doubt the position of the department would be the same—that the Canada Labour Relations Board has exclusive jurisdiction to determine the issue. I need not repeat my previous remarks about what appears to be a total misstatement of the law, at least to me.

He went on to say:

The reasoning underlying the minister's evident decision in this matter is somewhat hazy but I think it is incumbent upon you to consider that the interpretation of the Canada Labour Code as expressed in your letter of February 18, 1976, is not, in fact, totally correct and does not represent the wishes of parliament in regard to the amendments which were made in 1972 and 1973. Carrying your logic to its ultimate extreme I would say that whenever I act for an employer in a difficult bargaining situation I would feel almost bound to advise my client that he could breach section 184(1), as the Department of Labour does not feel that such a breach constitutes an unfair labour practice which would amount to an offence which could be prosecuted.

Counsel continued:

I would feel bound to tell my client that the Department of Labour has stated that we would go to the Canada Labour Board who could say my client was wrong in doing what he had done and perhaps add that he should not do the same in the future. The damage would, of course, already have been done and the position of the union could be totally destroyed at that time. Such a course would not be followed if that particular employer were aware that he was open to penal sanctions for such action.

That is one scenario, and this is where I come to my point. This is a case where the Minister of Labour and his department are dealing with a powerful Crown corporation and appear to be taking a very generous attitude. Look at the other side of the question. By coincidence, I have documentation of a case where consent to prosecute was given by the minister pursuant to the same section, section 194.

Here is the case of two seamen, Garry Ward and Roland Moreau, employed by Upper Lakes Shipping Limited. They were prosecuted, and on the date Garry Ward was to appear he was in fact anchored in the bay in Toronto Harbour and could not get to shore. On the day Moreau was to appear he was in transit to Chicago, somewhere on the Great Lakes, and could not appear either. A summons was issued in the case of Garry Ward, and he must appear in the Toronto provincial court on April 22 in courtroom No. 37.

I must admit I am astounded the minister would grant consent in such an instance. There is ample jurisprudence to support the proposition that when discretion is exercised, such as was done in this case, such discretion must be founded in reason and must be based upon a reasonable evaluation of all the surrounding circumstances. It would be interesting to know what the positive circumstances were in this case which dictated the granting of consent to prosecute. I hope the minister will enlighten the House as to the criteria he uses in granting this consent because I believe that in this case he has left a lot to be desired.

Mr. Fernand E. Leblanc (Parliamentary Secretary to Minister of Labour): Mr. Speaker, in reply to the hon. member's question the following will serve to explain why the minister refused consent to prosecute Air Canada and two of its representatives.

First, the union's application alleged unfair labour practices by Air Canada and its representatives resulting in a violation of sections 184 and 136 of the Canada Labour Code. Since matters pertaining to unfair labour practices with respect to violations of sections 148, 184 and 185 are the responsibility of the Canada Labour Relations Board and are not subject to prosecution proceedings, the Minister of Labour (Mr. Munro) could not exercise the authority granted him under section 194. The exemption of section 148, 184 and 185 from prosecution proceedings through summary conviction is reinforced by section 191(2) of the Canada Labour Code.

Second, with respect to section 136 of the Code, also alleged to have been violated, the applicant was advised by the Department of Labour that the minister's decision to refuse consent to prosecute was not directed at section 136 in isolation but to the union's application as presented, taking into account the whole of the union's application which was considered to be predicated on a violation of section 184.

In notifying the applicant of the decision to refuse consent the applicant was also advised that should an application be resubmitted in accordance with the requirements of the Canada Industrial Regulations, addressing itself to section 136 or any other section of the Code other than sections 148, 184 or 185 coming within the Labour Relation Board's responsibility, deemed by the applicant to have been breached, the minister would consider such an application in the usual manner with a view to granting consent to prosecute.

TRANSPORT—REQUEST FOR ASSURANCE OF FULL USE OF EAST COAST PORTS

Mr. Robert McCleave (Halifax-East Hants): Mr. Speaker, I hope my speech will be regarded as the opening shot in a fight to have grain and flour traffic continue through Atlantic Canada. It is promised by the government's program recently announced, which was followed up by a question that I and my colleague from Dartmouth-Halifax East asked of the Minister of Transport (Mr. Lang) on February 26 last. That is the reason for this awe-inspiring assembly this evening.

I had originally asked, as reported at page 11270 of *Hansard*:

In the interests of sharing whatever transportation dollars can be made available among the Canadians, would the minister and the government consider measures which will keep goods moving into or out of Canada moving as much as possible through Canadian transportation systems, not United States ports?

I had in mind when I asked that question the roughly $12 million a year traffic in flour and grain that goes through the port of Halifax, our small portion of the rather massive traffic in one of our greatest products from western Canada. While the minister said that he would not consider any draconian measures against the port of Halifax, the fact is that we know that the subsidy under section 272 of the Railway Act for the carriage of grain and flour to the eastern ports will disappear under the government's program.

This has prompted a telegram from the chairman of the Halifax-Dartmouth port commission, Mr. J. W. E. Mingo, to the Minister of Transport. I should like to point out that Mr. Mingo has been a lifelong supporter of the party to which the minister has the misfortune to belong. The telegram, in part, said this: