

PRELIMINARY
UNEDITED
TRANSCRIPT

HOUSE OF ASSEMBLY
FOR THE PERIOD:
10:00 a.m. - 1:00 p.m.
FRIDAY, NOVEMBER 30, 1979

The House met at 10:00 a.m.

Mr. Speaker in the Chair

MR. SPEAKER: (Simms)

Order, please!

ORAL QUESTIONS

MR. SPEAKER:

The hon. the Leader of the

Opposition.

MR. JAMIESON:

Mr. Speaker, may I ask a question

of the Minister of Mines and Energy (Mr. Barry) with regard to the questions I was asking him earlier on the Lower Churchill development.

In, again, the brief with regard to bilateral issues, reference is made in two or three places to the necessity of, I think the words are

'short-term' or 'interim' export of a certain amount of power. Could I

first of all ask him does that apply regardless of - he gave us the

other day the options, that is, the Muskrat, plus Gull Island, etc.. would

that apply regardless of which of those sites is settled upon? In

other words, if it were Muskrat in the first instance, would there be

an necessity in his judgement and has he got the information so far

to ship some of that power out of Labrador at least for an interim period?

MR. SPEAKER:

Hon. Minister of Mines and Energy.

MR. BARRY:

Mr. Speaker, as you know and as

members of this House know the object of government in developing hydro in Labrador is - the primary objective is for use within the Province.

If Muskrat Falls were developed on the information that we have at the

present time - and again I have to say that we do not have all the final

reports in - but the information that we have now is that Muskrat Falls

if developed would be developed on the basis of using all the power

within the Province and that the interim export of power would not be

necessary as far as that project is concerned.

MR. JAMIESON:

A supplementary, Mr. Speaker.

MR. SPEAKER: (Simms) A supplementary. The hon. Leader of the Opposition.

MR. JAMESON: If, on the other hand, either the second site, the alternative site or both, if it were concluded that both had to be developed together, then am I correct in assuming that there would be some interim or some necessity for export of power to get that larger project underway.

MR. SPEAKER: The hon. Minister of Mines and Energy.

MR. BARRY: Mr. Speaker, there was nothing to indicate at this time that for technical reasons both sites would have to be developed at the same time. It might be desirable under certain scenarios to develop both at the same time, but if Gull Island itself or if both were developed, there would be more power produced than the Province could utilize internally in the short-term. So that while you would not have to export power if you did not - I am sorry. You would have two options;

MR. BARRY: you could either sell some through export or you could attract energy intensive industry within the Province to take up the additional surplus, to increase the amount of power that would be consumed internally.

If you did not do one of these things, you would, in effect, have additional capacity lying idle which would increase the cost at which you could deliver the power internally. So the only reason that we would be looking either to export or to attract the industry, apart from the employment possibilities, would be to make it less expensive for the people in this Province to have power delivered from Labrador to the Island or from the Lower Churchill to Happy Valley - Goose Bay or wherever. If exported surplus were sold at a reasonable price, or if industry were attracted to utilize the surplus then you could deliver other power to the citizens of this Province at a cheaper rate than you would otherwise.

MR. JAMIESON: A supplementary.

MR. SPEAKER (Simms): A supplementary, the hon. Leader of the Opposition.

MR. JAMIESON: I have no quarrel with the conclusion. The basis of my questioning is really, I suppose, to ask specifically this: for instance, when the hon. member talks about the Muskrat being fully utilizable within the Province, is that on the basis of current anticipated demand or would there be some necessity for industrial customers beyond those now known in order to utilize, I presume, the Muskrat, it being the smallest body of power that could be produced? In other words, is the current anticipated demand without, let us say, additional industrial users enough to take care of that particular production?

MR. SPEAKER: The hon. Minister of Mines and Energy.

MR. BARRY: Mr. Speaker, part of it would be taken up by closing down the thermal plants that would be then running.

MR. BARRY: Your production at Holyrood,
for example - I keep forgetting the number of megawatts there -
MR. ROBERTS: 300 at Holyrood now -
MR. BARRY: - 300 plus the additional unit of -
MR. ROBERTS: - 450 with the new unit.
MR. BARRY: - 450. The Lower Churchill Muskrat Falls
site has a potential of approximately 600 megawatts. So you can see that
with Holyrood going flat out, as it will be by that time, by closing
down your thermal plant there you would need 450 megawatts. And we
anticipate that demand will have increased to approximately another 100
to 150 megawatts by that time. So that it will basically be taken up
by closing down existing thermal plants and by the additional demand by that
time.

We are not saying that there will be another
600 megawatts of demand in addition to what is produced at Holyrood and
so on at that time.

MR. JAMIESON: A final supplementary, Mr. Speaker.

MR. SPEAKER: (Simms) A final supplementary, the hon. the Leader of the Opposition.

MR. JAMIESON: Again, just for informational purposes, because I am trying to get some clarification as to the timing difficulties or problems or opportunities, whichever way one wishes to put it; am I correct in assuming that even if there is no new customer available or the plans that have been discussed with regard to industrial development, let us say, within Labrador somewhere or, indeed, on the Island, if there is no large user of power, this is not going to be an impediment to starting when all of the other things which the minister outlined earlier in the week have been done? Is that a correct assumption?

MR. SPEAKER: The hon. the Minister of Mines and Energy.

MR. BARRY: As far as the Muskrat Falls site is concerned, Mr. Speaker, it does not appear that it would be necessary to have a large user of power attracted to the Province. The problem may be - and I want to caution hon. members - the problem may be that the price per kilowatt hour from Muskrat Falls may be higher than the price per kilowatt hour from Gull Island. So that is your disadvantage. The advantage, of course, is that if there is a smaller capital cost then it should be easier to finance and get it off the ground and you would not have to attract heavy power users to the Province.

MR. ROBERTS: Mr. Speaker.

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

MR. ROBERTS: Mr. Speaker, I would like to ask a question or two of the Minister of Mines and Energy growing out of the matters raised by my friend, the Leader of the Opposition.

First of all, I wonder if the minister could tell us with respect to the 600 megawatt block of power which will be generated assuming Muskrat goes ahead, and I understand him to say 450 megawatts of that would be absorbed into the Island grid

MR. ROBERTS: immediately by shutting down the three thermal units at Holyrood - I understood that is the plan. That would leave 150 megawatts to be absorbed.

AN HON. MEMBER: The gas turbine at Stephenville.

MR. ROBERTS: The gas turbine at Stephenville. There is one, I believe, on the Burin Peninsula as well, and there is a thermal plant across the harbour here in St. John's which is used for peaking power.

AN HON. MEMBER: The most expensive power in the world.

MR. ROBERTS: It is very expensive power.

Mr. Speaker, a question for the minister. I wonder if he could tell us two things, first of all, what the current growth in demand is? We used to use a 7 per cent figure on an 800 megawatt consumption base, which would give us a growth of about 55 or 56 megawatts a year, a growth in consumption of that quantity of power. I understand the 7 per cent figure is probably too high, that people are using less energy or the rate of increase has gone down. Could he tell us that? And growing out of that, could he tell us how long it will be before we have to place those thermal units back in operation? - I think the minister gets the gist of what I am getting at. And could he relate that to the increases in power production capacity which are represented by Hinds Lake and by - What is it? The hon. gentleman forgot the capacity at Holyrood.

MR. RIDEOUT: The Upper Salmon.

MR. ROBERTS: The Upper Salmon, the two hydro projects now underway. In other words, could he relate the Lower Churchill, the Muskrat aspect of the Lower Churchill, to the power consumption scene in that context?

MR. SPEAKER (Simms): The hon. Minister of Mines and Energy.

MR. BARRY: Mr. Speaker, obviously in bringing on Muskrat Falls there would still be some use for the capital that was invested at Holyrood or your gas turbines and so on in the event of a need to - if there was a transmission outage you would have the additional security of having these plants on the line here on the Island. There is going to be a long transmission line from Labrador, so you would have your additional security, so that even if some of these plants were not there you would have to put them in after you had your transmission line from Labrador. You would not be able to put all your eggs in the basket of Labrador power with that lengthy transmission line. The insecurity would be just too great.

So there will be additional security that will be obtained from having that capacity in reserve there. I cannot give you the exact time when the full amount of Muskrat power would be taken up. There will be a certain surplus but that is desirable in that the whole object of the exercise in developing Labrador power is to provide a cushion for growth, to provide a surplus that will be there as needed. But our information is that the power from Muskrat Falls, if we do not start up the thermal plants again, would be taken up over a period of a couple of years, two to three years.

Now the report that comes in early in 1980 from the Lower Churchill Development Corporation will have these figures

MR. BARRY: clarified and set out more precisely.

The hon. member for the Strait of Belle Isle (Mr. Roberts) is correct when he says that the percentage increase annually of demand for electricity has declined somewhat since the so-called energy crisis and with rising costs and so on there is a conservation feature of rising costs.

MR. ROBERTS: It is general throughout North America.

MR. BARRY: It is general throughout North America but I might say that, and again we have to await these final figures from the Lower Churchill Corporation, it is my understanding that the

MR. L. BARRY:

demand in Newfoundland has not declined as much as the demand elsewhere in North America because we had not been utilizing as much electricity in our everyday lives as people on the mainland or in the United States in terms of use. When we did the initial feasibility study and submission to the federal government - the Leader of the Opposition (Mr. D. Jamieson) was in government at the time - we were fighting with them and they were saying, "No, you are going to have to assume a 7 per cent increase annually", and we were saying, "Now, look, look at the number of appliances per household in Newfoundland, you will see it is much less than the average elsewhere in North America so you should assume there is going to be a higher annual increase in Newfoundland than elsewhere". And we were saying, "You should use at least 3 per cent rather than 7 per cent". Well, I think that the figures that come in in the New Year will indicate that our annual rate of increase should be something less than 7 per cent under new circumstances, possibly 3, but I would not want to set the firm figure until we get the more precise figures sometime within the next two to three months.

MR. E. ROBERTS: Supplementary, Sir.

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

MR. E. ROBERTS: Mr. Speaker, I thank the Minister and I think the information is useful and much of it is, at least, new to the House; obviously, it is not new to the Minister.

MR. S. NEARY: All of that (inaudible).

MR. E. ROBERTS: Well, yes, I think it is academic until and unless a number of hundreds of millions of dollars are put in place and in due course we will have to talk about how that is to be financed and how it is to be raised, absent a take or pay contract for a significant portion of the output -

AN HON. MEMBER: With ERCO.

MR. E. ROBERTS: - with ERCO or with anybody else.

MR. E. ROBERTS: I mean, the ERCO contract was not essential to the Bay d'Espoir contract at all. In fact, the Bay d'Espoir one had been in place, as the minister will recall, through the ADB essentially, the \$20 million that ADB put in but that is another story. I would like to debate that.

MR. L. BARRY: There was no dedication of ERCO power on that.

MR. E. ROBERTS: I agree completely. I do not think anybody could argue with that particular point, there was no dedication of Bay d'Espoir power, no, of course not.

MR. L. BARRY: The advertisement was misleading.

MR. E. ROBERTS: I did not write the advertisement, Mr. Speaker, so I do not know if it was misleading or not.

MR. SPEAKER: (Mr. Simms) Order, please! The hon. gentleman has the question?

MR. E. ROBERTS: I do but I am trying to answer the minister's question to give him some guidance. We can talk as well about the 1975 start on the project, but that is another story. I would ask about this; the minister has indicated to us that the bringing into the grid, on to stream, of the Muskrat project will provide us three or four years - that kind of time frame, not ten; it is not one, it maybe two, three, four, or five depending on the increase in consumption and depending on a number of variables that are uncontrollable and quite possibly unpredictable; one must make assumptions and go from there. So we are looking at three or four years during which the thermal plants will be down. And at the end of the three or four years, if I understood the minister, the thermal plants will again be called upon, not for back up power but for regular insertion in the grid, possibly, as peaking power -

MR. BARRY: Unless there are other hydro developments.

MR. ROBERTS: Okay, that was part of my question.

Perhaps the minister could tell us about the 'unless'. What other hydro developments are we looking at? Does that specifically mean -

MR. BARRY: The Gull Island.

MR. ROBERTS: - Gull Island? Let us call it the Middle Churchill as opposed to the Upper Churchill and the Lower Churchill. Could the minister also tell us whether there is any indication at this stage - and I realize his figures are not at this stage fixed. I assume, by the way, that report will be public, will it not, when the Lower Churchill comes in?

MR. BARRY: Very quickly, I would assume so.

MR. ROBERTS: I would hope so because it is a key document. Could the minister tell us whether he has any indication of the kind of price range we are looking at to have that Lower Churchill power, the Muskrat power, delivered here to the Island and delivered to homes and businesses throughout the Island:

AN HON. MEMBER: Twenty-two mils.

SOME HON. MEMBERS: More than that.

MR. SPEAKER: (SIMMS) The hon. Minister of Mines and Energy.

MR. ROBERTS: Forty mils possibly.

MR. BARRY: Mr. Speaker, just one necessary point first.

With respect to the other developments that might come, Gull Island is one that will obviously have been researched thoroughly by that time, by next year, as a matter of fact. There are others that relate to the Upper Churchill project, the so-called Lobstick development, putting in an additional unit in connection with the Upper Churchill development that is now in place. But, Mr. Speaker, by that time it is our government's belief and what we will be fighting for is that by that time we will have established, if not earlier, we will have established our entitlement to take back recall power from the Upper Churchill project as we need it, when we need it for use here in this Province. That is why this court case is now ongoing. That is why we have a task force now working to see if it can be done more quickly than the probably five years it will take for the court case to be concluded. But in any event, in five years time, if nothing else happens, there will be a court decision, a decision probably

MR. BARRY: of the Supreme Court of Canada by that time which in my belief will establish that this Province is entitled to take back 800 megawatts without doubt.

MR. NEARY: We are.

MR. BARRY: I agree we are. Mr. Speaker, could somebody bring a paper bag over and shove it over the hon. member's head?

MR. SPEAKER: (Simms) Order, please!

MR. BARRY: He has gotten all warmed up with Mr. Michael Harris there last night. He has gotten all warmed up with Michael Harris and he has been on a high ever since and he has not come down off it. Now, hold on. I will agree with you. For once I will agree with you. The hon. member is right, we are entitled now to the recall of power from the Upper Churchill. The problem is, however, that this is not without legal doubt or uncertainty in that it would not be safe for us to go to the Upper Churchill, build a transmission line and expect to finance a transmission line on the expectation of bringing back Upper Churchill power with the threat of legal action by the province of Quebec hanging over the project. Hence

MR. BARRY: the reason for the court case, Mr. Speaker, but in five years time the Supreme Court of Canada will have established this Province's entitlement without doubt, with no uncertainty, to the power of the Upper Churchill River. Then will we have surplus capacity, then will we have the freedom to grow that we needed, then we will have the energy that will make this Province a grand and wonderful place to live in.

Thank you, Mr. Speaker.

SOME HON. MEMBERS:

Hear, hear!

MR. SPEAKER (Simms):

A final supplementary, the hon. member for the Strait of Belle Isle, followed by the hon. member for LaPoile, followed by the hon. gentleman for Grand Bank.

MR. ROBERTS:

The hon. gentleman opposite is not the only high one here today. He has obviously lost touch with reality, if he is predicating the Province's power policy on the outcome of a court action, which I think he would be the very first to say -

MR. BARRY:

That is another option.

MR. ROBERTS:

Well, the hon. gentleman says it is another option; I mean, it is another option like the \$100 million that was wasted by the minister and by the Premier and by their colleagues back in 1975 -

MR. SPEAKER:

Order, please!

