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Speaker: Honourable Derek Bennett, MHA

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(Night Sitting)

The House resumed at 6 p.m.

SPEAKER (Bennett): Order, please!

The hon. the Opposition House Leader.

B. PETTEN: Thank you, Speaker.

I'm glad to see this amendment was in order. For anyone that listened to what I had said earlier about this amendment, in general and about this legislation, the key point here, my question to the government opposite and I guess the people out there: Why? Why do we need to have the barrier? Why do you need to prevent anything? Why is duty to document being excluded from Cabinet? Why is that barrier going up there?

This amendment, it bears repeating. I'd read it again for the record just so people can really appreciate what it says. Ironically, we call this a reasoned amendment. The minister and the Government House Leader opposite said that we were doing this hoist amendment. We were pulling it out and essentially killing the bill. We were setting it back three months and they had all this effort and work put into it. Well, fair enough, it was found in order; government, in their wisdom, and their numbers decided to vote it down – fair enough.

This amendment is called a reasoned amendment. So they're saying you're not being reasonable. I think this is very reasonable. It bears repeating and I'd like to read it in again. It says: "Whereas a reasonable period of time has not been provided to review and consult on this bill" – which it hasn't – "and further consultations are urgently required on this bill prior to its passage to ensure the changes it would cause will not improperly deny accountability, transparency and access to information to the people of Newfoundland and Labrador and those who serve them, and will not compromise the work of the statutory offices of the House of Assembly that safeguard the rights of Newfoundlanders and Labradorians,

including the Office of the Information and Privacy Commissioner, the Office of the Auditor General, the Office of the Citizens' Representative, the Office of the Child and Youth Advocate, the Office of the Seniors' Advocate and others."

It's pretty inclusive. If you listen to what that's saying, isn't that safeguards for every person in our province? Isn't that what we're really ultimately here for? Isn't that what 40 of us are supposed to be doing, looking out for the best interests of the people of this province?

It's not about the 23 Members in government; it's about the people of this province. I'll say it again: There are 40 Members here and we represent the entire population of Newfoundland and Labrador. The government opposite has 40-odd per cent of the vote; we have the rest. It's not just their own interests they're representing; they're representing every person in this province. It's very important – and I say it a lot of times and sometimes you speak and it's falling on deaf ears because that's unfortunately what happens here.

If you really took that seriously, you'd look at this stuff. Again, I don't know who wins, what the best interest is. It's only a matter of another layer of secrecy. The motion follows up with: "Therefore the motion be amended by deleting all the words after the word "That" and substituting: "the bill be not now read a second time but that its subject matter be disposed and returned to the House at a future date following public consultations."

But isn't that what we should be aspiring to do? Isn't that what we really need to be looking at? Why can't we go and do the public consultation? Why can't you go to the Committee level? I know there are lots of people who watch, media people or people who have a keen interest in the House. That public consultation piece and going to Committee has come up in this House over the years many times. There was a

Committee formed on democratic reform and I believe my colleague for Mount Pearl - Southlands was the Chair of it, if I'm not mistaken. The government formed it several years ago. I don't know if they ever met outside of an initial meeting, but there was a lot of public interest at the time so in their wisdom they decided to form this Committee. They put the Mount Pearl - Southlands Member – he was an independent – as Chair to serve whatever purpose that was, which all sounded and looked great. But I don't think they've ever met.

Again, is that not the proverbial window dressing just to get the pressure off that day? Because there was an interest in the public domain. The media were asking those questions and the Government House Leader of the day formed this Committee. It was set up and it looked great at the time. Again, I don't know, they may have met once. Probably met once because they picked the Chair. So they met at least once. I've never seen anything come of that Committee and, to my knowledge, I don't know if they've ever met in the last number of years.

