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Speaker: Honourable Ross Wiseman, MHA

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The House met at 1:30 p.m.

MR. SPEAKER (Wiseman): Order, please!

Admit strangers.

We are very pleased today to have some special young guests in our House. Today we have thirty-three students from Persalvic Elementary in Victoria, and they are accompanied by their teacher, David Barrett.

Welcome to our House of Assembly.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: As I speak, walking into the galleries is another group of very special guests. We have – the same number, actually – thirty-three members of the Gambo senior citizens' group.

Welcome to our galleries.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: Well, we have sitting on the same side of the House today a group of individuals who have made a major contribution to our past and created what we are today, and then on the other side we have our future leaders of the Province.

SOME HON. MEMBERS: Hear, hear!

Statements by Members

MR. SPEAKER: Today we will have members' statements from the Member for the District of St. John's North; the Member for the District of Mount Pearl South; the Member for the District of Bonavista South; the Member for the District of Port de Grave; the Member for the District of Signal Hill – Quidi Vidi; and the Member for the District of The Straits – White Bay North.

The hon. the Member for St. John's North.

MR. KIRBY: Mr. Speaker, I rise today to pay homage to Ted Blanchard – a well-known musician, rower, labour mediator, and public servant. Mr. Blanchard had quite a distinguished career in the provincial public service. He was chief negotiator for Treasury

Board, and held the positions of Assistant Deputy Minister and Deputy Minister in the Department of Labour. After being elected MHA for the District of Bay of Islands in 1985, he ultimately served as the Minister of Labour.

He was very involved with the Royal St. John's Regatta as a committee member, a rower, a coxswain, and a coach. He was also an accomplished musician, playing on radio programs such as *Saturday Night Jamboree* and *Happy Valley Gang* and the television show *All Around The Circle*. He played with several musical groups including The Three Strings and Crooked Stove Pipe.

Mr. Blanchard also volunteered his fiddling talents at seniors' residents throughout St. John's for twenty-five years. He received a number of awards recognizing his work, including the Folk Arts Council Lifetime Achievement Award and the Newfoundland and Labrador Seniors of Distinction Award.

I ask all hon. members to join me in celebrating the life of Ted Blanchard – a true renaissance man who lived life to its fullest.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: The hon. the Member for Mount Pearl South.

MR. LANE: Thank you, Mr. Speaker.

Mr. Speaker, this past weekend, I had the privilege to participate in a wonderful initiative within my community. At 10:00 on Saturday morning in the City of Mount Pearl, a number of council members and city employees, service groups, community-minded businesses and tremendous community volunteers put words to action and descended upon a natural, regional gem which runs through our community: the Waterford River.

Fitted out in rubbers and gloves, with garbage bags in hand, this fine group of individuals took the initiative to do their part in working towards a goal of seeing the Waterford River become the most pristine urban river in the country.

This year marked the fourth annual cleanup blitz in the City of Mount Pearl and while sadly, there

was a significant amount of garbage and debris required to be collected, the good news is that it is getting less and less each year; bringing us closer to our goal. This was a very upbeat experience for all those involved and was topped off by a barbeque at Centennial Park.

I would ask all members of this hon. House to join me in congratulating the council and dedicated employees of the City of Mount Pearl, the Mount Pearl Lions Club, the Rotary Club of Waterford Valley, the corporate sponsors, and all community-minded volunteers who participated in this very worthwhile initiative.

Thank you, Mr. Speaker.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: The hon. the Member for Bonavista South.

MR. LITTLE: Thank you, Mr. Speaker.

Honourable colleagues, I rise today to recognize and congratulate the members of the Discovery Collegiate Destroyers hockey team, who won the sixteenth annual Confederation Cup High School Hockey Invitational Tournament tier two championship.

The tournament was held in the St. John's metro area. There were sixteen teams that participated in this hockey tournament. Discovery Collegiate won two games and lost one in the round robin play and dominated the next two teams by winning 5-1 and 7-1. The team advanced to the finals with a 5-3 victory in the semi-finals. The Destroyers faced the Laval Cavaliers from Placentia in the championship game and won the tournament with a 3-1 win. This marked the second time the Discovery Collegiate has won the Confederation Cup tier 2 championship.

Teams members of the Bonavista Discovery Collegiate are as follows: Colin Collins-Faulkner, Matthew Fisher, Nathaniel Duffett, Brad Paul, Mark Butler, Matthew Ryan, Riley Baker, Ryley Ellis, Johnathon Pilgrim, Ethan Street, Conal McNamara, Andrew Smith, Jonny Cooper, Blake Way, Brent Monks, Jeremy Freake, and the coaches were Wade Moulard and Sheldon Stringer.

Mr. Speaker, hon. colleagues, please join me in congratulating the Discovery Collegiate Destroyers on their victory, winning the Confederation Cup.

Thank you, Mr. Speaker.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: The hon. the Member for the District of Port de Grave.

MR. LITTLEJOHN: Thank you, Mr. Speaker.

I rise today in this hon. House to recognize a young writer from my district, Ms Allyson Ricketts of Upper Island Cove. Allyson participated in this year's Arts and Letters Awards where her short story White Out, was selected in the Junior Prose Category.

Allyson is a fifteen-year-old Grade 9 student at St. Peter's Elementary. Her teacher, Mrs. Lynch, submits written pieces each year to the competition which is open to youth twelve to eighteen years of age from across our Province.

She wrote the story when she was in Grade 8. The story is about a snowmobile race where a boy and a ghost have an encounter that goes south fairly quickly. Her story earned her a \$350 prize and was one of eight selected out of fifty-one entries in her category.

Allyson encourages other students who like writing to enter the competition and says: it's a really cool competition.

I ask all members to join me in applauding this talented young writer who is inspiring others to write and create their own story.

Thank you, Mr. Speaker.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: The hon. the Member for Signal Hill – Quidi Vidi.

MS MICHAEL: Thank you, Mr. Speaker.

Last Friday, I had the great pleasure of attending the 2014 Excellence in Visual Arts awards. The EVAs are presented by VANL-CARFAC, the

provincial affiliate of the national advocacy group for artists, and celebrate local visual artists and the visual arts.