MR. ROBERTS:

- and it is still there, costing us \$15 million a year in interest.

MR. SPEAKER (Simms):

Order, please!

SOME HON. MEMBERS:

Oh, oh!

MR. ROBERTS:

Mr. Speaker, it is no more -

MR. SPEAKER (Simms):

Order, please! Order, please!

If the hon. member has a supplementary question to ask, I would direct him to ask the question please.

SOME HON. MEMBERS:

Oh, oh!

MR. ROBERTS: Mr. Speaker, I do and I am asking it in the same way as the minister answered it and I know that Your Honour will be the very first to agree that in asking the question I am allowed exactly the same latitude as the hon. gentleman in answering it. Because as Your Honour ruled the other day, the answers must be brief and the questions must be equally brief. The emphasis here, I would say, Your Honour, is on the word equal.

Now we are saying the minister did not answer the question, I ask him again, because it is obvious that the minister does not want to answer the question. Could he tell us - the Premier is big on speeches. We will talk about the St. Alban's speech, too, we have a tape of that. It is a good speech.

AN HON. MEMBER: Conne River -

SOME HON. MEMBERS: Hear, hear!

MR. ROBERTS: I must say they are all gem today. They turned around 1100 votes and it is the greatest victory since John Cabot, where does that put turning out 1300 votes in St. Mary's - The Capes, which was obviously the greatest victory since the Norsemen discovered Newfoundland, 500 years before:

MR. SPEAKER (Simms): Is that the hon. -

MR. ROBERTS: That is irrelevant, is it not?

MR. SPEAKER: Is that the -

MR. ROBERTS: I was asking the minister -

MR. SPEAKER: Order, please!

Is that the hon. member's question?

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: If not, I would direct the hon. member to ask it.

MR. ROBERTS: Mr. Speaker, the question, to repeat again for the benefit of the minister is -

PREMIER PECKFORD: Where is the member for St. Mary's - The Capes (Mr. Hancock).

MR. ROBERTS:

The member for St. Mary's - The Capes (Mr. Hancock), Sir, is serving the interest of his constituents in a proper way.

SOME HON. MEMBERS:

Oh, oh!

MR. SPEAKER (Simms):

Order, please!

MR. ROBERTS:

Mr. Speaker, if hon. gentlemen opposite,

Sir, can care to restrain their enthusiasm briefly, let me again ask the minister if he will indicate to us what kind of cost estimates or price estimates we can expect to see with respect to the power. He says he forgot in his -

MR. BARRY:

Got carried away.

AN HON. MEMBER:

Carried away.

MR. ROBERTS:

- exposition of his lack of knowledge

of the legal state and his weak defence

Mr. Roberts: of a weak position he got carried away, let him now answer the question as best he can, and let us see exactly where we stand with respect to the price of power.

MR. SPEAKER (SIMMS): The hon. Minister of Mines and Energy.

MR. BARRY: Okay, Mr. Speaker, just to keep this in perspective, at the present time to produce, and this is before cost increases that we understand are coming, to produce electricity from burning Bunker C, forgetting about the cost of building the thermal plant but just for the cost of the fuel, you are talking something in excess of thirty-five mils. This is just -

MR. ROBERTS: You mean the oil element of the cost.

MR. BARRY: The oil element. Just to get the proper perspective.

And this is obviously - we have had Mr. Schlesinger, the former U.S. Energy Minister, speak in terms of the price of oil going from the twenty-odd to the forty-odd dollars a barrel before the end of the 1980s. He was talking about mid-1980s as a matter of fact, I think. I have seen figures since to indicate that you could see a price of a barrel of oil go as much as \$60 a barrel.

MR. ROBERTS: I do not think that anybody has any idea what the price of oil is going to be.

MR. BARRY: So this is just to keep the perspective. The initial feasibility study for Gull Island indicated -

MR. ROBERTS: Is that the five year old one?

MR. BARRY: Pardon?

MR. ROBERTS: Well the member says -

MR. BARRY: The one five years ago. Some updating that has been done on that since indicates, and this is before we had these more precise figures which are being prepared now, indicates that Gull Island power delivered to the Island would be something in excess of thirty mils.

MR. ROBERTS: And then the wheeling charges across the Island would have be added to that as well, would they?

MR. BARRY: No, no. That is delivered to St. John's.

MR. ROBERTS: Okay, it is just not fed in it on interconnection at Deer Lake.

MR. BARRY: I would have to say at this stage a range of anywhere from thirty to forty mills until we get these precise figures, precise figures in the early 1980s.

Muskrat Falls, it was indicated at that time, could be as much as ten mills per kilowatt hour more than Gull Island. So if you are talking about Gull Island thirty to forty, you are talking about Muskrat Falls forty to fifty. However, part of the work that has been done on Muskrat Falls indicates somewhat better soil conditions than were anticipated. There were concerns about bad soil conditions at the site of that projected development. And the preliminary figures we have indicate that the soil is not as bad as was feared. So that could improve the price of Muskrat Falls power delivered. But basically you are talking of in the thirties for Gull Island, in the forties for Muskrat Falls delivered to the Island of Newfoundland, delivered to St. John's.

MR. SPEAKER (SIMMS): A new question, the hon. member for LaPoile.

MR. NEARY: Mr. Speaker, I would like to direct a question to Premier Lougheed. I would like to ask the hon. gentleman, Sir, if in fact there is a problem in the United States

MR. NEARY: market with Newfoundland fish, because the reports that we are getting are confusing and conflicting. We have one group saying there is no problem, there is a bright future, and we have Mr. Wells, the President of the Fish Trades Association, saying that there is a problem. Would the hon. gentleman tell us just exactly what the situation is? I am asking the Premier, Mr. Speaker.

MR. SPEAKER: (Sirms) A supplementary, the hon. the member for LaPoile.

MR. NEARY: Does the hon. the Premier intend to answer the question?

PREMIER BECKFORD: Not if you do not ask it properly.

SOME HON. MEMBERS: Oh, oh!

MR. NEARY: Mr. Speaker, I would like to ask the hon. the Premier, Sir, if the government has given any thought to getting their own company, Fishery Products, to move their operation out of the United States where they have further processing, where they have a big operation, and move it to Newfoundland, where it should be, for further processing? Instead of the taxpayers putting money into this company to set up an operation down in the United States for further processing, why not move it back to Newfoundland and then look for new markets for Newfoundland fish?

MR. SPEAKER: The hon. the Premier.

PREMIER BECKFORD: Mr. Speaker, I met with representatives of Fishery Products about a week and a half ago, and with Mr. Wells and members of the Fisheries Association of Newfoundland about the whole question of markets in the United States. Number two, the whole question of taxpayers now funding Fishery Products, I do not think it is a totally accurate statement. In the past, Fishery Products was given guaranteed loans and so on by the Government of Newfoundland. I do not think they are today. I think they follow along in the same programmes as all the other fish companies. Thirdly, I will be meeting again with Fishery Products and with the union and with other people involved in the fishing industry to discuss not only what the hon. member for LaPoile just mentioned, but the whole question of markets in the United States over the next number of years.

MR. NEARY: A supplementary, Mr. Speaker.

MR. SPEAKER: (Simms) A final supplementary, the hon. the member for LaPoile, followed by the the hon. the member for Grand Bank.

MR. NEARY: Would the hon. the Premier indicate whether or not the Newfoundland Government is taking the initiative in finding new markets for Newfoundland fish in Europe and in other places so that we will not be putting all our eggs in one basket and sending the most of our fish to the United States? What steps have the government taken to find new markets for our fish?

MR. SPEAKER: The hon. the Premier.

PREMIER PECKFORD: Mr. Speaker, the Newfoundland Government are always taking initiatives, both in the fishery and the forestry. The Minister of Lands and Forests (Mr. Morgan) just came back from Toronto, where he took the initiative with Abitibi-Price and got a fantastic agreement for the sawmill operators of the Province. Just in the last couple of days, the Deputy Minister of Fisheries, Mr. Slade, was in Spain - about eleven days ago - taking the initiative for opening up new markets in Spain. We have been talking to Italy, we have been talking to France, talking to West Germany. The initiatives we are taking are just phenomenal and I ask the hon. member if any day he wishes to have us list the number of initiatives we take daily, we will be only too glad to present the hon. member's question and the answers to it to the hon. House.

MR. NEARY: I will be asking some more questions about it.

MR. SPEAKER (SIMMS): The hon. member for Grand Bank.

MR. L. THOMAS: Mr. Speaker, again in the absence of the Minister of Justice (Mr. Ottenheimer), I would like to direct a question to the President of the Council (Mr. Marshall). Some time ago the Minister of Justice, speaking to the Canadian Bar Association of Newfoundland, stated that his department was actively involved in discussions with the Federal Government to set up a separate judicial district in Labrador. Could the President of the Council tell me now how this act of discussions are progressing and when we can expect to see a separate judicial district for Labrador, providing a separate district court judge for Labrador.

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

MR. MARSHALL: Mr. Speaker, as the hon. member is aware, there is already a Bill on the Order Paper to give effect to this as far as the Provincial Government is concerned to create another judicial district in Labrador with the centre being actually located in Wabush. So we have taken an initiative along those lines. We have been talking with the Federal Government about it. After the Bill is passed we have great expectations of being able to have the Federal Government implement the necessary steps in order to have this judge up there because we are very, very anxious, this government is particularly anxious about its relationships with Labrador, from the East coast to the Western part of the Province, as it has already indicated by its representations since it has taken over the government and it is already indicated when it held a cabinet meeting for the first time up in Labrador just a little while ago.

MR. SPEAKER: Order, please!

The time for Oral Questions has expired.

NOTICES OF MOTION

MR. SPEAKER: (SIMMS)

The hon. Minister of Finance.

DR. J. COLLINS:

Mr. Speaker, I give notice that I will on tomorrow ask leave to introduce a Bill entitled, "An Act To Amend The Local Authority Guarantee Act, 1957, (No. 2)".

Mr. Speaker, I give notice I will on tomorrow ask leave to resolve the house into a Committee of the Whole to consider certain resolutions in relation to the advancing or guaranteeing of certain loans.

ANSWERS TO QUESTIONS FOR WHICH NOTICE HAS BEEN GIVEN

MR. SPEAKER:

The hon. Minister of Consumer Affairs and Environment.

MRS. NEWHOOK:

Mr. Speaker, a few days ago the hon. member for LaPoile asked me questions regarding disposal sites for oily waste collected and I guess I misunderstood the question because I gave him information on the oily waste collected during the Summer of the oils that washed ashore from the Kurdistan. I think the information he is requesting is the sites that we have designated to deal with further large spills of oil that might happen some time in the

Mrs. Newhook:

future. And I would like to give him the following information;

Our programme is consistent with activity in the other three Atlantic Provinces of Canada's Arctic coastline. And there has been a tentative selection to date of six Island and three Labrador sites. Anticipated too Eastern Avalon and Burin Peninsula, further tentative selections are necessary. Stress selections today are for further study only and the department has not yet made contact to acquire land titles or reserves. Our department may yet refuse the use of any or all of these sites for this purpose should the results of hydro geogological assessments of soil, types and ground water, and such characteristics be unfavourable.

Now, in Labrador the sites are of a different scale due to anticipated volume of recovery of any spill. And one was selected in Wabush, Labrador City, but that site selected has now been refused due to Spring runoff and the water table problem, and an alternate site will have to be considered in 1980. In Churchill Falls a small site is being agreed on, and is in contingency plans. In Goose Bay-Happy Valley, North West River federal and two kilometers from Otter Creek have been tentatively selected. And on the Island we have one to five boundary surveys that have been completed on the following sites, at Daniel's Harbour, a nine hectare site, eight kilometers North of the town and in cut-over area approximately five kilometers East of the Northern Peninsula Highway on forest access roads.

There is one at Howley, a nine hectare site North of the Trans-Canada Highway, eight kilometers West of town access road, and approximately four kilometers on a side road.

At South Brook, Green Bay, a nine hectare site behind and adjacent to existing municipal garbage dumping site.

At Brown's Arm, Sand Cove, nine hectare site behind and adjacent to existing community waste land fill.

MRS. NEWHOOK:

At Clarenville a nine hectare site behind and adjacent to existing community waste land fill.

At Clarenville a nine hectare site adjacent to existing municipal waste disposal site.

And at Coal Brook a nine to ten hectare site approximately three kilometers East of the Trans-Canada Highway on a forest access road, approximately three kilometers North of South Branch River.

The latter was found as a contingency measure, following the discovery of some Kurdistan oil on the Southwest Coast of the Province, and it is not as advanced as the other Island sites. There is sure to be similar activity after the fact to find additional sites closer to an actual spill clean-up site.

Other than field visits by a co-ordinating staff member there has not been any activity on any site for the last ten months or so.

The next steps are the hydro geological assessments, land acquisitions and preparation of site developments and use plans for turnover in the event of an emergency spill. And I would like to say that of sites selected, if there is some adverse public reaction there will be some sort of public relations contact to fully explain to the people who are complaining about the intent and the procedures.

To date, and despite tending in newspapers for surveys of oilywaste sites such as this, public reaction has been received from only one site, and this is the one at Brown's Arm. And it has been based on suspicion and poor information, like they were careful of vapours and explosions and fires and smoke etc. Consideration is being given to future site uses. Nova Scotia and Newfoundland selection criteria are available on request, if you would like to have that. And, hopefully, neither site may ever have to be used from the view point of coastline affects due to spill and clean-up costs.

November 30, 1979

Tape 1510

PK - 3

MR. NEARY:

Does this mean that Nova Scotia

can dump or use these?

MRS. NEWHOOK:

Pardon?

MR. NEARY: Does that mean Nova Scotia can dump, can use these dumps here in Newfoundland?

MRS. NEWHOOK: Oh, no. They have their own collection sites. And as far as I know, I have been advised that these sites are not located in designated berry picking areas.

MR. NEARY: (Inaudible)

MRS. NEWHOOK: Yes. Indeed yes.

On motion that the House resolve itself into a Committee of the Whole, on Bill 58, Mr. Speaker left the Chair.

COMMITTEE OF THE WHOLE

MR. CHAIRMAN: (Baird) Order, please!

MR. ROBERTS: Your Honour, when we adjourned at 5:30 p.m. yesterday the minister had responded to a matter which I had raised. To recapitulate the matter very briefly I had again raised an objection with respect to an amendment that was made into law by the House three or four years ago embodying a policy which I find offensive and the policy is this, where a councillor is dismissed by the minister or by the Cabinet - I am not sure who has the power of dismissal, it is irrelevant, it is a political power and it rests either with the minister himself or with the Cabinet, the Lieutenant-Governor in council, and where that happens the minister may dismiss a councillor or more than one councillor and he is then prohibited, that councillor is prohibited, from running for a period, I believe, of two years. I think that is specified in the act.

MR. THOMS: Yes it is. Section 519.

