in fish plants under the Labour Relations Act or whatever they happen to be working with at the present time. We all recognize the fact that this is a highly perishable commodity and that at any point sizable sums of money could be lost simply by virtue of having the whole work force walk out letting three or four trawler loads of fish spoil. Nothing has happened in this regard

simply because employees who are considered to be essential to the running of these plants have been recognized and defined across the bargaining table. I would suggest that we delete clause (10) altogether and let this be an negotiable item.

Who better than the parties concerned can tell who are essential employees at any particular time? I submit too, that it is not within the competence of the Labour Relations Board, no matter who may comprise that board,to determine at any one particular time, at any stage of negotiations, who are or who are not essential employees. I think it would be well within the spirit of the bill and quite safe for all concerned to allow this to be an negotiable item, the essential employees.

MR. CHAIRMAN (STAGG): The honourable member for Twillingate.

MR. GILLETT: Mr. Chairman, I want to speak briefly in support of this section (10) and the proposed motion if it be in order. I have a more personal reason perhaps than most here for speaking, because let us take for instance our board of directors of our hospital in Twillingate. Now the boards of hospitals are considered to be the employers. Being the employers they are asked to submit in writing the employees or classes of employees in the unit represented by the bargaining agent who are considered by the employer to be essential employees.

I would not know where to start, to tell you the truth, Mr. Chairman, neither would I know where to stop. In a small hospital such as our hospital every part of that unit is essential. I am not saying that for a short period a part of that unit could not be absent, that has to be from sickness and whatnot, but to place the onus on the employer and then sort of take it away again, because that is what this is going to do, the final decision is made by the board and by this amendment by the bargaining agent. Where does that leave the board of directors who are present, on the job so to speak, and who have to look after the day-to-day operation of the hospital?

I believe it is going to cause a considerable amount of trouble. We have been negotiating for years with CUPE in Twillingate. I think we have a good relationship with them now. We had to negotiate alone for years but now there is a body who negotiates for us, a body which we feel - let us face it, most of the board of directors of a hospital are latent as far as say medical care or nursing care is concerned. We have to depend on the medical staff. The negotiations are being carried out on our behalf by a body of which the government are a part. We are quite happy with that. It relieves us of a lot of headaches. I have sat night after night, all hours of the night, with the representatives of the union. Sometimes we had some pretty stiff talks. By and large we have had a good relationship with them. We have something that is workable and something with which our employees can live.

Now I would like to see this section (10) deleted in its entirety. I think the government should seriously consider and act upon the advice and deliberation of the Hon. Leader of the Opposition and at least delete all the words beyond the comma after employees and have that to be a full stop. Then you cause wonder. What do we really consider essential? That is to say employees whose duties consists in whole or in part of duties, the performance of which at any particular time or during any specified period of time is or may be necessary for the health, safety or security of the public. That is very broad. One could even say the cook or the assistant cook comes under that, whereas you might be able to do without the assistant cook in an emergency and get by with the cook alone. Things are possible.

Mr. Chairman, what I am afraid of: Are they going to enhance our position (when I say our position, I am speaking now of our hospital) with the union or is it going to make things more difficult for us, we who live by the hospital and who depend so much on it? I feel very strongly, Mr. Chairman, that section (10) can be deleted and I think something workable can take its place. I therefore support at least this side and the proposed amendment, if it has not already been put.

AN HON. MEMBER: It has.

MR. GILLETT: I do support the amendment.

MR. W. N. ROWE: Mr. Chairman, we have heard from an honourable gentleman, the member for Twillingate, who I submit, Sir, is the only honourable gentleman here today who has any direct (I may be wrong on this. There may be others with experience) experience with actually sitting on a board and negotiating across the table from a union, sitting on a board and talking to a union. He has been on a board now, Sir, for a quarter of a century or more. He is speaking from direct experience. What does he say? He is not talking partisan at all.

When I made the point last night about the position that the opposition is taking, we had taken that position not in a partisan fashion but based on our own philosophy, our own feeling about what should be done and there was no cajoling the honourable member into it or coercing him into it. I assumed when I spoke last night that he did support what I had to say. I was speaking personally as well as for this side of the House.

Now he has risen and has suggested that the amendment put by the Leader of the Opposition; namely that clause (10), the clause that deals with this whole concept of essential employees, be deleted from the bill, that it be deleted, that it will cause trouble, that the onus is placed on employers like himself for example. I do not say he is a man lacking in courage. He has been sitting on a board for a quarter of a century with the problems that that entails. He is involved in politics. He is a man of obvious guts. He is a public man. He says that this will cause problems. Delete it, take it out of the bill and allow I assume normal collective bargaining to go on. If the time comes that resort has to be sought to this House to solve an emergency situation, then let that happen. There is no problem, Mr. Chairman. There is nobody taking a partisan or an

unreasonable or an extreme point of view on this. We are just trying to be reasonable about what is the best way for the government to deal with the public service of this province when it comes to collective bargaining. Mr. Speaker, we certainly support the principle of the amendment to delete clause(10) which is what we have been talking about for the past couple of days.

The other point I would like to make, Sir, is that unfortunately the Minister of Finance can give us all the guarantees he wants, as a minister and as a spokesman for the government, that what he means by this clause is but what will likely happen is that the board or somebody will determine that out of one hundred employees, ten of those employees are deemed essential and that a strike may occur, a normal collective bargaining weapon,a strike, a normal thing, nothing to throw up our hands in dispair about, that ten of thost hundred are considered to be essential employees and cannot strike. That is what he says the interpretation of this will be.

Well, Sir, I have read over the section several times as have my colleagues and I would submit others on the other side of the House and there is no guarantee at all that the employers to begin with will give it that interpretation when they make their submission to the board or that the board itself will give that interpretation. I can quite easily see employers in this province submitting to a board that all employees of a hospital or all employees of the power commission or all employees of this, that or the other thing, highway workers, etc. are essential. I can just as easily see a board (it might be unreasonable for them to do so) laying down that all hospital workers of whatever shape, size or description are essential to the safety, health, welfare and security of this province. I can see that. The minister can give all the guarantees he wants to and that can still happen.

Sir, there are two things that would have to be done, assuming that this section (10) goes through which we hope it will not, we disagree with it going through. Assuming that our amendment as proposed is defeated and clause (10) does go through, then what the government should certainly do is either follow the suggestion of the Hon. Leader of the Opposition to delete all that stuff that confuses the issue after essential employees, four or five lines from the bottom or in the alternative to spell out in detail so that there is no mistake in the board's mind as to what can be done; for example this idea that the minister has proposed about rotating essential employees. I cannot see any provision here, Sir. Certainly the board will not leap with alacrity to that conclusion from reading this legislation. When the time comes it just will not do it.

Mr. Chairman, if the minister is going to try to cajole or give us arguments and persuasion as to why this bill should go through and this section particularly and gives us guarantees as to what is going to happen when it goes before the board, he should be in a position to be able to, in reality, guarantee it to us and not to say here is what is likely to happen. There is no likelihood at all from a reading of this section, Sir, that what the minister said is likely to happen, will in fact happen when the time comes.

Sir, based on the personal experience of our colleague, the member for Twillingate, who says delete section (10) and based on our own philosophical principles as to the rights and obligations of all employees when it comes to collective bargaining, not unrestricted strikes as I believe the minister himself said but certain well-defined rights and obligations regarding employees and collective bargaining, whether private sector or public sector

and so, of course, bearing fully in mind that this House always has the residual and reserved power in the province and can do whatever it wants to within its own sphere. Bearing all those things in mind, Sir, bearing in mind that the Clause itself is very difficult to interpret all these things in mind, we think that Clause 10 should be deleted and I am happy to support the amendment put to that effect by the Leader of the Opposition.

MR. NEARY: Mr. Chairman, I support the amendment put forth by the Leader of the Opposition because in my opinion, Sir, section (10) is unworkable. It will never work. We just heard from my colleague down there, the honourable the member for Twillingate who has been a member of a hospital board for a quarter of a century or just about a quarter of a century. As my colleague the member for White Bay South has told the House, he has sat across the table and has bargained with the employees. The member tells us, Sir, and I think he is quite sincere, that there is no way that this can work.

What the government are doing, Sir, is flinging something at the Labour Relations Board that they will not be able to handle.

MR. W.N.ROWE: Besides Antagonizing labour generally.

MR. NEARY: That is right. Besides bringing in a piece of oppressive legislation that is going to antagonize the labour movement anyway. The hospitals and the employees will bitterly resent this. But, Sir, the Labour Relations Board, I do not know if members of the House are aware of how the Labour Relations Board is constituted. Labour makes a recommendation. You have a member of the board who more or less represents labour, although he is supposed to represent the labour and management, period, really he is the representative of labour. He is there to protect the interests of labour. Likewise, Sir, management is asked to appoint a member to the Labour Relations Board and the government said the Lieutenant Governor in Council appoints a chairman.

When I was Acting Minister of Labour, Sir, much to my chagrin I reappointed the chairman of that Labour Relations Board, the present chairman who is there at this particular moment, Mr. John O'Neil. It was my recommendation to the Lieutenant Governor in Council that he be reappointed for a further two years. He is in the hands, he is in the vest pocket of the government. All he is, Mr. Speaker,

MR. BARRY: No. Shame!

MR. NEARY: The honourable Minister of Mines may say no, Sir, but here

is how it works. You have on this side the labour representative who will argue for the labour point of view and on the other side you will have the management representative who will argue for the management point of view. It is nine chances out of ten that it is the chairman who has to make the decision. He is appointed by the Lieutenant Governor in Council, the government. The Premier and his cabinet appoint the chairman of...

MR. BARRY: (Inaudible)

MR. ROBERTS: Hey! He has the floor.

MR. BARRY: Let him...

MR. ROBERTS: Then be quiet.

MR. NEARY: Mr. Chairman, the point I am making is this, that the cards will be stacked and the Minister of Finance can tell us all he wants about beefing up the Labour Relations Board and putting on a representative of NAPE or CUPE on the Labour Relations Board but he will also counter it by putting on somebody they know they can control. That is the name of the game, Mr. Chairman. That is the name of the game and the Minister of Mines can question it all he wants to.

MR. W.N.ROWE: Do the board members have security of tenure?

MR. NEARY: None whatsoever.

MR. W.N.ROWE: Good behaviour?

MR. NEARY: Good behaviour. They get reappointed at the pleasure of the government. If they are good boys they get reappointed.

AN HON. MEMBER: Is that not unusual?

MR. NEARY: No it is not unusual.

SOME HON. MEMBERS: (Inaudible)

MR. CHAIRMAN: Order please!