The Long Haul Award goes to a senior artist who has made a substantial contribution to the visual culture of the Province.

This year's recipient is Pam Hall. Pam's work is exhibited across Canada and internationally, and in collections that include the National Gallery of Canada. Her Houseworks exhibit, featuring miniature paper houses from all over the world, runs until September at The Rooms.

Pam makes art, builds installations, plays with language, and does film, video and performance art, often collaborating with others. She is based in Signal Hill – Quidi Vidi but travels extensively to create and present her work, and to teach graduate students.

While she has received awards and prizes in other places, the Long Haul Award was Pam's first award in her home Province. Her pride and joy were obvious as she accepted it.

I ask this House to join me in congratulating Pam Hall, winner of the VANL-CARFAC Long Haul EVA award.

Thank you, Mr. Speaker.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: The hon. the Member for The Straits – White Bay North.

MR. MITCHELMORE: Mr. Speaker, I rise today to congratulate St. Anthony Basin Resources Incorporated (SABRI) as a visionary social enterprise that advances our fishery, enhances transportation links, tourism, preserves our history, and fosters economic development for seventeen communities on the Great Northern Peninsula.

Friday's AGM highlighted SABRI's long-term employment at St. Anthony Seafoods and Cold Storage and \$15.9 million in infrastructure investments which help diversify our local economy. SABRI invested in specialized medical equipment, assisted youth organizations, contributed to a boat lift and port

improvements for cruise ship visits. Additionally, L'Anse aux Meadows saw the unveiling of a Leif Erikson statue.

SABRI is a model for others to follow. It is clear, when communities partner they have greater control of their public resources and in turn make better decisions; the profits stay in the community to build a stronger tomorrow.

I extend gratitude to the staff Sam Elliott, Glenda Burden, Alicia Shears, and board members Wayne Noel, Paul Dunphy, Roy Taylor, Todd Hedderson, Dale Colbourne, Wilfred Alyward, Carl Hedderson, Sterling Dawe, Dean Patey, Alvohn Pilgrim, Trudy Byrne, Eric Boyd, Lester Bessey, and Peter Hughes.

I ask all hon. members to join me in congratulating SABRI for its continuation of outstanding accomplishments in the region.

Thank you.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: Statements by Ministers.

Statements by Ministers

MR. SPEAKER: The hon. the Minister of Natural Resources.

SOME HON. MEMBERS: Hear, hear!

MR. DALLEY: Mr. Speaker, I rise in this hon. House today to celebrate the completion of the benefits agreement for the Kami Iron Ore Project in Western Labrador.

SOME HON. MEMBERS: Hear, hear!

MR. DALLEY: This agreement is great news for Labrador and raises the bar for operators looking to do business in the Province. We have set high standards so that industrial and employment benefits accrue directly to Labradorians and Newfoundlanders. This is in keeping with our government's commitment to ensure natural resource development is maximized for the people of the Province.

The Kami Iron Ore Project will create direct employment for 800 workers at the peak of construction and approximately 400 during the operation phase. In addition, the project will contribute at least \$18 billion to provincial GDP and \$2.6 billion in taxes and royalties –

SOME HON. MEMBERS: Hear, hear!

MR. DALLEY: – to the provincial government over its anticipated thirty-year life.

The agreement establishes a process to ensure Newfoundland and Labrador's participation in the project.

Residents of Newfoundland and Labrador will be provided first consideration for employment during all phases of the project and a Labrador first hiring priority protocol has been established.

SOME HON. MEMBERS: Hear, hear!

MR. DALLEY: Suppliers in the Province will also be provided full and fair opportunity and first consideration for procurement opportunities during all phases of the project. A Labrador first procurement priority protocol has also been established.

Mr. Speaker, for the first time in this Province, the benefits agreement features firm commitments to hire a minimum number of registered apprentices for all phases of the project as part of its responsibility to maintain a supply of skilled tradespersons.

SOME HON. MEMBERS: Hear, hear!

MR. DALLEY: The partnership commits to a minimum of 15 per cent of the skilled trades workforce to be apprentices for the construction phase of the project, and a minimum of 25 per cent of the skilled trades workforce to be apprentices during the operations phase.

SOME HON. MEMBERS: Hear, hear!

MR. DALLEY: The gender equity and diversity plan developed for this project is the latest example of government and industry's commitment. We continue to be a leader in Canada with regard to gender equity and

diversity in the natural resource sector. Qualified women, persons with disabilities, Aboriginal persons and visible minorities will have equitable access to the many employment and business opportunities associated with the project. One of the many initiatives includes the provision of a forty space employee child care centre.

We are looking forward to construction of the Kami Iron Ore Project, expected to begin this summer. The first phase of the project will produce 8 million tons of concentrate annually and has a potential to expand to 16 million tons.

Labrador West has a well-established mining industry that has brought considerable economic activity to the region for many years. This project positions the region for continued growth over the long term and will bring economic and other benefits to businesses, residents, and the region as a whole.

Thank you, Mr. Speaker.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: The hon. the Leader of the Official Opposition.

MR. BALL: Thank you, Mr. Speaker.

I want to thank the minister for the advance copy of his statement. I, too, want to join government and congratulate Alderon and government for completing this benefits agreement that was announced this morning. As we all know, this is a very important project for the residents of Labrador West, and indeed the entire Province, especially in light of the recent idling of Wabush Mines.

As the minister said, thirty years of the project will contribute \$18 billion into the GDP, and \$2.6 billion in taxes and royalties. I am certainly encouraged to see the inclusion of the commitment set out in the agreement, especially around apprenticeship hiring, gender equity, Aboriginal employment, as well as persons with disabilities, of course. I have often wondered why even in our own contracts – we have known for quite some time now that we are going to be looking for a skilled workforce, 70,000 people, mainly due to retirement by 2020. I have often

wondered why it has taken so long see benefits like this included, especially in our own government contracts. We could have done this a long time ago.