MR. ROBERTS: Section 519 my friend from Grand Bank (Mr. Thoms) tells me. The policy, I would suggest, is very offensive. I could argue against the Cabinet having the power to dismiss but that is a long accepted procedure in Newfoundland and Labrador and for all I know a comparable power may exist in other provinces so at this stage I am not objecting to that. That is not a departure. But the other matter, I think, really ought to be reconsidered. Now I do not intend to have a long drawn out debate on it and I would suggest to the minister that it is not a partisan matter. I do not think it matters

MR. ROBERTS:

whether one is a liberal or a Tory, when it comes to this kind of question it is not a matter of philosophical approach or of attitudes or of beliefs or of political credos, it is simply a matter of administrative practice and of what is right and proper. I would suggest to the minister that in effect what happens, what happens when this amendment is used, is that a person is deprived of office and is then sentenced to a penalty, the penalty being the loss of a portion of his rights as a citizen, that portion of his rights which allows any individual to put forth his name as a candidate for election and to stand for election. He is sentenced to that without ever having a hearing, without ever being charged with anything, I might add. The minister has the power, or the Cabinet - the power to dismiss does not require a hearing. In that sense it is a denial of national justice and it is probably open to a certiorari - well, it would not be a prohibition - to a certiorari application. I do not know if that has ever been tested in our courts but it would probably be open to a certiorari application but even if it is not, it certainly does not require a hearing. It is certainly a denial in that sense of the national justice and the minister can then go beyond that and not simply deprive the man of the office, but he deprives him of his opportunity to vindicate himself. Now there is no court in this land that can impose a penalty on a citizen until that citizen is convicted of a crime or an offence

MR. ROBERTS:

as specified in an act. And there

is no court that can convict a citizen of an offence without a hearing. And yet here is a clear instance where the government has taken on to themselves a power to punish a citizen. And I would suggest, Mr. Chairman, that depriving a man or a woman of the right to run for public office is a punishment. There are those who say that being elected is a punishment. It is only those who have been elected that maintain that. I think it is unfair and I think it is wrong.

The minister, when he spoke yesterday afternoon, said that - as I get it, as the only justification he could put forward - he said, 'Look, what happens if a council does something that is wildly popular but wildly improper' - and I think that is a fair summary of the minister's position. He said, 'They might do something wildly improper and then we dismiss them because they have acted in an improper fashion and because it is wildly popular, they will all be re-elected. Well, now, that may or may not be a likely or a possible scenario. I do not think it is possible because, of course, the Cabinet - it is certainly possible that a council may do something that is wildly improper and also wildly popular - that is quite possible. But I would suggest that the minister has many controls in addition to that. If a council does something wildly improper, it may well be appropriate to dismiss the council, but the minister can then remedy the wildly improper act by any one of a number of powers vested in him by this legislation. I think he would agree with that. The minister shakes his head. The minister has controls over municipalities, controls beyond controls, and if he does not have adequate controls, he could always bring in a special act, because we have had a law in the House to put a particular apartment building into receivership. Back in 1973, I think, with the unanimous support of the House - What was it? - the Lakeside? - some apartment building here in St. John's was in vast difficulties and the tenants were being subjected to harassment, a dispute between owners and it was going to take a while to resolve it. And if you would go to the statute books, Mr. Chairman, you will find "An Act To Appoint A Receiver" - I think it

MR. ROBERTS: was Lakeside Apartments Limited - or whatever it was called - just one single apartment building. And if we have done that we can surely have a bill, an act, to deal with a particular council. So all I would say is the minister has not dealt with the point on its merits. I am aware of no other province in Canada that has a similar power, nor has the minister cited any to us. Equally, I am not aware of any provision anywhere in the laws of this country whereby a citizen can be convicted and sentenced without a hearing, without any recourse of appeal and in addition, be denied even the opportunity to seek vindication from the hands of his constituents or the electorate who return him to office.

I would add one other point to that, and that is that I understand this is a matter in which the Federation of Municipalities have made repeated representations to the minister and to his predecessors. I am also told that the minister indicated that the government were prepared to change their position on that and that they would - well, the minister shakes his head. I can only tell him what I have been told. I was not present at any meeting where that was said - I said I have been told that. It is heresy in the legal sense but was passed to me in good faith and I pass it on in good faith. If what I say is incorrect, the minister will have the opportunity to state the position as he understands it. But I have been told that the Federation have been told by the minister or perhaps by one of his predecessors - but by the minister, whoever he was - whether it was the hon. gentleman from Mount Pearl (Mr. N. Windsor) or whether it was one of the other members who held that portfolio from time to time, I know not - but that the government did indicate they were prepared to change their position and prepared to strike this particular feature from the legislation. Now, I think that is what ought to be done. I still think it is what ought to be done. I would hope the minister could at least respond to the merits of the question. His defence, I would argue, Mr. Chairman, is really not a relevant one and not a very strong one. It is not strong in itself, and even if it is strong in itself, it is not relevant to the point which has been made.

MR. ROBERTS: Quite simply, and to leave it at this, Mr. Chairman, for the time being, here we have a case where a political officer, a minister - and I do not say that in any term of opprobrium, a political officer to me is a high office and one of responsibility and one of stature - but a political officer can dismiss a person without any hearing, without any appeal, without any charge being laid, without any discussion, without anything other than a motion of the minister or a motion of the Cabinet in the form of an Order in Council, I guess, or a directive of Cabinet, and that citizen is

MR. E. ROBERTS: denied any opportunity anywhere to seek recourse and if the minister says that power would not be used in that way I would simply say to him that it has been used in that way, it was used in that way for sheer partisan political purposes. In fact, that is why that amendment came in back in, I do not know, 1975, 1976 - it was brought in by Mr. William Doody then, he was a minister it was brought in simply to punish a gentleman who real offence was the timidity to run against Mr. Doody in the - was it Harbour Main, Bell Island in 1975? - yes, Harbour Main - Bell Island the district was then called, the redistribution was before the election.

And that was the real measure of it. It is just one of these things that ought never to have gone ahead, it ought not to have been put on the statute books then, it ought not to be on the statute books now, it ought to be taken out of this act, Sir.

MR. CHAIRMAN: (Mr. Baird) The hon. Minister of Municipal Affairs and Housing.

MR. H. WINDSOR: Did you have something you wanted to -

MR. L. THOMAS: Mr. Chairman, I just -

MR. CHAIRMAN: The hon. member for Grand Bank.

MR. L. THOMAS: I will not take up very much time of the house in connection with this particular section. I, too, find the section repugnant. I would find any section of any act where one person or Cabinet or whatever puts himself in a position where he is the judge, jury and executioner. In this particular case, it not only refers - my friend was talking about where a councillor is dismissed, does not say, dismissed with cause or what has got to cause the dismissal. The particular section that deals with qualification of councillors, you know, has a provision whereby if the whole council is dismissed then neither one of those councillors are permitted to run again for office. Now, you could have a council dismissed where, you know, it is not the fault of all the councillors, the reason for the dismissal, you know,

MR. L. THOMS: but still every councillor as I read this particular section of the act is barred from running again.

MR. W. MARSHALL: The hon. member is talking about Section 519?

MR. L. THOMS: 519.

MR. W. MARSHALL: I do not want to preclude debate but I just wondered whether you want to debate it now or when 519 is out.

MR. E. ROBERTS: Only do it once.

MR. W. MARSHALL: Okay.

MR. L. THOMS: And this is what we were on when we left the other day.

I am not going to spend too much time on it, I just want to record my feelings towards this particular section and I do not like the section, I do not like a section which is set up where a person can be dismissed without a hearing, just unceremoniously dismissed. I think the minister should certainly consider seriously deleting that particular qualification, it can be done very easily, of course, it is just a matter of 519 Section 2 or 3, whatever, under the additional qualifications that are in there or the disqualifications that are in there.

I think, probably, you know, it is my legal training more than anything else which maybe makes this particular section so repugnant. Certainly, in a democratic society one should not be dismissed without first being able to state his side of the story. And I think this is what happens right here. And like I say, it is not just a councillor. Where a council is dismissed then neither one of those councillors can run for council within the two year period, that is the way I read the section of the act.

MR. CHAIRMAN: The hon. Minister of Municipal Affairs and Housing.

MR. H. WINDSOR: Mr. Chairman, I can only reiterate what I have already said on this particular point. I accept the arguments of the hon. gentlemen, of course, and similar concerns were expressed by the Federation. There was no agreement, as the hon. gentleman from the Strait of Belle Isle (Mr. E. Roberts) indicated, that we would change it. In fact, when we completed our meeting the impression we had on it was that the federation were satisfied with the explanations that we gave, but we did discuss it with them.

All I can say, Mr. Chairman, is that, and I reiterate, that a council that is dismissed, is dismissed by the government of the Province not by the minister, as has been said, by the government. The minister

MR. WINDSOR: does not have authority to dismiss a council, or a councillor. The hon. gentleman has concerns that all councillors may not be guilty of whatever they are being dismissed for. In that case they would not be dismissed. We would dismiss one or two or three or four, or however many needed to be dismissed, the number of people who were involved in a particular difficulty. And so it does not effect somebody, hopefully, who is not involved in a particular incident. All we are saying, Mr. Chairman, is that the council being dismissed by the Government of the Province, or an individual, should have a cooling off period and we would hate to see the dismissal of a councillor or an individual where that person was re-elected or whatever and we are back where we started.

The hon. gentleman said that we have all kinds of control over councillors. There are a lot of things that we do not have controls over, and this particular piece of legislation is indeed giving a lot more autonomy to councils. So all we are saying is that we are the authorities and if the autonomies of the act are abused that there must be room to take action.

MR. CHAIRMAN (Baird): The hon. member for the Strait of Belle Isle.

MR. ROBERTS: Mr. Chairman, I am not going to flog a horse, it by the minister's act is a dead horse. It is just going to have to remain unresolved and in due course, when the wheels of fate change in the appropriate fashion, you know, then the amendment will be made. But I simply want to say the minister showed how utterly inconsistent he is. Of course there is no rule from the House of Assembly. If the hon. minister were to be dismissed tomorrow from the House of Assembly and I am not suggesting he should be, I certainly do not think he would be, but if that could - and that certainly has happened, there is nothing at all. There is a clause in the criminal code, if the hon. gentleman was sentenced to a term of more than five years in jail then his seat is void and I do not believe you can run for election. I am not even sure of that. I know that in

MR. ROBERTS: Ireland in the 1980s the Irish Nationalist MPs were regularly elected and re-elected while they were languishing in Her Majesty's prisons. This happened - Carnell, for example, was elected from jail and a number of others were regularly elected, expelled and re-elected by their constituents.

You know there is no barrier in this House. If the hon. gentleman were to be dismissed from the House tomorrow, which can be done at any time by a majority of the House, it can put any member out. It happened in Canada thirty years ago with Paul Rose. There are all sorts of precedents, and then if a by-election were to be called a couple of months down the road, the hon. gentleman could stand for re-election and if he were returned by his constituents would have the same right to take a seat in the House as any other member returned in election.

But it is just inconsistent. It is wrong, defensive. It is anti-democratic. But if the minister is going to be stubborn about it, as he is, there is nothing we can do except to record our position and say that in due course justice will be done.

On motion clauses 51 through 60, carried.

MR. CHAIRMAN: Shall clauses 61 through 70 carry?

MR. ROBERTS: I want to ask a question on pensions.

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

MR. ROBERTS: 64 I believe it is, well 64, 65, 66, it is sort of a little code on pensions, probably the only place in the act where it appears, there may or may not be similar provisions for regional government, but it does not matter anyway. We are talking here - we are in division C, which is the constitution of a council. And these are the sections that will apply to by far the greater part of the municipal government bodies throughout this Province in the future.

MR. ROBERTS: Pension plans are a great idea. They are an essential part of the compensation of any employee. They also have the ability to bankrupt the authority entering into it. I think the Minister of Finance would agree that if our balance sheet as a Province had to - I do not know what he is reading, one in three, it sounds like a description of the Premier. Or is it three in one? But I think the Minister of Finance would agree with me that when we file a prospectus in the bond markets down in the USA, or wherever we go, you know, we will take the United States because SEC have, I think, the most advanced disclosure in reporting requirements in North America, probably in the world. But if we had to disclose on that our liabilities as a Province, in respect of the pension plans, then the balance sheet would look even considerably more grimmer than it does now. I think the minister would agree with that.

There was a royal commission about - there have been at least two on pensions. There was one about twenty years ago with the late Mr. Gregory O'Grady as chairman. And then subsequent there was one, I believe with Mr. George Dyer, who was then - I think he was still at that point the Deputy Minister

MR. ROBERTS: of Labour who had subsequently retired from the public service but as far as I know is still alive, they looked at this question of pension liabilities. They were frightened. Now, this is not the place to go into the Province's commitments, but I want to raise this question in respect of councils. There does not appear to be in here any controls at all with respect to pensions. It gives a council the power to set up a pension plan and to decide how they are to be carried out, and they can be carried out either by an arrangement with a private insurance company or by a contract with the federal government under the annuities legislation or by contract with the government of the Province.

It does not give the council - and I think this is a good thing, I will give the minister credit because I am sure he particularly directed this - it does not give a council the power to set up their own plan on their own hook. But I want to know what controls there will be to ensure that a pension that is set up is - I am not saying, because I am not sure, that they ought to be funded, I think that is an argument that better brains than any of ours have tangled with and there is no real resolution to the question of whether pensions ought to be fully funded or not.

Your Honour is aware of the various schools of thought. The Canada Pension Plan was originally set up as a fully funded plan and there was a meeting in 1964 in Quebec City at which the pension plan ceased to be fully funded and is now partially funded and partially not funded. The result is that we are all told that about the time anybody my age or younger become eligible for the Canada Pension, in about the year 2000 or 2001 and 2002 or somewhere around there, that the pension plan will be bankrupt. Well, of course, it will not go bankrupt but the contributions will have to be raised or there will have to be contributions made from sources other than the people enrolled in the pension plan.

MR. ROBERTS: So I wonder if the minister could tell us a little bit about this. It is not a major point of principle, but it is an important point in administration. I do not know whether many councils in Newfoundland now have pension plans. I assume the City of St. John's does because I see every now and then in the newspaper reports of the weekly council notes; council voted X number of dollars for pension and so on. If there are, are they funded and are arrangements made to protect them? Because it is a great tragedy, and we have seen it happen in Newfoundland, where people spend their lives working and they may be making a contribution to a pension plan or maybe they do not, but they understand they have a pension plan and then in due course retirement comes up and subsequently the company paying the pensions goes bankrupt or goes out of business. It does not even have to go bankrupt, just wind up.

I had one, a member of my family who was involved, the Royal Stores. Many people spent their lives there, there was a pension plan in place and the employees retired and people drew their pensions under it, there was never any question, but in due course the Royal Stores wound up their business and went out of business. I do not even know if there is a company today called The Royal Stores Limited. I think it was the original company or Harvey is number one. If you go down to the registry either Harvey's or the Royal Stores was company number one and company number two incorporated in Newfoundland.

MR. MARSHALL: It is in receivership.

MR. ROBERTS: It is in receivership now, is it? I thank my learned friend. He may have run across it in a professional sense. But in any event, they are not paying their pensions, I understand. There was no money available to pay the pensions so the result was that a lot of people who had counted on - they were fairly modest pensions, thirty, forty, fifty dollars a month, much more modest now than they were when they were established twenty, thirty, forty years ago, but a lot of people who would have counted on that as a portion of their income are not able

MR. ROBERTS: to receive it. That is an ever present danger with pension plans. It is not so much a danger presumably with governments because our pension plans are not funded, I am not sure we ever could afford to fund them and even if we could, I am not so sure we should because we just accept them as ongoing obligations of the government and the Minister of Finance each year has to set aside so many millions and I suspect that the minister, if he has had some studies done, they will cause nightmares down the road because the median age in the people enrolled in pension plans in this Province, Mr. Chairman, is quite low. It is going up all the time, but we must be about thirty years away from the big bang on the pension plan of this Province at which stage who ever happens to have the good fortune to be Minister of Finance then is just going to have the roof fall in on him.