MR. NEARY: That is what I am saying, Mr. Chairman. It is the name of the game. That is the way it is. I did not make it up that is the way it is. So I say, Sir, that the cards will be stacked, the dice will be loaded in favour of the Minister of Finance who has a tendency to weild the big stick whenever he wants to.

It is not fair and it is not going to work. Even if the

cards were not stacked there is no way that that Labour Relations Board as it is presently constituted or when it is beefed up by the Minister of Finance or the Minister of Manpower can determine, Sir,who are essential employees. It is a mental impossibility. It just cannot be done. They could do it I suppose but, Sir, they are going to cause an awful lot of headaches and heartaches...

MR. EVANS: The public knows that.

MR. NEARY: Ah! Keep quiet! Burgeo Burp.

It is going to cause an awful lot of heartaches, Sir, and headaches. It is going to cause an awful lot of resentment. I am afraid we are going to be in for months and years of labour strife in this province.

Now, Sir, I have heard outside this honourable House that the only thing that is holding up the x-ray and lab technicians returning to work or being forced back to work by this government, the only thing that is holding it up is the passing of bill no.(123). That is what I have heard, Sir. I have heard it. It is not true? I have not heard it from any thinking Newfoundlanders but I have heard people make off-the-cuff remarks that the x-ray and lab technicians would be put back to work if this piece of legislation is passed in this House. I presume, Sir, that what they mean is that the Labour Relations Board once the legislation is passed, the Labour Relations Board will have the power then to declare the x-ray and lab technicians essential employees.

It would take weeks and months for that to happen. Even if that were true and it is not true, it would take weeks. The Minister of Finance only told us last night, Sir, about the government's intention to beef up the Labour Relations Board. That is not going to be done overnight. They have not even selected the members, at least I assume they have not. Perhaps the Minister of Manpower can indicate whether they have picked out the members they are going to put on that board or not.

No they have not. The Minister of Manpower nods,no.

It would probably take weeks if not months, Sir, before the Labour Relations Board could get around to considering the case of the x-ray and lab technicians.

AN HON. MEMBER: What has that to do with it?

MR. NEARY: It has a lot to do with it because this is a red herring that is being dragged into this debate.

MR. MURPHY: By whom?

MR. NEARY: Mr. Chairman, the honourable Gas'em, the Minister of Social Services, is so dense...

MR. MURPHY: Answer me! By whom?

MR. NEARY: By everybody in this honourable House. Especially by that side of the House.

MR. CHAIRMAN: Order please!

MR. NEARY: Yes, Mr. Chairman.

MR. CHAIRMAN (STAGG): Each honourable member has the right to have his say on this bill. Points that an honourable member make, both argument or disagreement, those who disagree have the opportunity to rise in the ordinary course of events and disagree as violently as they wish. At the present time the member for Bell Island has the floor.

MR. NEARY: Thank you, Mr. Chairman. If Gas'em wants to participate in this debate he is quite welcome to do so. But, Sir, the point that I am making is that I do not think, Mr. Chairman, in my opinion this section (10), if it is left in, is going to work. It is going to cause trouble and there is no way that this clause, that this bill can be used in the near future to get the x-ray and lab technicians back to work.

If that is what the government think then I am afraid, Sir, that they are going to be sadly mistaken. They are going to be sadly mistaken. Notwithstanding the fact that the x-ray and lab technicians have resigned their jobs, how can the government invoke section (10) or have the Labour Relations Board declare the x-ray and lab technicians essential employees and order them back to work

when they are no longer employees?

These are two separate and distinct issues. They are, Mr. Chairman, red herrings dragged across the debate by members of the government. Two separate and distinct issues. I hope, Mr. Chairman, that those who are reporting the proceedings of the House will make it abundantly clear to non-thinking Newfoundlanders, non-thinking Newfoundlanders, Mr. Chairman, that this is not going to get the x-ray and lab technicians back to work. The only thing that is going to get the x-ray and lab technicians back to work, Sir, is negotiations.

MR. MURPHY: But we have had so many...

MR. NEARY: Let me answer that, Mr. Chairman, by saying this and this suddenly dawned on me this morning when I was listening to the Minister of Finance...

MR. CROSBIE: A flash and a fluke.

MR. NEARY: Yes, it certainly was a flash and a fluke.

Here is the situation. Here is the situation, Mr. Chairman, on the x-ray and lab technicians. The Minister of Finance has had the carpet whipped out from under him so often that he has said to the Premier or implied to the Premier or given the impression to the Premier; "Look, you dare not do that again. You have embarrassed me." And the Premier said; "Okay, let us put it to compulsory arbitration. Let us save face."

Mr. Chairman, here is what they are saying and let us see how much sense this makes. "If the

arbitration board decide that you should get more, then we will pay it to you. This is what the Minister of Finance is saying. In other words he is saying, I have taken my stand; there is going to be no improvement on the offer but if the arbitration boards says, to give them more.

MR. CROSBIE: Mr. Speaker, this is obviously not relevent to this item that has been called. It has been talked about ad infinitum on second reading and really all this discussion of the x-ray and lab technicians is irrelevant to this clause.

MR. CHAIRMAN: Does the honourable member wish to speak to the point of order?

MR. NEARY: No, Mr. Chairman, go ahead, rule on your point of order.

MR. CHAIRMAN: The honourable member has the proclivity of wandering. He does it quite well. He gets away from the point rather ingeniously at times. However, he has gotten away from the point. The minister's point of order is well taken and I ask the honourable member to address himself to section (10), back to the proposed amendment in section (10).

MR. NEARY: Mr. Chairman, I can only wind up by saying that (I just want to repeat what I said a few moments ago) even if section (10) be passed by this honourable House and I recommend that it not be, because it will not work, even if it is, Sir, it is not going to get the x-ray and lab technicians back to work. If that is what they are hanging their hat on over their, Sir, they are going to be sadly mistaken. That is the impression they are leaving, Mr. Chairman. I have no choice, Sir, and I am sure all honourable members on this side of the House have no choice but to vote against this amendment.

MR. CROSBIE: Mr. Chairman, I would like to clear up the misimpression the honourable gentleman is trying to create. His few words on the x-ray and lab technicians, as it relates to this clause, is not only a red herring but a scarlet herring. The honourable gentleman should be

called "the scarlet herring." If the House pass this bill, we have no expectation whatsoever or no anticipation whatsoever that this clause will have anything to do at all with the present x-ray and lab technicians' strike. It will have no connection with it at all. It would take weeks to proceed under this clause to try and go and suggest that the x-ray and lab or any part of them were essential. This has no connection. The x-ray and lab situation will be cleared up, I am sure, long before this clause (10) would ever become effective. This bill has no more relationship and no more connection to the lab and x-ray strike than it does to the man in the moon. It is not before this House because of the lab and x-ray strike. This clause can have no effect at all on the lab and x-ray strike. There is no question about that. The only reason it is being suggested by the honourable gentleman is that he wants to try and keep the lab and x-ray situation aboil as long as he can. It is the only reason, mischevious reason. He knows very well himself, looking at the clause as he has said himself, that it can have no effect on the lab and x-ray strike.

Now to come back to some of the other points made. There is nothing in this clause that says an employer must present lists to the Labour Relations Board of employees they consider essential. The clause says that the employer, as soon as practical after -

MR. ROBERTS: (Inaudible).

MR. CROSBIE: Does the honourable member mind if I finish? "Upon certification of a bargaining agent, the Board shall request the employer as soon as practical and the employer to provide the board with a statement in writing of the employees and so on who are considered by the employer to be essential." If the employer does not consider any of them to be essential, he does not have to provide any list. Surely, that is quite obvious. There are many departments of government where we will not supply any list of essential employees.

MR. ROBERTS: (Inaudible).

MR. CROSBIE: If the honourable gentleman had manners, he would listen. There are many divisions of the government and departments of the government where no lists will be provided of essential employees because we will say that there are no essential employees in that sense. If Twillingate Hospital or any other hospital want to take the position that they do not have essential employees in this sense, they do not have to provide lists. If they take the position that they do have some essential employees in this sense, at least they have to have enough to keep the hospital emergency services going, they will provide a sensible list. They will not suggest that it is fifty per cent or seventy-five or one hundred, they will suggest something sensible. Are we to assume that the employers under this bill are to act in an idiotic manner and one that is designed to cause strife and so on with the union? I do not think we can.

In addition, Mr. Chairman, there is nothing to stop the employer and the bargaining agent from settling this matter by negotiation. They are to provide a list to the union. If the bargaining agent object - suppose we supply a list for x hospitals and CUPE or NAPE object and say, "Look here gentlemen, boys this is an outrage, you have gone too far here." Then they meet and talk it over, there is no reason why it cannot be settled between them, as to who are essential and who are not. If they agree, the board has nothing to decide. The bill does not prevent that at all. The weakness of the situation now, Mr. Chairman, is that when a strike occurs, the union will say; "Look, we will see that you can provide emergency services." It always falls down in execution because as the strike goes on and feelings get more bitter, you get widely, different opinions on what is an emergency and if it is really necessary for there to be a certain number of people in there, and the whole thing eventually falls down.

CUPE, for example, said that they would see that emergency services were provided to Western Memorial. There really could be no agreement between them and the management, as to who is essential and who is not and when they should be supplied and the rest of it. After three or four weeks the hospital board said that they were going to close it altogether. It did not matter what CUPE said they were going to supply. I mean the thing breaks down in practice. All we are attempting to do is to have that issue settled before there is a strike on at all. Yet to hear the honourable gentleman opposite and hear other Jeremiahs wailing in the wind outside, screeching from the roof tops, the loftier they get, the more they howl, you would think that this was some criminal act we were attempting. All this is is a sensible device, if it be used sensibly, to resolve these matters so there can be strikes in hospitals without the public being in danger.

In response to the member for Labrador South, I say that this will be a negotiable item under the bill. He said that it should be an negotiable item. I say under the bill it is a negotiable item. "It is going to cause a considerable amount of trouble," he said. We do not know what trouble it is going to cause. I will say this: There is no reason why it should not cause a lot less trouble than is caused now when there is a strike and no provision at all for emergencies. The time to try to settle these matters is before there is a strike on. The public interest - surely the public has to be considered in this.

Now the member for Twillingate feared that this is going to be difficult to administer, and he has a lot of experience. We know it is not going to be easy. We hope for the best, that this is something worth trying.

We know it is difficult to say who is essential and who is not. We can work this out with the hospital association, we hope, and Twillingate and jointly arrive at sensible suggestions from the Labour Relations Board or from the union. If it prove not to be workable, Mr. Chairman, if it prove not to be workable, if the Labour Relations Board report that there are difficulties or the act needs to be amended or they are finding it so difficult that they really feel that they should not exercise this power, well then we shall simply come in and ask the House to change it. It is as simple as that. If it should turn out not to work, if this attempt to protect the public good and try to square it with the rights of all employees to strike, should not work,we shall simply come back and say, here is the experience; unfortunately it does not work and we are now going to ask you to revoke it. This is not enshrined for all times. Even if we find in the next three, four or five months it is not workable, there is nothing that would stop it from being changed next year when all the labour legislation is being reviewed. Why not give it a chance? It is not enshrined here forever in this bill if the bill should pass the House.

Some gentlemen opposite said that it is going to antagonize the working force. Why should it antagonize the working man or the working force when it works and

MR. CROSBIE: when he gives it a fair chance? Every bill we pass in this House can antagonize someone. Every time we tax people surely we are antagonizing them, the people who use gasoline or income tax and all the rest of it. We are constantly doing things that antagonize people but does that stop the House? We have to rule. We have to attempt to govern in the interests of the public generally and our own philosophy. Should we stop every time that an action of ours may antagonize someone? I mean, if I were afraid of antagonizing people I would get in a cupboard and would not move all day.

But I say to hell with antagonizing them! If you think that something is right you do it, antagonism my backside. This is not going to antagonize the working force, the working man, unless somebody causes it to antagonize them, but if people go around saying that this is repressive and that this is crushing and grinding the poor working man down and all the rest of it and creating a false impression,then that may stir up trouble. We see no reason why this cannot work and why negotiation will not continue.

The union have lots of cards in their hands. Suppose "X" hospital adopt a silly provision and ask the Labour Relations Board to find that sixty per cent or seventy-five per cent or all of their employees are essential. The board I am darn sure,will not do it. The union can go to them and say, "Now look here, you know what you are attempting to do. So you want to ruin our relationship? You know we have a contract coming up in a year's time. You had better watch your bobber. Now how about getting a bit more sensible and getting down to something sensible like Mr. McMillan will probably suggest 0.5 per cent rather than 60 per cent.

There is nothing to stop all that kind of thing going on. I do not see any reason why it should not be attempted? The honourable gentleman from Bell Island in his usual style tried to insinuate something against the Chairman of the Labour Relations Board. I will just let that pass because it stands for itself as the usual kind of

tactic of his.

"Cards will be stacked against the bargaining agents." I have heard no complaints from the labour movement at all that they found the Labour Relations Board had stacked the cards against them. This would be the same board that deals with all the other matters - certification and everything else. It has never been alleged the cards are stacked against them and if any kind of trickery were attempted the labour representative on the board would soon let the public know. It is a silly argument.

So while I can see that there can be doubts whether this can work or not and queries whether it can work or not, we feel it must be given a chance. This is a better system than just allowing completely, freely, strikes that may affect the public health or safety or security without any safeguards at all.

I do not agree that we should just say essential employees and forget the rest of it. This restricts it to the health, safety or security. In the federal government legislation it is restricted to safety or security and it varies across in the several provinces that have it.

The government, Mr. Speaker, is satisfied that this is worth attempting. We intend to attempt it with good will and impartiality and we therefore cannot accept the amendment suggested.

MR. ROBERTS: May I ask just one question of the minister there were he tells us, some negotiations with CUPE and NAPE, is it CUPE and NAPE or CUPEE and NAPEE? By the way, Your Honour, would Your Honour tell us what Stagg was doing at the Bella Vista last night? It is in the newspaper quite prominently that Stagg was featured at the Bella Vista. Your Honour should take judicial note of that because I am sure it was not Your Honour, but it is in the newspaper. Right here, "Bella Vista, Torbay Road, tonight in the Skyroom - Stagg," two g's.

MR. STAGG: It looks like an infringement of copyright.

MR. ROBERTS: I do not know if it is an infringment of copyright or whether Your Honour perhaps is going to have trouble with the income

tax people. But NAPE and CUPE anyway, they made some suggestions and representations and some NAPE ones apparently have been taken into account here as the minister has told us.

Did CUPE put any suggestions in with respect to this clause (10)? It is one that I believe they have had a great deal to say about. They consider it to be a bad clause. I wonder did they suggest any alternative to it.

MR. CROSBIE: Mr. Chairman, I understand CUPE's position, they do not want the clause at all. They do not want this essential employee concept and they want it out. The only other suggestion I have seen that may have come from them was a suggested replacement that would be incumbent on the employer and the bargaining agent if there were a breakdown in negotiations to comply with all sections of the act which relate to conciliation services. In the event that a strke occurs the strike party should, before withdrawing services, give every consideration to methods by which services will be provided if and when an emergency occurs.

That does not appear to us to fit the bill or that it would be of any help. It would only be wishful thinking.

MR. ROBERTS: In other words the minister does not think that that is an appropriate or applicable way to go.

MR. CROSBIE: Not at this date.

On motion clause (10) as amended, carried.

On motion clauses 11 - 17, carried.

MR. ROBERTS: Mr. Chairman, clause (18) then raises an issue that has been touched on a number of times when it says, "Upon the written request by the bargaining agent or the government negotiator," this is a request for a conciliation board. I would suggest that we might drop the words "government negotiator" and put in "employer." It is a very difficult role I know, but I think that here surely it is the employer and the government negotiator obviously has an affect on the employer and as the minister told us, they do act hand in hand but surely in this one it should be the employer makes the request.

Further I think it should be said that the - I am not sure of the general labour law on this point but the request should not be possible until after the conciliation officer had reported. In other words, the officer stage which is compulsory should be completed before the board stage which is optional and,as I understand it, can be invoked. But I do think it should be the employer and not the negotiator in the second line of the first subsection.

MR. CROSBIE: Mr. Chairman, I do not agree with the gentleman in that government negotiator is defined to be the President of the Treasury Board or such other person authorized by him to bargain collectively under his control and supervision on behalf of the employer.

An employer is only defined to mean an employer of an employee, I think we have to leave it as it is because of the unusual set up that we have.

MR. CHAIRMAN: Does the honourable the Leader of the Opposition propose an amendment?

MR. ROBERTS: I would like to move it as an amendment if I might, Mr. Chairman,please.

On motion amendment defeated.

On motion clauses 18 - 20, carried.

MR. WM. MARSHALL: In clause (21) there is an amendment being proposed, Mr. Chairman. The end of paragraph (a) subclause (5) of that clause, I move that the words, "or as may from time to time be allowed by the minister," be deleted and that the words, "upon the request of either of the parties and within seven days after such request," be inserted between the words "minister" and "may" in subclause (6) of that clause (21).

On motion clause (21) as amended, carried.

MR. MARSHALL: Mr. Chairman, clause (22) I move that the word "fourteen" be deleted where appearing in subclause (2) of clause (22) and be replaced with the word "ten".

MR. ROBERTS: Mr. Chairman, the amendment itself is quite acceptable

to us but I wonder if I could make a commentary that has been given to me, something that is new but should be looked at - where the parties to a dispute accept the report of a conciliation board in writing as they would or could under this section, they could reject it equally. It has been suggested to me that we might consider legislation, this would be a matter for the new, much touted, yet to appear labour code. That would be equivalent to a collective agreement, because it was seen that the hospital situation, laboratory and x-ray people have a long road to be travelled between accepting an agreement and actually having collective agreement in force.

In fact I am told, for example, that Western Memorial and Central Newfoundland has still to sign a collective agreements even though the strikes were settled and the people are back at work, and presumably all is going ahead.

In the case where there is a conciliation board report and a certain percentage of the disputes are settled at the board stage or for that matter at the officers stage, it might be considered that this should be legislated, that acceptance in writing of that report would be equivalent and tantamount to signing a collective agreement. A party does not have to accept the report. It is not forcing anything on a bargaining agent or upon an employer, but where they choose to do it voluntarily perhaps we could do it and then it would have the effect of the agreement it would later be replaced when the actual written agreement was executed.

On motion Clause (22) as amended carried.

MR. MARSHALL: Clause 23, Mr. Chairman, I move that Sub-clauses (a) and (b) be deleted and the following substituted after the word "until." "Fourteen days elapse from the date..." Then you have sub-paragraph (a) "On which the report of a conciliation board is received by the Minister:" or Sub-paragraph (b) "The Minister receives a written request under subsection (1) of Section 18 to appoint a conciliation board and no notice under subsection (e) of that section is given by the Minister."

On motion Clause (23) as amended carried.

MR. MARSHALL: Clause (24), Mr. Chairman, I move that sub-clause (3) of Clause (24) be deleted.

MR. ROBERTS: Mr. Chairman, the amendment is quite acceptable to us but I should like to move a further amendment when this one is disposed of.

On motion amendment carried.

MR. ROBERTS: Your Honour, my amendment relates to Subsection (1). It is the point which I raised on Second Reading. A number of my colleagues have referred to it as well. It is in 24 (1) (a) "Unless a majority of the employees in the unit " this is the way it now reads. I should

amend it to read "Unless a majority of the employees who vote by secret ballot..." I may have the words in the wrong place but I think the intent is quite clear.

My reasons for this quite briefly, Sir, are that this is the only place to my knowledge where this sort of thing crops up. It does crop up in a certification procedure but I submit a certification procedure is a constitutional matter in setting up the constitution of the bargaining unit and what have you. But here we merely have an on-going matter analogous in every way I would suggest to a general election or to that sort of procedure. I have never heard anywhere in the British Parliamentary System where a majority of the people eligible to vote must vote, before the winner is declared.

As I pointed out in the House, out of the forty-two members, Sir, elected, twenty-four would have no right. Your Honour would have the right. Your Honour did get a majority of the votes eligible to be cast in Port au Port District. That was last time, Your Honour. But of the forty-two, twenty-four would have no right to sit in this House. I think this is a very telling argument. It is an equally telling argument, I think, in the House of Commons where none of the seven - No, I am sorry, Mr. Jamieson in Burin-Burgeo. But six of the seven members of parliament would have no right to take a seat in Ottawa if this provision were to be in the Election Act of Canada. If similar provision were in the Election Act of Newfoundland, Sir, of forty-two men elected to this House in March of 1972, twenty-four would have no right to take a seat. I think the principle is wrong. It is a new principle. It is an offensive principle. It is a wrong principle. If a man choose not to vote, Sir, that is his choice. The most that should be provided is that everybody should have an equal opportunity to vote which is the case in a general election.

Accordingly we are against this clause and I would move that it be amended to provide that a majority of those who actually vote should be sufficient to enable the union to determine their course. This is the way elections work. It is the way they have always worked, Sir. It seems to have worked quite satisfactorily. The present government would

have to agree to that from their point of view it is satisfactory. Surely this is the way it should be in a union.