I am also encouraged to see the commitment to the protocol around businesses in Labrador, and a Labrador-first hiring policy. So this is all important. In particular, that stood out to me today, was the child care spaces. On the many trips that I have made to Labrador West this is something that has always come up, and indeed, this is an important component of all of this. The use of power from Muskrat to actually create economic development in Lab West is something that, as the Opposition, we have been calling for and supported with the December announcement of the third line.

All in all, this announcement this morning, we see this as being encouraged and positive, and I look forward to seeing the benefits agreement when it becomes publicly available.

Thank you very much.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: The hon. the Leader of the Third Party.

MS MICHAEL: Thank you very much, Mr. Speaker.

I thank the minister for the advance copy of his statement. There is no doubt that this announcement is good news, but there are concerns that I want to raise.

I am uneasy about the fact that the company has yet to find the funding that will actually lead to the final sanctioning of the project, and I do not think we can breathe easily until that occurs. I certainly hope government will ensure that people get the required training they need to be apprentices on site. I am really delighted with the information about apprentices, in that we have them both in the construction phase and in production phase. That is extremely important; but government will need to ensure, especially for the construction phase, that local and Aboriginal people who want to get training in order to become apprentices will be able to access that training to ensure it to happen.

Another concern, which is related in a broader way, is government's inability to ensure that properly trained and compensated occupational health and safety officials are living and working in Labrador West. As industrial activity ramps up in these regions, this is a problem government has to solve with employees living in the region, and this is something that I put to the government.

Thank you, Mr. Speaker.

MR. SPEAKER: The hon. the Minister of Advanced Education and Skills.

SOME HON. MEMBERS: Hear, hear!

MR. O'BRIEN: Mr. Speaker, I rise today to speak about the continuing work of the Department of Advanced Education and Skills to foster the inclusion of persons with disabilities. This month, I had the great pleasure of visiting the Independent Living Resource Centre to provide details on \$600,000 in provincial government funding to continue Accessible Vehicle Funding and Inclusion Grants.

Accessible Vehicle Funding provides up to \$25,000 to eligible individuals or families to purchase or modify personal vehicles, removing barriers and increasing transportation options for individuals with disabilities. I am pleased to note that this year the eligibility criteria of this program has been broadened – if you purchase a vehicle that has already been retrofitted, you are now eligible for funding for the value of the retrofit.

Mr. Speaker, during my visit to the Independent Living Resource Centre, I met Laura George, a young woman whose van is equipped with a ramp that enables her to travel wherever she needs to go. I had the opportunity to watch her demonstrate how her newly accessible van operates, and hear first-hand how this has impacted her life, giving her the freedom to travel – an activity many of us take for granted.

We are also continuing to support accessibility through Inclusion Grants of up to \$25,000 for non-profit, community-based organizations. These grants support enhancements such as the installation of ramps and visual fire alarms

within buildings, playgrounds and other facilities. Up to \$5,000 is also available to make events more accessible through enhancements such as sign language interpretation and assisted listening devices.

Mr. Speaker, *Budget 2014: Shared Prosperity, Fair Society, Balanced Outlook* includes \$12.6 million to advance inclusion and support employment opportunities for persons with disabilities. Accessible Vehicle Funding and Inclusion Grants will continue to make a real difference in people's lives and are a part of our strategy to enhance inclusion and accessibility all throughout Newfoundland and Labrador.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: The hon. the Member for Cartwright – L'Anse au Clair.

MS DEMPSTER: Thank you, Mr. Speaker.

I thank the minister for an advance copy of his statement.

Mr. Speaker, we are happy to hear the vehicle modification program is continuing this year. The minister referenced the freedom of travel that many of us take for granted, and funding the retrofitting of vehicles for persons with disabilities is a positive initiative.

On that note, Mr. Speaker, we asked several times in this House about the enforcement of Blue Zone regulations and parking lots with insufficient parking spaces for persons with disabilities. We feel government has been entirely too passive on the enforcement of these regulations and part of the freedom to travel, Mr. Speaker, is accessible parking.

Mr. Speaker, we have so far to go in making public spaces more accessible. I know in my district, and I would venture to guess all MHAs see the same challenges, many government workers in buildings that are inaccessible to persons with disabilities. There are many examples I could give in Coastal Labrador communities.

What strikes me as odd is despite granting up to 25,000 to organizations to support accessibility, this same department eliminated the \$14,000

grant for the Coalition of Persons with Disabilities to maintain their accessible office space just one year ago. These inconsistencies, Mr. Speaker, call into question this government's commitment to inclusion.

I hope we can look forward to an announcement on those organizations and projects receiving inclusion grants this year.

Thank you, Mr. Speaker.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: The hon. the Leader of the Third Party.

SOME HON. MEMBERS: Hear, hear!

MS MICHAEL: Thank you very much, Mr. Speaker.

I, too, thank the minister for an advance copy of his statement.

I am glad to see the continuation of the inclusion grants that help places and work of non-profit groups to be more accessible. I am also glad that government decided to renew the Accessible Vehicle Funding program that helps remove some of the physical barriers to employment for people with disabilities, but I would like to see some of the non-physical barriers to employment removed as well, Mr. Speaker.

I note that last June in Estimates the then Finance minister said he was not satisfied with the government agency underutilization of people through the Opening Doors Program and promised a review. Mr. Speaker, I have not heard of this review and I would like the minister to let us know at some point whether or not the review has happened and that we will soon see public agencies employing more people with disabilities and tapping into the valuable labour resource.

Thank you, Mr. Speaker.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: Oral Questions.

Oral Questions

MR. SPEAKER: The hon. the Leader of the Official Opposition.

MR. BALL: Thank you, Mr. Speaker.

The President of the Surety Association of Canada says that government's remarks on the surety bonds on the cancelled Humber Valley Paving contract were completely preposterous. He went on to say that the minister clearly does not understand surety bonds nor does he comprehend how they work.

I ask the Premier: How can you claim that your government handled the situation properly when the National association says the minister's comments were completely irresponsible and just plain wrong?

MR. SPEAKER: The hon. the Premier.

SOME HON. MEMBERS: Hear, hear!