I am sorry. Did the hon. the member for St. John's East (Mr. Marshall) want to say something?

MR. MARSHALL: (Inaudible).

MR. ROBERTS: He looked like he was gathering himself to launch into something or other.

So I wonder if the minister could touch upon it? It is an important question and this, I think, is the first time - am I correct? - we have

MR. E. ROBERTS:

ever given councils the power to do this. So it is a new departure and it is worth some discussion.

MR. CHAIRMAN (BAIRD): The hon. Minister of Municipal Affairs.

MR. H. WINDSOR: Mr. Chairman, let me say first of all that this is an extremely flexible section of the Act. It gives complete control to the council. As the hon. gentleman says, there does not appear to be any control by the minister and indeed there is none. It gives councils the absolute right to enter into a pension plan or a group insurance, which is the next section; we cover both of them the same time, they both apply equally. It is a very flexible provision that allows for partial payment by council, or allows council the right to enter into agreements with the Province; it also allows portability from municipality to municipality because, for instance, a lot of town managers move from municipality to municipality. So under this particular section of the Act they can have a portable pension plan and be able to take their pension scheme with them, assuming both municipalities are part of that same pension plan. Basically this has been sought by municipalities, in particular the Federation, for some time. It is flexible enough as well, particularly in the group insurance. I think the concept here is that the Federation of Municipalities will make available a group insurance scheme which all municipalities can take part in, that sort of thing.

It is extremely flexible. As the hon. gentleman says, it does provide council the opportunity, the right to enter into an agreement. They can be financially burdensome on councils, of course, but we are giving council full control of their finances. We are saying in the next section we are about to come to that budgets are no longer to be approved by the minister and that council can set their own budget. In other words, their financial affairs are entirely their own; this is just another area where they will have complete control over the finances and can enter into contracts with the government or the Government of Canada or whomever they wish to provide pensions and group insurance to their employees, the same benefits as the civil servants get; for instance, that sort of thing.

MR. CHAIRMAN (BAIRD): The hon. member for the Straits of Belle Isla.

MR. ROBERTS: None of us would have any objection at all, in fact we would welcome, to put it a little more strongly, the principle that councils ought to be masters in their own houses. But I think it is fair to say that the Government of the Province cannot be like Pontius Pilate and wash its hands -

MR. WINDSOR: I have no real (inaudible) to the council.

MR. ROBERTS: I know the minister may or may not pay any attention to what I say, but at least I am owed the courtesy of him listening to me. I do not mind him consulting with his colleague, I think that is to the benefit of both of them. The minister, I know, is familiar with the old story told in Corner Brook that So-and-So moved from Corner Brook to St. John's thereby increasing the intellectual capacity of both places. I think the consultation between the two hon. gentlemen falls in that category.

MR. WINDSOR: Do not be nasty.

MR. ROBERTS: I am not being nasty at all. I am being very, very pleasant indeed, I may add at considerable effort given the minister's attitude, but that is another story.

But anyway what I was saying was that the principle is a good one of councils being masters in their own houses financially. Even though, of course, they are still subject to be flicked out without any recourse of their electorate. I mean, there is this sword of Damocles hovering over every council with a very thin thread and the minister has the scissors to cut that thread in his hand and so the sword can descend at any time. I mean, no councillor throughout Newfoundland and Labrador should be under any illusion, when this Bill becomes law, that he is any more independent. He still has to answer to the political master, the Cabinet, and at any time the Cabinet can give him the flick, he does not even have the recourse of going to his electorate and saying, "Who do you want, me or the Cabinet?" However, we have discussed that. I will not flog that particular horse again, not here anyway, not today. I do want to say though that the government cannot just wash its hands, it cannot pull a Pontius Pilate.

MR. E. ROBERTS: The hon. member for St. John's East
(Mr. Marshall) is smiling in a -

MR. MARSHALL: (Inaudible).

MR. E. ROBERTS: Well, I am sure they are enjoying
this immensely, are they? They have -

AN HON. MEMBER: They have gift for you.

MR. E. ROBERTS: They have a gift for me, the red rose.
I had a note from the Editor of Hansard which I think was quite witty.
"A recent chat with the Hansard renderings of your recent remarks in
the house leaves to conclude that our motto should be - our motto, not
mine - 'too air is humane!' I think that is a very witty thing indeed.
But anyway, strategy is strategy and we must do our duty and the hon.
gentleman opposite tries to do his as best he can in his humble way.
I do not know if the Speaker is beckoning to me. Anyway, I do wish,
Your honour, that you would not allow these disruptions and irrelevancies
to come in, I mean, it is such a terrible thing, I mean, it takes us away
from the pith and the substance of what is going on around here. The
point is this, and I assure the minister there is a point,

MR. ROBERTS: that the government just cannot wash their hands like Pontius Pilate. The municipalities in this Province exist in law as creatures of this House of Assembly - and I do not use that word "creature" in any offensive sense, although I realize to some it has that connotation - but they exist only because we have passed statutes in the House that give them corporate life. In that sense, every company, Newfoundland company, at least, in the Province is a creature of this House.

 And the government does have an overall supervisory responsibility, even short of a legal one, because, of course, the Government of the Province is responsible to the administration of the municipal affairs in the Province, in a supervisory sense.

 So I wonder if the minister could tell us what kind of - would there be any checks on these pension plans? Because these have the potential, you know, it may seem like a small point, Mr. Chairman, unless Your Honour casts Your Honour's honourable mind to it, at which stage Your Honour will realize quickly that these plans - group insurance, I would say is a little different, because, of course, group insurance tend to be short-term contracts and insurance companies only write them for a year or two or three, and they have actuarial bases on them and so forth. And nobody, to my knowledge, but insurance companies writes group insurance plans, and an insurance company would do so only if they believe it to be financially sound. But pension plans are - there are many pension plans around which I can assure the minister are not actuarially sound. In fact, one of the real reforms for the Cabinet to bring in, if they are looking for, as I suspect they are, for "reforms" that do not cost the treasury any money - and that is surely the underlying strategy of the present administration at this stage in the game - they might look at legislation to govern pensions plans in this Province, to make them portable, thoroughly portable, to make them vest, at some point, because we have the difficulty of pension plans where people punch in twenty or thirty years and it turns out that they 'ain't got nothin', at

Mr. Roberts: out that they 'ain't got nothin', you know, at no point was it vested, and to provide for some scheme of regulation and governance and to make them reasonably stable. But then again that is another topic.

Could the minister tell us, you know, whether there is going to be any supervision at all? They are not even required, as I see it, and I may not see it, but as I do see it they are not required even to file a copy of their pension plan with anybody. You know, presumably they will have one themselves. And maybe at the same time - and I do not like to ask two questions at once because it gives the minister the opportunity to answer only the second and not the first, but fortunately in Committee, Your Honour, we can come back again, and we are prepared to - can the minister tell us whether any thought has been given to doing, in respect of municipalities, what has been done in respect of hospitals in this Province. Now I am not sure whether it is run by - I do not think it is run by the Newfoundland Hospital Association - maybe the Minister of Finance (Dr. J. Collins) could help or perhaps the gentleman for Exploits (Dr. Twomey), who I suspect to be a member of that plan - there is a common plan for all the medical/hospital employees in the Province. I think it replaces the old Newfoundland Hospital Association Plan. And I think it is either the Public Service plan or it somehow merged in with the Public Service plan. And, for example, the IGA employees, there was a pension plan, that is being wound up and merged into a - but the gentleman for Exploits, what I am asking is whether the cottages hospital employees - no, the cottage hospital employees are a bad example because they are government employees directly. Whether, say the employees of the Grand Falls Hospital, Central Newfoundland Hospital with which the gentleman for Exploits would be familiar, he has worked there for years, whether the pension plan in which they are enrolled, is it the government plan or is it an NHA plan or what? Does he know?

DR. TWOMEY: The one in Grand Falls is the Newfoundland Hospital Association. The one in Botwood Hospital is a Civil Service pension.

MR. ROBERTS: Well, I thank my friend. The Botwood one, of course, is because the employees at Botwood are civil servants. They are public service in the same way as an employee of the Department of Transportation and Communications operating a snow-plow. The one in Grand Falls, I understood the NHA was being merged into the government plan.

DR. TWOMEY: They are thinking of doing that.

MR. ROBERTS: I see. I thank my friend because I am not able to participate in either so I do not. But we, as the hon. gentleman knows, have a plan here in this House which ain't so bad at all in fact. The only thing is you have to get out of the House to collect it, but that is arranged sometimes easily and sometimes painfully.

Mr. Chairman, could the minister tell us whether they propose, they being the Federation of Municipalities, a Province-wide plan? They seem to make

MR. ROBERTS:

make very good sense to have a big plan, all the municipalities in on it, all of them contributing an equal proportion. And that would also, of course, solve the portability - or at least go a long way towards solving the portability issue. I agree completely, I think it is a wise provision he is putting in here that a - you know, it is no good having a plan unless it is portable, because employees, particularly the more skilled people, the town managers and so forth, do move and will continue to move. In fact, there is almost a progression, is there not? They start in a smaller community and then a couple of years down the road they move to a larger community, a couple of years down the road they move to a larger one still. And that is fair enough, that is well and good. The hon. gentleman, himself, went from being the Town Engineer in Mount Pearl to being the minister in charge of all the towns in Newfoundland and Labrador and he will probably be back in due course somewhere doing something else as the normal thing is. But could he tell us what arrangements does he propose to supervise this? Because, you know, it may seem like a minor - point but it is not, Mr. Chairman. These pension plans do have, first of all, the ability seriously to affect the financial standing of every municipality in Newfoundland and Labrador. The liability these pension plans build up are whopping. I would venture to say today that the Province of Newfoundland and Labrador, as a province, probably has liabilities in excess of \$1 billion, to take a figure out of thin air, but I have no doubt that it would be an under estimate, at least \$1,000 million in respective pensions, is what it would cost today if we had to go and fund the pension plan. You know, the pension liabilities in respect of MHAs - a guy gets elected in his thirties, as happens more and more these days - the pension liabilities in respect of those MHAs run to several hundred thousand dollars each.

MR. RIDEOUT:

Some get elected in his

twenties.

MR. ROBERTS:

Some get elected in their twenties.

AN HON. MEMBER:

Hear, hear!

MR. ROBERTS:

I am not sure who the youngest member ever

elected was.

MR. RIDEOUT: Rod Moores.

MR. ROBERTS: My friend from Carbonear. How old was he?

AN HON. MEMBER: He was only 26. He was the first Canadian born Newfoundlander.

MR. ROBERTS: He may have been the first Canadian born. I was elected at twenty-six and the gentleman from Twillingate (Mr. W. H. Rowe) was elected at twenty-five, and that may not be the youngest.

AN HON. MEMBER: The Minister of Mines and Energy (Mr. Barry) was nineteen.

MR. ROBERTS: Oh, no! Maybe intellectually but not chronologically. No, he did not come in until 1972. And he and I are roughly contemporaries in age. I mean, Thoms, Fowler, Rowe, Barry - he might be a year or so younger than the gentleman from Twillingate, but again they are roughly contemporaries at the Bar.

AN HON. MEMBER: The member for Twillingate was.

MR. ROBERTS: The member for Twillingate was younger than I. We were elected in 1966. He was twenty-five and I had just passed - the election was the 6th of September and I turned twenty-six, I believe, on the 1st of September.

But the pension liabilities being built up are just incredible, you know, they are easily \$500,000 each.

AN HON. MEMBER: (Inaudible) I am sorry.

MR. ROBERTS: No, no! Well, if my hon. friend was talking to my friend from Baie Verte - White Bay (Mr. Rideout) he was getting better counsel and conversation than he normally gets from his colleagues.

AN HON. MEMBER: (Inaudible) buddy over there.

MR. RIDEOUT: No, it is for your colleague.

MR. ROBERTS: My hon. friend from Bonavista South (Mr. Morgan) needs all the gifts he can get and this one looks like a bottle of milk to me.

AN HON. MEMBER: (Inaudible) secrets.

MR. ROBERTS: I am not telling any secrets. You can tell it is a bottle of milk - it is white.

Anyway, I do wish, Sir, that the gentleman from Bonavista South (Mr. Morgan) would pay attention to the rules of this House and not attempt to divert me like this. I apologize, Your Honour, I fear I fall prey to temptation, but some things are too tempting to resist, you know, just too tempting.

MR. RIDEOUT: Like bottles of milk.

MR. ROBERTS: But in any event, I stray.

I do want the minister to tell us what, if any, supervisory provisions will come into effect. I do not want to see it twenty years down the road where some municipality goes spectacularly bankrupt or into a form of bankruptcy and the Province has to bail out a pension plan for a couple of million dollars. That is a very easily foreseeable contingency and it is one against which we would be wise to take guard now.

MR. CHAIRMAN: (Baird) The hon. the Minister of Municipal Affairs and Housing.

MR. N. WINDSOR: Mr. Chairman, again I reiterate that there are no direct controls on this, that the thing is portable. Let me deal first of all with the issue the hon. gentleman brought up of a pension plan by the Federation. I think that is their intention. But this is flexible, I mean, a municipality is not bound to take part in that pension plan if one is offered by the Federation. They can enter into their own pension plan with a private insurance company or perhaps join in the government pension plan or whatever. So it is entirely flexible in that regard. There are no direct controls, as the hon. gentleman said. There is no provision here that a copy of that pension plan must be sent to the minister or that the minister has the right to go in and inspect and do an actuarial study on the pension plan or whatever. However, at the end of each year, of course,

MR. N. WINDSOR:

the Auditor General or some auditing firm will do an audit of the books and hopefully he will have a look at the pension liability as part of his audit.

AN HON. MEMBER: Not a (inaudible).

MR. N. WINDSOR: No, he would at least have a cursory look at the pension liabilities. Obviously if the town is involved with the federation pension plan, I would think that the federation will be having that well controlled. The financial implications that the hon. gentleman talks about are at the end of the day where the department has the authority to appoint an administrator or whatever if a municipality gets into financial problems. I realize that may be too far down the road, as the hon. gentleman says, when we realize that we have a \$2 million or \$3 million liability on pensions in a municipality. But there are no direct controls as such. There is no provision that the minister can go in and have an actuarial study done. Hopefully, however, the municipalities will be setting up pensions plans in accordance with sound financial practices.

MR. CHAIRMAN: (Saird) Hon. member for the Strait of Belle Isle.

MR. ROBERTS: Hopefully is a pretty weak reed upon which to rely. The minister says 'hopefully' the municipalities will be doing it and I have no doubt that most municipalities will. Most of them are staffed by eminently responsible people and will only contenance responsible acts. Even responsible people can be mistaken, of course, even reasonable people can make mistakes. That is not uncommon and, of course, the minister himself just half an hour ago was telling the committee that he sees a situation where councils might do wildly improper things that are wildly popular and here is the sort of thing that could easily, very easily, come up. So again there is no point arguing it. All we can do is record our concerns and we will see what happens. But I would ask the minister if it might not be a thought to require a municipality that, before they go into a pension plan, there be some evidence that it be actuarially sound. Now if they enter into one with a private company. I have no fear

MR. ROBERTS: because private companies are governed by , I think, quite effective legislation, with a Superintendent of Insurance, Mr. French; there is a comparable official in Ottawa and I think things are under control there. So if a private company, Mutual Life, Confederation Life or one of these people, enters into a plan with the town of Mount Pearl or the town of St. Anthony, then I do not think we need to be too concerned because they will make sure, the company will make sure there is enough money coming in to fund the liabilities. But those are expensive plans, as the minister will agree, so I wonder if there is any merit, and I think there is some merit, in fact, in imposing upon the municipality a requirement that before they enter into a very long-term contract - these are extraordinary long-term contracts; in theory they go on near enough forever. The rule against perpetuities - my learned friend from Grand Bank (Mr. Thoms) - does the rule against perpetuities apply to a contract? No. It vests immediately, does it not? On pension contracts. They can go on forever.

