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***VERBATIM REPORT***  
*(Hansard)*

Monday, 26 November 1984

Speaker: Honourable James Russell

The House met at 3:00 p.m.

MR. SPEAKER (Russell):  
Order, please!

Before we begin today's proceedings, it is a distinct pleasure for me today to welcome some very special visitors to the Speaker's gallery in the persons, first of all, of Commander Marc Garneau and his lovely wife Mrs. Jacqueline Garneau. Commander Garneau, of course, is the first Canadian astronaut.

SOME HON. MEMBERS:  
Hear, hear!

MR. SPEAKER:  
Secondly, I would like to welcome the back-up astronaut, Dr. Bob Thirsk and Mrs. Brenda Biasutti-Thirsk, Dr. Bernard Gingras, the Vice-President of External Affairs for the National Research Council, Dr. Wally Cherwinski, the Head of Public Affairs, National Research Council, and Mr. Bernard Poirier in charge of logistics of the Canadian Astronaut programme.

SOME HON. MEMBERS  
Hear, hear!

#### STATEMENTS BY MINISTERS

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

MR. WINDSOR:  
Mr. Speaker, I am pleased to announce today the approval of a policy for the implementation and development of a quality commercial outfitting industry associated with the George River caribou herd in Labrador. For some time now government has been

examining the possibility of a commercial hunt in Labrador. We have engaged in ongoing negotiations with Quebec to determine the viability and extent of any commercial hunting operation in the area, and this dialogue, coupled with extensive research, has led to the conclusion that commercial ventures could indeed be established.

I would like to stress from the very beginning that any hunting activity in the area would utilize surplus animals from the herd, thereby protecting Native access and the integrity of the entire herd.

The Department of Development, through the Tourism Branch, will administer the selection of outfitters and the allocation of licences to those chosen. A total of ten operators will be permitted access to licences in 1985, with the allocation to each outfitter sufficient to allow economies of scale. An upper limit of 300 licences per outfitter has been set for the first three years of operation, at which time a review of this allocation will be conducted. A bag limit of two caribou per licence has been adopted for the three year period, and this subject to change when, and if, a similar policy is offered in Quebec.

The hunting season for the George River caribou herd will run from June 1 to October 31, with June 1 to August 14 being for bull caribou only, and the remainder of the season being open for either sex. Further to this, the season will be closed in the Caribou Mountain and Harp Lake calving ranges until August 14.

Criteria for approval of operations include financial viability, with facilities being of a quality competitive with those in Quebec, and including hot and cold running water, freezing equipment, fixed lodge structures, quality food and qualified guides. Government will provide land leases for up to fifteen years, depending on the requirements of lending institutions, with lot sizes limited to two acres in normal circumstances. Mobile satellite camps will be permitted and subject to a twenty dollar annual licence fee.

The fee schedule that has been adopted is designed to be competitive with Quebec and will reflect any changes in that province's fee structure. The non-resident caribou licence fee will be \$115.00.

To avoid the practice of trophy hunting, any caribou meat taken must be retained for consumption and not left in the field.

Outfitter proposals must be submitted by January 15, 1985. These prospectus will then be evaluated by the Tourism Branch, with final decisions on successful applications made by the end of February.

The evaluation criteria will include the entire complement of facilities proposed, with those of higher quality and offering a diverse array of activities and operating season having a greater opportunity for selection. As well, the selection procedure will favour those applicants who are willing to undertake marketing initiatives, and who are willing to utilize, to the extent possible, supplies and services

produced in the Province.

The opening of the George River herd to commercial hunting will be a tremendous boost to the tourism industry in Labrador. With world class facilities in the area we will begin to attract a larger proportion of sportsmen from the United States. This activity will be aggressively promoted in major tourism markets to ensure that the Province remains competitive with Quebec and other provinces offering big game hunting.

MR. SPEAKER (Russell):

The hon. the member for Torngat Mountains.

MR. WARREN:

Mr. Speaker, it is unfortunate the minister did not see fit to give me a copy of his statement earlier. However, I must say that this is indeed a sad day for the Native people in Labrador, another example of this government's attitude toward the Native people, going ahead and reaping benefits, taking away a livelihood from the people who have to depend on this George River caribou for their day to day living. I warn the minister now that the people in Northern Labrador are more concerned about their livelihood than the minister is. Some months ago the Premier said there would be consultation. I would ask the minister now where is the consultation? There has been nothing but confrontation. The minister then comes in to this House today and announces a commercial sports hunt in a part of our Province that is already neglected by this government, announces something from which the only ones to benefit will be outsiders. I think the minister should be ashamed to bring forward such a Ministerial Statement, and

I assure him that somewhere down the road he will have to answer for taking this initiative which will be a negative factor in the lives of the people in Northern Labrador.

MR. SPEAKER (Russell):

The hon. the Minister of Culture, Recreation and Youth.

MR. RIDEOUT:

Mr. Speaker, you may recall that in May of this year, the hon. the Premier announced at a press conference at Hotel Newfoundland the introduction of a new programme of sustaining grants for Newfoundland professional theatrical companies. This programme was to be administered through the Cultural Affairs Division of the Department of Culture, Recreation and Youth through a committee appointed by the minister for this purpose. I am pleased, therefore, to advise my colleagues in the House of Assembly that this committee has now completed its work for the 1984-85 fiscal year and has awarded funds under this sustaining grants programme to the following successful applicants: CODCO Limited; Newfoundland Dance Theatre; The Resource Centre for the Arts; The Rising Tide Theatre; Sheila's Brush; Stephenville Festival; Theatre Newfoundland and Labrador, and Wonderbolt/Beni Malone. In all a total of \$79,500 was granted in support of these Newfoundland professional theatrical companies.

In addition, Mr. Speaker, funding was provided in the amount of \$40,000 to the Newfoundland Symphony Orchestra from this programme. Under prior agreement to the Resource Centre for the Arts based on a five-year request for operating funds, an amount of

\$16,000 was paid to that organization in addition to the funding they have received under the sustaining grants programme.

As minister, I would publicly like to express my appreciation to the members of the Sustaining Grants Committee for the exceptional manner in which they have handled this initial programme in the provision of sustaining grants for Newfoundland professional theatrical companies. The Committee which is under the chairmanship of Mr. W.B. Frost, the Assistant Deputy Minister for Cultural Affairs and Historic Resources, is comprised of Mrs. Emma Butler, representing the applicant companies; Ms. Anita Best, representing the Newfoundland and Labrador Arts Council; Mr. John Holmes, member at large; Mr. Frank Kelly of Doane Raymond, Chartered Accountants.

In conclusion, therefore, Mr. Speaker, I would like to say that the introduction of this programme, particularly in a period of financial restraint, is another example of the Government of Newfoundland and Labrador living up to the commitment it has made to foster, encourage, and financially support the work of so many of our Newfoundland artists actively engaged in promoting and disseminating the performing arts throughout Newfoundland and Labrador.

MR. SPEAKER (Russell):

The hon. the member for Torngat Mountains.

MR. WARREN:

Mr. Speaker, I would like to compliment the minister on -

SOME HON. MEMBERS:

Hear, hear!



MR. WARREN:

Mr. Speaker, I will give credit where credit is due, naturally. I would like to compliment the minister for making available \$79,500 to theatre companies in this Province. I would also like to say to the minister that it is really not enough, they need more. We know we have good groups in this Province who could do much more if they had more financing, in particular the Newfoundland Symphony Orchestra. And although \$20,000 has been granted to them, I think the minister should probably keep a close watch on the Newfoundland Symphony Orchestra to see that it does not fold because it has something beneficial for the Newfoundland populace. Again, I would like to compliment the minister on what he has done.

ORAL QUESTIONS

MR. SPEAKER (Russell):

The hon. the Leader of the Opposition.

MR. BARRY:

Mr. Speaker, I should like to ask the Premier whether he has been able to establish yet whether the 25 per cent back-in provisions will apply to Hibernia, or whether Mr. Mulroney's policy with respect to handing this 25 per cent of revenues back to the oil companies will be in effect for the Hibernia development as well as other petroleum developments in Canada?

MR. SPEAKER (Russell):

The hon. the Premier.

PREMIER PECKFORD:

Mr. Speaker, that whole programme, the National Energy Programme, as it existed until September of this year, is under review, as the hon.

the Leader of the Opposition (Mr. Barry) knows, and remains under review. In discussions that will be held by the Minister responsible for Energy in Newfoundland (Mr. Marshall) with the Minister of Energy in Ottawa (Ms. Carney) over the next several weeks, pursuant to the original meeting last week, it will become clear just exactly what the situation will be as it relates to the 25 per cent back-in that was part of the old National Energy Programme. The matter is fully under review, as I understand it, by the federal government and we will, in our negotiations, clear up just exactly what format, financially and otherwise, will apply to the development of the offshore here in Newfoundland.

MR. SPEAKER:

The hon. the Leader of the Opposition.

MR. BARRY:

Mr. Speaker, the Premier says that this matter is under review by the federal government. The Government of Canada through Mr. Mulroney has made it quite clear that this is one of the provisions of the National Energy Programme that will be changed. There is no review. Mr. Mulroney has stated that he will be removing the 25 per cent back-in from the National Energy Programme, that this will be done retroactively, and I would like to ask the Premier if he would undertake to find out within the next couple of days whether or not that will be done as far as Hibernia is concerned.

MR. SPEAKER (Russell):

The hon. the Premier.

PREMIER PECKFORD:

Mr. Speaker, the hon. the Leader of the Opposition (Mr. Barry) is

contradicting himself. If he is quoting the Prime Minister as saying it is gone, well, then, it is gone for Canada. As we are part of Canada, I guess it is gone for Hibernia, to use the Leader of the Opposition's analysis of the situation, therefore, nothing more need be done. The Leader of the Opposition knows all about it, Mr. Speaker. All I know is that the whole National Energy Programme is under review, including that aspect of it which deals with the 25 per cent back-in through Petro Canada that was inaugurated by the previous administration in Ottawa. So we will have to wait and see, as the negotiations continue with the producing provinces, what financial format will be put in place as it relates to specific developments across the nation.

I think the Minister of Energy, Mines and Resources for Canada (Ms. Carney) said the other day that the financial structure that will exist for one particular project in Canada may not necessarily exist for another project in Canada.

As it relates to the 25 per cent back-in, I think it was a plank in the platform of the new government to move away from that 25 per cent back-in, but I am also interested in answering it in the larger context. Of the financial structure that will be in place, or the fiscal regime that will be in place for a particular development, either Hibernia or the Tar Sands or the Beaufort Sea or whatever, we will have to wait and see because all of that is under review. There is that commitment there by the federal government, we will have to wait to see what form this 25 per cent withdrawal will take.

MR. SPEAKER (Russell):

The hon. the Leader of the Opposition.

MR. BARRY:

Mr. Speaker, I will leave that for now, although it should be noted the Premier is on record in this House as saying that he is of the opinion that that will not apply as far as Hibernia is concerned.

PREMIER PECKFORD:

No, I did not say that.

MR. BARRY:

I will clarify that, I will go back to Hansard and bring that out, Mr. Speaker. With respect to the application by the National Union of Provincial Government Employees and the Newfoundland Association of Public Employees to the International Labour Organization, I wonder if the Premier would be prepared to reconsider the position which has been taken by the Newfoundland Minister of Labour (Mr. Dinn), as indicated in this House, that he does not look favourably upon the International Labour Organization being welcomed if they wish to come in and take a look at the labour legislation of this Province? It seems to me that if government is satisfied that the labour legislation which is now on the books is fair both to employees as well as to employers, then there should be nothing to hide and that government should be prepared to agree and to indicate to the Government of Canada, which will be the initial contact, that if there is a request by the International Labour Organization, as we understand there has been, to come in and view the legislation of this Province and have discussions with government officials, that this is something that the Province would not object

to and, in fact, would welcome to show, if government so believes, that its legislation is fair and reasonable.

MR. SPEAKER (Russell):  
The hon. the Premier.

PREMIER PECKFORD:

Mr. Speaker, we are in contact with the Department of Labour in Ottawa who take exactly the same position as we take at this point in time in their correspondence back to the International Labour Organization. There seems to be some confusion in the last five or six days concerning it. I do not know if the ILO are a little bit embarrassed by what they have done so far, but at least they seem to be backing away from the position that they had taken earlier.

Now, the International Labour Organization did not only want to come to Newfoundland, I think it was British Columbia, Alberta and Ontario, to look at the legislation of three or four provinces of Canada. So we are in the process as the government of Newfoundland and Labrador of consulting with the federal government and consulting with the other provinces concerning it. At the present moment, given what we know they want, it seems to be an unnecessary exercise to spend the money to come to Canada and to go to the various provinces. So the matter is somewhat confused and blurred but we are in touch with the other provinces to get their views on the matter and also with the federal government. So after we have been in touch and concluded out talks with the federal government and with the other provinces, we will see whether in fact our position will change or not.

MR. BARRY:

A supplementary, Mr. Speaker.

MR. SPEAKER (Aylward):

A supplementary the hon. the Leader of the Opposition.

MR. BARRY:

Mr. Speaker, we on this side of the House believe that there are aspects of Bill 37 which should be looked at, reconsidered by government. We believe that the legislation now before the House with respect to certain retroactive measures is totally unacceptable, not just applying to employees and to the labour movement, it is unacceptable except in emergency situations for any sector of the Province to be affected by retroactive legislation. I ask the Premier would it not be better to clarify any misunderstanding that may have arisen, avoid impairing the image of this Province and indeed of Canada in the international community by showing that we believe in open government, in open debate and in consultation? I would ask the Premier why is it so important to consult with other provinces? He is the Premier of this Province, we have a government for this Province, now why is this government not prepared to take the stand that it has nothing to hide and that it is prepared to have discussions with the International Labour Organization if it so wishes with respect to the labour legislation of this Province?

MR. SPEAKER (Aylward):  
The hon. the Premier.

PREMIER PECKFORD:

Well, Mr. Speaker, first of all the Leader of the Opposition (Mr. Barry) talks about Bill 37 which has to do with the designation of

essential employees in the public service. Apparently the Leader of the Opposition has some problems with certain parts of that bill, but he has not said which parts he disagrees with on Bill 37.

We think it is extremely important in the public interest to have a level of essential workers within our health care system and within a number of other sectors of the public service. I use the example all the time that some people complain about 'Why do you need somebody in the Department of Transportation designated as essential?' Well, I know in my constituency if somebody gets sick in Brighton or Triton and there is a snow storm in January and there are no snowplow operators on and you cannot get the ambulance from Triton to Springdale Hospital, then you might be looking at very serious situation. The same way in some of our public buildings where you have furnaces and boilers, if in fact everybody is on strike and there is nobody designated as essential you might suddenly find that you do not have a public building that you had the day before. So I would like to know sometime in the future just what part of Bill 37 the Leader of the Opposition (Mr. Barry) disagrees with because I think it is a very fair and reasonable bill.

The other thing as far as Bill 37 goes, the Labour Standards Amendment that will be brought into the House, is that as far as I know the ILO has not made any comment on that yet. They may want to come here as it relates to Bill 37. I do not know of any other piece of legislation that they wish to look at.

On The Labour Standards Amendment that obviously the Leader of the

Opposition (Mr. Barry) is opposed so much to, we will have more to say about that in the next few days to demonstrate to the Leader of the Opposition and the people of the Province that once again we are being extremely fair. As a matter of fact even under the amendments that are proposed in The Labour Standards Act the temporary layoff provisions will be the best in Canada. There will be no jurisdiction in Canada which will be as good as we are as it relates to temporary layoffs. We will be absolutely the best. Talk about being progressive, Mr. Speaker.

Anyway, Mr. Speaker, as I said, we are contacting the other provinces because as the Leader of the Opposition says it is a question of the image of Canada and therefore it is extremely important that we consult both with the federal government, which is now a cooperative federal government, and with the provinces so that we have a joint approach upon this matter rather than have one which is ad hoc and split hither, thither and yon. So that is the reason for it, because we believe in getting along with the other provinces and getting along with the federal government.

MR. CALLAN:  
Mr. Speaker.

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

MR. CALLAN:  
Mr. Speaker, I have a couple of questions for the Premier concerning the Come By Chance oil refinery. I am sure that since the Premier made his ninety day promise in 1979 he has wished many times that the refinery had floated off into outer space

somewhere.

Mr. Speaker, my question to the Premier today is in connection with the ad in The Globe And Mail, 'Petro Canada Incorporated hereby gives notice of its intention to sell or otherwise dispose of its Come By Chance, Newfoundland refinery in whole or in part.' Let me ask the Premier, Mr. Speaker, this second sale - we had a scrap sale last Spring and now we have the full sale, it looks like - let me ask the Premier, does this sale of the refinery mean that the storage tanks that are part of the picture there will be going as part of that sale or will they be kept there for some future use since we have lots of oil and so on offshore?

MR. SPEAKER (Russell):  
The hon. the Premier.

PREMIER PECKFORD:  
As I understand it the storage tanks remain. The Minister of Finance (Dr. Collins) may be more familiar than I am with it but I think the storage tanks remain and are not a part of the sale of the assets.

MR. CALLAN:  
A supplementary, Mr. Speaker.

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

MR. CALLAN:  
Mr. Speaker, so the storage tanks will be staying.

Let me ask the Premier then, Mr. Speaker, what about the \$20 million wharf out there - we have the infrastructure out at Come By Chance for an offshore development site - what about the \$20 million wharf, what happens to that in

light of the sale of the refinery, Mr. Speaker?

MR. SPEAKER:  
The hon. the Premier.

PREMIER PECKFORD:  
The wharf stays too as I understand it.

MR. CALLAN:  
But who operates it?

PREMIER PECKFORD:  
The wharf and the tanks and whatever is left there will be available for future development.

MR. CALLAN:  
But who will own it?

PREMIER PECKFORD:  
The wharf is owned at the present moment by the federal government.

MR. NEARY:  
Will it remain under the federal government?

PREMIER PECKFORD:  
I would say as most wharves do around the Province. But I think we will have access to it for any future development because obviously that is what the wharf is there for, for future development.

MR. CALLAN:  
A supplementary, Mr. Speaker.

MR. SPEAKER (Russell):  
A supplementary the hon. the member for Bellevue.

MR. CALLAN:  
Mr. Speaker, what I am trying to find out is are the Premier and his colleagues carrying out day to day negotiations with their colleagues in Ottawa? Last Spring when we had the scrap sale, the Minister of Finance (Dr. Collins)



was talking about our friends in Ottawa and now their friends are there. This \$20 million wharf out there operated by Public Works Canada, is that being taken into consideration assuming that the sale of the refinery is completed? Mr. Speaker, security at that wharf is almost nil at the moment. Are the Premier and his colleagues making sure that that wharf is maintained and will be there when the offshore oil starts to be produced?

MR. SPEAKER (Russell):  
The hon. the Premier.

PREMIER PECKFORD:

Mr. Speaker, let us just review the situation in its entirety. Petro Canada is now calling proposals for the oil refinery assets and, of course, that is not the storage tanks nor the wharf. We do not know whether they received any proposals or not yet. In the event that they do, before the disposal of the assets they have to consult with the Government of Newfoundland and Labrador. So, we will be part of all of those consultations before the actual sale of the assets. Obviously it will be in our best interest, Mr. Speaker, as the member for Bellevue (Mr. Callan) has pointed out, to ensure that the assets that are left there, the storage tanks and the wharf, are kept in tiptop shape. We will be making representations and that will be part of the sale of the other assets. We will have to ensure that both the wharf and the storage tanks and whatever is left there will be in sufficient shape to attract future investors to that area because, obviously, there is a good opportunity there over the next several years to build again some facilities at Come By Chance. There are really

two problems, of course, with the existing facility, with the assets that may be sold. Number one, it is very costly to continue to maintain it. We have done very well, really, out of it in the agreement that we signed a number of years ago with Petro Canada, because Petro Canada has been incurring all the maintenance costs. If I am not mistaken, if my memory serves me well, it runs somewhere between \$600,000 or \$700,000 to \$1 million a year to maintain the facilities there. I will check the figures but I think I am fairly dead-on in talking about close to \$1 million a year.

So, number one, you have the issue of the cost to continue to maintain the assets that may now be sold and, secondly, you have, even under this maintenance, the question of the durability and acceptability of the assets for some reactivation of those assets. The studies that Petro Canada have done have indicated that it is quite likely to be cheaper to build a new facility than to try to rehabilitate the old. And, if you add to that the problems that you might have as it relates to some gas being brought ashore as opposed to just oil, that even complicates the matter further. So, one, on the assets that may be sold, you have the problem of continuing to incur large annual costs and, secondly, even under that maintenance and large annual costs, there is ongoing deterioration and, in Petro Canada's view from the studies that they have done, it is quite likely to be cheaper and you would have a more efficient and modern plant if you build a new one, in the chance that down the road we would want to build a new oil refinery as part of the offshore, as well as a

petrochemical complex attached to gas. But the hon. gentleman can be assured that as it relates to the facilities that will remain at Come By Chance, i.e., the storage tanks and the wharf, that every effort will be taken to ensure that they remain in good shape so that we can use them as assets for attraction of investment in the future.

MR. WARREN:  
Mr. Speaker.

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

MR. WARREN:  
Mr. Speaker, I have a question for the Minister of Social Services (Mr. Hickey). I understand that the minister was in Goose Bay some time ago and he made the statement that there would not be a second chronic care facility for Labrador. Could the minister tell this hon. House where is the first chronic care facility for Labrador?

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

MR. HICKEY:  
Mr. Speaker, it is no trouble to know that the hon. gentleman is not representing Happy Valley - Goose Bay if he does not know where the facility is. Paddon Memorial Home is located in Happy Valley and services the whole area of Labrador. There is a question as to whether or not the board accepts the fact that that facility is catering to and servicing people who suffer from chronic illnesses, and it is a matter of name and interpretation, really. The fact of the matter is the facility already has a fairly large number of people in there

who are chronically ill, and why they will not accept the fact that their institution responds to the chronically ill, I will never know.

MR. WARREN:  
Mr. Speaker, a supplementary.

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

MR. WARREN:  
The hon. the minister just said the Paddon Memorial Home is a chronic care facility. I think the minister is absolutely incorrect. This home was designed as a senior citizens' home. I would like to ask the minister how many chronic care patients are presently being looked after in the senior citizens' home in Happy Valley - Goose Bay?

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

MR. HICKEY:  
It is very difficult to answer, Mr. Speaker. The institution has fifty-three beds and the greater percentage of those beds are dedicated to being used by people who have requirements under the heading of levels two and three nursing care. Level two, Mr. Speaker, is for the very frail, the people who are up and around but certainly who require nursing care and who are in bed for a number of hours during the day. Level three, of course, is for residents who are confined to bed. As I said, I do not have the figure right at my fingertips, but the greatest percentage is in those two categories. There are a number of other people who are there who were admitted because the admissions criteria permitted the board to admit people who did



not require that kind of facility and could have been looked after through home support services and other services.

MR. WARREN:

A final supplementary, Mr. Speaker.

MR. SPEAKER (Russell):

A final supplementary, the hon. the member for Torngat Mountains.

MR. WARREN:

Would the minister agree with the board of directors of the Paddon Memorial Home and with the people who know about conditions in Labrador that if the chronic care patients were not housed in the Paddon Memorial Home, even without them, the list of senior citizens who are waiting to get in the home would still fill the home to capacity?

MR. SPEAKER:

The hon. Minister of Social Services.

MR. HICKEY:

Mr. Speaker, that is very difficult to say. I am certainly not going to make that statement. But I agree with my hon. friend that the greatest number of people have found their way into that institution at a time when they were not indeed bedridden, if one wants to put it that way. However, it is very difficult to say that because the aged who suffer from some kind of chronic illness can be up and walking today and confined to bed tomorrow. Let me tell the hon. gentleman in responding to his question that when I was in Happy Valley-Goose Bay I responded to a regional report which was done by the committee that was set up by professional people. A very intensive survey was done of the Labrador region and we found that

four people had a requirement for chronic care services and those four people are in the Melville hospital at the present time. We found a number of people requiring beds in a licensed boarding home. We opened a licensed boarding home for ten beds this year. We have increased the dollars that were provided in terms of home care, to keep in their own homes, and a lot of the Labrador residents, as the hon. gentleman will acknowledge, want to stay in their own homes for as long as they can. Furthermore, Mr. Speaker, we identified a number of people who suffer from mental retardation who were housed in Exon House, I think it is five. And we have embarked upon an effort to produce a group home in Labrador. So we are providing a whole range of services. We have stopped short of agreeing to build a facility which in fact is not needed.

MR. SPEAKER (Russell):

The hon. member for LaPoile.

MR. NEARY:

Mr. Speaker, now that the Minister of Public Works (Mr. Young) is back in his seat, I wonder if the minister could give us some information concerning an announcement he made on November 9 in conjunction with the member for Burin-Placentia West (Mr. Tobin) and the Minister of Health (Dr. Twomey) in connection with a contract that was let for the Burin hospital. The minister announced that a \$12,846,000 contract had been let for the Burin hospital. It was let to Olmypic Construction, so the minister told us. Could the minister tell the House if Olmypic Construction were the low bidders on that tender?

MR. SPEAKER:

The hon. Minister of Public Works and Services.

MR. YOUNG:

Mr. Speaker, they were not the low bidder but they were the preferred bidder.

MR. SPEAKER:

The hon. member for LaPoile.

MR. NEARY:

Mr. Speaker, the hon. gentleman has confirmed that Olmypic Construction was not the low bidder. I am not sure what he means by preferred bidder, but perhaps the hon. gentleman could tell us what criteria was used to see that Olmypic Construction got that \$12 million contract?

MR. SPEAKER (Russell):

The hon. Minister of Public Works and Services.

MR. YOUNG:

Mr. Speaker, I am surprised that the hon. gentleman does not know of the local preference policy of this government which is why Olmypic Construction Company got the bid. We refer to it as a preferred bidder and not the low bidder. They got it because of the local preference policy and the guidelines of this government.

MR. SPEAKER:

The hon. member for LaPoile.

MR. NEARY:

Mr. Speaker, the hon. member for LaPoile is well aware of how the government can change the criteria for awarding contracts. Let me ask the hon. gentleman how many bidders there were on that tender call for this structure in Burin? Would the hon. gentleman care to name the firms that bid on that contract? Is the hon. gentleman prepared to table all the

information? It is a very serious matter when you change the criteria and you violate the Public Tendering Act.

PREMIER PECKFORD

There was no violation of the Public Tendering Act.

MR. STEWART

Come on.

MR. NEARY:

We are the ones who will judge that once we get the information from the hon. gentleman. I remember on one previous occasion, I think it was concerning the annex to this building. When I believe the Opposition were consulted before the government proceeded to award a contract. It is a diversion from the Public Tendering Act, Mr. Speaker. Could the hon. gentleman tell us how many bidders there were? Would the hon. gentleman be prepared to table the information in the House, the number of bids, the amounts of the bids and the criteria that were used to see that Olmypic Construction got this contract?

MR. SPEAKER (Russell):

The hon. Minister of Public Works and Services.

MR. YOUNG:

Mr. Speaker, that is public knowledge. It was an open public tender. The tenders were called by the Department of Public Works. There could have been four, five or six. I have no objections whatsoever, tendering is all public knowledge, Mr. Speaker, and I will table the names of the people who bid. The hon. member who made the announcement informs me there were five bids and the tender was awarded to the preferred bidder,

as our guidelines set forth. There is nothing contrary to the Public Tendering Act. We get the guidelines from the Department of Development, we abide by those guidelines and we award the tender in line with the local preference policy.

MR. SPEAKER:

The hon. member for LaPoile.

MR. NEARY:

Mr. Speaker, do I understand the hon. gentleman correctly, that the hon. minister is prepared to table all pertinent information in connection with the awarding of this contract? And perhaps the hon. gentleman, while he is on his feet, can tell us, Mr. Speaker, who are the shareholders, who the owners of Olympic Construction are?