But if you're really serious about it – and I get the point, the democratic reform, there are drawbacks to that. I get that. I get the point if you're in government, you don't want everything to go into Committee. I totally understand all that. Government wants to be more nimble, they want to get stuff through, they want to get legislation passed and they want to get their agenda through. Fully understand, appreciate it, and for the most part there are areas where you can find a compromise and agree to that. I don't think everything needs to go to Committee, absolutely not, because a lot of this stuff there's a mutual agreement.

But if you were to give Opposition more time, consult, talk to Opposition and come in united – in Ottawa, in our Nation's parliament, the federal government actually have committees and they have a lot of this

work done long before they ever hit the House of Commons. Now, they're running the country, they're responsible for almost 40 million of us and that process seems to work up there with over 300 of them and we can't get that to work here with 40 people in this Legislature for half a million people?

I mean, government wins the battle. Government goes out in front of the microphone. It's the Premier or the minister that goes out and shares the good news of a piece of legislation that's good for the people of the province. We won't get the attention. The cameras will be on the Premier and his ministers, but the people win. Ultimately, they're the ones that win. I think people watch and they pay attention, most do, and they actually appreciate sometimes when those decisions are made.

I'll go back again, I've said this in the House many times, in 2019 when there was a minority government, I found more people were pleased with the result of that election than any other election I've been involved in. Outside of running as a candidate myself, I've been involved in a lot of elections. Outside of one, they were all majorities, one way or the other. But that stuck with me. It stuck with me in the way of thinking like, that's really, deep down – and I've said this in the House before – that's where people want us to be. They'd look at me and say I hope you work together now. It's nice to see you working together.

We had a COVID Committee, that All-Party Committee, and I used to say to them at times – with our former leader and our current leader – and I'd sit in sometimes on meetings with the former premier and officials and other ministers. You know, actually, to the credit of the former premier, you actually felt like your input meant something. There was conversation there and you were asked what you thought. A lot of our suggestions were brought to the forefront at the 1:30 meeting when the province were watching the updates every day. There was a level of satisfaction in

that. We were going through a really difficult time but, you know, we were actually working together. One of the few times you can say we actually worked together.

But people out around, I know my district and I'm sure all my colleague's districts, people liked that. I heard a lot of positive comments from that. They appreciated it. They were actually giving this House a pat on the back. We heard earlier there are lots of pats on the back. We heard a lot during QP today. I mean, some need extensions put up their arms because I can't pat my back. I don't know if anyone else got long enough arms, but you need a couple of extenders to get the pats out. But maybe you can walk through the door – if you do things right – and the general public will give us all a pat on the back.

We'll always be different parties. We'll always have different ideologies. We're blue. They're red. They're orange. That's fine. I think that's healthy for a democracy, but it's no reason why we've always got to be locking horns on every single issue.

When you get into the weeds of things, legislation like this, similar to this, your duty to document based on an inquiry, I'll say to you, why are we here debating and asking you for one – and this can be done so easily. Put it off to a Committee. Do a bit of further review. Find a way to include Cabinet Secretariat and eliminate that barrier.

Think about something else. The Privacy Commissioner will not get any input in this. He has no say, no audit. You're excluding the Privacy Commissioner – very dangerous.

AN HON. MEMBER: (Inaudible.)

B. PETTEN: That wasn't misled, was it, Mr. Speaker, misinformation – did I get that right?

SPEAKER: I didn't hear her comments.

B. PETTEN: I'm just making sure. The Deputy Government House Leader, I think she said misinformation. I think that's what I heard. My hearing is not the greatest.

The Privacy Commissioner says: It exempts the entire Cabinet decision-making process; it has no independent oversight; and it does not actually create mandatory duty to document due to discretionary nature put to the Chief Information Officer.

That, basically, all but excludes the Privacy Commissioner. This is his news release. Not my words; this is his words. So I'm not misinforming. I'm not construing. I just listened to him on the news in there. Those are his three issues. That can be fixed pretty quickly.

But again, I ask, why? Why is that done there like that? Why it is done? Three years, I hear today, they were at this piece of legislation. But we're supposed to give this quick passage because they spent three years at it. That's the collaboration we get.

Ten yesterday morning, here's the legislation. We're doing it tomorrow morning. Hopefully it'll be done by noon. We'll be out of there tomorrow evening. We'll come back for budget tomorrow. Slam dunk, over.

AN HON. MEMBER: Bob's your uncle.

B. PETTEN: Bob's your uncle, right.

That's not the way it works because we have a lot of talent outside of this caucus, right here, in our room, in our staff. We have great staff. They quickly, to their credit, by last night, when we were still in this House, realized that we have a problem here. I commend them. Where would we be without them? They do great work. I think all government offices probably also got the same qualified staff. You need them but we're thankful we've got our staff because they actually dug down into this and they gave us the red alert. There is a problem

with this legislation. We, actually, then got into talking and reviewing it.

So at the end of the day, who wins? I don't think it is the people of this province, Mr. Speaker. If I am not mistaken, we were all elected to come in here and represent the people of this province. Unfortunately, sometimes the interests of the people of the province are secondary to government wanting their way with legislation in a certain way.

There is no doubt in my mind there is a method to the madness of having this put in there; this is not just something that you do. The minister said earlier today that we're only second, behind BC. But my witty colleague for Ferryland advised me that if you finish second, you get a silver. But if there are only two racing, it doesn't really matter. You still get the silver. But if there are only two in the race, you won the silver. So is that where we're to? Is that where we're comparing to? Because I would hazard a guess you could go to any other legislature, they'd raise red alarms and red alerts on this.

AN HON. MEMBER: (Inaudible.)

B. PETTEN: The Minister of Environment, hopefully he gets up after I'm finished here. We got all night to speak on the amendment; I hope he passes along his thoughts. I like what he is saying.

But, Mr. Speaker, I'm going to read a few notes – this was put together pretty good. I'm going to refer to a couple of notes for a change but I thought they were put together good. Credit to our staff, this was put together and I thought it was well done.

We support the duty to document if it is done properly. The way government decisions are made must be documented. There must be a paper trail. Access to information is meaningless if no information is recorded for people to access. If decision trails are not recorded and paper trails are

non-existent then access requests will be unresponsive. That flies in the face of access to information law. But the duty to document has to be done properly or it is meaningless. How many times have access requests turned up with no responsive records when records ought to exist?

So why the rush? There is no need to rush this piece of legislation. There is no reason it could not be delayed for months to consult and get it right. The minister says consultation has been ongoing for years; I don't know if that is quite accurate. The bill was not released to the public until Wednesday morning, this morning. Opposition was not given a briefing on it until less than 24 hours before we were expected to debate and vote on this bill, which is a huge problem, and it brings me back to my Committees.

The Opposition has sworn an obligation to give all legislation our due diligence. That includes consulting with those affected. Every Officer of the House is affected by this bill: the Information and Privacy Commissioner, the Auditor General, the Citizens' Representative, Child and Youth Advocate and the Seniors' Advocate. We were not given an advanced opportunity to consult on this bill with any of them.

That is the definition of rushing things; it's reckless. It was the same approach for prior legislation. The health authorities, remember Bill 20? We ended up again waiting on that All-Party Committee to be formed to do part of the legislation that was brought in here with no consultation with the Privacy Commissioner. There's a pattern. It was a needless rush.

In my opinion, Mr. Speaker, it shows contempt for the people's House, the work of the Opposition and the input of the public. Why the rush? Why not get it right? Give one reason why delaying this to get it right would be a bad thing. I ask you again and I've asked you repeatedly: Why ignore recommendations to strengthen the bill?

The minister says government consulted with the Information and Privacy Commissioner, but the Information and Privacy Commissioner still has concerns. But that doesn't matter. The minister's government rejected the Commissioner's concerns. They didn't think that they were important enough so they rejected them.

But we believe the Commissioner's concerns are valid. One, the duty to document must apply to Cabinet, which is a huge one. Two, the duty to document must have an independent oversight, which is very important. Three, the duty to document must be mandatory, not discretionary. That's the key one, Speaker, mandatory. That's what Justice LeBlanc wants; that's what we all should want. Again, every time with something like that, it brings that level, that shroud of secrecy. Any time there's a shroud of secrecy, even if there's nothing being hid, there will always be that element of doubt. When you bring the doubt into the situation, you've lost all trust.

I'm sorry – and I sincerely say I'm sorry – but if government opposite wants to look across the way and tell us trust us, we've got this under control, I beg to differ. It is not coming from me and I don't think anyone on this side of the House, do we trust to say government got this under control. I'm sorry, that's not the way it works. It's not. We feel anything less than this is a charade, Mr. Speaker.

I got lots of time left now and I don't want to belabour too much, but we've got a lot of time to debate it. So the purpose of a duty to document is to ensure there's a paper trail for all decisions. The paper trail is most needed at the Cabinet level where the biggest decisions get made. A duty is not a duty if it's not mandatory. It's a great line. It wasn't my line either, but it's a great line. If it's not mandatory, what does it mean?

That's like "you may." I've been involved in union contracts from my previous life, believe it or not, but "shall" and "may" are

two very key words in any contract. If it's "may," you can throw it in the garbage. It has to be "shall" or it really means nothing. "Mandatory" is the same way. There's no good of having "you can" or "if you chose," it has to be "mandatory." We feel strongly about that but, again, the government disagrees.

A duty is not a duty if it can be skirted because of lack of oversight. The oversight must be truly independent, not someone under the thumb of those with any interest in hiding. If a duty to document is discretionary, inadequately monitored and not applied to the top decision-making body of government, then it's just a sham.

Why is Cabinet afraid to apply this duty to themselves? Why is the Premier afraid to apply this duty to himself? Why are the Cabinet and the Premier afraid to make this duty mandatory? Very important questions. Why are the Cabinet and the Premier afraid to have an independent authority monitor their compliance and hold their feet to the fire? Heaven forbid. That's called accountability – transparency and accountability. We always hear those words and they sound great. On the evening news hour they sound wonderful when people are calling for it and they're buzzwords. Yes, we're all about it.

That's like having "shall" or "may." We may be transparent. We may be accountable when it suits us right. Click on the camera, we are. Flick off the camera, you walk away and laugh. That's really what it is. It's a form of a sham. That's what diminishes a lot of what happens here in the House of Assembly and unfortunately it diminishes everyone in the House when you see that charade. We all get bought into that same basket, so to speak. It's really unfortunate.

I encourage and I wish more people would take the time to watch some of the debate in this House, because, actually, some of the debate in this House can be very, very informed. I believe that. In this case here,

we've been offering pretty concrete debate on this today and, I think, making a lot of valid points. Will Government follow through? Maybe not. But this is something that they'll have to live with. This is something that *Hansard* – *Hansard* exists forever. It's eternity. So they can shun this and they can laugh it off and whatever, but it will always be in record. This stuff will have a way of coming back and haunting government. It always does. It always will.

We've seen it with the cyberattack. The minister was nonchalant for years, the former minister of Health, and now he was even asked the question from the media yesterday. Why? Because it's just this: brush it off, arrogant response, forget it ever happened. We know better. Again, trust us, we have it under control. We understand. We've got everything full in hand. Don't worry. You go on about your business. Don't mind you on the other side. Leave it to us. We have it under control. Don't worry. That's nonsense.

Guess what? It wasn't nonsense, was it? When 58,000 people's personal information was violated with the biggest cyber breach in Canadian history we were told: nonsense, go on. You don't know what you're talking about so don't go talking to me. That, in a nutshell, is pretty much what was said. It's insulting to us.