AN HON. MEMBER: (Inaudible)

MR. ROBERTS: I have no idea, but they can go on forever and in fact they are intended to go on forever. The Canada Pension Plan was presumed to go on as long as there was a Canada, and hopefully that will be a long, long time to come. So is there any merit in requiring municipalities to submit some evidence to an official and to the minister that before they enter a pension plan it is actually sound? I may seem to be harping on a small point, but one of the things I have seen in the number of years I have been involved - it is not a matter of any particular note or achievement on my side - but I have had an opportunity to see the public service or the public affairs of this Province from as many view points or vantage points as most people can ever get, some of them pleasant and some of them unpleasant, there they are. We have whacked through in this Province pension plan after pension plan after pension plan upon pension plan, and it does not cause me to stay up nights losing sleep but I will tell you it is a matter that ought to require some concern from all of the people concerned with the finances of this Province and

MR. ROBERTS: that is the ever increasing pension liabilities. The Minister of Finance (Dr. Collins), I do not know if he has ever had a look at it, but I am sure there are some projections around, down in the department somewhere, of what we are going to have to pay out next year or in five, ten or fifteen years down the road in respect of pensions to teachers. They have asked, I think, to have their fund funded, have they not? They want to have it funded and not as it now operates. In respect of the public service and all these other plans, large parts of them are beyond the government's ken. Did not hydro make a deal,

MR. ROBERTS: Newfoundland and Labrador Hydro, which has its own pension plan? It has made a couple of deals with some of its former employees, which are hardly actuarially sound. They may be defensible, they may be acceptable, but they certainly are not actuarially sound and of course in the long run Cape St. Mary's pays for all. It all comes back to the one provincial treasury. So I wonder if there is some merit in perhaps the minister requiring that before a council enter into a pension plan it be actuarially sound and that there be some demonstration of this. Because it is too late down the road when people have accepted obligations, when people expect pensions, council might not be able to afford them, and you know who is going to end up having to pay for them, do you not? I mean there is no question. We can say we are not legally responsible but you know who is going to have to end up paying the employees of the town of Middle Scratch Tickle the pensions that they have worked for for thirty years and contributed for for thirty years and when the time comes to go they discover that Middle Scratch Tickle is insolvent and cannot pay the pensions. So what about that?

MR. CHAIRMAN (Baird): The hon. Minister of Municipal Affairs and Housing.

MR. WINDSOR: Mr. Chairman, the hon. gentleman may well know more about pensions than I do.

MR. ROBERTS: I know more about most things than the hon. gentleman does.

MR. WINDSOR: I doubt that.
As I see it, there is a certain amount of protection here in that, as the hon. gentleman said himself, a private company obviously has to - it would have to be a registered pension plan and there must be some protection afforded by the provincial pension officer in looking at these pensions before they are registered.

MR. ROBERTS: There is no requirement that any pension plan be registered with the Province. The hon. gentleman and I can form Windsor and Roberts tomorrow and set up a pension plan. The

MR. ROBERTS: only registration -

MR. THOMS: Should that not be Roberts and Windsor?

MR. ROBERTS: No, Windsor and Roberts, the first shall be last. But the only registration of pension plans that I am aware of is for purposes under the Income Tax Act. You get an RRSP, and that is the federal authority and that is a different ball of wax altogether.

MR. WINDSOR: What we are talking about here, I think, we are talking about a contract with either a private company, which the hon. gentleman said would afford compensation -

MR. ROBERTS: I have no problem with that. I think that is -

MR. WINDSOR: And the other two would be with the Government of Canada or the Province. So obviously our pension plans are well controlled. The other controls we have, we have our finance officers who are continuously doing spot checks in municipalities. They could very well, if they thought there was a reason to be concerned about this, they could bring it to the minister's attention and the minister could take some action then to have a look at it. Other than that I do not think it is a major problem, The hon. gentleman's point is well taken. I am not overly concerned about it. I guess we will have to see as we go down the road.

On motion clauses 61 through 70, carried.

MR. CHAIRMAN: Shall clauses 71 through 80 carry?
The hon. Minister of Municipal Affairs and Housing.

AN HON. MEMBER: Not too fast.

MR. RIDEOUT: Slow, Your Honour.

MR. WINDSOR: My colleague, the President of the Council will be making an amendment shortly. I would like to explain. Hon. gentlemen opposite have a copy of it. It is an amendment to clause 80 - 1

MR. WINDSOR: that the words "one month" be struck out and the words "five months" be substituted. Section 80 - 1, would then read, "The council shall cause to have prepared and adopted within five months of the end of each financial year a financial statement showing a full and detailed balance sheet and a statement of the revenue and expenditure of the council." As read it was a one month thing, I think, that was just a typographical error.

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

MR. MARSHALL: Mr. Chairman, I can only add to it. It reflects the practicalities of life really because it is very difficult to get a statement from any auditor one month after the end of the financial year. Even five months must be stretching it, but we know we cannot make it twelve months.

MR. ROBERTS: The only people slower than auditors are lawyers.

MR. WINDSOR: Mr. Chairman, if I could just clarify that. We are not talking about the audited statement here. We are talking about the financial statement which could be done up by the town clerk. It is just a statement of -

MR. ROBERTS: That should be done within thirty day. That should be done current.

MR. WINDSOR: It should be, but I am afraid in many of our municipalities it will not be until the auditor comes in and actually does his audit.

MR. ROBERTS: Anyone running a business who does not get statements -

MR. WINDSOR: Section 86 is the section which deals with the time and completion of the audit and gives the auditor five months to complete it. All we are saying is that this one should be the same.

MR. ROBERTS: I do not argue, but I mean anybody running a business, you know, would demand a statement within thirty days or, in fact, he would have his accountant on the deck.

MR. WINDSOR: In most of our municipalities, particularly the larger ones, we would indeed. But many of our municipalities have a part-time town clerk -

MR. ROBERTS: Some things ongoing we would -

MR. WINDSOR: Really we are not going to get that kind of information on a monthly basis, unfortunately, with the smaller ones.

MR. ROBERTS: Lucky to get them annually in some communities.

MR. WINDSOR: Actually it was intended - it was just a typographical error - it is intended to be the same as the auditor, the five months for the auditor because it will come in as part of the auditor's statement.

MR. ROBERTS: The hon. gentleman's eloquence has swept all before him, Sir.

On motion clause 30 with amendment,
carried.

On motion clauses 31 through 30, carried.

MR. CHAIRMAN: (Mr. Baird)

Shall Clauses 91 to 100 carry?

The hon. member for Grand Bank.

MR. L. THOMAS:

No, you can go ahead with your amendment.

MR. W. MARSHALL:

Perhaps I will put it at the end because it is a very simple one and, you know, it does not need to take the time of the Committee.

MR. CHAIRMAN:

The hon. member for Grand Bank.

MR. L. THOMAS:

Mr. Chairman, I raised an objection to Section 92 of this particular act when I spoke originally on the six month noist amendment. This particular section gives me a lot of problems in justification. I have not had an opportunity to read both the - looking for this particular point in the City of St. John's Act nor the City of Corner Brook Act and I would like the minister to tell me whether or not he knows if there is a similar provision in both of these acts?

Also in connection with this particular section, I would like the minister to tell me whether or not the liability extends beyond the term of the particular councillor? The section itself as well, there are certain - I do not know if it is a redundancy or whether or not the minister wants to point out quite clearly to a councillor that he is not only jointly liable with the other councillors. The act says, "for use of money are personally, jointly and severally". Well, of course, if it is a joint and several, Mr. Chairman, it means that the person is liable jointly with the other councillors and that he is liable in his own right, by himself, for the restoration of the money. The word 'personally' seems to me to be rather redundant.

This particular provision provides that where monies are expended without the prior approval of the minister for any purpose other than which the money is approved, then the councillors who voted for the use of the money, and this automatically gives an exemption, of course, to councillors who were not at the meeting and who would have voted for the use of the

MR. L. THOMAS: money, are personally and jointly and severally liable for the restoration of that money to the council. The section also goes on to state that, "Any person who is entitled to vote for councillors can make a request to council concerned asking to bring an action against any councillors who incur liability". If that council refuses then that person then has the right to bring the action on behalf of himself so that anybody who is entitled to vote can bring the action. And that is fair enough. I could probably be more agreeable with this particular section if it stated that there was a joint liability. Now, as I said before, anybody who asks my opinion of whether or not they should be a member of a town or community council in this Province, because of Section 92 my advice would be not run for councillor.

Now, I represent an area and a district in this Province that it is difficult enough as it is to get people to run for town and community councils.

Mr. Thoms: As a matter of fact, I think the minister at this moment has to make appointments to the Garnish Town Council because they called a by-election and they did not get anybody to offer themselves for Council.

Now in view of Section (92), I doubt if any man or woman in this Province who is a person of substance, who had any money at all, who owned a house or a car or anything would offer themselves for Council. This particular Section should scare off every man and woman in this Province from seeking elective office to council, community or town. And, I think that the minister should consider changing this particular Section at least agreeing to make the responsibility joint and not joint and several. Because, as I said before, that in this particular case, where money is being expended and has to be restored, and if money is expended for a road system that should have been expended for a water and sewerage system because you thought it was more important, and they did not technically get the approval of the minister to do so, the money can only come back by suing the councillors who so voted. As a matter of fact, the decision could be made to sue only one. You do not have to sue all of the councillors who voted without the approval of the minister, if one man is a man of substance, then that one person can be sued. His only remedy then, his only remedy is to join the other councillors and hope that if he has to put back \$100,000 back into the council, then he can get that back from the other councillors; but he may not be able to get it back from the other councillors.

Now I do not know if that applies to the city of St. John's, I do not know if it applies to the city of Corner Brook. When I was a member of the Board of Regents at the University some concern was expressed over the possible liability of members of that Board. So the government was contacted and a suitable amendment was brought in relieving the members of the Board of Regents and, I think, the Senate was included in that as well, relieving them of liabilities for decisions that they made.

Mr. Thoms: But in this particular case we not only have to rely on the reasonability of the minister or the government or the Cabinet, but anybody in the community who is entitled to vote in a municipal election can bring an action under this particular section. Now the minister might think, you know, it is quite reasonable that monies earmarked for a road, the paving of a road, should go into putting in the water and sewer in some section of a town. The minister might think that is quite reasonable, but somebody in the community may not think so. And if that person then makes a request to council that an action be brought against the councillors or the councillor - now in most of these cases the decisions are going to be collective, so that, you know, it is going to be useless really to request the council to bring the action

MR. L. THOMS: because actually what you are going to be doing is asking the councillors to sue themselves and they are not going to do it. So then the individual has that right. I would like to see this particular section at least so that there is just a joint responsibility. Now, I would like to see it really modified so that--you know, there must be some other way. The Minister of Consumer Affairs and Environment (Mrs. H. Newnook) said that this forced the councils to have some financial responsibility or restraints or whatever, I just forget the exact wording that she used. But surely goodness we do not need to put in an onerous clause in this bill such as this! I mean, most of our councillors are reasonable and responsible as it is. The only reason that the Minister of Consumer Affairs could give was that it forced the councils to be financially responsible. But I do not think that is necessary in this Province, I think our councillors and our councils realize that they have to be financially responsible and surely there must be other rationale behind this particular section. But then again, the whole act, of course, the whole act as I see it is based on the assumption that our councils and our councillors are not responsible. That is the rationale behind the two-thirds. Numerous provisions in this act require a two-thirds vote of the council, not a simple majority like we enjoy in the House of Assembly, in almost all cases. And you say this act does not affect the city of St. John's, I venture to say that there are very few provisions in the City of St. John's Act, and I have had an occasion to delve into the City of St. John's Act on many, many occasions, and I doubt very much whether you will find very many provisions in that act which says there is a two-thirds vote of council required.

So we are not giving the same privileges and responsibilities to a town council of Grand Bank that we have given and are prepared to give to the City of St. John's or the City of Corner Brook. What this section is saying, what all

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MR. L. TOMS:

other sections say basically is that we trust the city of St. John's, we trust the city of Corner Brook, but we do not have the confidence or trust in the town council of Grand Bank or St. Lawrence or Marystown that we have in the city of St. John's or the city of Corner Brook. I find this particular section unduly onerous and I think our councils are responsible councils and I do not think it is necessary to put in a clause such as this to make sure that they are going to be responsible. Mr. Chairman, I would like to see the minister take another look at this, particularly in light of what I call a very weak argument by the Minister of Consumer Affairs when she spoke in connection with that particular clause. There has got to be some other rationale behind it. If there is not, then it should not be there. And it surprises me really, you know, I am sure there is a sense of natural justice on the other side of the House. We discussed the qualifications this morning, clauses that really would go against the laws of natural justice, a tendency to accept - we saw it in Matrimonial Act again - the tendency on the other side to accept clauses in an act which should not be there but because it is being brought in then you got to have complete solidarity and whether it is good or

MR. THOMS: bad it has to go through. I think this is a bad provision. I think the minister should take a long, hard look at it and see if there is not some other way that you can get this off your chest about councils being responsible. I say the councils are responsible and you do not need a provision like this to give them that sense of responsibility.

MR. N. WINDSOR: Mr. Chairman, I am extremely disappointed with the hon. gentleman, to say that this particular piece of legislation throughout indicates that councils are not responsible. That is just the most asinine statement I have ever heard come out of the hon. gentleman. I thought he had a much higher level of intelligence than that. It is quite obvious that this piece of legislation throughout gives more control and more autonomy to the hon. gentleman. His colleague a few moments ago complained that councils had too much autonomy when it comes to setting up pensions and insurance policies and so forth and suggested the minister should be given a copy and should have to approve it. Now the hon. gentleman turns around and says that we do not think councils are responsible. I mean, that is just an asinine statement. As this particular section relates, Mr. Chairman, the hon. gentleman is concerned that we can take these people to court jointly and severally and make them liable. Is he suggesting that if two members of a council or three members of a council take a particular action that we should take the whole council to court? This whole provision is here, Mr. Chairman, so that an individual can protect himself, that if council is doing something - and I would point out that we are talking about funding under Section 90, which is capital borrowing, which is approved by this House of Assembly. This House of Assembly gives Cabinet authority to spend certain monies on capital works and they are therefore delegated to municipalities. With that kind of a delegation from this House of Assembly saying this money shall be used for water and sewerage in that municipality, if a council or a number of councils vote to spend that money on recreational facilities or something else for which monies were not given, I think they should be answerable - answerable to the people who voted them the money, which is this House of Assembly,

MR. N. WINDSOR: which is the highest court in the land.

The provision here for severally liable provides that if there is a vote to do that sort of thing, an individual on who council disagrees has the right to stand up and say, 'I wish my negative vote recorded,' so that person will not be held liable. And that is precisely why it is there, so that action can be taken against those who are responsible and so that those who are innocent will not have to be part and parcel of any legal action on it.

MR. RIDEOUT: Mr. Chairman.

MR. CHAIRMAN: (Baird) The hon. the member for Bale Verte - White Bay.