PREMIER MARSHALL: Mr. Speaker, I also heard coming from the opposite side of the House some misinformation on bonds, a lack of understanding on bonds, talk about cash going back, different things like that.

Mr. Speaker, I understand that the President of the Canadian Surety Association also indicated that there may have been other factors that dealt with the minister's decision. The minister, as a minister from Labrador, as the Minister Responsible for Transportation and Works, would want to see this project continued and completed on time and on budget.

He took advantage – we had a very exceptional and unique circumstance here with these particular fires. If we had gone the other way, if we had gone out of the bond, the president of the association, yes, said there would be delays. Delays are sometimes unavoidable. Mr. Speaker, the Opposition would then be up blasting us (inaudible).

MR. SPEAKER: Order, please!

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: The hon. the Leader of the Official Opposition.

MR. BALL: Thank you, Mr. Speaker.

What we said as the Opposition is that the bonds have a value of \$19 million, which was something completely different. Premier, you have to admit the first day the minister did not even get that. The value of the bonds – the insurance was at a value of \$19 million.

The project has already been delayed by one year. You have offered that extension. The Surety Association points out that government's decision to cancel the contract and release the bonds will mean increased costs for taxpayers in our Province.

He went on to say that the cost of escalation that comes from re-tendering the project would normally be picked up by the performance bond. The incoming Premier has already admitted that he was a guarantor on this bond, but government chose to release it.

I ask the Premier: Why did your government choose to let the option and let the incoming Premier off the hook while adding more cost to the people of the Province?

MR. SPEAKER: The hon. the Minister of Transportation and Works.

SOME HON. MEMBERS: Hear, hear!

MR. MCGRATH: Thank you, Mr. Speaker.

Mr. Speaker, I was a little bit astounded by the comments yesterday in that article. If you read down through the article when you got down to paragraph five, you would notice that Mr. Ness made the comment that he said there were extenuating circumstances that he did not know about, so he really could not comment; he was being very cautious in his comments.

I was on the ground, Mr. Speaker, in June of last year when the fire came through and burned 27,000 hectares. I was on the ground when Wabush was in a state of emergency and evacuated. I was on the ground when 12,000 people did not know where they were going to go. I was there when those trucks were stopped

on the side of the road and did not know what was going to happen. I saw what was happening.

MR. SPEAKER: Order, please!

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: The hon. the Leader of the Official Opposition.

MR. BALL: Thank you, Mr. Speaker.

We all saw that. The minister was not the only one on the ground at that time; many people were. That is the reason why the company asked for an extension to the contract. That is the reason why you gave the extension to the contract.

That contract was supposed to be finished by July of 2013. You granted the extension to be finished July of 2014, this year. Now on May 6, Mr. Coleman said that he had no personal benefit from government by cancelling this contract, yet last week he admitted that the government's decision could have benefitted him personally.

I ask the Premier: Now that Mr. Coleman has admitted that his decision could have benefitted him personally, do you still support the minister's decision to cancel the contract and release the bonds?

MR. SPEAKER: The hon. the Premier.

SOME HON. MEMBERS: Hear, hear!

PREMIER MARSHALL: Mr. Speaker, the Leader of the Opposition continues to put information out on the floor of this House of Assembly which is not correct. He said there was going to be a loss. There has been no loss incurred to date. We do not know there is going to be a loss. That remains to be seen.

The Auditor General has been called in to the House. He has been called in to look – he is doing his work now. He is talking to the people who may have been involved in this. He is getting out the facts. I think rather than prejudge what is happening, we should have the decency to allow him to do his work, and then the facts

will be out and then the people will be able to judge who is really telling the right thing here.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: The hon. the Leader of the Official Opposition.

MR. BALL: Thank you, Mr. Speaker.

Well, this government was very cute in the way this new tender was released. If you remember, this contract was indeed bundled with a larger contract so we will never know what the completion rate for the sixty kilometres (inaudible).

SOME HON. MEMBERS: Oh, oh!

MR. SPEAKER: Order, please!

MR. BALL: Government has said that Humber Valley Paving approached them to get out of the contract because they were losing money on it; however, the incoming Premier has recently said that the company had options and could have finished the work under the contract.

I ask the Premier: If Mr. Coleman is correct and Humber Valley Paving could have finished the work, why did you cancel the contract and release the bonds?

MR. SPEAKER: The hon. the Minister of Transportation and Works.

SOME HON. MEMBERS: Hear, hear!

MR. MCGRATH: Thank you, Mr. Speaker.

Mr. Speaker, when this was first brought up in the House of Assembly during Question Period, I made it very clear that the department had options. The options were, when we sat and negotiated with the company, that we could have forced them to continue with the job. That was an option that they could have decided; they were going to or not.

As a department we had to make choices, and I had a choice to go down a legal road or go down a road to make things happen. I had a small window of opportunity, as you just heard the Leader of the Opposition say, to bundle work

together. For the people who are listening out there, we do not all live in the metro and we are dealing with an area here, a sixty kilometre piece of highway, that is in the middle of a 650 kilometre isolated area.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: The hon. the Leader of the Official Opposition.

MR. BALL: Thank you, Mr. Speaker.

We recognize that; that was one of the reasons why you granted the extension.

The government has run out of excuses for cancelling the Humber Valley contract. At first they said it was cancelled because of a forest fire; that was the reason for the one-year extension. Then they said it would protect the finances of the company, not the other subcontractors, I may add; but Mr. Coleman has already said the company had other options. Thirdly, they said it was to ensure the project was completed on time and on budget. The Surety Association clearly says that timing has nothing to do with it.

I ask the Premier: What is the real reason that this contract was cancelled?

MR. SPEAKER: The hon. the Minister of Transportation and Works.

SOME HON. MEMBERS: Hear, hear!

MR. MCGRATH: Thank you, Mr. Speaker.

Again, the Leader of the Opposition needs to decide which one it is. We have stated that the fires were a very significant reason for the delay in this job. We looked at the circumstances and that was the reason we gave an extension. That was not the reason that we agreed to mutually terminate the contract.

After the fires were over and they continued with the work, they realized they had lost too much money and it was not fiscally responsible for them to continue with the project. Then they asked to go into a mutual termination agreement, which we entered into.