What do we find here? We find little remarks coming across the way, and we're serious about this debate. I'm not going down into the weeds, which I'm very capable of, and bantering back and forth because I think it's too important. The reason I find this really important, and I've said this several times speaking here today, you're getting in – and I don't like to compare it to, I know it was brought up in the House today, Bill 29 and whatever. But forget about the Bill 29 piece. The point of Bill 29 was it's the withholding of information. That's the only comparison I see with it. They say it's the right church, the wrong pew. This is the same argument. That's a different context of an argument,

but Bill 22 is a withholding piece, you're withholding information.

Again, you might say or Members might say we're not withholding information, but unless we play the rule of trust us, we have this under control; we'll never know. That's what's really unfair. We don't have the ability on this side of the House to go into the Cabinet room and demand information. Most people don't.

But, again, if you want to be transparent and accountable, you have to make that possible. We're into 2023. This is not 50 years ago, 40, 30 years ago; we're in 2023. I keep using that lately when I look around at some of the stuff I see happening around here. We're still seeing fishermen in the galleries protesting in 2023. They're out on the steps protesting in 2023 for emergency rooms.

We're asking for something that 10, 12 years ago, 11 years ago, government Members on that side were on this side of the House and they literally gave a knockout blow to the former administration of the day on secrecy, withholding of information, excluding it from the Information and Privacy Commissioner. We're saying the same thing today; I know they're different bills, but we're blocking the Privacy Commissioner from doing their work.

Any time the Privacy Commissioner has concerns with legislation coming before this House that can involve – and, listen; we don't know what's going to be up in that Cabinet Secretariat that they're not going to be able to do duty to document. We're not going to ever know. How can you say there's nothing to hide? Sure, we don't know. I tell you, that's the most fundamental problem with this.

If you have nothing to hide, let the process unfold. It's never a bad thing. It's obviously never a bad thing to be transparent. We stand in this House and we stand in our place and we talk about these issues. There

will be a time, maybe all of us, we'll be on that side. That comes, that'll happen sometime. We don't know when that'll happen but it'll happen probably sooner than later. We don't know. But you're always aware of that, too, you're pushing for something. You almost close your eyes sometimes and say: If we were government, would we appreciate that?

Everything you argue for, you probably wouldn't fully appreciate it, but it's necessary. I think that's where we come to with today's world; it's necessary. In this day and age, things have changed. The world is not the same as we know it now. When I first started walking in this building many years ago, there are a lot of differences now in this Legislature and the way this operates than it was back then.

Is it for the better? For the most part it probably is. Were there things back in the day that you'd like to do now? Sure you would, but we progressed past that. We've improved out accountability, our transparency, we've improved how we do business and everyone is more responsible. There is a level of responsibility.

I mentioned the Green report, accountability and integrity act. When it was brought in, it was brought in for a reason. It was: throw everything out on the floor, let's deal with it. It was put in the report: these are your news rules. There were no walls; there were no barriers.

I'm on the Management Commission and sometimes that Green report is the most frustrating document that we ever deal with. I know, Mr. Speaker, you're also Chair of that Committee and you can attest to it, but we respect it because it is required. It is a document that we have to be accountable. The Clerk can agree with me on this one, too; we always disagree but she will quickly tell us it is what Green says. We respect what Green says because it's by the rules. Would we like to see things in that Green report removed or not have to follow them?

You know we would. Even the most honest person will tell you, absolutely, and I don't think anyone would disagree with me, but we respect the document.

That's why I am adamant on this and I think all my colleagues are too, because it's the right thing to do. Yes, if we were in government we probably wouldn't appreciate it so much, like the government opposite wouldn't. But it's the right thing to do.

This stuff has a way of raising its ugly head in time down the road at a future inquiry, like I said earlier today when I spoke previously. Heaven forbid you get a serious inquiry and one of the biggest impediments is government refused to document Cabinet decisions. They took that out of the legislation. They refused to include that in the legislation, after being told repeatedly by previous commissioners.