MR. SPEAKER (Russell):

The hon. Minister of Public Works and Services.

MR. YOUNG:

Mr. Speaker, when we call public tenders we do not ask who the owners are or who the shareholders are of the companies. We ask for bids to build a certain building or build buildings for us. I have no objections, Mr. Speaker, whatsoever, to tabling anything pertaining to any public tender that the Department of Public Works and Services tenders in this Province.

MR. NEARY

A supplementary, Mr. Speaker.

Would the hon. gentleman indicate -

MR. SPEAKER:

The hon. member for LaPoile.

MR. WINDSOR:

Why do you not go down to the Registry, pay your fifty cents and

get it yourself?

MR. NEARY:

I have the share list here in front of me, that is why I am asking the hon. gentleman. I can tell the hon. gentleman who the principles of the company are. Mr. Basil J. Dobbin is the Chairman. If the hon. gentleman wants me to table it I will be glad to.

MR. TOBIN:

Well, what is wrong with it?

MR. NEARY:

I am not saying there is anything wrong with it. Did anybody say there was anything wrong?

MR. SIMMS:

You insinuated it.

MR. NEARY:

I certainly did not indicate there is, Mr. Speaker. I think we all know the role that Mr. Dobbin plays.

MR. TOBIN:

Your leader got you put up to this.

MR. NEARY:

Now, Mr. Speaker, because of the seriousness of this matter the hon. gentleman has agreed to table the information. Would the hon. gentleman agree to table that information in the House tomorrow?

MR. SIMMS

He will table it when he is ready.

MR. NEARY:

Will he table it tomorrow. Why can he not table it before the day is over?

MR. WINDSOR

What is your question?

MR. NEARY:

The question is I want to know from the minister when he is going to table this information? Will it be this afternoon or tomorrow? We would like to have this information, Mr. Speaker, at the earliest date possible.

MR. SPEAKER (Russell):

The hon. Minister of Public Works and Services.

MR. YOUNG:

Mr. Speaker, I do not know if I can table it this afternoon but if my officials can get it for me this afternoon before the House closes, by leave, I will table it. Mr. Speaker, there is nothing secret. I do not know who Olympic Construction are. That is not in the guidelines of the tendering call, who the shareholders are. I know no more about Olympic Construction than the man in the moon. Mr. Speaker, I will gladly tender the information when it is available to me.

MR. SPEAKER:

The Question Period has expired.

#### NOTICES OF MOTION

MR. SPEAKER:

The hon. Minister of Finance.

DR. COLLINS:

Mr. Speaker, I give notice that I will on tomorrow ask leave to introduce a bill entitled, "An Act To Amend The Financial Administration Act, 1973." (Bill No. 45)

MR. SPEAKER:

The hon. Minister of Justice.

MR. OTTENHEIMER:

Mr. Speaker, I give notice that I will on tomorrow ask leave to

introduce a bill entitled, "An Act To Amend The Companies Act." (Bill No. 53)

#### PRESENTING PETITIONS

MR. SPEAKER (Russell):

The hon. member for Burin - Placentia West.

MR. TOBIN:

Mr. Speaker, I rise to present a petition on behalf of fifty-three people from the community of Monkstown in my district of Burin-Placentia West. The prayer of the petition is, "We the undersigned do hereby protest any reduction of hours or services by Canada Post Corporation in our community. We request that the present hours of service be maintained." I present that in the House realizing that it is fully the responsibility of the federal government, it is not under the jurisdiction of the provincial government, but I understand that a petition similar to this has already been presented in this House. So, Mr. Speaker, I present this petition supporting the wishes of the people of Monkstown. These people want to maintain the present level of post office service, the type of service that they already have. So I present this petition on behalf of these people.

MR. SPEAKER (Russell):

The hon. member for Torngat Mountains.

MR. WARREN:

Mr. Speaker, I rise to support the petition. In fact, Mr. Speaker, I would think by now the member for Burin-Placentia West (Mr. Tobin) would have gotten the answers I sought from the Minister of

Finance (Dr. Collins) the first day this news was announced. I asked the Minister of Finance then if he was aware of it, he said he was not but he would try to check it out and do anything possible to make sure post office hours were not cut.

Mr. Speaker, maybe the Minister of Finance can also stand up and support this petition because there are very many - in fact, I think there are ninety-four altogether - small one-man or one-woman post offices in this Province that will see their hours cut from forty hours a week to thirty hours a week. Mr. Speaker, it could be okay for places that are accessible to roads and has the mail dropped off to them, but down in Monkstown, Mr. Speaker, it is pretty well the same as down in Nain or Makkovik or Petit Forte; they may have a road down in Monkstown but is it not always going to be open during the Wintertime.

For example, Mr. Speaker, a place could be completely isolated for four or five days because of weather conditions and so the mail cannot get into that community, and by the time it arrives the individual working in the post office has already accumulated this 32 hours of work. So what happens to the mail? The mail has to stay over for the next week. I think that is a very backward step for rural Newfoundland and I would strongly suggest that the Minister of Finance, who is in bed continuously now with his cohorts in Ottawa, take the necessary steps to assure the people of rural Newfoundland that they will not have their hours cut. I am also surprised, Mr. Speaker, that the member for Burin-Placentia West would only just get up and

say he presented a petition. He did not say whether he supported it or not.

MR. TOBIN:  
I did so.

MR. WARREN:  
Maybe he said he supported it, but he did not do any preamble at all and very light-heartedly said he placed it upon the Table of this House.

#### ORDERS OF THE DAY

Motion, the hon. Minister of Education to introduce a bill, "An Act To Amend The Schools Act," carried. (Bill No. 55)

On motion Bill No. 55 read a first time, ordered read a second time on tomorrow.

Motion, the hon. Minister of Labour to introduce a bill, "An Act To Amend The Workers' Compensation Act," carried. (Bill No. 56)

On motion bill No. 56 read a first time, ordered read a second time on tomorrow.

Motion, the hon. Minister of Development to introduce a bill, "An Act To Amend The Labrador Linerboard Limited Agreement Act, 1979 In Order To Ratify, Confirm And Adopt An Amending Agreement Entered Into Between Her Majesty The Queen In Right Of The Province Represented By The Honourable Minister Of Development And Abitibi-Price Inc.," carried. (Bill No. 57)

On motion, Bill No. 57 read a first time, ordered read a second time on tomorrow.

Motion, second reading of a bill, "An Act To Revise The Judicature Act." (Bill No. 21)

MR. SPEAKER (Russell):

The hon. Minister of Justice.

MR. OTTENHEIMER:

Mr. Speaker, this is probably one of the lengthiest bills ever introduced in the House, 151 pages, and I do not intend to comment on every page or every section, hon. members will be pleased to learn. Essentially, of course, as some hon. members will be aware, the Judicature Act and the rules of the Supreme Court date back to 1889. And there have been some amendments, obviously, to the Judicature Act over the period of time, and also with respect to the rules. Of course, I suppose the major amendment to the Judicature Act would have been the one in 1974 which established the Court of Appeal.

A number of years ago, eight or nine, a committee was established to revise the rules governing the practice and procedure of the Supreme Court. These rules have been worked on for a very long period of time, worked on by the Law Society, a committee thereof, meetings and consultation with the judiciary and they are now prepared.

Actually the present bill does two things; it revises the Judicature Act and will make possible the new rules and procedure of court, and it will also provide for merger of the Trial Division of the Supreme Court and the District Courts. The merger provisions will come in on proclamation when a merger takes place. The other provisions it is anticipated will be proclaimed next September

coinciding more or less with the beginning of what one could call, I suppose, the court year. It is the intention therefore that the other provisions will come into effect September 1.

The Act is divided into ten parts so perhaps the most systematic way would be to go through those various parts. The first part deals with the Court of Appeal. It sets out the jurisdiction and constitution of the Court of Appeal and essentially represents the current situation. There are some changes to the current situation and I think the best way of going through this is to take each of the ten sections and to indicate to hon. members what is changed, or what is new or what is different. Because a great deal of it is a reorganization, a rewording, a clarification, a better systematization, if you wish, of what has existed and what will continue. So the new areas in the first section dealing with the Court of Appeal are to the following effect: At present, of course, the court consists of four judges and is required to sit in St. John's. Under the new act the court will be permitted to sit in other locations if and as required.

Presently three judges constitute a quorum of the court and the judgement of the majority is the judgement of the court. The new act continues the existing provisions and clarifies the fact that the jurisdiction of the court will not be affected by the death, withdrawal or resignation of a judge after the commencement of a hearing provided that the appeal is disposed of by at least two judges. It clarifies that.

At present if a judge retires he may give his judgement on a case



within a six week period of his retirement - I was going to say death but obviously only his retirement. The new section will permit the judge to give his judgement within a six month period of his retirement, not, obviously, on his death. And there is a new section which permits a single judge to dispose of any application or motion which is incidental to a matter pending before the court. Not the decision of the appeal but an incidental matter.

At present if a reference to the Court of Appeal relates to the constitutionality of any act of a legislature, the Court of Appeal is required to notify the Attorney General of Canada of that fact. The new bill will require that that the Attorney General of each province be so notified where a reference is of a constitutional nature.

MR. ROBERTS

Plus the federal.

MR. OTTENHEIMER:

Plus the federal, yes, and it will add the Attorney General of each Province.

So that is essentially what Part I, dealing with the Court of Appeal, is about.

Part two deals with the Supreme Court of Newfoundland, in other words what other people refer to as the Trial Division. There is a new section there which establishes the judicial centres which are now the judicial centres of the district courts, Brigus, Corner Brook, Gander, Grand Bank, Grand Fall, Happy Valley - Goose Bay and St. John's. These are the same, of course, as the district court and this section enables

existing judges at the centres to continue to serve the centres under the new act and not be required to relocate unless the judge consents to the change. That, of course, will come into effect with merger.

And then there is a similar provision whereby if a judge retires, he may now give his decision within a six week period and that is extended to a six month period. Another section of that Part II deals with circuits. At present the detailed scheduling of the Supreme Court on circuit is provided for in the act. The act will now enable a judge of the Supreme Court to transact any part of the business of the court or discharge any duty of the court at any place in the Province.

And finally under Section 2 there is a clarification that the person appointed by a judge to endorse or execute a conveyance contract or instrument is not liable for any damage for so acting. And that I would regard as a clarification.

The third part deals with the superior courts but really with the question of seniority or precedence. It is not a matter that I can get too enthused about but it is a matter presumably which needs to be regulated and it deals with essentially the question of precedence.

The present system practiced is that the Chief Justice of Newfoundland takes precedence over all other judges. He or she, as the case may be, is followed by the Chief Justice of the Trial Division and then the remaining judges of the Court of Appeal and Supreme Court based on the seniority of their appointment. Under the new act the seniority



will be, the first two are the same, the Chief Justice of Newfoundland and the Chief Justice of the Supreme Court, then the judges of the Court of Appeal in their order of seniority of appointment, and then the judges of the Supreme Court, that is what we now call the Trial Division, in the order of their appointment. And it provides that with merger the district court judges appointed to the Supreme Court will have their precedence dating from their appointment to the Supreme Court. So as hon. members can see, for people interested in precedence it may be very important.

MR. MARSHALL:

Who wanted that in there?

MR. OTTENHEIMER:

I do not know who wanted that in there but presumably all these acts do have precedence lists and this is the one which I think is generally operative and resulted from the discussions that the department had I suppose with the court and the Law Society. I, myself, have not spent a great deal of time, effort, or worry into the order of precedence.

MR. MARSHALL:

All I can say is whoever thought of it has a smaller mind or minds than the members of the Opposition, and that is saying something.

MR. OTTENHEIMER:

Now the next part deals with the officers of the Court of Appeal and the Supreme Court. As I say, this is not awfully exciting stuff and there is not much I can do with it but, as I say, most it has been there since 1889 and no doubt a strong argument can be put up that it is time to bring it up to

date. As I said at the beginning, the vast majority is a consolidation, a clarification, a rearrangement systematization, whatever you want to call it, and what I am endeavouring to do is to indicate what some of these specific changes are. So Part IV deals with the officers of the Court of Appeal and the Supreme Court, and deals with the registrar, and the deputy registrar, and criers and tipstiffs, so I do not think hon. members really necessarily want me to go into all of that.

Part V of course is standard to any judicature act. What it in effect does is continues both courts. Because strictly speaking now there would be two courts, the Court of Appeal and the Supreme Court of Newfoundland, whereas previous to the enactment of this bill, or its coming into effect, although in practice there were two courts, strictly speaking there was one court with a trial division and an appeal division. So what Part V, which is standard to any judicature act, does is continues both courts as courts of law and equity and it is a consolidation, a restatement of existing law.

The sixth part deals with probate and administration. Currently under present factors letters of administration may not be issued or a guardian or receiver of property appointed until security is given by the person seeking appointment as administrator, guardian or receiver, unless the court or judge orders otherwise. The appropriate section of the act will continue the requirement for security but exempt a trust company authorized to do business in the Province from that provision.

Part VII deals with attachment, execution and distraint, and there are a number of changes and modernizations there. Currently a warrant for the attachment of property for recovery of debts, effects, and chooses an action of the defendant may be issued upon the request of the plaintiff in a number of cases including if the defendant is indebted to the plaintiff for an amount of \$20 to \$500 and the judge is satisfied the claim cannot be settled in District Court, or if the defendant owes the plaintiff an amount in excess of \$500 and the judge is satisfied the claim again cannot be forced in district court, or if the debtor damages are unliquidated following an order by a judge. The new provision of the act will provide for the issuance of a warrant of attachment for the recovery of a debt more than \$1,000 if the judge is satisfied that the defendant is about to dispose of the assets.

There was also a provision which will require the sheriff to include costs in the attachment order but permits the amount of the costs to be set out in the rules of the Supreme Court. That was previously set out in the schedule to the act, the difference there being, of course, that to change the schedule to the act you have to amend legislation whereby the change of rules of court do not require changes in a statute.