Mr. Speaker, what we have done here is – we will still get the job done. For the gentleman, Mr. Ness, who sits in a tower in Mississauga, he does not realize the geography.

MR. SPEAKER: Order, please!

The hon. the Leader of the Opposition.

MR. BALL: Thank you, Mr. Speaker.

I will just ask the minister: What other options did Humber Valley Paving and what other options was Mr. Coleman referring to?

MR. SPEAKER: The hon. the Minister of Transportation and Works.

SOME HON. MEMBERS: Hear, hear!

MR. MCGRATH: Thank you, Mr. Speaker.

Mr. Speaker, I will not speak for Mr. Coleman, I will speak for the Department of Transportation and Works. We sat down, as I have stated here many times, we had a legal option and we had an option to get the job done. We are still hoping to have this project finished in the summer. We may be a month late, but we are hoping to have this project finished in the summer of 2014.

When I talked to the people in Labrador, their major concern is to get this sixty kilometres finished. Spread in the middle of a 650 kilometre area, and that is there in the middle, I have to try and get that contract finished. I think the best option was to bundle it with this other piece of work and that way we will see it done on time and on budget.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: The hon. the Leader of the Official Opposition.

MR. BALL: Thank you, Mr. Speaker.

Well, I talk to a lot of people in Labrador too, and their major concern is to get paid for the work they have done. This government has taken the option of the mechanics' lien off the table for many of those subcontractors.

Yesterday, I asked the minister about the second contract with Humber Valley Paving on the West Coast of the Province. The minister said that the contract will be finished on time and on schedule. Those were his words, but the tender document says that the work will be completed by October 31, last year.

I ask the minister: Has there been an extension granted for this work? If so, when is the new deadline?

MR. SPEAKER: The hon. the Minister of Transportation and Works.

SOME HON. MEMBERS: Hear, hear!

MR. MCGRATH: Thank you, Mr. Speaker.

Quite often in tenders, as we have all witnessed especially in the transportation department, we run into carry-overs. It is something the department does not like and it is something that we have addressed. It was the reason I started putting tenders out this year in January, rather than waiting until April or May.

This job on the West Coast is a carry-over. It was affected by other jobs that were being done by that company and it has slowed down the process. Again, it goes back to some of the stuff that happened in Labrador. It slowed that down. Now they are into a carry-over position.

This is what we are trying to avoid, but we are hoping that work will be done. The contract is still in place. We are hoping that contract will be finished this season.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: The hon. the Leader of the Official Opposition.

MR. BALL: Thank you, Mr. Speaker.

Just a quick question: Have you given the extension and did they ask for an extension?

MR. SPEAKER: The hon. the Minister of Transportation and Works.

SOME HON. MEMBERS: Hear, hear!

MR. MCGRATH: Thank you, Mr. Speaker.

Mr. Speaker, as I said it is called a carry-over. Quite often with a lot of our contracts the work does not get finished. As I have said many times in this House, we look at every contract case by case and if there are legitimate reasons they can use it as a carry-over, then we consider that.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: The hon. the Leader of the Official Opposition.

MR. BALL: Thank you, Mr. Speaker.

Just a question now: Is it Humber Valley Paving that will be doing this contract that you are talking about?

MR. SPEAKER: The hon. the Minister of Transportation and Works.

SOME HON. MEMBERS: Hear, hear!

MR. MCGRATH: Thank you, Mr. Speaker.

Humber Valley Paving does have that contract, yes.

MR. SPEAKER: The hon. the Member for Virginia Waters.

MS C. BENNETT: Thank you, Mr. Speaker.

Last week the minister said that the new oil royalty auditing positions – that two new positions were added last year. That is the same thing the department told the AG in his January 2014 report. You said you added two new people but you underspent the salary budget by almost \$400,000. The Auditor General continues to ask questions about government's ability to resource effectively for completion of timely audits.

I ask the minister: Can he explain to the people of the Province the auditing work plan that ensures that every single cent that is supposed to be collected through royalties is in fact collected?

MR. SPEAKER: The hon. the Minister of Natural Resources.

SOME HON. MEMBERS: Hear, hear!

MR. DALLEY: Mr. Speaker, the member opposite is referring to the royalty process of auditing where the commitment on government's part to audit agreements between oil companies and the Province to ensure that we maximize the royalty returns. I think the Auditor General did a review and I think it is clearly stated that we were meeting our scheduled targets, some of them were tight. It clearly indicated that we have not lost any money. It clearly indicated that the process is working. However, there are some challenges in terms of resources for auditing.

We had used external consultants to do some of that work, Mr. Speaker. We have recognized and respected the Auditor General's recommendations. We have gone ahead and hired more auditors in-house and we are in the process of hiring more. It is obviously a process that is working for government.

MR. SPEAKER: Order, please!

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: The hon. the Member for Virginia Waters.

MS C. BENNETT: Mr. Speaker, yesterday in the media the Premier said the Province has a poor reputation for retaining immigrants and it is an area where the Province needs to improve. The Premier is not the only one to recognize the provinces need to do a better job of attracting and retaining immigrants. The need for improved retention of immigrants has repeatedly been recognized by members of this government for the last decade.

I ask the Premier: How can you expect to improve upon attracting and retaining immigrants when you have cut the budget for the Office of Immigration and Multiculturalism by 45 per cent since 2012?

MR. SPEAKER: The hon. the Minister of Advanced Education and Skills.

SOME HON. MEMBERS: Hear, hear!

MR. O'BRIEN: Mr. Speaker, this government's immigration strategy is really important to the Province. As a matter of fact, it is important for a number of reasons. One of the reasons is because of the great economy this government has created since 2003.

I am proud to stand in my place today to be able to say to the people of the Province, yes, we would like to see our own population grow but we too are very proud that now we can attract very skilled labour from all over the world, Mr. Speaker. We work, and I have been working with Minister Kenney and working with Minister Alexander in regard to our strategy and to increasing our numbers, increasing our quotas in the PMP category, and also in the job growth category as well, Mr. Speaker.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: The hon. the Member for Cartwright – L'Anse au Clair.