Who's in government then that could be – we could over there and we could be faced with something like that. How embarrassing is that? Again, they're not going to look back in time and blame this government: they're going to blame government. We all get tainted the same way. I think that's a sad state. But if we had that in place – we don't prevent horrific incidents from happening, but you give the information to give an even playing field for whoever has to tackle this decision down life's road. At least they got the information in front of them and it can't be like we didn't know. You're fully aware. Again, *Hansard* doesn't lie. You're fully aware. This information, this bill is giving you a pathway. This is your opening. Justice LeBlanc asked for it.

So we're going to go all they way and we're going to stop at the eighth floor or the ninth floor or the tenth floor. That's not the way this works. Again, the meat on the bones is not in all the departments. Sure you're going to get some things. Everything filters upstairs to the Cabinet Secretariat. I know that. I know that several of my colleagues

and the government obviously know that. Most of us know that that's where the buck stops.

How are you ever going to get to the bottom of anything if you don't have any documentation? That was almost embarrassing during the Muskrat Falls inquiry when Justice LeBlanc kept coming back, witness after witness and no record – no record. A multi-billion dollar project and no record.

I don't care who was in government at the time. Again, people look at government. I mean, there's a lot of people out there, probably, blaming the Liberal government for the no documentation. They were in power then. This is my point. It works both ways. That was embarrassing.

We shouldn't be looking at that as being the benchmark; that's the idea of inquiries. You bring about changes in inquiries. That was all meant for a good reason. Mr. LeBlanc was a highly regarded, highly respected individual, a former judge. He came in and he did it. Justice LeBlanc did a great job from all I gathered. People can disagree and disagree with him. It was a job done. Then he brings in his recommendations. If we're not going to implement all those recommendations and implement them thoroughly the way they were intended to, why bother?

But as my time goes down – and I am debating will I go longer; I'm probably going to soon wrap up – I keep coming back to this question: Why? Did anyone on the other side – I know the Government House Leader seems to have a keen interest and he had a book out earlier there. He's got it put away now. He's got a big book about six inches thick he was reading from earlier. Oh, it is right there, sorry. I don't know if he's going to read that anymore tonight. Can he look in that book, somewhere, and find why are we doing this? I don't want stories. Well, by maybe 10 or 11 tonight I might be ready for one but right now I don't

want – can he tell me or can the Minister of Digital Services tell me why? Why are you excluding this?

I don't care if you are three years doing it. We only found out 24 hours ago, 30 hours ago now, roughly, and we're still learning it. When we broke there just now for supper we went in there and our officials, our staff had more information they had done up. It's like a moving target. Again, it's not to embarrass government; it's to do what's right. It's not an us and them fear in here; this should be us together. An inquiry was done. It was unanimously put together and I don't think anyone on this side of the House said one negative comment about it. It was done, it was agreed upon, the findings were found and it is what it is. We live, we move on, but we should learn.

So if you do all these things, what are you learning? I don't see we're learning anything here, because we want history to repeat itself and not in a good way. We should be doing better. The people of the province deserve better. Our responsibility is to do better. I think this side of the House, yeah, we're not always right. But on this one, I do seriously believe we got it right. I sure hope government finds in their wisdom sometime, whether tonight – if they don't get through it tonight, maybe when we come back in April. But I hope they find a way to listen to what we're saying, give some serious consideration and get it right.

Thank you very much.

SOME HON. MEMBERS: Hear, hear!

SPEAKER: The hon. the Member for Stephenville - Port au Port.

T. WAKEHAM: Thank you, Speaker.

I'll have a few comments to make. Obviously I don't think I'll need 60 minutes. If you want to give me 20, that's perfect. I've only sat here now since 2019, two elections, but I often think about all of the people that

have sat here in this House of Assembly. I know recently at an AGM for our party, we recognized there have been over 150 people who have represented the PC Party in the Province of Newfoundland and Labrador that have actually sat in this House.

SOME HON. MEMBERS: Hear, hear!