Similarly in that section there are exemptions from attachment, execution and distraint. These exemptions are indicated, for example, to include the furniture, household furnishings and appliances necessary for the health and welfare of the debtor and his family, not to exceed

\$5,000, necessary food and fuel for the debtor's family. Another covers tools used by the debtor in the practice of his occupation up to a total value of \$10,000 and one vehicle not exceeding a market value of \$5,000 if required for the debtor's occupation. The draft act, of course, indicates that these exemptions do not apply to corporate debtors as individuals.

Part VIII deals with special proceedings. Essentially what that does is change the time period at present. At present the Attorney General must be given thirty days notice in writing of any claim against the government before a petition is made in Supreme Court. This will require a period of sixty days.

Part IX relates to general matters of particular importance to the Rules Committee. For example, it clarifies - it does not alter - the existing situation that costs may be awarded to or against the Crown. The section provides for the establishment of a separate Rules Committee for the Supreme Court and the Court of Appeal, so there will be two Rules Committees. There was one before because in theory there was one court. There will be two courts, there will be two Rules Committees, one for the Supreme Court and one for the Court of Appeal. The new act, the relevant provision in this Part IX, will continue the existing provisions for both Rules Committee and also enable them to make rules respecting physical or mental examination in cases where the physical or mental conditions of a party is an issue in a cause.

There is also a provision which clarifies the existing practice,

restates it, clarifies it, whichever way you wish to put it, that if the practice and procedure in a particular case cannot be determined in respect of the High Court of Justices in England, the court may adopt such practices and procedures as are necessary to permit the case to be heard. That is a restatement or clarification of existing practice.

There is a new section, as well, requiring that notice given to the Attorney General for Canada as well as the Attorney General for any province concerning proceedings where the constitutional validity of any act or regulation of the Parliament of Canada or the Legislature is questioned. Notice is to be given, six days before the case is heard, to the Attorney General of Canada or of the Province. Any provinces are entitled to make representation on the action and to commit it to appeal.

There is a new section requiring that a Council of Judges of the Supreme Court meet at least once a year under the chairmanship of the Chief Justice of the Supreme Court and the duties of that council are to consider the operations of the act and the rules made under it, to review the performance of the officers of the court, to examine defects in the procedures of any court, to consider such other matters as the Chief Justice considers appropriate and the Council of Judges is required to report its recommendations to the Minister of Justice.

There is a new section permitting the Chief Justice of Newfoundland and the Chief Justice of the Supreme Court to require a judge to attend a meeting, conference or seminar relating to the

administration of justice.

Part X, the general heading there is transitional and Consequential provisions. That is there so that there is no lacuna or no void resulting from the creation of two courts rather than one. Similarly with respect to Part XI, that is there so that when there is merger it will provide for continuity so that a court would not lose jurisdiction or there would be no vacuum created when merger took place, also with the creation of technically two courts instead of one, that is a Court of Appeal and Supreme Court rather than the present situation.

That is essentially what it comes down to. Those parts deal with the transition, I suppose, measures required for any transitional period. That basically is an outline of the Judicature Act. I repeat, as I said before, that the act under which it is being operated now is an act of 1889. To a very large extent this Judicature Act, which has been worked on for years by committees of the Law Society and also in consultation with the judiciary, to a very large extent, restates, reformulates, clarifies, what the law is and I have endeavoured to point out where there are some new or additional or changed provisions. I am not sure there is a great deal more I can or should say.

MR. SPEAKER (Aylward):

The hon. the Leader of the Opposition.

MR. BARRY:

Mr. Speaker, I would like to thank the minister for that enlightening description of what is being done and what is not being done by this act. I am not sure it is this

type of legislation that is going to cause the people of the Province to run out into the streets with hosannas or praise.

DR. COLLINS):

Do you agree there are no lacunas in the act?

MR. BARRY:

There might be a lacuna or two, yes, but I am sure we will see it being cured by retroactive legislation if any such are found.

Mr. Speaker, I would like to make a few comments on the act generally. To a large extent it involves amending to take notice of the fact that we now have a Supreme Court of Appeal which is separate from the Trial Division of the Supreme Court. It removes certain provisions that were contained in the Judicature Act, which I have to confess I never really saw the reason for them being in that act, so I think it is a good idea to put them in the statutes where they are more applicable.

I would like the minister, when he comes back to the act, to address a couple of matters. With respect to trust funds, I see that there is a revision here referring to trust funds but it does not really refer to - if I could just find the section here now - consolidated trust funds, this is dealing specifically with the trust funds held by the Registrar of the Supreme Court but it brought my attention to another matter that had arisen in the past year or so. Until recently there was no interest payable to law firms on the trust funds they held because a firm is not supposed to make money on the treatment of its trust accounts, naturally. So what used to happen was the banks

would end up getting the benefit of considerably large amounts of money and they would invest it and make interest on it and they kept the money. Now quite properly we changed this, a little while ago, and the banks now pay interest on these trust funds into an account that is for the benefit of the Law Society of Newfoundland. Now I had the opportunity of seeing a somewhat, I would think, strongly worded letter from the minister which pretty well told the Law Society that they could either divert some of this money into the Legal Aid Fund or else. I think there was a very big 'or else' there and the minister was making it quite clear that if the Law Society did not voluntarily make money available from this fund for Legal Aid then perhaps it would be done involuntarily. Now I am not here to debate whether or not Legal Aid was the main priority, I suspect it probably was in terms of how some of these funds could be utilized but I believe it was a somewhat heavy-handed approach for the minister to take in the circumstances. There are other areas in which these funds are being invested partially now, areas where the funds that are now going to Legal Aid could have been invested. For example, I believe right now there are scholarships provided by the Law Society from some of these funds. There is investment in better library facilities - and I have more to say about the library in a moment - but the providing of better library facilities is of benefit to the public at large in that there is better research then available for a particular individual's case, better justice, I believe, meted out as a result of lawyers having access to better and more materials. I may be doing the minister an injustice,

but I would like to hear his comments as to why he felt it necessary to come down so heavily in his direction to the Law Society and why was he not prepared to accept that the members of the Law Society, being reasonable people, would listen to the views of government as to the importance of Legal Aid? We have to keep in mind the context that government itself, as part of its restraint provisions, if not cutting down on what was put into Legal Aid, was controlling the amount of increase that would be available. Maybe the minister can clarify just what was the case, but in any event it was apparent that there was a need for further funding which the provincial government was not prepared to provide. And the government, as it has done in a number of instances, such as passing its dirty work on to the municipalities when it comes to taxation and forcing the municipalities to raise taxes, the government in this case decided rather than to undertake its responsibilities for Legal Aid decided to force the Law Society to share a portion of the burden. And again, I say I am not necessarily quarrelling with the end result. However, I do have some questions as to the priority of the Minister of Justice (Mr Ottenheimer) and the Attorney General coming on in such a heavy-handed fashion and telling a society, whether it is the Law Society or any other, that its funds should be used for a particular purpose or else government would be prepared to take action itself to see that those funds were appropriated for the purpose that government wished the funds to be used. With respect to facilities for the courts, generally I think we have

to compliment the minister for the progress which has been made. There has been improved facilities for certain courts and ironically, I suppose, it is the Supreme Court which has the least attractive and least amiable surroundings in which to work. There has been a lot of work gone into the existing courthouse in terms of renovations, improving the courtrooms, in terms of improving the judges facilities. But sometimes I look at that building and I realize the minister is now committed on a course of extensive exterior renovation to the courthouse. I think it is around \$25,000, is it, that the minister is planning to expend in improving the exterior of that building? The interior still provides some serious problems. We have the problem of the library, a library which is shared by the judges and the practitioners at the bar. It is on the third floor, fourth floor, depending on where you start counting, I guess. There are some concerns about the structural strain that the additions to the library are bringing on that building, whether the courthouse is going to come tumbling down all over our ears one of these days. I understand that Public Works engineers have been in and satisfied themselves that the building is still sound enough to hold the number of books that are now there. But in looking ahead in terms of expanding there is some real question as to how many books you can stack in there on that floor of the courthouse without bringing the entire thing down around the ears of those on the lower floors. I understand there has been some consideration given to moving the law library out of the Courthouse. Some judges have expressed concern about this



because it would be less convenient for them. In the course of preparing their decisions, they would not have ready access to the volumes that they have right now. I believe one possibility that has been discussed is the possibility of moving the law library down to the lower stories of the courthouse where the former magistrate's court or provincial court used to be. I am not sure whether the minister is still looking at that alternative but it is something that I think we would like to hear from the minister, as to generally how he sees the ability of that courthouse building to meet the growing needs of the justice system in the St. John's area primarily, the needs of the justices of the Supreme Court, both the Trial Division and the Appeal Division, and the needs of the practicing bar in terms of access to library facilities. The minister knows, if he has been down there, that the present library is overcrowded, there is not sufficient room for the books that are now in there, there is not sufficient work space for the members of the bar who have to do their research and preparation for trial, and it is becoming more and more apparent that the entire system is going to break down unless we get a more improved library system. I understand this is not entirely the minister's decision. The Department of Justice makes a contribution towards the law library, as does, I believe, the Government of Canada, and the major expense or major burden is borne by the Law Society itself. But in deciding where to locate the law library the Law Society has to keep in mind the desires of the judges, the needs of the judges and has to try and do what is necessary to

make it most convenient for the court as well as for the practicing bar. So in that sense cooperation and consultation is required between the minister, the Bar and the Law Society and I wonder whether this consultation is there as fully as it should be on an ongoing basis.

The Judicature Act contains a section here with respect to distraint the attachment of property and so forth. It is my belief from what I have seen in my own practice and from what has been communicated to me by members of the Bar that the Sheriff's Office is probably the area now requiring the most attention and the most work. The Sheriff's Office is an aspect of the Newfoundland judicial system which has not moved very much, I think, in the last several hundred years. I believe there is a need for a new Sheriff's Act. I believe there is a need for an entirely new approach to the way in which that office functions and operates. It is one thing for members of the public to be able to go to court and get speedy justice in terms of having a decision brought down by the judges. I must say right now, today, in Newfoundland in the Supreme Court we are able to see trials brought on relatively quickly compared to what the situation was a few years ago and compared to what the situation still is in many of our sister provinces. The timing of the courts now is pretty good. From the time you move to have a trial until it is actually heard is usually a matter of three or four months. What is the point of having speedy access to a decision if then there is very great difficulty in enforcing that decision, as there often is,

because of the antiquity of the approach taken in the Sheriff's Act and in the actual administration of the Sheriff's Office? This has significance as well not just in the case of the enforcement of decisions, but the efficiency of the Sheriff's Office is also a very real factor in the ability of people to have proper assurance that when they are giving security for a loan, if it is a single individual putting up money to another individual for which he has taken a mortgage, or if it is a larger corporation putting money into a business and taking back a trust deed or a mortgage, it is important that at a particular point in time when the transaction is closed that both sides are aware of all encumbrances that might fall on the property that is the subject of the security. All too often right now it is difficult to be satisfied that at any particular point in time you know just what attachments have been filed against a particular property. I understand that some work has been started, I understand that there have been moves to have some efficiency experts brought in. I do not know to what extent that is being carried on but I would like to hear the minister on that as to whether he is prepared to follow through with a complete review of the way in which the Sheriff's Office is working because I think that this would be of advantage, not just to the Bar, but to the general administration of justice in the Province. It would ensure individuals that when they go to trial if they get a decision in their favour they are going to be able to see that decision enforced. Right now it is often the case that there are problems in having that decision enforced if it involves the Sheriff going

out and tracking down property against which attachments should be made.

Another area I would like to ask the minister to comment on, and all of this I realize is of very little interest to laymen but it does have an affect on the administration of justice, is if the minister and his officials are going to have input into the rules of court. Maybe these have been finalized now. Are they totally finalized?

MR. OTTENHEIMER:

For all practical purposes, I think.

MR. BARRY:

One of the things I hope they have done, and I do not recall whether it is in the last draft of the rules I saw or not, is that they have taken away the need for fifty or sixty or one hundred lawyers to sit down and wait for a couple of hours to try and get a matter set down for a hearing. It seems to me that this is something that should be just an administrative matter that could be handled in a clerk's office rather than taking up the time of judges. It is probably several days a month that the judges are tied up in this purely administrative detail of setting days for trial or days to hear a motion or a summons for that matter. If the minister's officials would look at that and try and have some input into the rules, I believe that the system would be much more efficient if they did away with this concept of having to have lawyers do it, plus there would be a tremendous saving to the client who is paying for that lawyer while he sits there for an hour or two years waiting to have the case called so he can stand up for two minutes and



arrange to have a day set for the trial.

Finally, I would like to suggest to the minister that this merger of the District and Supreme Courts should be proceeded with with all due haste. I got the impression that that may not come into force as quickly as the other parts of the act. I think that that would be a pity. I know there are concerns on the part of certain members of the judiciary with respect to whether this would work or how well it would work. My own belief is that it is something that would mean an improvement. There may be problems that would have to be thrashed out but I think it would see an improvement in the administration of justice and I believe the quicker it is done the better. I would suggest to the minister that he should move as quickly as possible on this aspect and not keep this portion of the Judicature Act unproclaimed for an unduly long period of time.

Now, I would like to go on, Mr. Speaker, but unfortunately I have another commitment, I have to take off for a few minutes to meet. I am sure my learned friends may have some comments. The Government House Leader (Mr. Marshall) I am sure is waiting to get into an extensive debate on this Judicature Act. By and large it is purely housekeeping that is being done here, there are no significant major changes and unfortunately it is same sort of thing that has been done in most of this Session so far. Instead of dealing with the important burning issues of the day we are here giving an appearance of governing and dealing with trivial legislation when we should be debating matters such as the

crisis in the fishing industry, the outrageous level of unemployment, the deplorable state of labour relations, the lack of encouragement and incentives for small business, and so forth. These are the sorts of things we should be dealing with rather than an amendment to the Judicature Act, Mr. Speaker. I think we should get on with the business of this Province and get away from these housekeeping matters.

Thank you, Mr. Speaker.