MS DEMPSTER: Mr. Speaker, the former Minister of Advanced Education and Skills avoided our questions last month around Ross Reid's role in the Population Growth Strategy after he was whisked off to the Premier's Office to grow the population of the PC Party.

Now that the Premier's Office has been gutted and Mr. Reid a casualty of that process, I ask the Premier: Who is now responsible for overseeing the Population Growth Strategy?

MR. SPEAKER: The hon. the Minister of Advanced Education and Skills.

SOME HON. MEMBERS: Hear, hear!

MR. O'BRIEN: Mr. Speaker, I will tell you one thing before I start. I will tell you who gutted the population of this Province, it is the past Liberals. From 1992 to 1993 we saw a decrease in our population by approximately 60,000 people. Mr. Speaker, shame on them! They let them leave our Province, Mr. Speaker. That is exactly what they did.

As a matter of fact, we have four people in my department –

SOME HON. MEMBERS: Oh, oh!

MR. SPEAKER: Order, please!

MR. O'BRIEN: – who are working on the Population Growth Strategy, and only recently I appointed an executive director to lead that. As well, my deputy minister is involved, and various other departments involved in that strategy going forward. It is important to this government. The population is important to this government, not unlike the past, Mr. Speaker.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: The hon. the Member for Cartwright – L'Anse au Clair.

MS DEMPSTER: Mr. Speaker, the member across the way loves to get up and talk about the low numbers of Income Support but they do not talk about the increased numbers of out-migration.

Now that he has had his little rant, I will ask the question again: Who is responsible for growing the Population Growth Strategy?

SOME HON. MEMBERS: Oh, oh!

MR. SPEAKER: Order, please!

The hon. the Minister of Advanced Education and Skills.

MR. O'BRIEN: Mr. Speaker, I am glad she brought up Income Support. I am proud to stand in my place in this House and say that we increased basic rates by 5 per cent this year in our Budget going forward, Mr. Speaker.

SOME HON. MEMBERS: Hear, hear!

MR. O'BRIEN: We are all about supporting the most vulnerable in our population through the Population Growth Strategy. To answer her question – I am.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: The hon. the Member for Cartwright – L'Anse au Clair.

MS DEMPSTER: Mr. Speaker –

SOME HON. MEMBERS: Oh, oh!

MR. SPEAKER: Order, please!

MS DEMPSTER: I am glad we got that clarified after a few questions.

Mr. Speaker, in Estimates last month the Minister of the Department of Advanced Education and Skills said the Population Growth Strategy should be finalized in early fall. It has been eighteen months since you assigned Ross Reid to this portfolio and held consultations with the public.

Now that we know who is responsible, I ask you, Minister: What is taking so long?

MR. SPEAKER: The hon. the Premier.

SOME HON. MEMBERS: Hear, hear!

PREMIER MARSHALL: Mr. Speaker, given the number of jobs that are going to be available because of retirements and because of the new projects – we are creating projects in this Province that are driving our economy. We have more people working than ever before. The unemployment rate is the lowest it has been in over forty years.

Mr. Speaker, our employees are now getting paid a lot more. The average weekly wages were second to Alberta. That is what is going to drive population. People are going to come here for the many opportunities that are going to be here.

In addition to that, we are taking initiatives that are going to help people who are on Income Support form a more permanent attachment to the labour force. We are going to help people with disabilities. We are going to help parents by making increased investments in child care and full-day Kindergarten. That is going to put more people in the workforce.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: Order, please!

The hon. the Member for St. John's South.

MR. OSBORNE: I can see the Oscar now, Mr. Speaker.

Mr. Speaker, there are 192 kilometres of gravel road in this Province that poses a significant health hazard due to the abundance of dust, all because government cancelled its dust suppressant program as a cost-cutting measure. The minister's excuse; he is primarily concerned with the small particles of dust you cannot see. The larger particles of dust are also a major health concern.

I ask the minister: Don't you feel that the relatively small investment to continue this program would be in the best interest of people's health?

MR. SPEAKER: The hon. the Minister of Transportation and Works.

SOME HON. MEMBERS: Hear, hear!

MR. MCGRATH: Thank you, Mr. Speaker.

Mr. Speaker, I have been talking since this was brought up last week and actually I have met with many of my Cabinet colleagues. I have been talking with an awful lot of the municipal people throughout the Province who have some of that 192 kilometres. I have been dealing with the Department of Health on it getting information. I will continue to do that. Once I decide what way we are going to go, then I will certainly let you know what we are going to do with that.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: The hon. the Member for St. John's South.

MR. OSBORNE: Mr. Speaker, the national lung association has clearly stated that the dust problem, whether it is small particles of dust or large particles of dust, is a significant health hazard.

I will ask the minister again: Why has he discontinued the dust suppressant program, knowing that the large particles of dust pose a significant health risk? Last year it was because it was a cost-cutting measure. Will you reinstate the program to protect people's health, until you come up with something new?

MR. SPEAKER: The hon. the Minister of Transportation and Works.

SOME HON. MEMBERS: Hear, hear!

MR. MCGRATH: Thank you, Mr. Speaker.

Mr. Speaker, there are many, many different reasons for dust throughout the Province. I know in my region alone I have the tailings from the mines, and we have to deal with that. So this is a problem that is throughout the whole Province.

There is 192 kilometres that we, as a government, are responsible for; but I look at communities such as Cartwright in the north coast – Cartwright – L'Anse au Clair. We own the main road going through the community, but all of the other roads are gravel, and we only deal with that one road. So this is an issue that is not going to solve – bringing back the calcium chloride project is not going to solve the problem.

As I said to the hon. Member for St. John's South, we are looking at it, the department is getting information, and if we feel it is necessary, we may (inaudible) –

MR. SPEAKER: Order, please!

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: The hon. the Member for Carbonear – Harbour Grace.

MR. SLADE: Thank you, Mr. Speaker.