MR. RIDEOUT: I have a particular concern with this clause too and maybe the minister can deal with it quickly. I am wondering how this particular clause will apply in the case of community councils, where you have a particularly different situation than you have in the case of town councils. I think it is mandatory and I am just trying to find the situation under this new act but I believe it was -

MR. N. WINDSOR: I wonder if the hon. member would let me interrupt him for a moment? Under this act there will be no more community councils.

MR. RIDEOUT: There is a community council section here.

MR. N. WINDSOR: Yes, but that is exactly the same as a town council. The only difference is the method of election.

MR. RIDEOUT: Oh, okay. The point I wanted to make is: the community councils will disappear.

MR. N. WINDSOR: Yes, as we now know them.

MR. RIDEOUT: As we now know them. So those community meetings, where communities decide on items of expenditure, whether the council can do it or not, will no longer exist.

MR. N. WINDSOR:

That is right.

MR. RIDEOUT:

They will not have to do that.

MR. N. WINDSOR:

They have the same authorities as town councils, it is only a difference in election. The only difference in a town council and a community council, like I just explained to the hon. gentleman, because he is going on the wrong track, I think, even though his point was valid, under the old system it would be valid, but under this system the only difference between a town council and a community council is that instead of setting up a full election procedure with ballot boxes and enumerating the municipality and that sort of thing, there would be an election at a public meeting. This would be for the smaller communities. There is no distinction at all between a town council and a community council except for that, and there has been some objections raised in the debate on second reading to that. To answer the point, first of all, clearly Section 268, I think it is, points out that elections for community councils are by secret ballot at a public meeting. If somebody is concerned why they cannot have a full election procedure, well they can. If a community is that concerned, we will call them a town instead of a community council, it really does not matter. It is only a provision there so that we will not put them through that expense if it is felt by them that it is not necessary.

MR. RIDEOUT:

Mr. Minister, as I understand the new provisions in the act, though, the communities under community councils will still have to have their annual meeting. They still have to have an annual meeting at least once a year?

MR. N. WINDSOR:

Yes, and they are elected only for two years.

MR. RIDEOUT:

They are elected for only two years. Now, if at the annual meeting, the public meeting makes a decision that funds,

MR. RIDECOUT: although they had been provided for another purpose, the public make a decision in a public meeting that they want to spend them at something else, and community councils are pretty well governed by the feeling that comes out of, the direction that comes out of those public meetings, would Clause 92 then apply to the councillors in that particular situation, you know, if the direction and the decision came from the public meeting, the annual general meeting, rather than from a normal, ordinary meeting of council? That is, really, the question that I want to ask the minister.

MR. CHAIRMAN: (Baird) The hon. Minister of Municipal Affairs and Housing.

MR. WINDSOR: The hon. gentleman missed the point that I was making, that the budget of a community council is not approved at a public meeting anymore. It is approved by the council and expenditures are approved. They operate exactly as a town. This system, whereby we had a community council who had to have a budget approved by the town, is totally unworkable. We had a situation eight months ago where the community council was in disfavour in the community. The people in the community felt that they should be dismissed and wanted them to resign. They refused to resign. There was no reason that government could dismiss the council, they had not done anything that was - you know, there was no gross mismanagement or misappropriation of funds, there was no reason that government would dismiss the council. The people of the community were just not happy with them. The only answer we could give them, "Well, you have to await til election day". Well, they said, "Fine, we just will not approve a budget for this year", which is totally unworkable. I did not have the power to dismiss them because I did not have good reason. The people in the municipality had no mechanism to ask them to - they could ask them to resign but if they refused there was no other mechanism open to them. And they would not approve a budget, so they did not have any money to spend. I mean, there was just a deadlock. Fortunately, we worked it out. You know, we were able to sit down

MR. WINDSOR: with both sides and sort the thing out, but it is just a totally untenable situation. So, that will be changed under this provision so that community councils operate exactly the same way as a town council and the budget is set by the council and expenses are approved by the council, so, you know, they are liable, they have the same liabilities as the council.

MR. CHAIRMAN: (Baird) The hon. member for Grand Bank.

MR. THOMS: Mr. Chairman, I was wondering if the minister is in a position where he could answer the question that I posed at the beginning, whether or not there is a similar provision in the City of St. John's Act and the City of Corner Brook Act.

MR. WINDSOR: I do not know, Mr. Chairman, I can check it out for you, if you like.

MR. THOMS: Because if there is not, then this discriminates against the other councils. It should be governed by the same (inaudible).

MR. WINDSOR: I can address that, and I think it has been indicated to both cities - in fact, I met with the City of Corner Brook last night - that many provisions of this act, which are not in their acts, it will certainly be our intention to discuss bringing their acts more closely in line with this, which is now, I think, the latest, most up-to-date statement of the Province as to how municipalities should be operated. I think many of the provisions of the two city acts will be amended in time to come in line with this, and this may well be one of them. It is something that we will be discussing with them.

MR. CHAIRMAN: - Does the President of the Council have an amendment to make? -

MR. WINDSOR: Mr. Chairman, if I could, Clause 96 is a rather simple amendment, simply inserting at the beginning of the clause the words 'subject to Section 413', so that the clause would now read, "Subject to Section 413, the Council may pay out of the funds at its disposal salaries or remuneration to councillors, officers,

MR. WINDSOR: auditors and employees of the council and all the other expenditures incurred in the execution of the powers and duties vested by this act or any other law in the council, subject to there being a provision for such an expenditure in the adopted budget or revised budget". Basically, Sir, all that does is ensure that payments to salaries - this clause as it relates to payments to salaries - is done in accordance with Section 413 which controls and regulates that. My colleague will move that amendment, I hope.

On motion, Clause 96 as amended, carried.

MR. MARSHALL: 100 to 110 (inaudible).

MR. WINDSOR: There is an amendment to Clause 100 which my colleague will move, and it says, "Add as a sub-clause (iii) 'where a tax is imposed or varied after three months of the commencement of a financial year, it shall not take effect until the beginning of the next succeeding financial year unless a later date is set forth under sub-section (1)'". In other words, if the council has not set their tax date at the end of the third month of the financial year, then they cannot set a tax rate for that year which was at variance to the tax rate the preceding year. That is in there to protect businesses and persons, I suppose, particularly those who have rented properties or businesses or whatever, who have entered into contracts for the year so that in the middle of the year the tax rate is not varied.

On motion, Clause 100 as amended, carried.

On motion, Clauses 91 through to 100, carried.

MR. CHAIRMAN: (Baird) Shall Clauses 101 through to 110 carry? -

The hon. member from Grand Bank.

MR. THOMS: Mr. Chairman, I just want to make a preliminary point here, because I realized that

MR. THOMS: some of my colleagues over here have something to say about these real property tax clauses. But I mentioned this as well the other day and that is Section 105, where, you know, you are basically letting council actually make profit on arrears of taxes. There are a lot of people in this Province who are going to be in arrears of taxes. That is quite evident from what came out in front of PAC where the Province is \$10 million behind in arrears of retail sales tax. I would like to see this modified in view of the high prime rates at the bank today. I am not saying that interest should not be charged on arrears of taxes, but, you know, basically what can be said is that for every dollar that is outstanding in taxes, this is costing the council the dollar plus the interest that they are paying at the prime rate or prime plus one, but 3, I think, 3 per cent above the prime rate may be a little onerous. I would like to see it where the rate of interest can be charged on arrears at the prime rate of interest charged by the chartered banks. Okay? Now, the prime rate is - I do not know exactly what it is at the moment, 16 per cent or 15 per cent - but I mean it is really up there. Then, to put another 3 per cent on top of the 15 or 16 per cent, you are in the 20 per cent bracket, and it makes no difference. You can make the interest rate on overdue accounts 30 per cent, but if somebody on a fixed income in a smaller community where you cannot afford to pay his taxes, or he gets in arrears and finds that he cannot get out of debt, then he has 18 per cent being added on to this every month, there are a lot of them could be in a position where they would never get caught up on their taxes.

MR. MARSHALL: Really, what you are doing is you are making the council the banker, are you not? You are making the council the banker, are you not?

MR. THOMS: Well, this section, you know, does that, does it not? All I am arguing against, really, is the prime

MR. THOMS: plus three which puts it in a 20 per cent - I mean, goodness gracious, I do not charge that for collections. You know, as a lawyer rarely would I charge a 20 per cent fee for collection.

MR. WINDSOR: (Inaudible) council is that I can get prime rate -

MR. THOMS: No, no, they are not going to get prime rate, there is no doubt about that. But all I am saying is that prime plus three - I think they will get two points above prime without any problems or one point above prime.

DR. COLLINS: Do you think this 3 per cent in there for processing the account, really, if they just charged prime rate, it is just the same as saying there is no loss in monies, I mean, it is just zero money. I mean, if 3 per cent is to process the overdue -

MR. THOMS: Oh, no, I mean, the only additional processing account - if the matter had to go to court, and then council would not get its costs for that part of it, and there is not too much in the way, I would not think, of processing, in this case, in most of our smaller communities. You know, a lot of people are going to have a tough time making these payments on property taxes as it is, without putting what I consider to be overly burdening them in connection with the collection of property taxes. I would like to see some consideration given to - maybe the section could read 'carry arrears

MR. THOMS:

at the rate at which the council borrows from the bank.' Okay. Now if that is 16 per cent, that is what is charged on the account, or if it is 18 per cent or 19 or 20 or whatever the case might be,

AN HON. MEMBER: Just as long as it applies.

MR. THOMS: Yes.

MR. WINDSOR: Mr. Chairman, I would like to comment on that. First of all -

MR. CHAIRMAN (BAIRD): The hon. Minister of Municipal Affairs and Housing.

MR. WINDSOR: - if a taxpayer went down to Simpsons Sears and brought a fridge he would be paying probably more than this.

MR. THOMS: They are gougers.

MR. WINDSOR: They are gougers or whatever you want to call them. But the fact is that if there is going to be an incentive for a person to pay their taxes on time, which they should or otherwise, as the hon. gentleman points out, the municipality has to borrow that money and to pay interest on it. And fine, the municipality may be paying prime plus one or two per cent, it may be more. It depends on the circumstances of the municipality. So I do not see that it is an onerous burden. I think it is there in the interests of the municipality.

I would like to just make a comment, if I could, by the way of reverting for a moment to some points the hon. gentleman was making a moment ago on the jointly and severally liable, and I just point out that that section is just a repeat of what has been in the act since 1972. And I am advised as well that the two cities have the same provision in their acts.

MR. RIDEOUT: Mr. Chairman.

MR. CHAIRMAN: The hon. member for Baie Verte-White Bay.

MR. RIDEOUT: It is only 100 to 110 is it?

Mr. Chairman, when I spoke in this debate on the principle of the bill the other day, I made some comments with regard to the mandatory property tax, section 109 and 110 I believe deal with that now. I listened very carefully when the minister made his

MR. RIDEOUT:

response in winding up the debate on the principle of the bill, and he was very careful to go down through the comments of practically all members who spoke in the debate. I do not know if he ran out of time, although we gave him leave, but he did not get to me at all.

MR. WINDSOR:

I ran out of time, I ran out at six o'clock.

MR. RIDEOUT:

You ran out at six o'clock. Well, anyway I made some points then that the minister did not respond to and I had to take the opportunity now in Committee to make some of them again. If a community, any community in this Province, wishes to impose a property tax, a tax on real property in the municipality then, Mr. Chairman, I certainly have no objection to it. But what I do object to and object to very strongly and strenuously is the forced imposition of a property tax by the government, by the administration, on communities in this Province without their having any say in the matter at all. Now I suppose it can be argued that communities who will be looking for new water and sewer services will have an opportunity to speak in that they will have a limited opportunity to speak because the government will be able to say to them, Unless you impose the real property tax you may as well take your bag and go home, we cannot discuss it any further. That is forced put in another way, but different than that, Sir, are the communities who now have a water and sewer system in place under guaranteed loans from the Province, will have no opportunity to speak whatsoever because this act makes it abundantly clear, clear beyond any doubt, that those communities have to put in place immediately a real property tax. There is no way for consultation. There is no way for the taxpayers of the community to speak and say, We want it this way. The government under Clauses 109 and 110 will just force property tax down the throats of the taxpayers in every community in this Province that has now in place and water and sewer system.

The taxpayers of Englee or Seal Cove or LaScie who had water and sewer systems put in ten or fifteen years ago, and I assume are making some sort of payments on the financial

MR. RIDEOUT:

arrangements, will have no choice.

MR. MARSHALL:

A point of order, Mr. Chairman.

MR. CHAIRMAN (MR. BAIRD):

A point of order. The hon. President
of the Council.

MR. MARSHALL:

I am rising on this point of order for
your consideration. The hon. gentleman is debating what his impression is
of the forced property tax which we heard about in second reading. Now
it is not forced property tax, number one. The section relates to the
imposition of tax where 50 per cent of the residents have water
and sewerage services. Now this was debated at length, Mr. Chairman,
in second reading and when the bill was adopted before the House it
was adopted in principle. When it was adopted in principle, I would suggest
that this was one of the main principles of the bill,

MR. MARSHALL:

and, I hasten to add, not as defined by the hon. gentleman, forced property tax, but where the services are 50 per cent. Now, I do not wish to curtail debate, but I do suggest to you that a debate having once already occurred in second reading, that the purpose of this Committee is to consider clause by clause. And, for example, if the hon. gentleman in addressing himself to Section 110 wanted to look at it and say that the tax should not take effect when assessments are completed under the Assessments Act - that is a detail - it should take effect in another area, but I think that it is really out of order at this time to debate. I realize he might want to touch a little bit on it, but any extensive debate on a matter that is really the principle of the bill that has been adopted in second reading.

MR. RIDEOUT: Mr. Chairman, to that point of order, Certainly, Sir, that must be the most specious point of order that I have ever heard raised in the time that I have served in this House. Clause 110 deals with the mandatory imposition of a real property tax, and I was making my remarks along those lines. I would submit to Your Honour that there is no point of order, it is just a point of nonsense in an effort to cut off debate.

MR. NEARY: A difference of opinion, Mr. Chairman, between two members.

MR. RIDEOUT: I had to learn a few rules when I became Chairman -

MR. NEARY: Mr. Chairman, to that point of order.

MR. CHAIRMAN: (Baird) The hon. member for Lapointe.

MR. NEARY: Mr. Chairman, the Government House Leader seems hell bent this session of the House, for some reason or other, to muzzle the Opposition, and he is using the technique of raising points of order and points of privilege to try and do it. This is not a point of order, Mr. Chairman, As my hon. colleague indicated, it is just a matter of opinion between two members. My hon. friend is completely in order, Sir, and, you know, in due course we may move an amendment to have these two clauses deleted altogether from the act, which would then bring us into a major debate again.

SOME HON. MEMBERS:

Oh, oh!

MR. CHAIRMAN: (Baird)

Order, please!

MR. MARSHALL:

Mr. Chairman, if I may, I just quote - you know, to the hon. gentleman, it is not the House Leader who is saying these things, Mr. Chairman, it is Beauchesne, the fifth edition, which sets forth the rules and regulations with which we carry on proceedings in this House. Section 734, page 224, says, "The second reading is the most important stage through which the bill is required to pass; for the whole principle is then at issue and is affirmed or denied by a vote of the House. It is not regular on this occasion, however, to discuss in detail the clauses of the bill." And you will find, also, in Beauchesne that where you discuss the clauses in the bill is in this very Committee. The House has already passed on the principle of the bill itself. So the hon. member for Lapoile (Mr. Neary), every time this poor humble person gets up on a point of order, gets up and says that I am trying to muzzle the Opposition. I am certainly not trying to do that, Mr. Chairman, I am just quoting the rules of the House that have been set down for the past five hundred years for which I do not claim responsibility but for which I would hope that we would carry out our deliberations in accordance therewith.