MR. NEARY:  
Mr. Speaker.

MR. SPEAKER (McNicholas):  
The hon. member for LaPoile.

MR. NEARY:  
Mr. Speaker, I was very interested in what my colleague had to say and I do not want to try to compete with the legal minds on this particular bill. I realize the serious complications of the Judicature Act but, Mr. Speaker, I do want to take advantage of the introduction of the review of this act, the first review the minister told us that was done since 1889. I do want to raise a few matters that seem to be very timely and I believe this is the opportune time to do it. But I do agree with my colleague that the administration there opposite, if they leave a legacy behind, it will be for opening correctional institutes in the Province, and jails, and building courthouses and rebuilding courthouses.

MR. MARSHALL:  
All necessary.

MR. NEARY:  
All necessary, but as necessary as they may be that seems to be the priority of the administration

there opposite.

MR. TULK:

What do you expect from a Tory crowd anyway?

MR. NEARY:

Mr. Speaker, that will be the legacy they will be behind them after they are gone. They will have a whole string of correctional institutes, courthouses built and rebuilt. I think I estimated recently that some \$14 million or \$15 million has been spent in the last few years, in the last five or six years on courthouses and jails and correctional institutes in the Province.

And now here we are here again today at a time, Mr. Speaker, when we have the worst crisis that we have ever had in the economy in this Province, and what are we debating in the House? Everything else has been put aside. We were in the process of debating a bill to establish the College of Fisheries and Technology and that was shoved aside. We had second reading started on Friday of that bill, which is a pretty important item, but it was shoved aside so we could get an act that appeals to the lawyers, so that they can get up now and show us how knowledgeable they are in these matters.

DR. COLLINS:

Are you criticizing the Leader of the Opposition (Mr. Barry)?

MR. NEARY:

Pardon?

DR. COLLINS:

You are not criticizing the Leader of the Opposition, are you?

MR. NEARY:

They want to show us how

knowledgeable they are in these matters, Mr. Speaker. Now the act that is under discussion has not been reviewed since 1889 and I presume, judging by the minister's remarks when he introduced the bill, that the bill was well under review before the new Constitution of Canada came into being. So the fact that the Judicature Act was under review had nothing to do with the new Constitution of Canada. But I would like to ask the minister, and I hope he is making mental notes, I know that he is walking the floor, if now the new rules and regulations governing the courts in this Province will conform to all the terms and conditions of the new Constitution of Canada, or will there have to be a further review? Now that is a fair question. I imagine a lot of the statutes in the Province will have to be reviewed, some of them will have to be amended, some of them will have to be thrown out, but I would like to know now if the new rules and regulations for the courts, for the merger of the Trial Division and the District Courts, if these rules will meet the provisions of the new Constitution of Canada.

I was interested in what the minister had to say about the appointment of a Council of Judges to look over the operations of the act from time to time. I think that is a good move, Mr. Speaker, because my colleague, the Leader of the Opposition (Mr. Barry) skimmed briefly over what I consider to be a real problem in the administration of justice in this Province and that was the delays in people getting a speedy trial, and it is still a problem. The Leader of the Opposition mentioned that you can now get a trial in a matter of a few months.

Well, I was in Corner Brook recently when the Supreme Court on circuit was there and I was told that the judge, Judge Steele I think it was, was hearing cases dating as far back as two years, Mr. Speaker, so there must still be a bit of a backlog somewhere, if not in St. John's then certainly outside the city of St. John's.

Can you imagine, Mr. Speaker, having to conduct a trial two or three or four years after the incident takes place? I believe they wrote the bible seventy years after Our Lord was crucified. So, therefore, even in writing the New Testament there would have to be a lot of things that had been forgotten, and a lot of -

AN HON. MEMBER:

That was written (inaudible).

MR. NEARY:

No, Sir, that was written seventy years after the death of Christ, in case the hon. gentleman does not know. But, Mr. Speaker, can you imagine two, three or four years after the fact having to hear a case, witnesses probably dead, left the country -

DR. COLLINS:

It is hard to hear dead witnesses.

MR. NEARY:

- witnesses who should be at the trial.

MR. TULK:

It has probably happened that they tried to hear them.

MR. NEARY:

That is right. And, Mr. Speaker, the facts then are distorted, people do not remember, and so it is a real problem. Even though my colleague, the Leader of the

Opposition, said that the backlog seems to have been cleared up in St. John's, there appears to be a logjamb outside the City of St. John's if you have judges on circuit now hearing cases two and three years old. And so I think the minister, while we are debating this bill, owes it to the House to tell us if now under the new Constitution of Canada people are entitled to a speedy trial, can they now get a speedy trial in this Province?

Now, Mr. Speaker, the hon. gentleman might recall that we made provision in the Spring session of the House for a district court judge for Western Newfoundland. Now there should be no argument. Their pals are in Ottawa now, so there should be harmony, everything should be sweetness and light and there should be no delay in appointing the district court judge for Western Newfoundland. I can understand the delays before because they could not get together, one party or the other would stall, jockeying for position, hoping to get their appointee. Even though I do not agree with that principle by the way, Mr. Speaker, but I think it is there and it is not changed and there is nothing I can do about it at the moment. I think these recommendations should come from a completely independent group of people.

MR. TULK:

That is one thing that crowd will not allow over there.

MR. NEARY:

No, they will not allow that because they still want to continue the old tradition, the old practice of political appointees. And they can argue

all they want that they are not political appointees, they are political appointees.

Mr. Speaker, I was rather disappointed that when the new act was being worked on that the hon. gentleman could not tell us that lay people had been involved, that lay people would have input into the act. Because after all, Mr. Speaker, hon. members will probably recall that several times in this House I raised this matter, about the kind of jargon that goes on between the lawyers and the courts which frightens people to death, and everything has to be based on precedents. It is hard for people to understand how the courts work. The ordinary layman like myself is completely ignorant of how the courts work, and so therefore I think it is time that ordinary people, ordinary men and women should be involved. Perhaps the hon. gentleman could tell us how many women had input into this act. But certainly, ordinary people should be involved, Mr. Speaker, because, after all, what happens in the courts affects the everyday lives of many of them.

Now, Mr. Speaker, I have also, I think, a couple of notes here. On the matter of the new rules on psychiatric examination and so forth, which is always a very delicate and touchy subject, Mr. Speaker, could the hon. gentleman tell us what has happened to the justice ward at the mental hospital? Is it still there?

I remember having letters several years ago from people who were committed to the justice ward and apparently were forgotten about. They were forgotten, the hon. gentleman knows that. They were put there by the court and

forgotten about. I mean, is this still happening, or can it still happen?

Mr. Speaker, I have also very grave concerns myself about this matter of psychiatric assessment. I think it is too easy now, I think the courts take the line of least resistance. When they want to refer somebody for psychiatric treatment, they want to postpone the case, what I am trying to say is that technique in the courts, in my opinion, is being used too often. People are referred for thirty days to the Waterford Hospital for psychiatric assessment, psychiatric treatment, and I am wondering if it is necessary, or if it is just a racket that has been developed by the psychiatrists.

Now, Mr. Speaker, I think it is high time that we had an updating of the operations of the courts in this Province. I think it is high time. Why do I say that?

MR. BARRETT:

Good question. Who said that?

MR. NEARY:

I said it. Why would I say it?

MR. BARRETT:

You are talking to yourself.

MR. NEARY:

Well, Mr. Speaker, I am very concerned about the administration of justice and I am very concerned about the increase of violent crime in this Province, violent crime, a robbery just about every night now in this Province, armed robbery, things we never heard of before in our lives. Mr. Speaker, it is a matter that we all should be concerned about, and I invite the minister now when he closes second reading to address himself

to that matter.

Also, because this is a very timely issue, I would like to ask the hon. gentleman if he believes that we should arm the law enforcement officers, the members of the Newfoundland Constabulary, and if the hon. gentleman agrees or disagrees with capital punishment.

MR. TULK:

He will waffle on that one.

SOME HON. MEMBERS:

Hear, hear!

MR. NEARY:

What is so funny about that?

MR. SIMMS:

None of this has anything to do with the Judicature Act.

MR. NEARY:

It has all to do with it.

MR. SIMMS:

It has nothing to do with the Judicature Act.

MR. NEARY:

Is that so? The hon. gentleman should read it. It has all to do with it.

MR. SIMMS:

I did read it. There is nothing in there about capital punishment.

MR. NEARY:

Mr. Speaker, these are the matters that will be dealt with.

MR. TULK:

Do your own job.

MR. MARSHALL:

You should not be interrupting our future colleague.

MR. SIMMS:

I am sorry. Would you like to come over here?

MR. NEARY:

No, Mr. Speaker.

Mr. Speaker, on capital punishment, it is about time now that the hon. gentleman -

MR. SIMMS:

I replied. Did you reply, 'Steve'?

MR. NEARY:

Yes, I did.

MR. SIMMS:

What did you say?

MR. NEARY:

I said that I am opposed to capital punishment.

MR. SIMMS:

So am I.

MR. NEARY:

I am opposed to it. But we have not heard the opinion yet of the Minister of Justice of this Province, (Mr. Ottenheimer).

MR. OTTENHEIMER:

I did state it publicly.

MR. NEARY:

Well, I would like for the hon. gentleman to state it for my benefit because I am the one who is asking the question and I am raising it again. Most murders are crimes of passion, Mr. Speaker, and I think temporary insanity is something that we have to look at, the possibility of people's lives being taken, only to find out later that a mistake was made. I believe there is a lot to look at.

Anyway, I am not going to argue the merits of it, I just told hon. gentlemen where I stand. I am

opposed to capital punishment, even with six or seven policemen being killed lately, with emotions running very high on this matter, when one might be tempted to support it. I am glad that the Parliament of Canada will not consider this matter in the heat of the moment and that there will be a free vote, so we are told. I believe at some point we may have to have an open vote in this House.

I would like to hear what the minister has to say about that matter and perhaps the minister can also enlighten us as to his discussions over the weekend with the Attorney General of Canada, if there was anything there worthwhile that we should know about.

Mr. Speaker, I have to say that I suppose if you went right across Canada that you could not find a man with a better trained mind, who has now been given the opportunity, I suppose the greatest opportunity of his life, to use his legal mind, his trained mind. I am referring to John Crosbie, M.P., Minister of Justice for Canada.

SOME HON. MEMBERS:  
Hear, hear!

MR. SIMMS:  
He is a great Newfoundlander.

MR. NEARY:  
He is a great Newfoundlander and he will make his mark now trying to get the prostitutes off the streets, dealing with pornography and abortion and divorce. And, Mr. Speaker, I could not think of a man who has a better legally trained mind to do that than Mr. Crosbie, M.P. And I am sure, Mr. Speaker, that if I were the prostitutes across Canada now, I

would beware! I would be shivering and shaking in my shoes! What a mind the man has! We saw him in this House, in this Province. What a mind he has, what a legal mind to deal with pornography, prostitution, abortion, venereal disease! Mr. Speaker, I am sure that he will make his mark as Minister of Justice in this country of ours.

MR. TULK:  
Who are you are talking about, 'Bully-boy'?

MR. NEARY:  
I am not being facetious when I say that, Mr. Speaker. The man does apply himself, and when he is given a job to do, he will do it.

Mr. Speaker, I was talking about violent crime, armed robbery and the like, a few moments ago. I had a letter the other day, it was not signed, but it is a letter that concerned me very much. I am going to read it for the House. It was addressed to me and it says: 'Dear Sir: As a peace-loving Newfoundlander, I am concerned about the flood of refugees from Sri Lanka to Newfoundland via Gander. The majority of these refugees are believed to have come from Aeroflot flights to Cuba.' Hon. gentlemen might recall, the other day I questioned the security of having the Russians take over the Eastern Seaboard of Canada. I got a lot of complimentary calls, Mr. Speaker, including some union people, by the way. 'Sri Lanka, the palm fringed island of some fifteen million multi-ethnic Sri Lankans, has often been regarded as the paradise of the Indian Ocean. The almost daily reports of killings around the world of killings by Tamil separatist 'tigers' for the want of their



separate Tamil states have shocked peace loving people all over the world. Some of these reports are 'Tigers Of The Night', in The Wall Street Journal -

MR. SIMMS:

What has this got to do with the Judicature Act?

MR. NEARY:

Mr. Speaker, it has all to do with it.

MR. SIMMS:

What?

MR. NEARY:

We are talking about violent crime and if the hon. gentleman will just be a little bit patient he will see what I am getting at.

'Some of the reports are 'Tigers Of The Night,' The Wall Street Journal; 'Sri Lanka Rebels,' India Today; 'Tamil Fighters Prepare for War,' 'Sri Lankan Blood Bath Looms as Tamil Rebels Renew Violence,' 'Tamil Guerrillas Kill, Mutilate Policemen,' 'Blast Kills Eight in Sri Lanka,' 'Toll in Airport Bombing in India Rises To Twenty-three Dead,' 'Tamil Group Claims Sri Lanka Killings, Sri Lanka Fears Violence Will Start Civil War.'

Now, Mr. Speaker, 'A New York Times story last July said that asylum seekers from Sri Lanka to West Germany are swelling the prostitute and drug dealing underworld in West Berlin. The report also said the Swiss government had only granted one Tamil political asylum out of 450 Tamil refugees applications. The refugees who arrived recently at Gander are exclusively Tamils. Are they the Tamil terrorists from the North of Sri Lanka who took part in the blood baths and sped

to South India? Are they the misinformed Tamils that bought a loophole in the immigration laws of West Germany, went there seeking refugee status and later deported. I strongly hope that you would raise this matter to the present government officials so that the criminal elements are kept out and a thorough screening is done before these asylum seekers are allowed into the country.'

Now, Mr. Speaker, I am all for political asylum for refugees but I have to say to hon. gentlemen that I checked with Immigration and so far this year there have been seventy-seven defections at Gander - I do not think that included the six or seven Iranians who left last night - and twenty-five of these are Sri Lanka all Tamils and most of these are staying in Newfoundland. Now, Mr. Speaker, as I say Immigration may do a thorough job of checking these refugees who are seeking political asylum, I hope they do. I do not know if the hon. the Minister of Justice (Mr. Ottenheimer) is concerned about the facts and figures that I just gave out or not. Perhaps he can tell us if he has had an opportunity to examine these figures.