Mr. Speaker, we learned last week that government signed a deal with Iqaluit in 2004 that allowed a Newfoundland and Labrador halibut quota to be farmed out to Nova Scotia. In other words, government failed to even support its own adjacency principle. The fish quotas government repatriated in 2004 included halibut, turbot, cod, haddock, flounder, and yellowtail.

I ask the minister: Who is fishing the rest of these quotas, and is any of it going out of the Province?

MR. SPEAKER: The hon. the Minister of Fisheries and Aquaculture.

SOME HON. MEMBERS: Hear, hear!

MR. HUTCHINGS: Mr. Speaker, in 2004 we intervened when High Liner left the Province. It was our intention to make sure that Icewater could operate – and the intent of that, in regard to some of those allocations which allows them to raise royalties and revenues, so that we would have a state-of-the-art cod facility here in the Province, which we have now. We have seen the success of that, certainly with cod coming back, it is even more important that facility is there, and it is state of the art, as I said.

In regard to quotas being caught, some of those quotas are leased out for the royalties to return to Icewater; others are being caught by Icewater. The *Cape Dorset*, which unfortunately went down, she was fishing some of those actual quotes, but I can certainly make that information available to the hon. gentleman.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: The hon. the Member for Carbonear – Harbour Grace.

MR. SLADE: I thank the minister for that, Mr. Speaker.

Mr. Speaker, not only is the halibut harvested and landed elsewhere, we understood OCI caught cod is also landed in Nova Scotia, despite the minister assuring us that in April that Flemish Cap cod shipped to Nova Scotia was a one-half deal.

I ask the minister: How much of OCI cod quota is being processed in this Province?

MR. SPEAKER: The hon. the Minister of Fisheries and Aquaculture.

SOME HON. MEMBERS: Hear, hear!

MR. HUTCHINGS: Thank you, Mr. Speaker.

Mr. Speaker, a number of quotas and allocations are held by particular companies. The hon. gentleman, I can certainly get him a list of what

has been landed here, what has been processed here.

Certainly, in terms of Fortune that is a good news story. What we have in Fortune, we have reached an agreement and certainly had that operation reopened. When the critics said it would not happen, certainly it is a good news story. I was down there for the reopening with my colleague.

As well, there is a hook and line vessel that OCI has leased that is landing cod in Fortune as well and sending it into the Eastern Seaboard. They are starting to explore that market of fresh quality product coming to Newfoundland and Labrador to be put into the market, which is a good news story.

In regard to the numbers, I will certainly be happy to get the numbers for the hon. gentleman.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: The hon. the Leader of the Third Party.

MS MICHAEL: Thank you very much, Mr. Speaker.

The government has been silent since last week about the contract negotiations with the Newfoundland and Labrador Teachers' Association; however, some actions have been happening behind the scenes.

I ask the Minister of Finance: Did you speak to the Minister Responsible for Labrador and Aboriginal Affairs about his attempt last Friday to hold a meeting with the local NLTA branch in his jurisdiction without the presence of the NLTA president?

MR. SPEAKER: The hon. the Minister of Transportation and Works.

SOME HON. MEMBERS: Hear, hear!

MR. MCGRATH: Thank you, Mr. Speaker.

Mr. Speaker, I would just like to clarify for the Member of the Third Party there exactly what happened last Friday. I was in the primary

school in my district reading to the Kindergarten children – something that I do every year and I present them with a graduation certificate. I think that is a great gesture; perhaps you should try it.

While I was doing that, as the MHA, some of the teachers approached me – like I am sure many MHAs in this House of Assembly have received letters from their constituents. They brought a concern to me and they said we were not allowed to approach you because of the duties that you are doing here in the school.

I made it very clear to the teachers that as your MHA, I will meet with my constituents whenever and wherever to listen to your concerns, and that is how the meeting started.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: The hon. the Leader of the Third Party.

MS MICHAEL: It is my understanding from the teachers that it was very clear to them –

SOME HON. MEMBERS: Oh, oh!

MR. SPEAKER: Order, please!

MS MICHAEL: – that once they wanted their president present, there was no meeting.

I ask the minister: Why won't the government go back to the bargaining table rather than trying to hold private meetings with NLTA members?

MR. SPEAKER: The hon. the Minister of Finance and President of Treasury Board.

SOME HON. MEMBERS: Hear, hear!

MS JOHNSON: Thank you, Mr. Speaker.

Mr. Speaker, the member just answered the question. It is really unfortunate and unfair that she continues with misrepresenting what happened. As he said, as any MHA we are approached by our constituents and we are more than happy to meet; but, negotiations need to happen at the negotiating table and we are open any time of the day, twenty-four seven, to have those discussions, Mr. Speaker.

Mr. Speaker, we value our teachers. We have a deal with many organizations and we want a deal with teachers as well.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: The hon. the Leader of the Third Party.

MS MICHAEL: Thank you, Mr. Speaker.

I suggest to the minister then that she agree to the conciliation board that has been recommended by the NLTA.

Mr. Speaker, yesterday the Finance Minister said that addiction gambling is only 1.5 per cent. I presume she meant of the Province's population, but the Province's 2009 gambling study found that 6.4 per cent of VLT users are problem gamblers and that 72 per cent of problem gamblers use VLTs.

Mr. Speaker, I ask the minister once again: When we will have a new VLT strategy?

MR. SPEAKER: The hon. the Minister of Finance and President of Treasury Board.

SOME HON. MEMBERS: Hear, hear!

MS JOHNSON: Thank you, Mr. Speaker.

We have been very progressive with our strategy around VLTs. We have reduced the number of VLTs in the Province by 26.9 per cent and we have capped that amount.

Yes, when I did reference 1.5 per cent yesterday, that was of the population. The prevalent study in 2009 also showed that 92 per cent of Newfoundlanders and Labradorians either do not gamble or are not problem gamblers. This was in response to a question that I was asked. It is factual and it is there for anybody to read, Mr. Speaker.

Most provinces do a prevalence study every five to seven years. We did one five years ago and we are in discussions with the Department of Health as to where we go with that in the future again.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: The hon. the Leader of the Third Party.

MS MICHAEL: Thank you, Mr. Speaker.

I ask the Minister of Finance: How much of the nearly \$80 million in gambling revenue from this Province comes from problem gamblers?