MR. CROSBIE: The only objection I have to the honourable gentleman's reasoning is that it is completely specious. It is not the way elections have always worked that only a majority of those voting will win you a seat. That is the system that we have here. There are systems of proportioned representation where you must end up with a majority of the votes. In Australia it is compulsory for you to vote and the people are not even given a choice whether they vote or not.

The issue here is whether or not when a decision is being made that a bargaining unit go on strike whether or not there should be a majority of all the members in the bargaining unit who wish the strike to occur. Now it seems to me if the wages and salaries and livlihood of all the members of the bargaining unit are going to be effected by the decision as to whether they have a strike or not, surely the decision to proceed with a strike should be decided by a majority. A majority is fifty plus one. Nobody can persuade me, Mr. Chairman, that if the members of a bargaining unit want to go on strike that you cannot get fifty plus one of them to vote for a strike by secret ballot or that you cannot get them to come to a meeting for that purpose or to mail in a ballot by mail or whatever. So all we are requiring here is that no strike be taken unless a majority of the employees in the unit vote by secret ballot in favour of a strike.

Now the honourable gentleman says this is an entirely new principle. Well in the Labour Relations Act, in Section (10) of the Labour Relations Act, the Labour Relations Board has to be satisfied that the majority of the employees in the unit are members in good standing of the trade union before they certify a union. Not that a majority voting as to whether or not they should become unionized vote for becoming a part of the union or a part of a bargaining agent. So this principle is no different. You require a majority of the bargaining unit to become certified as a bargaining agent in the first place. If you are

going to put before your membership the issue of whether they should strike or not in view of negotiations up to that time where the offers that had been made, surely we are not requiring anything onerous, if we require a secret ballot of the majority of the members before a strike takes place. I cannot think of any strikes that rule will prevent.

AN HON. MEMBER: Inaudible.

MR. CROSBIE: Pardon?

AN HON. MEMBER: Inaudible.

MR. CROSBIE: Well then we are just ensuring that whenever there is a strike under this legislation there will be a majority that are for it.

MR. MARTIN: Mr. Chairman, this particular clause I think is a little more complex then it would appear just from perusal of the bill. There are some practical applications to this particular issue of whether or not a majority is going to vote one way or the other. There are two ways in which this can be remedied;either to allow a decision to be made by a majority of those voting or to say that every member in that bargaining unit must cast a vote because come the day to cast a ballot, this is exactly the type of clause that lends itself to management working little loopholes. I know of one case where a vote was about to be taken when management conveniently sent off a whole truckload of its employees.so that they would not be able to vote. The way it is set up a,vote not cast is counted as a vote against. Now that is not a democratic principle.

There is something else that we should remember in this democratic country of ours, supposedly. There are certain religious denominations which forbid their people to cast a ballot one way or another anyway. If these people happen to be part of the bargaining unit you cannot force them to vote. If that vote be not cast, is it then going to be counted against? There is one way or another that this can be overcome, either to require by law that each member of the bargaining unit cast a ballot or allow it to be a majority of ballots cast,

MR. NEARY: Mr. Chairman,

this clause, in my opinion, is a brazen interference on the part of this administration into the internal workings of organized unions.

Sir, obviously the government and the minister that is piloting this bill through the House have no idea whatsoever how trade unions operate, how they work, what makes them tick. The by-laws of the union, Sir, are worked out and approved by the membership of the union subject to ratification of the national or international union. What the government is doing, Sir, my honourable friend from Labrador South put his finger right on it; they are making this undemocratic. They are saying to the union members, "You can no longer determine your own by-laws." They are laying down the rules and regulations. The membership of that union can no longer say that a majority carries in the union.

Mr. Chairman, if the same principle were applied to Burgeo, "Burp" would not even be in this House today if he had to rely on the majority of his constituents. You should change the rule. I would say ninety-five per cent of that crowd would not even be in the House.

MR. CHAIRMAN: Order please. The honourable member mentioned two phrases with rather derogatory terms to the honourable member from Burgeo an LaPoile which is certainly not a courteous phrase. He has also begun to refer to these honourable gentlemen to my left as a crowd. Please keep these things in mind as he continues with his discourse.

MR. NEARY: With all due respect, Sir, I understand that in this honourable House one of the rules of the House states that a member has the right to be heard in silence. Is that to speak in silence, Sir? Is that correct? Well, Sir, anybody who tries to interrupt will have to put up with the consequences.

Now, Sir, I say this is an interference in the internal workings of unions. Mr. Chairman, look up the Labour Relations Act we have had in this province for twenty-three years. There is no reference to this particular clause in the Labour Relations Act. none whatsoever. I say, Sir, that if the government are going to do this, they may as well go all the way and write the by-laws and write the constitutions of the union because that is what they are doing, Sir.

Up to now - and there is a very great principle involved here, Sir, a very great principle - up to the present time, as the Hon. the Minister of Finance should know if he does not know, up to the present time members of trade unions have the right to determine their own by-laws and to adopt their own constitutions.

AN HONOURABLE MEMBER: They talked me into it.

MR. NEARY: They talked you into it? A victory for the member for Bell Island and the opposition. Is the minister going to change it? I will sit down right now if the minister is going to amend it. Well, Mr. Chairman, what more can I say.

MR. CROSBIE: Was there amendment made by the member for Labrador South?

MR. W. ROWE: We are talking on an amendment made by the Leader of the Opposition.

MR. CROSBIE: Fine. Anyway, Mr. Chairman, our position is this that if this worries the - though I obviously worry the members of the opposition. Sir,as a demonstration of good faith or whatever you want to call it to the union people who are involved and they are worried about the clause, all right, we agree to change it. What is the wording the amendment suggests?

MR. CHAIRMAN: The Hon. the Leader of the Opposition has raised an amendment. It was probably asked that the amendment be put in the -

MR. W. ROWE: Mr. Chairman, the Leader of the Opposition did make an amendment but the wording was a little awkward. Why do we not let this clause stand until the law clerk conferring with the minister can get the right words?

MR. ROBERTS: The point of my amendment is simply that a majority of the votes cast be in favour of the strike. The words the gentleman from Harbour Main gave would not do that. If it be a matter of drafting, let us let it stand and let the lawyers at the table work out the wording.

MR. BARRY: Let us just put in "voting" before "in the unit" and let the majority of the employees voting in the unit vote by secret ballot.

MR. ROBERTS: Right. That would do it.

MR. MARSHALL: We could have the Hon. Leader of the Opposition say that unless a majority of the employees in the unite who, votes by secret ballot in favour of the strike. Just the words "who vote".

MR. ROBERTS: The gentleman from Placentia West has put in the right word, "A majority of the employees voting in the unit votes by secret ballot in favour of the strike."

MR. CROSBIE: Mr. Chairman, I further suggest that we look down at subsection 3. We see how it is done there. The draftsman suggested there that unless the majority of those employees in the unit actually voting - then votes would change to vote - unless the majority of the employees in the unit actually voting vote by secret ballot in favour of a strike.

MR. ROBERTS: The only real quarrel that I have is that the draftsman is right and the gentleman is wrong. Majority is a singular word and it should be votes. The majority votes.

MR. CROSBIE: Okay, actually voting votes.

MR. ROBERTS: Does the Chairman have that right now? Does he have that all clear now? Well, let it stand and let the law clerks work it out and we will come back to it.

MR. CROSBIE: Well, the Hon. Minister of Labour has something he wants to extend on to us. So, probably if we pass on this clause and come back to it?

MR. ROBERTS: Maybe the law clerks could work out some wording with the Minister of Labour.

MR. ROUSSEAU: All I would like to add is that unless a majority of the employees voting by secret ballot in favour of a vote. Does that mean the members have to be properly notified by the union as to the time and place of the vote?

MR. ROBERTS: I would be quite agreeable to that as mover of the amendment originally but I would think further that is the sort of thing that should be laid down in regulations. There is a regulatory power near the end of the bill as there normally is. If he should want to put it in the bill, well and good, but normally that sort of thing goes in the regulations. It is a good idea. Put it in if they want to.

I am all for it.

On motion clause 24 stand.

MR. MARSHALL: Mr. Chairman, I would like to introduce an amendment to this which presupposes an amendment that is also going to be proposed for clause 27. So, I would ask that clause 25 could perhaps stand for the moment. We will come back to it after we do clause 27.

MR. ROBERTS: Well, we have got to debate on 27.

MR. MARSHALL: Mr. Chairman, I will move that paragraph (d) be deleted and the following substituted therefor , "within any unit or units of employees specified in a resolution made pursuant to Section 27."

On motion clause (25) as amended carried.

MR. MARSHALL: On clause 26, Mr. Chairman, I move that subclauses (2) and (3) be deleted and that clause 26 (1) become clause 26.

MR. ROBERTS: Mr. Chairman, we would just like a word of explanation on it. We understand what the amendment purports to do. I think we follow that but now, quite genuinely, all Clause 26 would seem to do now is declare to be illegal that which is illegal. We would just like a word as to what it is. It is just a matter really of not having a blank number in the bill.

MR. MARSHALL: Well, my colleagues are there getting the amendment to clause 24. It looks to me as being merely a usual type of statement that we have in Labour Relations Acts that "No bargaining agent or employee organization or officer or representative of such agent or organization or any other person shall encourage, declare, authorize or procure a strike of employees or participation by employees in a strike which would contravene the provisions of this Act." I think it has to be in there. It has to be in there in order to make it clear.

On motion clause (26) as amended carried.

MR. MARSHALL: On clause 27, Mr. Chairman, I would move an amendment that subclause (1) be deleted and the following be substituted therefor: "Where the Assembly resolves that a strike of employees is or would be injurious to the health or safety of persons or any group or class of

persons or the security of the province, it may declare that from and after the date stated in the resolution a state of emergency exists and forbid the strike of all employees in any unit or units specified in the resolution and may order the employees of such unit or units to return to duty either immediately upon publication of the resolution in "The Newfoundland Gazette" or at such later time as may be stated in the resolution."

MR. ROBERTS: Mr. Chairman, let me first of all welcome the amendment. I do not propose to start a row so I had best not say much about the circumstances in which this amendment was brought in. I am glad it was brought in because I think it is a substantial step forward and let me leave it at that. There will be many times and places to say a little more about it.

My only concern now is that when one reads the amendment - first of all one very small point - I do not know where the word assembly is defined. I have not had a chance to check the -

AN HON. MEMBER: In the interpretation.

MR. ROBERTS: It is in the interpretation act? It is a little more eloquent to say the House of Assembly and that is our legal name.

This section, the more I read it the less it seems to mean. All it says now as amended and we will support the amendment, it is better than what was there before, Sir, I can assure you. All it seems to say now is that the House of Assembly may do what everybody would agree it could always do. It does not create a new power because no act can create a new power in the House of Assembly.

MR. ROWE (W.N.): Or delete a power.

MR. ROBERTS: Or for that matter delete a power. Our power as a House of Assembly comes from the British North America Act and perhaps some residual powers under the Crown's prerogative at common law. That is a rather erudite point which we shall not get into now. Leaving aside the common law or the prerogatives of the Crown, our power comes from the British North America Act.

All that this section says now is that the House of Assembly be resolved if a strike is or would be injurious to the health or safety of persons and so forth. If it so resloves, it, that is the assembly, may declare that a state of emergency exists. It, the assembly,may forbid the strike of all or any of the employees and it, the House of Assembly,may order the employees of such unitary

units to return to duty either immediately or at some other time as they state. That is a power the House has in any event, Sir, and the whole burden of our argument has been that only the House should have this power. We quite agree with the government's amendment deleting the cabinet having this power.

All I am saying really is that the amendment should have been that clause (27) be deleted because the words proposed to be substituted may be better than the ones there now. They are not as offensive, indeed they are not offensive at all, they are just meaningless. They purport to create a power which is already in existance and they create a power which cannot be created or taken away, a power which is ours by virtue of the British North America Act.

The other point I would make, Sir, is that if - I would really ask the Premier or the minister if they would just delete the clause. I do not think these words say anything or add anything or give the government any power or anything else. I would favour a clause (Well! Well! Well! Well! The C.B.C. want to interview me as soon as possible.) This clause if it is to stand, on a minor point first, it should be a bill not a resolution. The House rarely proceeds by resolution unless we express the sense of the House. Perhaps a resolution of sympathy if some member dies or some distinguished Newfoundlander, when the Premier moves a resolution and the Leader of the Opposition seconds it. We do use resolutions as a procedural step in bringing money bills or expenditure bills before the House but other than that the House rarely proceeds by resolution. Certainly here, where the House would be acting in a legislative sense, I do not think we should proceed by resolution we should proceed by a regular bill which comes in and has three stages.

What I would like to see is a requirement upon the government that where a strike is considered by them to be injurious or possibly injurious, they shall immediately call the House together. (Immediately would be twenty-four, thirty-six or forty-eight hours)

I think that is a power that should be set forth in legislation so that the House can meet quickly and the government can explain the situation and suggest their remedies.

I am not moving - there is the motion I am speaking to - I have nothing to move at this point but we are prepared to vote for it. I do not think the amendment does anything. I think the amendment - perhaps one of the gentlemen opposite could explain to me - the amendment may do something that I have not seen nor have not grasped. The words as I read them seem merely to say that the House of Assembly has the power to outlaw a strike.

We do not need a bill to tell us that, Sir, we have that power. We have had it ever since the British North America Act gave the legislature of the province power over - I suppose property and civil rights is the basic provincial power in this sense. So I would favour a withdrawal of this amendment and an amendment to (27) to specify that the government shall call the House together whenever in the government's opinion, and this must be left to the government, a strike becomes sufficiently serious or a situation becomes sufficiently urgent that action is needed. I think that would be a significant step forward.

If on the other hand the government insist upon this amendment we will accept it. We will not oppose it but I do feel though that it should be a bill, a statute, an act and not a resolution as such. The procedure is well defined for legislation and I think this should be legislation. In any event, Sir, I hope the government will withdraw it and substitute another clause. If not, we will support it but we will do so reluctantly. We will do so because we feel it is better than what is there now in (27)1.

MR. BARRY: Mr. Chairman, I would just like to make a few brief comments on this section and what the honourable the Leader of the Opposition just said. I disagree that this section does not serve any function. As I see it, it would serve two functions. First of all it would avoid having emotions aggravated by the labour

body involved doing as I think they often do, by the calling together of the House for emergency measures as a provocative act. I think that where this is set out in the bill and it is a normal part and it is understood that this is it and when it comes right down to the crunch, when it comes to where there is a state of emergency that this is a procedure which will follow in the normal course of events and will not be an emotional, provocative action by government.

The second thing which I think that this section does is to avoid the necessity of getting into drafting legislation which is then going to be the source of further dispute and disagreement at a time when the main reason for the House being called together is not to quibble over the wording of legislation but to meet an emergency, to meet it squarely and to do what is necessary to solve it in the public interest.

I think that the section goes - it is not perfect but it goes a distance in doing both of these things and serves a useful function thereby.

MR. CHAIRMAN (STAGG): The honourable member for Twillingate.

MR. GILLETT: Mr. Chairman, the Leader of the Opposition struck on something that has been in my mind all the time and that is, whereas now the House of Assembly actually deals with a strike and decides on a strike, nevertheless, who and when calls the House of Assembly together? In other words, does the Premier call the House of Assembly together immediately the strike takes place or is that strike allowed to go on for days and perhaps weeks if it is endangering the health and security of the people?

I realize this is a very touchy subject because unions could act accordingly at all times. I am just wondering and if I remember correctly, during the strike of the CNR employees, did not the opposition keep demanding of the government that they call the House of Commons together? It was not until after several days that the House of Commons was called together. As a result the

strike lasted for ten days and we are still trying to live that one down.

What I am trying to get at, Mr. Chairman, is this, I do not know anything about the legality of it but I am just wondering how long we should wait until the House of Assembly is called together and whether or not that should be set now so that the onus is not going to be on the premier or his cabinet? If we are going to place the responsibility of ending the strike on the whole House of Assembly, I think we should place the responsibility of when the House of Assembly should be called together. Whether or not that is possible legally or whether it is wise to do that is more than I can say but I think it should be done.

MR. CROSBIE: Mr. Chairman, the position is I think quite clear. Only the government can decide when the House of Assembly is to be called together. In exactly the same way as when the railway crisis was on it was the Trudeau Government that had to decide whether parliament would be called together or not, the situation would be exactly the same here.

In the original form of the bill the Lieutenant Governor in Council or the cabinet, if there was such a strike as this that created an emergency, would have to decide whether there was an emergency or whether this was injuring the health or safety of people. In the original form of the bill, then if the government decided that the facts warranted, the government can make a proclamation and the matter would have to go to arbitration.

We have changed it to provide that the Lieutenant Governor in Council cannot do that. We are saying now that to make such a proclamation and to declare a strike to be ended because of an emergency and the matter having to go to arbitration, it can now only be done by a resolution of the House of Assembly.

As to whether the House meets or not, that has to be decided by the government. The government would have to decide is there a strike in the public service that is now after some certain period of time or whatever it is endangering public health and safety and if the government then consider that that is the case, they would have to call the House together and see if the House would agree. It would be the government who would have to take the first action and it would be the government, of course, who would have to take the responsibility, unless it were a free vote of the House and the members or the party whips were removed and just the members decided it on their own conscience. This would be no different than any other. The government have to take the reasponsibility of calling the House together or not.

Mr. Chairman, what is happening here now is that the government cannot take any action. The government can decide that action needs to be taken. The only action the government can take would be to call the House. The House itself would have to take the action. We have provided that this would be done by a resolution which would have to be debated thoroughly in the House and all the members could express their views on if it be an emergency or not or are we acting too hastily or not. It would be decided in the House and then become effective after the House passed it and when it is published in the "Newfoundland Gazette."

I think it is a significant change and I cannot see any need to change the way of doing it. Obviously the government will have to decide first to call the House.

On motion clause (27) as amended carried.

On motion clause (28) carried.

MR. CROSBIE: Mr. Chairman, before we go into clause (29) I wonder could we come back to (24)(a) and see if we can get that straightened away?

The wording suggested by the Minister of Manpower and Industrial Relations (it would be moved by him) is that in section (24(1), the present (a) be replaced by the following: "unless a majority of the employees in the unit actually voting votes by secret ballot in favour of a strike having been properly notified by the bargaining agent as to the time and place of the voting, and ...." It would just go on and the (b) is already there, "...until seven days have elapsed." Subsection (2) is already there. It would be a majority of those actually voting by secret ballot who have been notified of the place and time.

MR. W. N. ROWE: Properly notified -

MR. CROSBIE: Well there is no definition in the act for properly. If you like we could just leave it notified. Anyone who disputes it; it would be a legal argument, if they were notified or not, I suppose. Does he want to take out "properly"? "Properly" may confuse it.

AN HON. MEMBER: (Inaudible).

MR. CROSBIE: That would complicate matters.

On motion clause (24) as amended, carried.

MR. MARSHALL: Mr. Chairman, clause (29), there are two amendments to be proposed: (1) That subclause (1) be deleted and the following substituted: "Where (a) the assembly resolves that a state of emergency exists under 27 or (b) all employees in a unit are deemed by reason of subsection (5) of section (10) to be essential employees and fourteen days elapse from the occurrence of either of the events specified in paragraph (a) and (b) of section (23), the Chairman of the Board shall forthwith, by notice in writing to the employer and the bargaining agent, order that the matters in dispute between them be referred forthwith to adjudication."

I have another amendment to propose afterwards but perhaps we would dispose of this one first, Mr. Chairman.

MR. CROSBIE: Mr. Chairman, section (29) before it was amended provided

for adjudication when there was a state of emergency. Now the addition relates back to the amendment to clause (10) where if the case arises where fifty per cent or more of the employees were determined to be essential, the bargaining agent could advise the employer and the board that in that situation they want to be able to go to adjudication also. Now they would go through the conciliation process but after all negotiations had ceased and there still was no settlement then under this amendment, they would have the right then, the Chairman of the Labour Relations Board, to direct that the matters in dispute then be referred to arbitration so that they will be treated the same as if there were an emergency.

MR. MARSHALL: Mr. Chairman, an amendment to subclause (4), I move that at the beginning of subclause (4) the words, "Subject to section (30)" be inserted. This is because there is an amendment anticipated to section (30).

On motion clause (29) as amended carried.

MR. MARSHALL: Clause (30), Mr. Chairman, I move the deletion of all words from the beginning of subclause (1) to the beginning of paragraph (a) and substitute therefor the following: "The adjudication board shall consider the matters in dispute together with such other matters which it considers to be incidental thereto as soon as may be after the reference to it of the matters in dispute and make judgment within forty-five days after such reference or within such later time which shall not in any event exceed ninety days from the date of the reference as the chairman of the adjudication board may determine that in making a judgment the adjudication board shall take into account." Then it goes on.

MR. NEARY: Mr. Chairman, my understanding is that the clause as amended will still include items (b), (c), (d) and (e). Is that correct?

MR. ROBERTS: And (a).

MR. NEARY: Yes, (a) - "the health, safety and interests of the public." Then go on and include (b), (c), (d) and (e).