MR. SIMMS:

The minister has been to Sri Lanka.

MR. NEARY:

I do not know why the hon. the Minister of Forest Resources and Lands (Mr. Simms) is in such a testy mood today, talkative mood or whatever it is, but he is certainly affecting the decorum of the House and the hon. gentleman should have more sense being a former Speaker.



Mr. Speaker, these people if they seek political asylum certainly should be considered but I believe in the case of West Germany that everyone except one was sent back to the country from which they came. The only reason I am raising this matter, Mr. Speaker, is that I want to see the criminal elements kept out of this Province. I would like to see a thorough screening done before these asylum seekers are allowed in this Province and in the various communities in this Province. I am not condemning them outright. We had six Iranians deserted, jumped an aircraft, Aeroflot again, in Gander over the weekend.

MR. MATTHEWS:

Relevancy! Relevancy!.

MR. NEARY:

Perhaps the hon. gentleman would like six Iranians down in Grand Bank or Fortune, or he would like to have some of these twenty-five defectors that I just referred to down in his district of Grand Bank. I am sure the people would welcome it. They do not have to lock their doors down there now.

Mr. Speaker, all I am asking the Minister of Justice (Mr. Ottenheimer) in this Province is this: To see that they are thoroughly screened and that the criminal element not be allowed to stay in this Province and that they not be sent out to any communities in this Province. Now, that is fair enough, is it not? I have thrown out enough statistics and information to the minister, which was checked on Friday, out of seventy-seven defections at Gander twenty-five of these are Sri Lankan, all Tamils, and most of these are staying in Newfoundland. When I

see some of the headlines that I just read in India Today, The London Sunday Times, The Ottawa Citizen, The Montreal Gazette, The Calgary Herald, The New York Times, The Toronto Globe And Mail and The Toronto Star, Mr. Speaker, we have to be very, very careful who we let into this country and into this Province. So that is why I am taking advantage while we are debating this bill to raise this matter.

Now, the hon. the member for Grand Falls (Mr. Simms) thinks that is very funny.

MR. SIMMS:

I was not even talking to you.

MR. NEARY:

So, Mr. Speaker, let me repeat some of the questions I put to the minister. I want to get the minister's views on capital punishment; about arming the Newfoundland Constabulary, allowing them to carry guns; I want to find out from the hon. gentleman about some of the discussions that took place at the Attorney General's meeting.

Before I take my seat I want to ask the hon. gentleman about drunken driving. There seems to be a great crusade going on now right across North America and indeed a large part of the world against drunken drivers. Now, Mr. Speaker, the hon. gentleman knows that it is already a part of the Criminal Code, it is a crime just the same as murder, just the same as armed robbery. Drunken driving is covered under the Criminal Code just the same as murder, but the problem is, Mr. Speaker, the convictions and the penalties are not uniform, the courts have been too lenient with drunken drivers. Could the hon. gentleman tell the

House if there is going to be a crackdown now that we are approaching Christmas?

I heard the Attorney General from Ontario, Mr. McMurtry, on this morning being interviewed by CBC and he said the courts take the attitude, 'But for the grace of God there go I'. They are going to crack down on drunken drivers. We have not seen any crackdown in this Province yet and I would like for the minister to tell us if there is going to be a crackdown, Mr. Speaker, and if there will be a crackdown before the holiday season starts? I believe that would be timely now that we are debating a bill to overhaul the operations of the courts and there is a lot of people who will say it is high time to crack down on drunken drivers in this Province just the same as in other parts of Canada and in the United States. These are all very important matters, Mr. Speaker.

I just want to revert back to violent crimes again because you can hardly pick up your newspaper or turn on the radio or television now, turn on the news, that you do not hear of an armed robbery, something we never heard of before up to a few years ago in this Province. There does not seem to be any extraordinary measures on behalf of the administration to discourage or to stop violent crime in this Province. Here is a good opportunity now. Perhaps the debate on this bill could be very worthwhile if the minister could tell us what his department intends to do with regard to the increase of violent crime in this Province and the other matters that I raised. Is prostitution becoming a problem in Newfoundland and Labrador? One of my colleagues last year brought into

the House here the yellow pages of the telephone directory where you can now look up the massage parlours. Prostitution rings seem to have moved into this Province and they are advertising in the tourist magazines and in the yellow pages of the telephone directory. Is that becoming a problem? We have not even got the oil yet. We have not even hit prosperity yet, so what happened then? Are these people gravitating towards Newfoundland now in droves? Is it a problem? I do not know. The minister is the only one that can tell us.

And what about abortion? Will Dr. Morgantaler be allowed to come in, Mr. Speaker, and open up his clinic? And what about the divorce laws? Does the minister agree with the changes that are now on the table in the Parliament of Canada to change the divorce laws? Massive changes. And what input do various interested groups have in these matters of abortion and divorce laws? It is very important, Mr. Speaker. It is all right to bring in an act to amend The Judicature Act, but what about ordinary people? Do they have any input or are they just pushed aside? I mean, it only affects their everyday lives. I am sure the minister if he did not have ordinary people working on these things with the lawyers and everybody else, the professional people, that it was only an oversight on his part. I think it is very important myself. I know I will never become an honorary member of the Bar Society for all of the criticism that I have levelled at the lawyers and at the Bar Society, and justifiably so, Mr. Speaker. But there is too much jargon and there is too much control by the lawyers. Between them and the courts you would not

know but they are running the show. With all due respect to my friend the Leader of the Opposition (Mr. Barry) today demanding the library go here or go there, I would say let them go and look after their own affairs.

SOME HON. MEMBERS:

Oh, oh!

MR. SPEAKER (Aylward):

Order, please!

MR. NEARY:

Mr. Speaker, with these few remarks I hope -

SOME HON. MEMBERS:

By leave! By leave!

MR. NEARY:

No, Mr. Speaker, I do not need leave. I hope the Minister of Justice (Mr. Ottenheimer) will address himself to some of the very important matters that I have raised here today.

MR. SPEAKER:

The hon. member for St. John's Centre.

DR. MCNICHOLAS:

Mr. Speaker, I very seldom talk except on a medical problem, but after listening for the last half hour to my hon. friend for LaPoile (Mr. Neary) I thought that I should at least join in also and say a few words on our legal system here. My hon. friends talked about the psychiatrist and the racket about sending people to the Waterford for thirty days, I must say I cannot say that I go along with that very much as a doctor. Most of these people who are up for serious charges are, I think, a bit half cracked anyway in some way. But why we should just try and get them off the hook with the aid of the psychiatrist

is beyond me.

I have no particular love for psychiatrists. I think what you want is an awful lot of horse sense and not just dishing out Valium and stuff like that to patients. One thing that I felt for a long time was wrong is that criminals get out of prison much earlier for some reason when psychiatrists advise that they are cured. And I think we all read about these people getting out of prison and very frequently committing the same type of crime a short time afterwards. I think if they have a sentence they should be made to serve that instead of getting off for some good behaviour.

I would just like to have one little word about trust funds that the hon. the Leader of the Opposition (Mr. Barry) brought up. I do not know anything about trust funds. I presume this is money that a lawyer is given in trust, that a client has got judgement, we will say, for \$10,000 or whatever it might be, and this is being appealed and the money is put in a bank. For the life of me I cannot see why that should go to the Law Society or whether it go to the library or for a scholarship. If it is safe in the bank, I think that the interest that the bank would normally pay that that money should go to the client who has got that judgement. If I get judgement for \$10,000 and the thing is appealed and appealed for twelve months, why should the bank hold the interest on that? Or why should the Law Society for that matter? If I win my appeal it means that I have had \$10,000 lying in the bank without interest when in fact I should have had it, say, a year before that and the

money would be gaining interest.

Also I think the lawyers should not be looking for a handout in this particular instance? Maybe it is not the lawyers who are looking. There is a suggestion that it should go into Legal Aid. I know before the MCP days, doctors gave an awful lot of free treatment to patients who could not afford to pay. And I think in these days the lawyers should be expected to give free treatment to the poor. Whether Legal Aid is covering them or not, I am sure quite a lot of them do that anyway. But, you know, it is a type of obligation that I think we all have, to look after the poor elements of society.

With these words I will sit down.  
Thank you.

MR. SPEAKER (Aylward):

If the hon. minister now speaks he will close the debate.

The hon. Minister of Justice.

MR. OTTENHEIMER:

Thank you, Mr. Speaker.

I will endeavour to review briefly the matters raised by hon. members, first with respect to the Law Foundation and the trust funds referred to by the hon. Leader of the Opposition (Mr. Barry) and the hon. member for St. John's Centre (Dr. McNicholas).

Upon until a couple of years ago every province apart from Newfoundland and PEI did have a Law Foundation, and two years ago in Newfoundland we created the Law Foundation? These trust monies, when money is in trust, no longer belongs to the person who wrote the cheque and it does not yet belong to the person who is going

to receive it. It is in that intermediate state. And for years that money was in a bank, no interest paid, of benefit to no one. The act we brought in directed the power of the Law Foundation to have the interest of that money, because there was no interest before, made available for worthwhile public causes. It cannot be used in any individual capacity, but for worthwhile public causes. Last year roughly \$300,000 would have been the amount of interest. Actually it was only today that I had lunch with the Chairman and the Executive of the Law Foundation. We usually meet once a year to review what is going on, and it was today in fact that I had lunch with them. So I have a list here of some of the worthwhile causes they have dedicated that money to. They have created a scholarship, made money available for law libraries, and one-third of the amount goes to the Legal Aid Commission. They have made a grant to Law Reform. They made a grant to the Status of Women to enable them to do a study and to issue a publication which I think all members got a couple of months or so ago. So these are worthwhile projects. Without this method, nobody would be benefitting from that money in trust accounts apart from the banks. Nobody would be benefitting at all. I think it is very worthwhile.

Now the hon. Leader of the Opposition (Mr. Barry) said it was very high-handed to make the Law Foundation pay one-third of their income toward Legal Aid. There was nothing high-handed about it at all. We met a number of times and discussed it orally and by letter. In some provinces the amount is up to about 60 per cent

or 70 per cent of the amount that the Law Foundation takes in is made available for Legal Aid. But we decided we would leave it at a third so that they could also use it for other creative and worthwhile ventures. So I certainly make no apology for the fact that the Law Foundation is required to dedicate one-third of their income for legal aid.

There was some talk also about the Sheriff's Office and some criticism perhaps thereof. I would point out that the Sheriff's Office a year or two ago was put into new accommodation and we are working out a system now for computerization of the material there. But there have been complaints and usually when there are I have asked, "Look, can you be specific?" And I usually do not get anything specific. But be that as it may, we have created a committee representing the Law Society, the Newfoundland Branch of the Canadian Bar, and the Department of Justice to review the operation there.

I agree with the Leader of the Opposition (Mr. Barry) that I would like to see merger come as soon as possible. Obviously there are budgetary considerations and it is a matter which will have to be regarded in a budgetary context as well.

Now with respect to the comments of the hon. member for LaPoile (Mr. Neary), I can assure him that there is absolutely nothing in the Judicature Act which in any way is contrary to the Constitution or the Charter of Rights or anything at all. It is not a matter which is on that track, it is not in that ambit of things. I am certainly not infallible but I would be extremely surprised.

Perhaps my learned friend, the President of the Council (Mr. Marhsall) would agree with me. The hon. member for LaPoile was concerned that there might be some provisions in this Judicature Act which could conceivably be against the Constitution or the Charter of Rights. I said I would be extremely surprised, that it is hardly possible because it is a different quintal of fish, so to speak. I know the President of the Council spent most of last evening reviewing that Judicature Act, I am sure he would have drawn it to my attention if he had come across it.

Now the hon. gentleman also mentioned about the involvement of lay people. I certainly agree that that is a foolish term to apply to people who are of another profession or occupation than the one being discussed whether it is lawyers or doctors or dentists or whatever, but the governing body of the Law Society, called the Benchers of the Law Society, by statute has two people who are non-lawyers.

MR. NEARY:

Are they there now?

MR. OTTENHEIMER:

Yes. There are two who are non-lawyers. By statute there has to be two non-lawyers on the body.

MR. NEARY:

Do you know who they are?

MR. OTTENHEIMER:

No, I could check. It is certainly public knowledge but it slips my mind at the moment. I believe they serve without pay. I am quite sure they serve without pay. I do not think they even get an honorarium. So certainly from the point of view of the governing



body of the Law Society that principle is recognized.

Now there was some discussion with respect to psychiatrists and remands, for example, for thirty days to the Waterford Hospital for psychiatric observation and this whole area as it operates within the criminal justice system. As hon. members are probably aware, there was a very thorough review of the Mental Health Act completed by an inter-departmental committee some time ago which borders on many areas. Obviously it has a strong Health component, a certain Justice component and probably a Social Services component as well. But that has been reviewed and I would anticipate that probably some time in the new session there would be a new Mental Health Act brought in by the Minister of Health (Dr. Twomey).

The whole question of course is a very, very difficult one. I have never been a judge, I cannot put myself up to what goes on in their minds, but no doubt when there are reasonable grounds to believe that the person accused is suffering from a psychiatric disability, no doubt they feel obliged to remand the person for psychiatric examination. There are people who feel that this happens too frequently, but, you know, it is an extremely difficult area. And another related area, of course, is with respect to the correction centres, with respect to prisons. You know, people sometimes are sent from a prison to an institution like the Waterford Hospital for a certain period of time for treatment of this or that and then they are back again. As a matter of fact, I think it is public knowledge, the hostage taking incident at HMP last

Christmas night, all about a demand by the two people who took the hostage, to be transferred to the Waterford Hospital. That is what it was all about, so it is a very difficult area.