MR. CHAIRMAN:

On the point of order there, we are into the clause by clause section. The principle of the bill has been debated extensively and accepted, so the point of order is valid.

MR. ROBERTS:

Will Your Honour, Sir, hear submissions from more than one side on it, if it is in order?

MR. CHAIRMAN:

We had submissions from both and we have had a ruling.

MR. ROBERTS:

Okay, I appreciate that. Then may I raise a further point of order, if it is in order? Because I raised my point of order by means of a request for some clarification. It is certainly beyond any argument that -

MR. WINDSOR:

You are questioning the ruling.

MR. ROBERTS:

I beg the hon. gentleman's pardon?

MR. WINDSOR:

You are questioning the Chairman's ruling.

MR. ROBERTS: The hon. gentleman may think I am questioning the Chairman's ruling. That reveals the hon. gentleman's ignorance of what is going on. The hon. gentleman might do well to let me speak what I have in my mind. The Chairman is quite capable of taking any action, I would submit, the Chairman thinks is required. The gentlemen on this side make no attempt to question the acceptance of the principle, Your Honour. That we have done, but what I want to know is whether we are allowed to question the application of that principle, and I would submit that is in order and I would submit that is what is being done by hon. gentlemen here. In so doing some hon. gentlemen, particularly those opposite wearing blinders on this question, may think we are questioning the principle. We are not, Sir. What we are doing is questioning the application of this principle, and I would submit, Mr. Chairman, that that is in order at Committee stage. In fact, Sir, that is the very essence of what Committee stage is all about.

MR. MARSHALL: Mr. Chairman.

MR. CHAIRMAN: (Said) The hon. the President of the Council.

MR. MARSHALL: I will rise again, because the hon. member - and I would like to address myself to that. He was not in the Chamber at the time, but I have no quibble with the fact that one is allowed to discuss the application of the principle insofar

MR. MARSHALL: as the clauses carry out that principle, but really what the hon. gentleman there opposite was doing when he was speaking was talking about the act, one of the main principles of the bill itself, which is that clause with respect of where service is fifty per cent of services wherein a municipality there shall be property tax. Now, this was debated. The point I made was that this was debated in length in the House, was adopted by the House, and if the application of the principle such as I recall the clause says, "The property tax will take effect on a certain date," if you want to debate the application in the sense that it should not take effect on that date but on another date, perfectly competent in the committee, but not competent for this committee to negate or change the principle that has been adopted in the House.

SOME HON. MEMBERS:

Oh, oh!

MR. ROBERTS:

One sentence, Your Honour?

MR. CHAIRMAN: (Baird)

The hon. member for the Strait of Belle

Isla.

MR. ROBERTS:

I just want to say that I think my learned friend opposite made it quite clear that this dispute is not a point of order, it is at best a difference - the rubric which is such a convenient and such a correct one for the Chair to use - that this is at best a difference of opinion between hon. members. It is very hard to state your opposition to the application of a section without perhaps saying at the same time you are against the principle that the section attempted to implement. In fact, Your Honour, while I think I have some facility with words, as Your Honour may or may not agree, I do not see how you can state your opposition to a particular section which applies the principle without at the same time making incidental and unavoidable reference to the fact that you are against the principle. All we will do is we will amend that fifty, we will make it fifty-one, fifty-two, fifty-three, fifty-four, and then we will go up and down. We can certainly debate that, I would submit Your Honour, at any length we wish, subject to the rules, of course.

MR. CHAIRMAN:

Shall Clause 101 to 110

MR. NEARY:

Mr. Chairman, no, not quite yet, Sir.

MR. CHAIRMAN:

The hon. member for LaPoile

MR. NEARY:

We have a number of amendments we would like to move to Clause 109 and 110 Sir, and we are in the process of doing that. Perhaps I better make the amendment right off the bat. First of all, we would like to see these two clauses struck from the act all together. We think they are dictatorial and arbitrary and they are an intrusion on people's democratic rights. It is a sneaky way to bring in the property tax. So, I would like to move, Mr. Chairman, that Clauses 109 and 110 be deleted from the act, and that the property tax, when it is imposed, be done in the form of a referendum, that the people in the various municipalities will be the ones, in conjunction with their elected representatives on the councils, be the ones to decide whether or not they are going to impose a property tax in that particular municipality, or have it forced on them by the government.

Mr. Chairman, I move, seconded by my hon. friend the —

AN. HON. MEMBER:

No seconder required.

MR. NEARY:

Well, just in case because the hon. Government House Leader (Mr. Marshall) is so sticky these days, and so sensitive and so jumpy and irritable and trying so hard to muzzle the Opposition, to muzzle debate in this House, that I thought I would just name a seconder, just in case the hon. gentleman finds another little technicality that he wants to hang his hat on.

So I am going to move Sir, seconded by my hon. colleague, the member for Carbonsar, that there —

MR. CHAIRMAN:

There is no seconder required in Committee.

MR. NEARY:

Thank you, Mr. Chairman. Well, I move then that Sections 109 and 110 be deleted from the act. The reason that I am moving this amendment, I just indicated, Sir, my feelings on this matter, and the feelings of people all other this

MR. NEARY: Province because I am sure that the hon. minister and members of this Legislature are getting the feedback from their constituents and from the ordinary citizens of this Province objecting to the government doing by the backdoor what they could not do by the frontdoor.

Mr. Chairman, what they are doing here, they are arbitrarily, mandatorally imposing a property tax in municipalities under certain conditions. Heretofore, as hon. members know, under the Local Government Act, there was provision for the property tax, but it was done in negotiations with the minister and with the Department of Municipal Affairs. Mr. Chairman, when a council wanted to impose a property tax, they asked the hon. minister to do an assessment of the property, say, in a given community

MR. S. NEARY:

and so the department was involved right from the beginning. And besides, no municipality that I know of in this Province would impose a property tax without prior consultation with the minister and his officials. So the government are using the big stick approach to sock it to the ordinary citizens of this Province, and I do not think it is good enough. I think it is unconstitutional and undemocratic, what the government are doing or are attempting to do. They are saying on the one hand they are going to give more autonomy to the municipalities, and on the other hand they are saying you have no autonomy because we are going to force the property tax on you, whether you like it or not. It is going to create a tremendous hardship on the ordinary citizens of this Province and it is going to, Mr. Chairman, in my opinion it is going to the mayors and the councillors, the volunteers who are in the front line, it is going to put them Sir, right under the gun, in the hot seat, right in front of the firing squad, because they are the ones who will have to implement and carry out these two provisions of the act if it is passed, and I am hoping that it will not be passed, I hope that the hon. Government House Leader will have sense enough to see the validity of our argument from this side of the House. We are not arguing for or against the property tax, we are not saying it is a good thing or a bad thing, but we are very concerned about the way the government is going about it. That is our argument. Maybe municipalities all over the Province need the property tax maybe they need it - I do not know; I cannot argue the principle of it anymore, so your hon. just ruled - but I can make amendments and I have made an amendment and I am submitting now arguments in favour of having these two clauses deleted. They are unconstitutional, nondemocratic, will create severe hardships not only on the ordinary citizens of this Province but also on mayors and councillors; it is completely irresponsible, so my colleague says.

MR. MARSHALL:

On a point of order, Mr. Chairman.

MR. MARSHALL:

MR. CHAIRMAN: On a point of order the hon. President of the Council.

MR. MARSHALL: I have thought it might be advisable that the hon. member continue on with his amendment and we would vote it down, but he seems to be going on. The fact of the matter is this amendment, I would submit, is out of order and it is out of order for the very self same reason as the previous point of order. The hon. member moves the deletion of clause 109 and 110. Now it is not out of order to move deletion of a clause in committee, quite obviously. But one of the principles of this bill is the establishment of municipals councils. Section 109 says the council may impose an annual tax to be known as a real Property Tax, that is another principle of the bill itself, so what the hon. gentleman is doing is, aside from it being a nonsensical, absolutely nonsensical amendment in the first place - because how can you have any kind of municipal council without the ability to levy real property taxes? - I would submit that the deletion of 109 and 110 is out of order because it would affect very much the principle of the bill and obviously so.

MR. E. ROBERTS: Your Honour, to that point of order.

MR. CHAIRMAN: The hon. member for the Strait of Bell Isle.

MR. E. ROBERTS: I would like to say two things: first of all, I will submit in a moment that my learned friend's submission is without merit in itself, but even if it had merit I would submit he has sat upon his rights much too long. The amendment had been moved by my hon. friend from LaPoile, he had to put it before Your Honour, had to put it before the House so the debate was underway. Now, I mean, there comes a time at which one has sat upon one's rights to the extent that you cannot be heard to argue.

MR. CARTER: That is trivial.

MR. ROBERTS: I beg your pardon?

MR. B. ROBERTS: The hon. gentleman from St. John's North (Mr. J. Carter) says it is mischievous and frivolous. He, Sir, is an expert on mischievous and frivolous matters. His whole career in this House has been one long public mischief and one long frivolous frolic. I would suggest that he would restrain himself unless he wishes to address the chair

MR. RIDEOUT: Get your flag committee going, boy.

MR. ROBERTS: Mr. Chairman, I would move on to a substantive point. The hon. gentleman opposite, my learned friend from St. John's East, says that it is somehow contrary to the principle of this bill. The principle of this bill, Your Honour, is to establish regulations and a scheme of government in respect to the municipalities in this Province,

MR. ROBERTS:

and if it is deemed proper to allow municipalities to tax, it is. But the House in adopting the bill at second reading certainly did not specify - it may have specified that municipalities ought to have the power to tax but it did not specify that any particular tax ought or ought not to be levied. And sections 109 and 110, which are the subject at this minute, deal only with one particular kind of tax. Your Honour, there are hundreds of taxes that municipalities might be authorized to impose and, I would submit, it is really going much too far to say that the House in adopting a bill, "An Act To Establish A Law Relating To The Governance of Municipalities In This Province", at the same time said that a particular kind of tax ought to be imposed by the municipality. I would suggest the amendment is in order because it will give the House, through the Committee of the Whole, the opportunity to establish whether a particular kind of tax - and the particular kind of tax is the real property tax. So I submit that the amendment is in order and the debate ought to go ahead on it.

AN HON. MEMBER:

Hear, hear!

MR. CHAIRMAN (BAIRD):

This House stands adjourned for five minutes until I check out the legality of the amendment.

MR. CHAIRMAN (MR. BAIRD): Order, please!

Page 231 of Beauchesne, paragraph 764 states an amendment to a bill in a manner destructive to the bill, to the principle of the bill, is out of order. The amendment here does not seem to be against the principle of the bill so the amendment is in order.

SOME HON. MEMBERS: Hear, hear!

MR. NEARY: Mr. Chairman, it is shocking, it is terrible, Sir, the way that the Government House Leader tries to obstruct progress in this House. The hon. gentleman should be over in Iran.

MR. ROBERTS: They have enough troubles in Iran now.

MR. NEARY: Mr. Chairman, the telegrams and messages of protest over the application of sections 109 and 110 are just pouring into our office.

AN HON. MEMBER: Many?

MR. NEARY: Yes, and I had one passed to me only -

MR. MORGAN: Pouring in, you know.

MR. NEARY: When Your Honour -

MR. MORGAN: Pouring in.

MR. NEARY: When Your Honour - yes -

MR. THOMS: Just like the petitions about the hydro rates, pouring in.

MR. NEARY: The same people -

MR. MORGAN: Table them.

MR. CHAIRMAN: Order, please!

MR. NEARY: Mr. Chairman, the same people paid for the cost of these telegrams who paid for the helicopter that my hon. friend used to go down to Bonavista to visit his little bistro, the same -

AN HON. MEMBER: Alleged.

MR. NEARY: The same people paid for these -

MR. CHAIRMAN: Order, please!

MR. NEARY: The same people paid for these telegrams who

MR. NEARY:

paid \$110,000 -

MR. MORGAN:

Did we not all send telegrams out

(inaudible).

MR. NEARY:

Yes.

MR. CHAIRMAN (MR. BAIRD):

Order, please!

MR. NEARY:

The hon. gentleman sends them out as

minister.

AN HON. MEMBER:

Oh, terrible!

MR. NEARY:

And the same people paid -

MR. MORGAN:

(Inaudible) I do wonder who he

is.

MR. NEARY:

If I were the hon. minister, Sir, I

would go down and try to do something about the starving -

MR. MORGAN:

He phoned me and asked, "Who is Len

Stirling?" Who is he?

MR. THOMS:

(Inaudible) coming from the council.

They are coming from the council.

MR. CHAIRMAN:

Order, please!

I would like to remind the member to

keep his comments relevant.

MR. NEARY:

Thank you, Mr. Chairman. If I were

the hon. gentleman I would try to do something about the starving cattle

down in Bonavista, Sir.

MR. MORGAN:

They are all being well fed by the

bull from the other side of the House.

MR. CHAIRMAN:

Order, please!

MR. NEARY:

Mr. Chairman, the telegrams are just

pouring into our office, the phone calls and the protests and the

hon. gentleman says, "Table". I will table one in a second but I

believe before I table it I should read it. But it is just an indication

of the feeling and how high feelings are running around this Province.

My hon. friend, our spokesman on Municipal Affairs-or in conjunction with

MR. NEARY:

our spokesman on municipal affairs took it upon himself to get the feeling, because the hon. minister had told us that this act was brought in with the blessing and the good will of the mayors -

AN HON. MEMBER:

Consultation.

MR. NEARY:

Yes, prior consultation had been held with the municipalities, all kinds of it. The hon. gentleman just confirmed again, all kinds of it. Well, the hon. gentleman must have never heard of Burnt Islands in that case. Because the telegram I have in front of me -

MR. ROBERTS:

Burnt Islands never heard of the hon. gentleman either.

MR. NEARY:

- is from Burnt Islands. Let us see what they say. And there will be other telegrams, Mr. Chairman, and other messages and other protests. It says in reference -

MR. ROBERTS:

Many thoughts of rebellion are being carried through the land.

MR. NEARY:

That is right. Democracy will win out in the end.

MR. ROBERTS:

That is right.

MR. NEARY:

And the Ayatollah will be put away.

"In reference to a telegram to the smaller communities, the smaller communities will always be left out of everything. But in the larger communities, like what happens all the time, the burden for smaller communities in terms of taxes will be too great to bear especially where there is just seasonal employment. The input - listen to this Mr. Chairman, the hon. gentleman tells us there is all kinds of consultation, the communities, the municipalities have had all kinds of input. Well this is what the Mayor of Burnt Islands says -

MR. NEARY: -the input from smaller communities will be very minimum, because they would have smaller representation on regional councils. Also, I feel that the council should have been sent pamphlets and new deadlines so that they would be able to have a greater input into the decision before it could be passed in the House of Assembly. So, I feel more debate and thrashing out should be done first by the local council and by the general public as a whole." And it says, "Sincerely yours, Eric Brown, Mayor of Burnt Islands". Now, Mr. Chairman, this is merely a symptom, this is merely an indication of how the municipalities feel about Sections 109 and 110 and about this act as a whole.

MR. MORGAN: (Inaudible).

MR. NEARY: How many does the hon. minister want?

MR. CHAIRMAN: (Baird) Order, please!

MR. MORGAN: You have about 22 now, have you not?
How many councils in the Province?

AN HON. MEMBER: Three hundred and something.

MR. MORGAN: Three hundred and something. How many replies have you got?