T. WAKEHAM: I would suspect there's probably more than that on the Liberal side who have sat, and certainly some independents. But one of the things that you look around these walls, you see these pictures and you wonder sometimes what are they thinking. Now, one of them is still here with us, so we could ask him what he's thinking and maybe he'll talk to us later. What I'm getting at is this is a very important place and all of us, when you become an MHA, you and I have a sworn obligation to give all legislation a due diligence, a sworn obligation to do that and I take that very seriously.

So I will never sit here and allow something to be a rubber stamp or to say you don't have input or rush it through. We all support the concept of a duty to document. That is unequivocally what we all want to see and you will get no arguments from any of us about that – none. But let's go back to the whole idea. So this bill received first reading in the House on March 13, nine days ago. Now, correct me if I'm wrong, because I have been wrong, normally that's when the bill would be distributed to the public to see, nine days ago. We didn't get this bill until this morning. We are standing here now expecting to simply turn around and say yeah, it's all okay; let's pass it.

Well, that's not the way it's going to happen, especially when an Officer of this House, the Privacy Commissioner, comes out publicly and says he has a problem with this bill. This bill, he has a problem with it and he identified three different areas that he has concerns with.

It started off this morning with the minister talking about housekeeping updates. It's much, much more than housekeeping updates. But then –

S. STOODLEY: I never said that word.

T. WAKEHAM: Well, we'll check *Hansard* after to see that. But then, at the end of the day, she went on to say there is an important decision to be made. That's another thing. She did say it was an important decision to be made.

Also, we talked about the idea of –

S. STOODLEY: (Inaudible.)

T. WAKEHAM: Well, we'll keep going. We'll keep going.

SPEAKER: Order, please!

Address the Chair.

T. WAKEHAM: At the end of it, she said she had consulted with 160 bodies and departments. All good, all good, no complaint. But there has been no consultation with anyone on this side of the House and we have had no opportunity to consult with people, which we should have the right to do if you expect us to ask legitimate questions when it goes to Committee. We deserve that opportunity.

SOME HON. MEMBERS: Hear, hear!

T. WAKEHAM: We also talked about consultations with the Privacy Commissioner. Now, the Privacy Commissioner made suggestions and the minister didn't listen to him. Didn't listen to the Privacy Commissioner.

AN HON. MEMBER: (Inaudible.)

T. WAKEHAM: Right, but here's what you said, and I'll quote this: Didn't feel like it at this time. You said that this morning: Didn't feel like it. Now if that's the attitude that you

have in this House of Assembly there's no wonder the Privacy Commissioner is mad and upset and speaking. Didn't feel like it.

SPEAKER: Address the Chair.

T. WAKEHAM: Didn't feel like it. Sorry about that, I apologize. Didn't feel like it.

That becomes a problem. I think there's a problem here when you have an Officer of the House of Assembly, the Privacy Commissioner, and you're taking him to court. You're taking the Privacy Commissioner to court. That implies that there's a bad working relationship. That starts you to wonder if that enters into the equation of what's going on here. Is this about the Privacy Commissioner? Is this whole thing about the Privacy Commissioner? That is what I don't understand; is it about the Privacy Commissioner?

This particular motion that we're talking about now that we brought in simply says, "Whereas a reasonable period of time has not been provided to review and consult on this bill, and further consultations are urgently required on this bill prior to its passage to ensure the changes it would cause will not improperly deny accountability, transparency and access to information to the people of Newfoundland and Labrador and those who serve them"

Again, that is exactly why we're standing here tonight asking those questions. It is simply that we want to see the duty to document apply to all, as simple as that. So will the duty to document apply to the Cabinet decision-making process? Will there be an independent oversight? Will it create a mandatory duty to document? That is exactly what we have been talking about; that is exactly why we have been standing here and that is exactly why we will continue to stand here and ask.