Well, Mr. Chairman, I would like for the government to reconsider this clause. I personally feel that (b),(c),(d) and (e) are unnecessary. I think, Mr. Chairman, that this should be a very simple clause, just outlining the items in dispute. I do not think all these other matters should be dragged in. Mr. Chairman, it is not called for in the Labour Relations Act. I think that this clause has gone too far. For instance, Mr. Chairman, (b) states: "the terms and conditions of employment of employees in occupations similar to those being considered whether or not such employees are employees to which this Act applies account being taken of such geographic, industrial, economic, social and other variations as the adjudication board considers relevant." Sir, I think all this is unnecessary. All I think the government need to do here, Sir, is to put in a very simple clause just so that the adjudicator would be just given the items that are in dispute. I think this makes sense, Mr. Chairman. Why drag in all these other things? It only complicates the matter.

AN HON. MEMBER: (Inaudible).

MR. NEARY: Should I answer, Mr. Chairman, or should I observe the rules of the House?

Mr. Chairman, I think clause (30) would be much more workable, Sir, if all this trash that is in there were taken out and during the adjudication if they were just asked to adjudicate on the matter in dispute. I think it would make much more sense.

On motion clause (30) as amended, carried.

On motion clause (31) through to clause (33), carried.

MR. ROBERTS: On clause (34), Mr. Chairman, I am intrigued by the clause on this, "otherwise prohibited by law." Now would that refer

to things like an award which was in breach of the Vacation With Pay Act? We have a a number of statutory employment conditions. Is that the reason it is written in there?

MR. CROSBIE: Mr. Chairman, I believe it is there to cover that kind of situation. As you will notice in (41) (2): "Where an employer is unable to implement the provisions of an agreement and so on by reason of being prohibited by law from so doing, the employer shall use its best endeavours to introduce and supported as a government measure legislation designed to implement it." There might be something that legislation does not permit.

MR. ROBERTS: (Inaudible).

MR. CROSBIE: Right. Well we certainly have to assist them then.

On motion clause (34) as amended carried.

On motion Clauses (34) through (36) carried..

MR. ROBERTS: I would like to make a point on Clause (37) again this is different than the Labour Relations Act. The Labour Relations Act as I recall it, Mr. Chairman, says that the members of a conciliation board shall sign the report. Certainly the two majority members have to. Here only the chairman of the arbitration board signs the award. It has been pointed out to me that if a three-man board is going to give an award, three members of the board should be required to sign. They may agree or they may disagree. One may have a two and one split or one may have a three and nothing split. But surely this section is different than the Labour Relations Act for some reason. Unless there he some reason. I suggest that we should change it back.

On motion Clause (37) carried.

On motion Clauses (38) through (42) carried.

MR. ROBERTS: On Clause (43), Your Honour, as a matter of policy why have the government decided that there are to be no industrial enquiries under this act? Now I have mixed views on the validity of industrial enquiries. I think Professor Dyer's intervention in Buchans is agreed by all to have been most unfortunate and probably helped to delay the settlement considerably. Who was the fellow we sent up to Burgeo ? Judge Green, was it? From Nova Scotia? I am not sure he did very much to resolve the issues in the Burgeo dispute. But as a matter of policy why is it being prohibited in this case here?

MR. CROSBIE: Inaudible.

MR. ROBERTS: No but would the honourable gentleman have all of the facts? I mean the public would not have them all. The value of the Industrial Enquiry Commission is that it is a public report.

MR. CROSBIE: Well, Mr. Chairman, whether there is an industrial enquiry commission or not is really irrelevant. There is some need for an investigation to be conduced. A commissioner can be appointed under the Enquiries Act and if it is a serious matter, a royal commission I am just looking for a reference to the Industrial Enquiries and the Labour Relations -

AN HON. MEMBER: Inaudible.

MR. CROSBIE: They only refer to witness fees, so it is not a major point. If there needed to be an inquiry there are certainly many other avenues that can be used.

On motion Clause (43) carried.

MR. CHAIRMAN: Shall Clause (44) carry?

MR. ROBERTS: Just to note that inflation seems to have crept in here just as well as everywhere else these days, the fines seem to be a little higher than we have had in the past. The possible fines they are the same as the Teachers Bargaining Act which we passed last year but they are higher than New Brunswick and Canada, the two other acts to which we referred, the Canadian Act and the New Brunswick Act each provide that a natural person is liable to a fine not exceeding one hundred dollars. We have two hundred dollars here. For the employee organizations the fines are considerably lower again than the $1,000 for each separate offence on each day being an offence that we have here. I wonder if the government might like to reduce them. They are a little high.

MR. CROSBIE: Mr. Chairman, the government do not consider these fines to be high for a breach of the act. If you are a natural person a fine not exceeding $200 or in any other case a fine not exceeding $1,000. They do not appear to be high to us. Of course the discretion is left entirely up to the magistrates so the fine would depend upon the offence. There is a maximum you are not to be fined beyond. We feel that this is suitable.

On motion Clause (44) carried.

MR. CHAIRMAN: Shall Clause (45) carry?

MR. MARSHALL: In Clause (45) there is an amendment, Mr. Chairman. That a new clause be added as follows; (45) (1) Notwithstanding any law or practice to the contrary, subject to this section every employer shall honour a written assignment of wages by an employee to an employee organization that is a bargaining agent, but only to the extent of the amount due by the employer to the employee

organization for fees and dues payable as the result of the membership in such organization by such employee.

Sub-section (2) of that clause would read "Unless the assignment is revoked in writing by the employee and delivered to the employer, the employer shall remit the fees and dues deducted to the assignee named and the assignment of at least once each month together with a written statement of the names of the employees for whom the deductions were made and the amount of each deduction.

Sub-clause (3) would read, "If an assignment is revoked the employer shall give notice thereof to the assignee."

Sub-clause (4) "Notwithstanding anything contained in this section there shall be no financial responsibility on the part of an employer for fees or dues of an employee unless there is sufficient unpaid wages of that employee in the hands of the employer." Mr. Chairman, the adoption of this will necessitate to move that Clause (45) and Clause (46) will have to be renumbered as (46) and (47).

On motion Clause (45) as amended carried.

On motion Clauses (46) and (47) carried.

On motion that the committee rise and report having passed bill No. 123 with some amendments and ask leave to sit again, Mr. Speaker returned to the Chair.

On motion report received and adopted.

On motion amendments read a first and second time.

MR. SPEAKER: Motion bill ordered read a third time now, by leave.

MR. ROBERTS: Mr. Speaker, this is a debatable motion, I should like to speak to it if I might.

MR. SPEAKER: This is a debatable motion.

MR. ROBERTS: Thank you, Sir.

Mr. Speaker, I do not propose to be very long. There are one or two points which I think should be made and which I wish to make with respect to the bill which will shortly be put to the House and one would assume be read a third time. I do not propose, Mr. Speaker, to go back over the matters which we discussed at second reading and in

committee stage. They were well discussed. I may say, I think the House these last four days, Thursday, Friday, yesterday and today has shown a good level of debate. There have been incidents when some of us on either side have been perhaps a little sharp but that too is a normal part of an adversary proceeding. By and large I think we have seen a very thorough airing of the issues at stake, the issues at stake in a most important matter. I do not propose to go back over them.

The bill has now received second reading. It has received some substantial amendments. It is a much better bill now than it was when first it was brought to the House. I guess now shortly when it receives third reading and then His Honour the Administrator will come. I assume he will give assent. I would not want to presume what His Honour will do but in the normal course he would give assent, and in due course the bill will become law, and it will go on.

There are just two points that I wish to make, Sir. One of them I referred to earlier at committee stage. I have received as Leader of the Opposition and I believe the Premier has probably received the same telegrams. I received a number of telegrams. I listed them this morning, fifteen or sixteen or twenty in all, I do not know how many from CUPE locals in every part of this province. I do not know if they were from every CUPE local but they were from a number of CUPE locals. There were several from the electrical workers but they were a little different. The electrical workers were much like the Federation of Labour position.

The CUPE telegrams all made essentially the same point, in almost the same words, that if this bill were passed the locals concerned would call a meeting and discuss the matter. There were sometimes hints of withdrawals

of services. Now, Sir, these people have, of course, the right to make their opinions known and they have sent me telegrams. I have no doubt they have sent similar telegrams to the Premier or perhaps to the Minister of Finance. I am sure similar communications have come to the government. The CUPE people have, of course, also quite properly stated their position publicly.

The matter now is different than it was when those telegrams were sent. The bill is a little better but that is not my concern. My concern is that it is one thing to take a position against a piece of legislation when it is being debated, when it is being shaped, when it is being presented to the House for action. It is quite another matter to take a position against a piece of legislation when it becomes law. This bill I assume will become law. Indeed I would go so far as to say the nine of us on this side of the House can do nothing to stop it becoming law. We can vote and argue but in due course the majority will have their way and one cannot argue against that. They are the majority. They do have the right to have their way.

Once that bill becomes law, Sir, in our opinion - hardly a radical view - but in our opinion, it must be accepted by everybody in this province whether it be good or bad. Whether they believe it is good or bad, it is the law until such time as it is changed. I have no doubt, Sir, this bill will be changed because I do not think it will work but, Sir, we must try to make it work. There are ways to lobby against a law. One can campaign against it in the normal political processes. One can make speeches, one can make representations to the government, one can adopt all of the processes which under the system we have in Newfoundland and throughout Canada, all of the processes which are available to people or to groups who do not like the law as it stands. I would incourage CUPE and NAPE and everybody else, Sir, to exercise all of those means. They do not need any encouragement from me to do it but I do not have any hesitation in encouraging them to use all lawful means to try to have changed any legislation or any policy which they do not like. I think that is their duty to their members just as our duty here is to stand for our consciences and our

constituents in that order.

Sir, I do hope that any talk of withdrawals of services will be silenced, will end as of the time this bill becomes law because I fear, Sir, that if we should see the day when we have withdrawals of services, the government will have no choice but to act and I would support them in it. I might not like the law but damn it, it is the law! We would see in this province a most unhappy and unpleasant and thoroughly unacceptable situation and I do not want to see that happen in Newfoundland, Sir, and I am sure nobody on either side of this House or anywhere in this province wants to see that happen.

So, let me say quite simply - and I speak for all of my colleagues - that I appeal to all of the union people in Newfoundland and all of the management people equally to try to make this law work. I think it is a bad law but I want them to try to make it work and I hope there will be no more talk of withdrawals of services or slow-downs or anything along those lines.

The second point I want to make, Sir, is with reference to the x-ray and laboratory people. While this is a little beyond the principle of the bill, it has been discussed throughout the debate and I hope Your Honour will give me leeway to make a few remarks on it.