MR. NEARY: Oh, I see, 22 replies. In other words, 22 replies from municipalities do not count. Even if there is only one, if there was only one, the hon. minister has misled this House. The hon. gentleman got up and said there was prior consultation with all the municipalities, they all had input into this bill and they were all satisfied and they gave it their blessing, gave the minister the okay to go ahead and bring it in the House when he did. That is what the hon. gentleman told us, and now we find out that that is not so, it is not true. So the kindest thing I could say about the hon. minister is that he misled the House.

AN HON. MEMBER: On purpose?

MR. NEARY: No, I am not saying the hon. gentleman did it deliberately. The hon. minister may have done it in ignorance.

MR. ROBERTS: He may not have known what he was doing.

MR. NEARY: He may not have known what he was doing

MR. ROBERTS: That is quite likely.

MR. MORGAN: Like the hon. gentleman now.

MR. NEARY: Mr. Chairman, I wish the hon. minister would go down and look after his starving cattle down there and try to straighten out that problem and try to do something about the \$110,000 that the former Premier spent in helicopter contracts to go to Adlatok in 1977.

MR. CHAIRMAN: (Saird) Order, please! I would like to remind the member of relevance.

MR. ROBERTS: Relevance?

MR. CHAIRMAN: Relevance.

MR. NEARY: Mr. Chairman, I think we are doing a very great service to the people of this Province -

MR. ROBERTS: Hang her down til Christmas.

MR. NEARY: - that is right - especially to the members of the town councils, the mayors and councillors who will be in the firing line, the ones who will have to bear the brunt, unless the minister is prepared to come out man-fashion, have the courage to come out, take to the television and say, "Look, people of Newfoundland, we are the ones who are forcing the property tax on you, not your mayors or town councillors", because they are going to be in the firing line and they are the ones who are going to have to bear the brunt of it. It is going to discourage people from running, although the minister to try to overcome that threw in a little sweetener. He said, well -

MR. WINDSOR: Man-fashion, on the front page of the Telegram! Front page of the Telegram!

MR. NEARY: No, Mr. Chairman, the hon. gentleman came into this House in a very cowardly fashion and tried to sneak in regional government and the property tax, thinking that nobody - it is getting near Christmas, it is late November - nobody is going to pay very much attention to it." We will ram it through, we will

MR. NEARY: make the unpopular decisions, we are riding high, we are riding high now, we will make the unpopular decisions, and three years from now we will flick out a few goodies and probably change our leader and then go on and hope to win the next election." That is the strategy they are using. Well, that is a very cruel strategy, in my opinion, very cruel indeed.

AN HON. MEMBER: It worked last time.

MR. NEARY: It worked last - ha, ha, ha, ha.

Listen to the minister responsible for starving cattle - ha, ha, ha.

SOME HON. MEMBERS: Oh, oh!

MR. NEARY: Yes. So, Mr. Chairman, I am hoping, Sir, that common sense, I am hoping that common sense will prevail in this debate and that some members on the other side who disagree,

MR. NEARY:

who object to this bill, to these two clauses, to the mandatory imposition of the property tax, that they will stand in their places and say so.

I hope, for instance, the hon. Minister of Public Works, the old stalwart in the Cabinet, the minister who is making a name for himself as Minister of Public Works and one of the most outstanding Cabinet minister we have in this Province at the present time, Mr. Chairman, I hope if I heap a little bit of praise on the hon. gentleman who is always so willing to be co-operative and to give the House the information that it needs, and the gentleman who is far superior, for instance, than his colleague, the Minister of Forestry and Agriculture, the hon. gentleman who I would consider to be a senior minister in the Peckford administration, a senior minister, I am sure that that hon. gentleman, whom I have known for so long as a fair minded man, a man who has a great deal of common sense, that the hon. gentleman would not be able to face the people in Upper Island Cove if he went back and said, "Look, we are going to force the property tax on you. You are getting a water system in here now that is costing hundreds of thousands, if not millions of dollars. We are hooking it into a pond that is quite a distance away. There are ponds nearer the community of Upper Island Cove but because we want a few goodies we are going to run the line a little further than we should. But, residents of Upper Island Cove, you are going to have to foot the bill." Will the hon. gentleman go over and tell his constituents that?

MR. YOUNG: Yes.

MR. NEARY: The hon. gentleman says yes. Well, I thought -

MR. YOUNG: (Inaudible).

MR. NEARY: Mr. Chairman, we are not arguing whether people should pay taxes or not, that is not the argument at all.

MR. ROBERTS: What about the government that said they would not increase taxes?

MR. NEARY: That is right. That is right. The hon.

MR. NEARY:

gentleman went out and campaigned on the slogan that his party, his government, if his party was elected the Government of this Province, they would not increase taxes.

MR. YOUNG: (Inaudible).

MR. ROBERTS: Oh, no, no.

MR. NEARY: Oh! So, Mr. Chairman, I can only appeal to friends of the ordinary people, to a senior minister in the administration, to a gentleman who has all kinds of qualifications far superior than a lot of his colleagues, the last man to let you down, the man who will always provide you with a lawaway plan, I would like to appeal to the hon. gentleman to vote for this amendment in all fairness and in justice to the people that he represents, the ordinary people. Where you have a lot of unemployment over in my hon. friend's district, you have a lot of seasonal employment and you have, I would say, unemployment in that district that is fairly high and the hon. gentleman would not want to have the finger pointed at him and say, "Mr. Minister, you are the one who forced the property tax on us", instead of letting the people decide for themselves. This is the main thrust of my argument, Mr. Chairman, that the people should decide by plebiscite, by petition and by referendum, each community, Torbay, the people down there should decide whether they want a property tax or not, Outer Cove, Logy Bay, Flatrock, Pouch Cove should decide for themselves, should they not?

MR. YOUNG: Sit down. You are making a fool of yourself.

MR. NEARY: My hon. friend would use the argument if he was on this side of the House, "Let the people decide." The people are very seldom wrong, Sir, let them decide. The people have served their apprenticeship in this Province in voting and expressing their views on various and sundry matters, important matters. Let the people decide, not use the House of Assembly to provide the big stick to force the property tax on municipalities. That is not the way to do it and that is why I would move this amendment, Mr. Chairman, and I hope it will be very thoroughly debated and thrashed out as the telegram from Burnt Island has indicated. We discover now there was not, even though

MR. NEARY:

the minister probably told his colleagues and told the caucus and then came in and told the House, and obviously the hon. gentleman believed it himself because I presume the hon. gentleman had depended on the

MR. NEARY: Federation of Mayors and Municipalities to communicate the information, to get the input back, and it does not work that way. The hon. gentleman did not deal directly with the municipalities to get their views, and now the protests and the objections and the criticisms are starting to pour in. If we can hold this bill long enough in this House, if we can hold it long enough, you will see members on the government benches knuckle under. You will see ministers back away. There is nothing more devastating to a man's political career than to tell the people, to insult the people, and say, "You cannot run your own affairs, you cannot decide what kind of taxes you want, you cannot decide it. We are going to decide it for you. We are going to decide it in the House of Assembly and bring in a law making it compulsory, making it compulsory for you to pay a property tax whether you like it or not." And so I hope, Mr. Chairman - no wonder, Sir, the hon. member for Harbour Grace, the Minister of Public Works (Mr. Young) is so far superior and head and shoulders above the hon. member for Bonavista South (Mr. Morgan), an excellent minister, Sir, an excellent minister.

MR. MORGAN: Where are they pouring in from?
Table them, table them.

MR. NEARY: Mr. Chairman - yes - Mr. Chairman,
how many does the hon. gentleman want?

MR. MORGAN: All you can get.

MR. NEARY: You want all of them? Well, I hope the hon. gentleman will not want all of them so he can retaliate, so that he can get his spite and his revenge, get his spite and his revenge out on the mayors and the town councils who dare criticize or question the hon. Ayatollah Khomeini, Newfoundland's answer to the Ayatollah Khomeini.

AN HON. MEMBER: (Inaudible).

MR. NEARY: What does not work anymore?

AN HON. MEMBER: (Inaudible).

MR. NEARY: Oh, is that so? Is that so? The hon. gentleman might get the shock of his life now, in his own district. Mr. Chairman, I believe I saw a message from the hon. gentleman's own district.

AN HON. MEMBER: Very good stuff.

MR. NEARY: Yes, it is good stuff.

MR. MORGAN: He paid for it himself.

MR. NEARY: The hon. gentleman should have taken the trouble to find out. Oh - paid for it himself. Mr. Chairman, who paid for the helicopters that the hon. gentleman used for going back and forth to his district?

MR. MORGAN: I do not use helicopters.

MR. NEARY: Oh, in 1977 the hon. gentleman did not use any helicopters?

MR. MORGAN: No.

MR. NEARY: Well, I will bring the helicopter to show the hon. gentleman that he did, and the hon. minister who told us in this House that he did and the Premier who said, "Ah, I am not down in Adlatok." I am sorry, I am wandering, I am straying away again. Only \$110,000, \$110,000 a lesson a year, flying him and his party into Adlatok, and then they want to know who is paying for telegrams, doing a service.

MR. CHAIRMAN: (Baird) I would like to remind the hon. member for Lapoile - relevance.

MR. NEARY: Yes, Sir, doing a service to the people of this Province.

MR. MORGAN: Table all your telegrams now,
(inaudible).

AN HON. MEMBER: Table one a day for the next number of days.

MR. THOMS: Yes, for the next 309 days we are going to table one a day.

MR. MORGAN: (inaudible) twenty-two replies.

MR. NEARY: Mr. Chairman, I would like to know how the hon. gentleman is so sure of his figures. Is the hon. gentleman, Sir - is our office being bugged or does the hon. gentleman have a spy? It would not surprise me, we are living in such a dictatorial Province, or do they send for a list of our telephone calls and our telegrams that go out?

SOME HON. MEMBERS: Oh, oh!

MR. NEARY: If I may, Mr. Chairman, do I not have thirty minutes introducing a motion? I have not been on my feet thirty minutes, have I? But I am going to wind up now anyway.

MR. ROBERTS: Well then, sit down and one of us can speak.

MR. NEARY: That is right, boy. And once again I want to accuse the government of being dictatorial, irresponsible, unconstitutional, undemocratic, pigheaded, stubborn, cowardly, in their approach to this matter.

MR. HOUSE: Try highly irresponsible.

MR. NEARY: Completely irresponsible. The minister, Sir, is a walking example - I thought the Premier was arrogant. On his entry into the House of Assembly this morning, he staged - he waited outside the door. Then, Your Honour said, "Admit strangers", and by and by the trumpets started to blow and the horns started to blow, and by and by he comes strutting in across the floor of the House! The likes of the arrogance we have not seen in this Province since Confederation,

MR. NEARY:

except from the hon. Minister of Municipal Affairs. Such a display of arrogance, Sir, I never saw in my life.

MR. MORGAN: Table the telegram.

MR. NEARY: We will table the telegram in due course, Sir. Sir, I hope that every member now will participate in this debate.

MR. ROBERTS: At least once.

MR. NEARY: Once and those members on the government benches who have told us in the corridors of the 9th floor that they are worried about this bill, that they do not believe -

AN HON. MEMBER: Name one! Name one!

MR. NEARY: Want me to name them? I would not embarrass the hon. members by naming them. But I can only again, Sir, appeal to common sense, and I can only appeal to intellects like the Minister of Public Works to come out, get up, have the courage to get up on his feet and tell his constituents and the people of this Province that, Yes, surely you have got to have taxes as the hon. gentleman says, but let him do it in a democratic way and let the people in the towns and in the settlements and in the communities, let the people decide the form of taxation they want and how much taxes they want to pay and not use this House of Assembly for the big stick for the minister to impose a property tax on the people of this Province.

MR. CHAIRMAN (MR. BAIRD): The hon. member for the Straits of Belle Isle.

MR. ROBERTS: Mr. Chairman, I just want to say I support the amendment and I think my friend from LaPoile should carry on if he wishes with that.

MR. NEARY: Mr. Chairman.

MR. DINN: Mr. Chairman.

MR. CHAIRMAN: The hon. minister,

MR. DINN: I think the Chairman has been relatively fair here this morning, too fair, probably.

MR. ROBERTS: I have no complaints with that.

MR. DINN: No, no. I think it is excellent.

MR. ROBERTS: I like it if the hon. gentleman gets in the debate.

MR. DINN: Mr. Chairman, if we can cut down a little bit on the noise in the House, I will have a few words to say on Clause 109 and Clause 110 and the fact that the hon. member made a great speech, the hon. member for LaPoile (Mr. Neary), who always makes great speeches in the House. They are all the same. You were equally as great the first time as they were the second time and the third time and the fourth time as you were this morning. So, Mr. Speaker, what the hon. gentleman wants is to have Clause 109 removed. I will not accuse the hon. member of not reading Clause 109. I will not make false accusations in this House of Assembly. I will not say that the hon. member cannot read, but Clause 109 says, "The council may impose an annual tax to be known as the real property tax on the owners of real property within the town." The hon. gentleman for LaPoile (Mr. Neary) wants that removed. So that means that immediately, when this act is passed and proclaimed with those amendments, with those two clauses removed, specifically Clause 109, with that removed, we would have complete chaos in at least thirty-two municipalities in this Province that I know of - thirty-four municipalities in this Province that I know - who would not have the power to have real property tax.

MR. WINDSOR: Financial ruin.

MR. DINN: Financial ruin for 65 per cent of the people living in those municipalities. It would mean that we cannot have a water and sewer system operating because they have no method at all to impose any property tax in their municipalities, no real property tax. They may not impose an annual tax to be known as the real property tax. So we have thirty-four municipalities now that have a real property tax. It includes 65 per cent of the population in this Province. It would mean that municipalities like Gander go bankrupt and close tomorrow with the council having no power at all to service and provide services to the people in their municipality. And this is the kind of foolishness that hon. members opposite, who condone what the

MR. DINN:

hon. member for LaPoile (Mr. Neary) does, this is the kind of foolishness that they get on with. And this is why the people of Newfoundland rendered their judgements and they will continue to render those kinds of judgements on hon. members opposite until they start changing their tune. And when they make -

MR. WINDSOR:

Irresponsible statements.

MR. DINN:

- changes or when they attempt to make changes to legislation that we attempt to bring into this House of Assembly and do, when they do things like that, you would think that they would at least read the provisions that are in the Municipalities Act. Section 109 would cause complete chaos, the same kind of chaos that the hon. member caused when he was Minister of Social Services

MR. DINN:

in this Province, and had a judicial enquiry and had a -

MR. ROBERTS:

Careful. Careful now.

MR. DINN:

Mr. Chairman, I am a little bit exercised, so I will adjourn the debate.

SOME HON. MEMBERS:

Hear, hear!

On motion that the Committee rise, report progress and ask leave to sit again, Mr. Speaker returned to the Chair.

MR. SPEAKER (MR. SIMMS):

Order, please!

The hon. member for Humber West.

MR. BAIRD:

Mr. Speaker, the Committee of the Whole has considered the matters to them referred and has directed me to report progress and ask leave to sit again.

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

MR. SPEAKER:

The hon. President of the Council.

MR. MARSHALL:

Mr. Speaker, I move the House at its rising do adjourn until tomorrow, Monday, at three o'clock and that this House do now adjourn.

MR. BARRY:

Mr. Speaker, before you get up I would like to invite the hon. members into the government common room to help me participate in the benefits of the recent by-election.

On motion, the House at its rising adjourned until tomorrow, Monday, at three of the clock.