Now the hon. gentleman asked for my views with respect to capital punishment and I will put those on the record. First I should state the Government of Newfoundland does not have a position because the Government of Newfoundland has no jurisdiction, nor indeed does any province; that is exclusively a matter within the federal jurisdiction. But my position is as follows. Number one, I am not among those who would say under no circumstances should capital punishment be envisioned. I do not say, if you wish, universally that capital punishment is morally wrong, and that the state has no right ever to use capital punishment. I do not say that. There are some people who would, sure. It is a matter of conscience and some people have different views. I know there are people who would say under no circumstances, that it is intrinsically morally unacceptable. I do not take that position. What I say is I do not accept capital punishment at all as a method of retribution or from its punitive point of view. I think the only circumstances under which it is permissible is if it can be proven that it is a deterrent, if it can be proven that people's lives will be saved, that it is that kind of a deterrent. I am not aware of any proof to establish that. If and when I am aware of it, then I am willing to give it recognition. But I am not aware of it and unless and until I can be reasonably convinced that it is a deterrent and therefore that



innocent lives will be saved, that it will eliminate certain cases of violent death, then I am willing to accept it. But otherwise, as retribution, no. So that basically is my view, and it is something on which obviously there are different views. It is to a very large extent a question of conscience, obviously.

The hon. member for LaPoile (Mr. Neary) asked about sort of an overview of the discussions Thursday and Friday and I will do that in a kind of general way because a fair bit of publicity I guess was given to it. These were meetings that usually take place once a year between the Federal Justice Minister (Mr. Crosbie) and provincial counterparts.

MR. NEARY:  
Attorneys General.

MR. OTTENHEIMER:  
Attorneys General and other too because a number of provinces have-

MR. NEARY:  
In some provinces the Attorney General is not the Minister of Justice.

MR. OTTENHEIMER:  
Well, some provinces have several ministers doing what in Newfoundland, Nova Scotia, New Brunswick, PEI, and Quebec one minister does. In those five provinces there is one person called Minister of Justice and Attorney General. He is both. In many of the provinces they use the term Attorney General much more than they do here. In the federal jurisdiction and here the term Minister of Justice is used much more. But they are the same person.

MR. NEARY:

But the Minister of Justice is the Attorney General.

MR. OTTENHEIMER:

Right, they are the same person. But then you have provinces. For example, Ontario has an Attorney General, a Solicitor General, a Secretary for Justice, and I believe a Minister for Corrections. They have got four. You see how hard I am working. I am doing the work of four. And in Alberta they have Minister of Justice and a Solicitor General, so there I am only doing the work of two.

But these meetings bring together all of these ministers who have some responsibility in that area. And the basic things that were discussed, of course, were amendments to the Criminal Code and again this is an area which the Federal Government has to undertake. One of the things discussed was, for example, mandatory blood samples. In other words, just as now it is mandatory to give a breath sample and if a person refuses the breathalyzer that in itself is an offence, the introduction of mandatory blood samples means that if a person did not give a mandatory blood sample that would be an offence as well. That was one of the matters.

With respect to drinking and driving, that is a serious problem throughout the country. I know the law enforcement agencies will be, as they always are, vigilant as they can, and as preventive as they can be. Obviously nobody can protect people totally from themselves.

One matter we are looking at very carefully is that for a second offence there be quite a long suspension of the driver's

licence. There are strong arguments that, if there is a second offence, take away the driver's licence automatically for two years and then not have an automatic return. There is an onus on that person then to establish through representation from his doctor, psychiatrist or people with some sense of responsibility, that that person has either cured his alcoholic problem or his irresponsibility or whatever it was which caused that. So there are strong arguments. It is quite a Draconian measure, but loss of life or loss of limb and the physical and financial and emotional hardships that ensue are probably worth Draconia measures. So there is serious thought being given to that, they on the second conviction loss of license for two years and then put the onus on that person to prove reasonably that he is entitled to get it back.

MR. NEARY:

They are taking more drastic measures than that in the United States and across Canada.

MR. OTTENHEIMER:

Yes. Of course, the real answer, as everybody knows, the real answer is people's attitudes, education and sense of responsibility. Anything happening after a conviction in a sense is after the fact. But if you take a very, very strong measure, certainly after a second conviction, then at least you know that that person will not be behind the wheel for two years. Of course, nothing solves all the problems. The big problem there is a lot of these people, unless they are cured of their alcoholism or irresponsibility or addiction to drug, or whatever it is,

whatever it happens to be, the fact that they are not allowed to drive, that they do not have a license, does not stop them. So if they are detected - and you cannot detect everybody, you cannot stop everybody all the time, there are not enough policemen in the world to do that - what do you do then? You find them several thousand dollars, you put them in jail for a couple of years, but there are no easy outs. Obviously, these are extremely serious matters. With respect to the proposed changes in the divorce law, and adjoined with that new measures for the execution of maintenance orders, obviously again divorce is totally within the area of responsibility of the federal government. The concept is to take away the adversarial nature of of non-contested divorces. Where a divorce is not contested, where neither party is attributing blame or fault and where there is agreement on matters, to take away the adversarial element. I think that that is very sensible. People say that is encouraging divorce but I do not think that at all. The way I look at it is I am for a marriage, I am not for divorce. I know that there are marriage breakdowns and when marriage breakdowns happen and the two parties are reasonably, sensibly and maturely coming to an agreement, why create or demand an adversarial context? Certainly I think in those cases that is a preferable way in which to handle the matter. And finally, execution of maintenance orders, of course that is extremely important for spouses who are owed maintenance.

MR. NEARY:

Is that provincial or federal jurisdiction?

MR. OTTENHEIMER:

Well, it is essentially provincial jurisdiction but it is not going to work without some federal participation.

MR. NEARY:

Would you give up your right, give up your jurisdiction?

MR. OTTENHEIMER:

No, we would not give up the jurisdiction. There would be something like some kind of a registry. The big problem now is, let us say, a person in Newfoundland is required to pay maintenance, leaves Newfoundland and goes to BC, all Newfoundland knows is that that person is not here, the police do not know where that person is.

MR. NEARY:

They could be moving from place to place.

MR. OTTENHEIMER:

Exactly. What is required is an agreement by each province to locate these people who are in their province, do the collection and send it back here. Obviously it would be reciprocal but there is a way with interprovincial co-operation to do that. There could well also be access to certain money which could be tapped into, for example, if a person is getting unemployment insurance or if a person is getting certain things and totally not recognizing their responsibility to pay maintenance. There are ways like that, and I think it is going to have to be through that kind of a collaborative effort that that serious problem is solved.

MR. NEARY:

Can the Parliament of Canada give

you the right to do that?

MR. OTTENHEIMER:

Well, the federal government could agree to that, yes. The Parliament of Canada could, yes. So having said that, I am pleased to move second reading.

On motion, a bill, "An Act To Revise The Judicature Act," read a second time, ordered referred to a Committee of the Whole House presently by leave. (Bill No. 21)

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

#### COMMITTEE OF THE WHOLE

MR. CHAIRMAN (Aylward):

Order, please!

A bill, "An Act To Amend The Occupational Health And Safety Act." (Bill No. 18)

On motion clauses (1) through (7) by leave, carried.

Motion, that the Committee report having passed the bill without amendment, carried.

A bill, "An Act To Amend The Boiler, Pressure Vessel And Compressed Gas Act." (Bill No. 2)

On motion clauses (1) through (10), carried.

Motion, that the committee report having passed the bill without amendment, carried.

A bill, "An Act Respecting The Award Of Bravery." (Bill No.25)

On motion clauses (1) through (5)

carried.

MR. NEARY:  
Mr. Chairman.

MR. CHAIRMAN (Aylward):  
The hon. member for LaPoile.

MR. NEARY:  
Just as a matter of curiosity, did the hon. gentleman tell us that there was going to be an award or a medal or what kind of a gadget is it going to be?

MR. MARSHALL:  
It is going to be a medal, Mr. Chairman. I have the brochure here actually.

MR. NEARY:  
Oh, that is what that is. I saw that floating around somewhere the other day.

MR. MARSHALL:  
It is very attractive. It was designed by Mr. Ian Stewart, MSIA - I have to confess I do not know what that means - of Memorial University. As a matter of fact, I will table it for the hon. gentleman because after all he may be wearing one of them one of these days.

MR. CHAIRMAN:  
The hon. the Premier.

PREMIER PECKFORD:  
The other thing on it, Mr. Chairman, is that, I think the board that is established under the Act has already met and the award has been done and ready. The board has met and studied nominations and made selections and as soon as the Act goes through they will be in a position to make the names known of those who will qualify for the existing year.

MR. NEARY:  
Is the Leader of the Opposition (Mr. Barry) one of the persons being considered?

PREMIER PECKFORD:  
No, he is not one that is being considered. Although I think I know from whence the member for LaPoile speaks he does believe, like I do, that the new Leader of the Opposition needs a bravery award for taking on a party which is continuing to go in demise under his leadership and which might not be so if it were under somebody else's leadership.

MR. NEARY:  
I just meant the reverse, how brave he was to come across the House.

MR. CHAIRMAN (Aylward):  
Order, please!

Motion, that the Committee report having passed the bill without amendment, carried.

A bill, "An Act To Incorporate The Certified General Accountants Association Of Newfoundland." (Bill No. 47)

On motion clauses (2) to (23) by leave, carried.

MR. CHAIRMAN (Aylward):  
Shall an amendment to Clause 24 carry?

The hon. Minister of Finance.

DR. COLLINS:  
Clause 24, Bill No.47 is deleted.

MR. CHAIRMAN:  
The hon. Minister of Justice.

MR. OTTENHEIMER:  
I will just explain what it is. That is a very good amendment when

you delete it. Now actually what the clause in the Certified General Accountants Act, says is it will come into effect on proclamation, which I thought the Certified General Accountants wanted, but they tell me they would like to have it come into effect immediately. They are all prepared for it so there is no need to have it proclaimed. It will come into effect now on the signature.

Motion, that the Committee report having passed the bill with amendment, carried.

A bill, "An Act To Amend The Medical Act, 1974." (Bill No. 51)

On motion, clauses (1) through (5), carried.

Motion, that the Committee report having passed the bill without amendment, carried.

A bill, "An Act To Amend The Dispensing Opticians Act." (Bill No.7).

On motion, clause (1) and clause (2), carried.

Motion, that the Committee report having passed the bill without amendment, carried.

A bill, "An Act To Repeal The Gander Development Corporation Act, 1975". (Bill No.14).

On motion, clauses (1) through (3), carried.

Motion, that the Committee report having passed the bill without amendment, carried.

A bill, "An Act To Amend The Livestock Act." (Bill No.4).

On motion, clause (1) and clause (2), carried.

Motion, that the Committee report having passed the bill without amendment, carried.

A bill, "An Act To Revise The Judicature Act." (Bill No. 21).

On motion, clauses (1) through (158), carried.

MR. CHAIRMAN (Aylward):  
Shall clause 159 carry?

MR. NEARY:  
Are there no amendments?

MR. MARSHALL:  
Well, there is just this one amendment, a minor one to clause 159. I move the amendment to clause 159 Paragraph (1), subparagraph (a) after the word 'family', the following words be added, 'having cumulative market value of not more than \$5,000.' And this is with respect to the exemption from distraint of household furnishings.

On motion, amendment to clause 159, carried.

On motion, clauses 160 through 193, carried.

MR. NEARY:  
Mr. Chairman.

MR. CHAIRMAN (Aylward):  
The hon. member for LaPoile.

MR. NEARY:  
I asked the Minister of Justice (Mr. Ottenheimer), during the second reading on this bill, if he could tell us when we can expect an appoint to the District Court in Western Newfoundland. And the hon. gentleman evaded the question or he did not make a note of it or

did not want to answer it or something, but could he tell us now.

MR. CHAIRMAN:

The Minister of Justice.

MR. OTTENHEIMER:

Mr. Chairman, it temporarily slipped my mind. There was an act passed for an additional district court judge in Corner Brook. It has not been proclaimed. Since then there have been discussions about additional judges of the Trial Division in St. John's. And, really, I think what we have to do is to handle the matter as a total, as a unit, and it is also related to the question of merger. And I think during this budgetary process between now and the budget we have to finalize those matters, but I do not think we can do them sort of ad hoc, we have to join them altogether.

MR. NEARY:

They will get a judge with merger?.

MR. OTTENHEIMER:

Yes. I mean I would like to see merger as soon as possible. There are certain budgetary restraints, but I think between now and the finalization of the budgetary process we will have to re-examine that.

Motion, that the Committee report having passed bill with amendment, carried.

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

MR. SPEAKER (Russell):

The hon. member for Kilbride..

MR. CHAIRMAN (Aylward):

Mr. Speaker, the Committee of the

Whole House has considered matters to them referred and directed me to report Bills No. 18, 2, 25, 51, 7, 14 and 4 without amendment, and Bills. No. 47, and 21 with amendment.

On motion, report received and adopted, bills without amendment ordered read a third time on tomorrow.

On motion, amendments read a first and second time, bills ordered read a third time on tomorrow.

Motion, second reading of a bill, "An Act Respecting The Establishment And Operation Of The Institute Of Fisheries And Marine Technology." (Bill No. 39).

MR. SPEAKER (Russell):

The hon. member for LaPoile adjourned the debate the last day.

MR. NEARY:

Mr. Speaker, let me first of all, point out that my colleague, the Leader of the Opposition (Mr. Barry) had not finished his few comments on this bill. We were hoping that he would be back in his seat. I just want to point that out. I think my colleague had just about concluded his remarks anyway, and made some very interesting points, by the way, made a very valuable contribution to the debate.

But, Mr. Speaker, I want to set the record straight, if I may. You see the kindergarten minister who introduced this bill to the House left the impression with the House - I believe he said so, I wrote down his exact words but I cannot seem to find them - "We are establishing," he said -

MR. TULK:

A centre of excellence.