Again, I'll go back, we're not opposed to this legislation. We're not opposed; it is a good piece of legislation. The duty to document, that is what we're all about. But clause 7 says, "Records created or received, explicitly or implicitly in confidence, respecting matters of provincial or national security shall be managed in the manner determined by Cabinet Secretariat." What are the records respecting matters of provincial or national security? We don't know because they are not defined; it is open ended, it is up to the government to decide what those records are. So, again, those are the types of questions that we need to have answered.

But to simply come in here on one day and expect that we're going to pass this over and simply say, government go ahead and do it, that's disrespectful to this side of the House. We should have had that legislation; we should have had that at least nine days ago. We should have had the opportunity to turn around and speak about it. We would have had the opportunity to consult with others about it. All of that would have happened and if all of that had to happen, we would be in a much better place right now. We'd be standing here now suggesting that we can make these recommendations. We can turn around and work with you. We can get those questions answered, but, instead, we're here today simply saying that we cannot do it. We cannot do it.

So I don't understand exactly why we're having this debate. I don't understand why we're still here. Why it is that this legislation is just simply being brought back – bring it back at the appropriate time and let's get on with it. Let's not stand here again today and pretend that we are not going to have this issue.

The Privacy Commissioner has issued a news release. How much more information do you want than that? How much more information do you want to say that it doesn't work? That there are issues with this piece of legislation. We're not asking

you to simply take our word for it. We're listening to what the Privacy Commissioner has to say. I would certainly value his opinion more than mine; on this particular issue he certainly knows a lot more. But I would have loved, as so would my colleagues, to have the opportunity to turn around and have this document discussed with others, to have other people discuss this document. That's what I would have liked to have done, but that didn't happen, of course.

It didn't happen at all and, as a result of that, we're still here, late at night, talking about what a bill should be or shouldn't be. The duty to document, again, nobody disagrees with it – nobody disagrees with it. I would simply say it is time to take it, review it, take it back and let's look at it.

Anyway, I hear the minister wants to get up so I'm going to sit down now and listen to what he has to say.

Thank you.

SPEAKER: The hon. the Minister of Justice and Public Safety.

J. HOGAN: Thank you, Speaker.

I'll just be very brief. I just want to make one comment about the debate that's been ongoing here that this does not apply to Cabinet. We've spent a lot of time hearing that it doesn't apply as part of the debate, so I just want to make clear to everybody that this legislation does apply to Cabinet. We can take that off the debate right now and everyone should realize, if they read the legislation in full, they've had it for over 24 hours, 30 hours now – you can take some time to read it tonight if you want, but Cabinet does apply, Cabinet records apply.

The clerk is the permanent head of a public body for Executive Council and she or he is going to be responsible, if the Opposition ever wants to allow this legislation to pass, for developing and maintaining records and

information management plans for Executive Council, which includes Cabinet. So I hope that puts everybody's mind at ease. That concern is non-existent. It's made up. It's not true. It applies.

I also want to say now we've been talking about the bill, this is our second amendment and it's clear that this has devolved not into a debate, but into personal attacks and screaming matches where fingers are being pointed, comments are not being directed to the Speaker, as they should under the *Standing Orders*. So I think it's appropriate, at this time, we adjourn the House, given that it's clear that the Opposition doesn't want this bill to proceed.

They've come forward with two amendments; one that hasn't been successful since 1995, 28 years. It's clearly a delay tactic to keep us here. If they want to pass the legislation, the legislation is there, it's clear. It's the right thing to do for this government and for future governments. We're prepared to pass it; they're not. They want to delay for the sake of delaying in politics, so I ask that we adjourn the House.

Thank you.

SOME HON. MEMBERS: Hear, hear!

SPEAKER: Is it the pleasure of the House to adopt the motion?

All those in favour, 'aye.'

SOME HON. MEMBERS: Aye.

SPEAKER: All those against, 'nay.'

Motion carried.

This House do stand adjourned until 2 p.m. tomorrow.

On motion, the House at its rising adjourned until tomorrow, Thursday, at 2 p.m.