The bill itself - I think all sides are in agreement on this - will do nothing for the x-ray and laboratory situation. The situation has gone beyond the terms of collective bargaining legislation. We today have the situation - I do not have all of the details but reading today's paper and hearing the radio newscast at lunch hour - where our hospitals in the major centers are functioning at minimal level. I think that is a correct statement. They are handling emergency matters. If one shows up at the General Hospital with a broken leg or that sort of thing, there will be treatment provided but they are not able to provide anything more than that.

I heard on the lunch hour news Mr. Eaton, the President of the Hospital Association, quoted as saying that no technologists have been

hired despite the efforts of the hospitals, quite properly, to hire people to replace those who have resigned. I have no hesitation in saying that I do not think any technologists will be hired unless one of two things happens. Unless the resignations are withdrawn one by one and there is a crumbling of the feeling of the employees, their solidarity on the one hand or on the other hand there is a decision by those employees to go back to work.

Now, Sir, the second course is to be preferred in every way possible. First of all it could happen quickly. All it takes is a decision by the employees. Secondly, it is infinitely preferred. People who are going into hospital, I am sure, would a million times prefer to have a technologist who is reasonably happy about his duties looking out for their interests. Even though technologists often do not come in direct contact with patients, they do directly affect the decisions which the doctors and the professional staff take. They prefer to have a man who is happy at work than somebody who is working grudgingly, who feels he has been whipped and beaten and is driven back to his job.

Now, Mr. Speaker, this province cannot afford to have this situation last much longer. It has dragged on now for nigh on two weeks. It has been drawn into this debate unavoidably. I do not know why but it has been drawn in. I am sorry, I know why. I do not know what it has to do with the debate or the subject but it has been drawn in. I think the time has come, Sir, to try to resolve this situation. The difficulty is that both sides, the government on the one hand and the technologists on the other, through their union NAPE, have taken such rigid and immovable positions that for either side to give in now there would seem to be a loss of face.

Well, Mr. Speaker, any of us who have been involved in any way in a dispute between two groups knows that the difficulty always comes, the problems that are hard to resolve come when two groups have rigid positions. The essence of negotiations, the essence of conciliation, the essence of living together is avoiding fixed positions, avoiding

conflicts, avoiding people metaphorically going to the barricades and saying as Luther said, "Here I stand. God help me! I can do no other." The problem with the x-ray and laboratory technologists today is that we are at that position. The government have offered what amounts to binding arbitration. The government have offered that. The technologists have refused it. I do not know why they have refused it. It may be that some of the remarks made by gentlemen in the House, in good conscience and in good faith, have so got up the backs of the unions, of the technologists that they say that they will not go back.

It may be equally that the government say - I can understand their saying this, can see what would lead them to it, that we shall not give in. Well, I stand here today, Sir, to ask if both sides will step back and if we can try to resolve it because I do not know where it can end. While I am no expert on health, Sir, I was Minister of Health for two-and-a-half years and I think I know nearly as much about hospitals as anybody else in this House. I tell you, Sir, that I fear that this situation cannot end happily unless both sides will back off.

Now that this bill is about to become law, I would ask if both sides, the government on one hand and the technologists on the other can agree to a truce, a truce whereby the technologists would go back to work with no crowing by the government, no boasting by the government, no, "We beat them," because that will drive them out with blood, no crowing by the technologists that they won their case. Then instead of referring it to binding arbitration, which after all is anathema to every labour man - whether one accepts that or not as a principle of one's own conduct, the labour movement, Sir, have never to my knowledge willingly accepted binding arbitration. They consider it one of their principles, they believe it and they have as much right to believe it as any of us have to believe in any other principle that we wish.

Let them refer it to negotiations and that some person who be neutral be brought in and surely this thing can be resolved at the table. It may be that both sides can give a little. Surely to God! we have not got the situation where we both cannot give a little in the

interests of the patients and the people who need medical and hospital services in this province. I do not know who to make negotiator. I have thought about it and talked to my colleagues but it would have to be a man of great stature, a man who has remained above the dispute. It could be nobody in this House. It could be nobody, in all likelihood, active in the union movement or active on the hospital side of it. Perhaps a man like President Morgan of the university who is respected and admired by everybody in this province. He had a very material role in the Labrador strikes a year passed, a man of that stature. Perhaps we would have to go outside the province but somebody in whom both sides could have confidence to supervise the negotiations. It would require a little giving up by each side, Sir. It would require the government to be a little less rigid.

They have been backed into the position. They have not wished, I am sure, to be in this position but it would require them to back off a little. They may have to put a few more dollars on the table but that is surely preferable to the alternative. It would require the union to back off a little, to withdraw these resignations and they would have to get their seniority back and their pensions. That is what I mean by not rubbing their noses in it. They would have to go back to work. Neither side would say they are wrong. That is they would

MR. ROBERTS: not have to admit that, we just put that aside. Let us worry about the rights and wrongs later, a long time from now.

AN HON. MEMBER: Inaudible.

MR. ROBERTS: No, binding arbitration was offered and there is a difference. Mr. Speaker, maybe more has been offered, I do not know but this thing has not been publicly offered to my knowledge. What I am talking of is back to the bargaining table with both sides giving a little, both sides going back to work and with an independent man of stature as the mediator supervising negotiations. Let us try to work it out.

There may be holes in that suggestion. Perhaps the government may pour scorn on it but I shall be disappointed because I put it forward seriously and earnestly and genuinely.

MR. WM. ROWE: What is the alternative?

MR. ROBERTS: The alternatives, what are the alternatives? To go on as we are now, how long can our hospitals function? They may be able to go on for a few more days or even a few more weeks but the Minister of Health I am sure will agree that it cannot go on much longer. It has already gone on far longer than anyone thought it could have.

The health officials I am sure advised the minister. They gave me similar advice but you cannot take a couple of weeks with your x-ray and lab people out. We have taken it but we are paying a price. The people of Newfoundland must be paying a price.

It is an unnecessary dispute because - maybe the technologists would throw it down and if they throw that down then I think they should be condemned. Maybe equally the government would throw it down. If they throw it down, I think that they should be condemned.

I have heard no other suggestions. We have been here in this House now for four days. Sir, the question has been canvassed outside

the House. There have been extensive discussion and debate. There has to be some way out of it or else, do we have war? Do we keep on until one side or the other is crushed or do we step back and show some statesmanship and leadership? Get them back to work and let the hospitals keep going and then worry later about the rights and wrongs of persistence and so forth but get them going and get back to the bargaining table.

I cannot think of any other alternative, Sir. I have put my mind to it for two or three days now and I have talked to as many people as I can and it may not be a perfect solution but I have put it forward as a workable solution. I put it forward as the only solution that I have heard that does not require one side or the other to admit defeat. Binding arbitration! Sir, to the labour movement not just in Newfoundland that is anathema. It goes against what they believe to be their basic principles. Whether they are right or wrong, Sir, they believe that. They have a right to believe it.

So I put this forward, Sir, I put it forward sincerely and genuinely. The government would have to initiate, perhaps the Minister of Finance, the Premier. We had a little public reconciliation between them yesterday for those of us who doubted that they were always ad idem ne. We allegedly had our minds set at rest. It will require some conciliation from them. It will require turning the other cheek, biting a lead bullet, whatever phrase you want. It would require an initiative.

Perhaps the Minister of Manpower - somebody has got to take the step. Somebody has got to be willing to eat a little crow. It is not a matter of boasting nor anything, it is a matter of trying to get this resolved because I genuinely and deeply and sincerely and honestly fear that if we do not resolve this in this way we are headed for real trouble. All we have had so far is serious inconvenience, great inconvenience but Sir, we cannot go on much longer.

I do not know how long more the hospitals can last. Maybe they can last indefinitely but I do not think they can and I think the

Minister of Health, he may want to say a word or two, would probably agree, this cannot go on a great deal longer. The x-ray and lab people are vital, Sir. They are probably the single most vital group within a hospital, probably. Probably no other group can hurt a hospital service so badly by pulling out. This legislation will not resolve the situation: it will take an initiative outside the House, outside the ambit of this act.

So I make the proposal, Sir, I make it in all good faith. I would ask the Minister of Finance, who has a leading role with the government in these matters, to consider it. I think if he were to take some such initiative or to be part of some such initiative and if for my part I can assist, I will gladly. If he should take some such initiative he might go a long way towards removing the fear that he is somehow arrogant. The words have been used time and time again; "Somehow adamant, somehow rigid, somehow a hard man to get along with."

The gentleman and I have had a number of differences over the years. We shall have many more I hope. Indeed if we agree on a great deal, everybody should be concerned. But, Sir, while I criticize him on his public statements and do so because I believe him to be wrong in many of them, I think he is concerned for the people of Newfoundland and for their welfare and their health. I put this forward as a perfectly honourable solution. Put it to the x-ray people. Put it to the lab people. Put it to the government. The hospitals I am sure would accept any way out of the impasse. See if we could find an independent negotiator, a mediator. It will mean more money from the government, let there be no doubt, but I have no doubt, Mr. Speaker, that this either will be resolved with great unhappiness or the government will have to find more money.

More money does not really kill them. They found more money in the Corner Brook strike and the government did not collapse. I mean that is fine, a few more dollars do not really matter. It does not matter as much as the alternative. Finding a few more dollars is preferable to the alternatives we face . Unless some other member

or somebody in Newfoundland has some other solution, I would ask that this one of mine be given some consideration, be given the very great consideration which I believe it merits.

That is really all I have got to say, Sir. It has been a good debate. I am proud to be a member of the House. I think it has been a good debate. There have been passages which if read from Hansard would do little for school children but by and large there has been a good, hard-hitting debate, an exposition of principles with many honourable members mixing it up.

The goverument have shown some desire to make improvements in the bill. It is a better bill than when we started. I do not think it is a good bill yet but it is a better bill. The point is that it will not solve the other problem with which we must live today, the problem of the almost complete crippling of our hospitals. So I put forth this other proposal and I do so genuinely and sincerely. I think Newfoundland, Sir, deserves no less from all of us in this House.

MR. SPEAKER: The honourable member for Labrador South.

MR. MARTIN: A few brief words if I may, Mr. Speaker. I think we have seen better legislation passed and it is without question that we have seen worse legislation passed. When I first spoke on this bill I said that I could not support it in that form. Since then there have been some substantial changes made. Most of the more repugnant sections of the bill have been revised and thereby made more acceptable to the labour movement.

It is for this reason and a number of others that I think I would like to go on public record as saying that I am going to support the bill. The other reason is that the Minister of Manpower and Industrial Realtions, as he has already said, is even now in the process of drafting revisions which will make the labour relations legislation more acceptable.

The honourable Minister of Finance has assured me and the House that this is not the be-all and end-all in this particular bill, that

he will entertain proposals for amendment in the future. I think it is incumbent upon everybody who is affected by this legislation to try now that we have it to make it work within the framework that it sets out.

There is another reason why I think we must make sure that the public understand what we have done here. Whether we like what we have done or not, the fact is that it is now part of the laws of the land and we cannot have anybody flaunting those laws and expecting to get away with it. I, as a part of this honourable House of Assembly, am satisfied that I can support the bill in its present form.

There is one other thing that I would like to say: A couple of days ago I told honourable members opposite that I was ashamed to be a part of a group who would act in such a manner that a bill laid before the House, presumably for debate, was already decided upon in caucus. I am happy that we have proven otherwise. I was proven to be wrong. Amendments were accepted and I think that I owe these honourable gentlemen an apology, if they will accept it.

MR. SPEAKER: The honourable member for St. John's East.

MR. MARSHALL: Mr. Speaker, I rise not on a point of order, on a point of explanation so that it will not be deemed that this side of the House will be bound in future.

The honourable Leader of the Opposition and the honourable member for White Bay South are looking at the authorities. I have no desire to go into at this present time the various authorities with respect to debate on third reading and the rules which apply to debate on third reading which I do not believe extend to talking about the principle of the bill which was talked about in second reading and decided there.

But be that as it may, the opposition has extended its courtesy by having the bill read a third time so I had no desire to get up and

argue the point of order at this time. However, I would like to point out, as I think it is necessary not for us on this side of the House to be bound by the precedent in the future, that this does not mean that in the future when there is an attempt to debate on third reading in the manner that it was debated now, that we will not object.

We hardly repent, but I just wanted to point it out that I do not want this side of the House bound by that precedent.

MR. CROSBIE: I have to reply to the Leader of the Opposition.

MR. NEARY: Mr. Speaker, a ruling as to whether the minister closes the debate now.

MR. CROSBIE: I do not know what kind of debate this is? I do not think it closes anyway.

MR. NEARY: I am talking to the Speaker, not the Minister of Finance.

MR. SPEAKER: Order please!

MR. SPEAKER: The honourable minister I assume, who closed the debate on second reading in principle, he is speaking to the motion for third reading now.

MR. CROSBIE: Mr. Speaker, the only reason I am speaking now is that I have to comment on what the Leader of the Opposition is saying, naturally.

His first point is well stated and appreciated and certainly I am sure every member of the House agrees with him. After this bill is passed it is

the law that applies in the Province of Newfoundland and it would be useless for the House of Assembly to pass laws or for the people's representatives to legislate if we were to brook any situation where anyone who wanted to would defy that law. What the Hon. Leader of the Opposition said there was well stated. My own feeling is that I see no reason why we should have any trouble with what has been said outside. We have done all we can to meet the points put forward by the parties involved, not in the House here but outside. We have made many amendments they suggested.

I can only repeat again that if it be found to be unfair to them, to CUPE or NAPE, or unworkable, we shall bring amendments forward and we will not wait a long time to do it. I appreciate very much the fact that the Hon. Leader of the Opposition made his first point there. It was well stated and one hundred per cent correct.

Now his second major topic was of the x-ray and lab. You are in a situation where you are damned if you do and you are damned if you do not. There has not been much said by me about the x-ray and lab in this debate for the simple reason that we are trying to get the matter resolved one way or the other and resolved within the principles that the Premier has outlined and I have outlined and other members of the government have outlined. Our position has not been rigid. It has been anything but rigid. We are rigid on the principle that we cannot be expected voluntarily to make other offers to a bargaining agent after they have already suggested a final settlement. We have agreed. They had it voted on and approved by their members and then the next day go out on strike. We are absolutely rigid that we will not change in that principle. We will not voluntarily give them any other offers. We have been anything but rigid as to what to do to solve this impasse. We have made a number of suggestions. We do not like arbitration. We do not

want arbitration. We are not in favour of it in principle. We have said that we are prepared to go along with it in this case to resolve this dispute which is so difficult of resolution.

Mr. Speaker, we went further. To quieten affairs, we went futher. We said that we will ensure that if the arbitration board awards you less (it was incomphrensible that they would) than the contract now provides - we gave them a letter to that effect, a letter in writing. Then they raised other questions. We agreed to do certain things last weekend. If they went back Friday night they would get time and a half over the weekend, although they had not worked the previous forty hours,and those who were not called in Saturday and Sunday would get paid for two days anyway as an inducement to try to sweeten up the offer of arbitration. Then that was nearly approved on Friday afternoon and disapproved on Saturday morning at a secodd meeting.

We are in a most intractable position but we are not being rigid, Mr. Speaker. That is the only reason I make these points. The popular notion bandied about that we are being rigid is one hundred per cent incorrect. We are being as rigid as an indian rubber snake in this matter. My backbone is like an "s", that is how rigid I or we have been.

Then we consulted,consulted with the hospital association and the honourable gentlemen opposite suggested mediation. Well that has already been attended to Mr. Speaker. This morning (I am the brilliant author of the idea. It must have been some extra-sensory perception maybe) we got the hospital association to agree and have now suggested to the union - they are meeting on it this afternoon and I do not know what the result is or whether they are going to accept or reject. We have suggested to them an arbitrator whom we would accept. He is not a resident of Newfoundland.

He is man known across Canada in his work, absolutely trusted by the labour movement and who would be absolutely trusted by us. I cannot give his name now because we do not know whether they have accepted. He cannot let me know until tomorrow morning for sure whether he can do it.

We are also prepared to make another concession that I do not want to expand on now, as a sweetener to help overcome, hopefully, their fears of arbitration. They are considering that now. If they do not want an arbitrator, we will be prepared to have a mediator. It is exactly as the Leader of the Opposition stated a few minutes ago. We have already made that known. If they do not want an arbitrator, then we would accept someone of this calibre as a mediator and see what he recommends. It is already en train. What the Hon. Leader of the Opposition suggested is already en train. I do not know at this moment whether the x-ray and lab technicians are accepting either of these approaches. They will be in touch with us today or tomorrow.

Mr. Speaker, we are being anything but rigid and we are hoping that it can be resolved in one of these ways. There is one possibility of it being the way that the honourable gentleman suggested.

Finally, Mr. Speaker, I think it has been a good debate. We have tried to show that we are not wanting to be unfair nor unjust to anyone. We accepted that voting amendment this afternoon. We did not have a chance to have a caucus but the members all agreed, those that I had a chance to ask. We are not wanting confrontation with CUPE or anyone. We hope to have a rewarding relationship with them and one that will work properly. We hope that they will respond the same way.

Finally, I would like to thank the honourable member for Labrador South for saying that he is now willing to support the bill. We appreciate his support. He is well-known to be level headed

and sensible and a labour sympathizer. We, therefore, appreciate his support on third reading.

MR. NEARY: Mr. Speaker, I do not want to delay the debate but I just want to make one observation on something that came up during second reading of the bill and that was the reference to the representatives of CUPE in this province. I just want to draw to the attention of the honourable members of the House, Mr. Speaker, that CUPE is observing its tenth anniversary, I think, it is next month. They now have in Canada, Sir, close on 200,000 members. This, Mr. Speaker, is the biggest undertaking of any union in the history of Canada. I think it was very poor judgment on the part of the Minister of Finance, Sir, to come out and attack CUPE and its representatives. This union, Sir, is going to be a union to be reckoned with in this province in the future. I am sure that Mr. MacMillan is not the arbitrator the Minister of Finance has selected to deal with this very serious dispute that we have been talking about.

Mr. Speaker, this union is going to be a union to be reckoned with in this province in the future. I think that it does not make any difference what government is in power, Sir, I think it is wrong. I think it is very poor, bad judgment on the part of the Minister of Finance to attack, to personally attack, a vicious attack on the representatives of CUPE. I would like for the Minister of Finance, if he is man enough now to stand in his place in this honourable House and apologize to Mr. MacMillan and the representatives of CUPE who are sitting in the public galleries of this honourable House.

MR. CROSBIE: Mr. Speaker, do I end the debate if I say a few words? I have spoken? Then I cannot apologize. That solves my problem.

MR. SPEAKER: Order please!

DR. ROWE: I feel it is incumbent upon me as Minister of Health to refer to the remarks made by the Hon. Leader of the Opposition. One would

have to agree with the sentiments which he expressed. I have endeavoured over the past few days to show my concern for the people of the province who have been deprived of this necessary hospital service. The government bears no ill-feeling towards the technologists. The government is anxious to meet them in any way possible. I think that the statements made by my colleague the Hon. Minister of Finance has indicated that further concessions have been made by government today. It was suggested to them that a well-known mediator may come to assist in breaking this unfortunate impasse. I would merely like to establish again, Mr. Speaker, for the benefit of the people of the province that I am as anxious or more anxious than most to see this impasse broken. I certainly will make myself available at any time to discuss any suggestions for breaking this impasse. Nothing would make me happier than to see this unfortunate situation ended.

I, therefore, commend the remarks of the Hon. Leader of the Opposition and I commend further the remarks of my colleague the Hon. Minister of Finance in showing the extraordinary length he will go to to endeavour to have this finalized on behalf of the people of our province.

On motion, a bill, "An Act To Govern Collective Bargaining Respecting Certain Employees In The Public Service In The Province," read a third time, ordered passed and title be as on the Order Paper.

SERGEANT-AT-ARMS: His Honour the Administrator has arrived.

MR. SPEAKER: Admit His Honour the Administrator.

May it please, Your Honour, the General Assembly of the Province has at its present session passed a bill to which in the name and on behalf of the General Assembly I respectfully request Your Honour's assent.

A bill, "An Act To Govern Collective Bargaining Respecting Certain Employees In The Public Service In The Province."

HON. R. S. FURLONG (Administrator): In Her Majesty's name I assent to this bill.

MR. MARSHALL: Mr. Speaker, I move that when the House adjourns today that it stand adjourned until Monday, January 21, 1974 at three o'clock, provided always that if it appears to the satisfaction of Mr. Speaker or in the case of his absence from the province the Chairman of Committees, after consultation with Her Majesty's Government, that the public interest requires that the House should meet at an earlier time than the adjournment noted, Mr. Speaker or in his absence the Chairman of Committees may give notice that he is so satisfied whereupon the House shall meet at the time stated by such notice and shall transact its business as if it had been duly adjourned to that time.

MR. ROBERTS: Mr. Speaker, before the motion is put, Your Honour, earlier received a decision on a motion of which I had given notice. I wonder if that is in order.

MR. SPEAKER: I attempted to do that but I did forget about it. I looked at the motion and found the motion to be in order. It will be placed on the Order Paper.

On motion the House adjourned until Monday, January 21,1974, at 3:00 P.M.