MR. NEARY:

No, that is not what he said the first time. He said, "We are establishing an Institute of Fisheries and Marine Technology. That is what the hon. gentleman said. You would not know, Mr. Speaker, but it was their original idea, you would not know but it was their initiative. The hon. gentleman made no reference to the fact that the Marine Institute, the Fisheries College that he was talking about, was established back in 1963. No reference to that at all. He said, 'We are establishing.' I made a note of it, he said, 'We are establishing an Institute of Fisheries and Marine Technology.' They are not establishing it. All they are doing is constructing a new building, that is all they are doing. The hon. gentleman knows that. The principle of that item had taken place back in 1963 and a piece of legislation was brought into this House in 1964. I sent down to the Legislative Library for it. I have so much stuff here, including the Decima report. That matter was the subject of debate, Mr. Speaker, in this hon. House back in 1963 and a bill brought into this House in 1964 giving the Province the authority to operate it. Do you know what the big problem was, by the way, back in 1964 when that bill was being discussed? I am sure that the hon. member for Grand Falls (Mr. Simms), who is so well up on these matter and so well versed in this matters, can tell us what the big issue was. I am almost prepared to bet my next year's salary that the hon. gentleman cannot tell this House what the issue was back in 1964 when this matter was debated in this House.

MR. SIMMS:

It was the Fisheries College.

MR. NEARY:

The Fisheries College what?

SOME HON. MEMBERS:

Oh, oh.

MR. NEARY:

The issue was, Mr. Speaker, the establishment for teaching aspects of fishery, navigation, marine engineering, seamanship and so forth.

MR. SIMMS:

Now you owe me your next year's salary.

MR. NEARY:

No, no. That is not what I asked the hon. gentleman. I asked him if he could tell me what the problem was, what they considered to be the problem, what the administration of the day conceived to be the problem. I will tell the hon. gentleman and I will enlighten the member for St. George's (Mr. Dawe) and probably the President of the Council (Mr. Marshall).

DR. COLLINS:

I know what it was.

MR. NEARY:

What was it?

DR. COLLINS:

The Premier of the day did not know what a fish was.

SOME HON. MEMBERS:

Oh, oh!

MR. NEARY:

You know, it is too bad the hon. gentleman does not have a sense of humour, Mr. Speaker.

MR. SIMMS:

Was it the location they were

arguing about?

MR. NEARY:

No, that was not it.

MR. SIMMS:

Was it the size of the facility or what should be put in the facility?

MR. NEARY:

No. No. Try again.

MR. SIMMS:

Centre of excellence.

MR. NEARY:

Try again.

DR. COLLINS:

They wanted to call it the Voldmanis Institute.

MR. NEARY:

Try again.

Now, Mr. Speaker, here was the problem. Well, it was not a problem but it was a matter of concern. The matter of concern was this: Should the College of Fisheries, Navigation and so forth be treated the same as the university? Should it have academic freedom the same as Memorial University? That was the concern.

Now the hon. gentleman just learned something. Mr. Speaker, back in 1963, by the way, I will tell the hon. gentleman something else, when it was opened there was no bill, there was not act under which it could be operated. But when they did finally get a bill on the floor of the House that was the main concern. Indeed, another area of concern was getting the right person. Because if you are going to have academic freedom and you are going to have a Board of Regents or the equivalent of a Board of Regents, then you have to

get the right person to preside over that great institute, that great Liberal concept, that was opened in this Province in 1963. Mr. Speaker, a search was made around the world for the right person, it was very important to have the right person.

MR. STEWART:

The hon. member for St. John's North (Mr. Carter) could have done it.

MR. SIMMS:

Oh, yes.

MR. NEARY:

Who was appointed? Who did they find, Mr. Speaker, to run that great institute? None other than a Newfoundlander in the person of Dr. Ray Barrett.

MR. NEARY:

So my first remarks today, Mr. Speaker, I only have half an hour, but I am to take a couple of minutes to pay tribute to Dr. Barrett.

MR. STAGG:

Dr. Barrett better watch out.

MR. NEARY:

No, Dr. Barrett is retired now. I do not know if he is going to be active in the new college but I was at the graduation in September and I believe they announced Dr. Barrett's retirement.

Now, Mr. Speaker, I have to say that in my time in public life in this Province I have met a lot of decent public servants. I have met some pretty wonderful people connected with the post-secondary institutes in this Province at the university, the College of Trades, in the person of Mr. Duggan, whom I consider to be an outstanding Newfoundlander. But I will tell

you this, Mr. Speaker, that you have to go a long way to find the equals of Dr. Ray Barrett. I must say that as Newfoundlanders we should be proud that we were able at that time in 1964, when the Liberal administration of that day searched all over the world, put ads in newspapers and magazines throughout the free world -

MR. SIMMS:

Were you in the House then?

MR. NEARY:

I was in the House then for two years but I remember the debate. I sat over there on that side of the House, Mr. Speaker -

MR. SIMMS:

Were you in Cabinet in 1964?

MR. NEARY:

No, I was not in Cabinet but I sat on that side of the House. I remember the debate and that is why I sent for it, because I sat over there and I was so proud as a Newfoundlander, Mr. Speaker, to hear about that great Liberal concept. All this crowd are doing now, Sir, if you will excuse me, all they are doing is building on the foundation that was put there for them. And another thing, by the way, another big item, and I believe this may have delayed the introduction of the bill, was the fact that it was going into the old Memorial University buildings over on Parade Street. That was a matter that had to be cleared with the Royal Canadian Legion, the name had to be transferred to the new university and that was a little bit of a concern.

Now, Mr. Speaker, we heard the young Minister of Career Development (Mr. Power) come in the other day and try to leave the impression that this is the first

time that this institute was established. Now let me read from The Evening Telegram on May 16, 1963, 'Premier announces Fishery College: Smallwood hopes it will be one of the great institutions of its kind in North America.'

'A college for the teaching of all aspects of fisheries, navigation, marine engineering and seamanship is to be established in St. John's. In announcing this decision of the provincial government, Premier J. R. Smallwood said Wednesday he hopes the college will become one of the great institutes of its kind in North America. Said the Premier, 'Students will be invited into this new college not only from all parts of Newfoundland but the Maritime Provinces and other provinces of Canada. Our ambition is to create a new college that will attract students from other parts of the world. It is our hope,' Mr. Smallwood said, 'that the new college will be able to affiliate with Memorial University and that the facilities of the new Trades and Technical College, lying beside Confederation Building, which is to open in the immediate future, shall be at the disposal of the new college. My own feeling is that with a great fisheries development programme about to unfold in Newfoundland' - and this is the crowd, Mr. Speaker, that keep telling us that former administration had no fisheries policy -

MR. DAWE:

Yes, a burn your boat programme.

MR. NEARY:

Mr. Speaker, CBC had to apologize recently for something they said about Mr. Smallwood. He never did say that and the hon. gentleman should try to restrain himself and

not be so rude.

MR. CARTER:

When did Smallwood say, 'Burn your boats'?

MR. NEARY:

That is true, he never did say it.

MR. CARTER:

Of course he did. I heard him.

MR. NEARY:

With its long history of the sea, it is ideally situated to be the home of one of the greatest schools of this kind to be found anywhere in the world. Our ambition is to make it a distinguished institution deserving and receiving worldwide attention. Steps are being taken immediately to recruit' -

MR. CARTER:

Smallwood said Hitler was a great man.

MR. NEARY:

I wonder is there any way, Mr. Speaker, you can get the hon. gentleman from St. John's North (Mr. Carter) to restrain himself to allow debate to take place in this House?

MR. SPEAKER (Russell):

Order, please!

I have to remind hon. members that when a member is speaking he does have the right to be heard in silence.

The hon. the member for LaPoile.

MR. NEARY:

Anyway, Mr. Speaker, that was one item in The Evening Telegram. There was another editorial written in The Evening Telegram, 'School For Fishermen,' and hon. gentlemen should take the time to

read it. Mr. Speaker, I have to say this -

MR. SIMMS:

Was that editorial in 1964 too?

MR. NEARY:

No, that was in 1963. The debate took place in 1964. I have it here and the next day I come in I will -

MR. SIMMS:

How could they set up that institute without a bill or an act or anything?

MR. NEARY:

I believe that this institute is a great monument to the former Premier of this Province and the hon. gentleman need not try to steal the credit from him. I believe we had twenty-two premiers in Newfoundland before Mr. Smallwood, and Mr. Smallwood did more for Newfoundland than all of the other twenty-two put together.

MR. CARTER:

He was a disgrace.

MR. NEARY:

The hon. gentlemen will regret the day that he would not allow Mr. Smallwood to have his final speech in this House recorded for posterity. The hon. gentleman will regret that. It just goes to show how low and rotten and small-minded and narrow-minded and partisan and what a political bigot the hon. gentleman is. The hon. gentleman will regret that to his dying day, Mr. Speaker. This is a great opportunity for us in this House to pay tribute to the greatest premier that we ever had in our whole history. The hon. gentleman can try to take away the credit, he can try to steal the credit for the administration

there opposite, but in their hearts they know the difference. All they are doing is shifting this great institute from the old Memorial building - it has outgrown the buildings, the buildings are old - to up on Ridge Road. That is all they are doing, Mr. Speaker.

MR. SIMMS:

What is wrong with that?

MR. NEARY:

There is nothing wrong with it.

I will tell you what is wrong, by the way, with the introduction brought in by the hon. gentleman, the majority of the cost was paid for by the Government of Canada, which was a Liberal government, but the hon. gentleman made no reference to that at all.

MR. SIMMS:

He most certainly did. He said it was cost-shared.

MR. NEARY:

Cost-shared but he did not say by what government or by how much. Mr. Speaker, it is being cost-shared by the Government of Canada because of the generosity of the federal Liberal government that was up there at the time. We would not have had that new institute, Mr. Speaker, had it not been for the generosity of the federal Liberal government. Mr. Speaker, so what do we have before us? Now, hon. gentlemen who are here for the first or second or third time who are lazy, who do not take the trouble to think or read, who sit over there day in and day out like sheep and follow their leader and the administration into the valley of death, they go along behind him like he is the Pied Piper, for the information of those people who

may have taken the Minister of Career Development (Mr. Power) seriously when he said, 'We are establishing this', all he is doing is just substituting one bill for another and moving the facilities from Parade Street up to Ridge Road and I believe 75 per cent of the cost was paid for by a Liberal Government. So it is a Liberal project, it is a Liberal concept.

MR. SIMMS:

Who cares?

MR. NEARY:

Well, I care. I sat here the other day and I heard the hon. gentleman introduce this. Mr. Speaker, the problem is they only tell half the truth.

DR. COLLINS:

Who owns the money anyway?

MR. SIMMS:

He sings our praises and you sing your praises.

MR. NEARY:

Yes, and that is what I intend to do. Every opportunity I get I will sing the praises of a Liberal government in this Province of which I was proud to be a member.

Mr. Speaker, the architect of that great institute is not well today, as everybody knows. He is improving tremendously all the time. But I think it just belittles the situation to hear hon. gentlemen there opposite make their snide remarks and try to take away the credit from that gentleman for all the good that he did in this Province. I have not heard one of them over there, including the political bigot from St. John's North (Mr. Carter), deny what that man did in this Province. He did more than the

other twenty-two premiers before him all put together.

MR. TULK:

And the other two since.

MR. NEARY:

And the other two since is right.

MR. CARTER:

Pure rubbish.

MR. NEARY:

We have had twenty-four. Take the twenty-two before, the two since, put them all together and he has done more than all of them put together.

MR. SIMMS:

A fine old gentleman.

MR. NEARY:

Mr. Speaker, I wish I could find my notes on this.

MR. SIMMS:

You are doing all right ad-libbing, boy.

MR. NEARY:

I am.

MR. SIMMS:

You have had twenty-three years of experience.

MR. NEARY:

Mr. Speaker, it is something we should be proud of in this Province. I am sure we all are. It is going to be a magnificent institute. But I did not finish my tribute to Dr. Ray Barrett, who pioneered that great facility, whose services I am sure can be used in the future to great avail by the administration there opposite and by the new president of that institute. I understand that there has been no appointment made. Who will it be? I do not know.

MR. CARTER:

Any suggestions?

MR. NEARY:

I understand the search is on and the search will go on all over the world the same as it did before.

MR. CARTER:

Why have you not applied.

MR. NEARY:

All the students in there will be able to look out the window on a fine Summer's evening and see the hon. gentleman out on his hands and knees in his savoury patch, and they will be able to say to their professor, "What is that over there?"

DR. COLLINS:

They will say that is a big political figure.

MR. NEARY:

What is that crawling around on all fours? Is that some kind of a new insect, Mr. Speaker? Bring in the spray planes. It is so close the students will be able to look out the window and see the hon. gentleman.

Now, Mr. Speaker, I believe that it is important that that position be filled at an early a date as possible.

MR. SIMMS:

I hope we get a Newfoundlander to fill it.

MR. NEARY:

Well, I hope so, but in the even we cannot you are not to be condemned or criticized for that. I am not one of these people who believes that everybody on the faculty of the university should be a Newfoundlander, no more than I believe that everybody on the faculty of the College of



Fisheries and Marine Technology or the College of Trades should be a Newfoundlander. That would be awfully small minded, Mr. Speaker, and we would be awful narrow in our thinking. How can we expand our thinking? I am hoping it will be a Newfoundlander, and I am sure the administration there opposite will make every attempt to get a Newfoundlander. But that concern of giving the Fisheries College their own autonomy, giving them academic freedom, that concern is still there even though the board that operates the college is political appointees.

MR. CARTER:

How about John Shaheen as president and general manager?

MR. NEARY:

Mr. Speaker, I move the adjournment of the debate.

MR. SPEAKER:

It has been noted that the hon. member for LaPoile (Mr. Neary) has adjourned the debate.

The hon. President of the Council.

MR. MARSHALL:

Mr. Speaker, before moving the adjournment of the House, I want to advise the House that tomorrow, after completing this bill, we will then move into Bill No. 40, The Public Tender Act. We will have a great debate tomorrow on the Public Tender Act.

Mr. Speaker, I move the House at its rising do adjourn until tomorrow, Tuesday, at 3:00 P.M., and that this House do now adjourn.

On motion, the House at its rising adjourned until tomorrow, Tuesday, November 27, 1984, at 3:00 P.M.