MR. SPEAKER: The hon. the Minister of Finance and President of Treasury Board.

SOME HON. MEMBERS: Hear, hear!

MS JOHNSON: Thank you, Mr. Speaker.

I think it is important to point out and to be very realistic about this, gambling is going to take place, Mr. Speaker, and we need not shy away from that. Online gambling happens now and that is not done in a regulated environment.

As Legislatures and as policymakers we need to ensure it is done in a responsible manner. We need to ensure there are programs and policies in place for people who do have addictions. Mr. Speaker, retailers are trained. Retailers apply 1 per cent of their revenue to programs for people with addictions.

This is top priority for us, Mr. Speaker. While gambling is going to exist, we need to ensure it is done in a responsible manner.

MR. SPEAKER: Order, please!

The hon. the Member for St. John's East.

MR. MURPHY: Thank you, Mr. Speaker.

West Coast residents are fearful of the fate of their environment in the face of short-sighted oil companies interested in fracking for a fast buck. Already we see poor corporate behaviour in abandoned drill sites.

I ask the minister, I ask this government: What is their plan regarding the abandoned drill sites on the Port at Port Peninsula?

SOME HON. MEMBERS: Oh, oh!

MR. SPEAKER: Order, please!

The hon. the Minister of Natural Resources.

SOME HON. MEMBERS: Hear, hear!

MR. DALLEY: Mr. Speaker, I really do not know how to respond to such a strong statement. Again, just to reiterate, the position of the government – I mean it is unbelievable the comments that come from the NDP.

Mr. Speaker, this government has been firm in the protection of health and safety and environment with respect to oil and gas, with respect to economic development. Mr. Speaker, there are priorities. All of us have those priorities. It has not changed. Maybe the NDP has the same priority.

Mr. Speaker, there is a responsibility here as well, incumbent on government to recognize economic opportunities, to evaluate all those opportunities and find that balance. That is exactly what we are trying to do. Within that, companies make significant investments. They employ Newfoundlanders and Labradorians, but, Mr. Speaker, let it be known, our priority is still health, safety and environment.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: The hon. the Member for St. John's East.

MR. MURPHY: If it is health, safety and environment, Mr. Speaker, we would certainly like to see the plan.

Mr. Speaker, the only way to protect water integrity – because that is the real danger here to this government, the people's water. The only way to protect water integrity is to not put it in any danger of any contamination in the first place.

I ask the minister: Will government act to protect all water sources in the Province with source water protection legislation?

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

SOME HON. MEMBERS: Hear, hear!

MR. FRENCH: Thank you, Mr. Speaker.

Mr. Speaker, this government, this party I should say, in 1984 I believe it was, installed the Environmental Protection Act. It is heralded nationally across the country as one of the best environmental protection acts in North America.

Mr. Speaker, if the hon. member would remember a little bit of history of what this party and what this government has done for the environment. I will just refer to my friend who represents Hopedale right now, a three-year commitment of \$6 million. We are already after spending \$6 million to \$7 million there. I refer the hon. member to Buchans, where we have invested \$7 million to \$8 million in environmental protection.

Thank you.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: Order, please!

The time for Question Period has expired.

Presenting Reports by Standing and Select Committees.

Tabling of Documents.

Notices of Motion.

Notices of Motion

MR. SPEAKER: The hon. the Government House Leader.

MR. KING: Thank you, Mr. Speaker.

Under Standing Order 11, I give notice I shall move that the House not adjourn at 5:30 p.m. on Thursday, May 29, 2014.

I further give notice, under Standing Order 11 I shall move that the House not adjourn at 10:00 p.m. on Thursday, May 29, 2014.

MR. SPEAKER: Are members standing for Notices of Motion or just looking around?

Answers to Questions for which Notice has been Given.

Petitions.

Petitions

MR. SPEAKER: I remind members once again; until I call petitions, I would ask members to remain seated.

I acknowledge the hon. the Member for St. John's Centre.

MS ROGERS: Thank you very much, Mr. Speaker.

To the hon. House of Assembly of the Province of Newfoundland and Labrador in Parliament assembled, the petition of the undersigned residents of Newfoundland and Labrador humbly sheweth:

WHEREAS the Family Violence Intervention Court provided a comprehensive approach to domestic violence in a court setting that fully understood and dealt with the complex issues of domestic violence; and

WHEREAS domestic violence continues to be one of the most serious issues facing our Province today and the cost of the impact of domestic violence is great, both economically and in human suffering; and

WHEREAS the Family Violence Intervention Court was welcomed and endorsed by all aspects of the justice system including the police, the courts, prosecutors, defence counsel, Child, Youth and Family Services, as well as victims, offenders, community agencies and women's groups; and

WHEREAS the recidivism rate for offenders going through the court was 10 per cent compared to 40 per cent for those who did not; and

WHEREAS the budget for the court was only 0.2 per cent of the entire budget of the Department of Justice;

WHEREUPON the undersigned, your petitioners, humbly pray and call upon the House of Assembly to urge government to reinstate the Family Violence Intervention Court.

As in duty bound, your petitioners will ever pray.

Mr. Speaker, I do not know how many times I have stood and presented this petition on behalf of very many people from all across the Province and anti-violence groups, non-government organizations that deal with the issue of violence against women. I keep trying to find, what is the upside? What was the benefit either economically, socially, or in justice terms? What was the benefit of cancelling the Family Violence Intervention Court?

We know it was a court that did exactly what it was supposed to do. I cannot find – and I speak to the anti-violence groups. I have asked the government a number of times, why was the court closed? What is the benefit? It certainly cannot be to have saved \$500,000, Mr. Speaker, because we know the economic impact of not dealing with the root causes of domestic violence far outweigh the meagre \$500,000 a year that this court cost.

It costs more to have it closed than it costs to have it open. The social benefits, Mr. Speaker, far outweigh – the losses are incredible considering what it has done. To just read this petition again clause by clause clearly states how effective the court was. I was speaking to a member of the RNC the other day and I said: What do you think of the family violence court being closed? He said: I do not understand; it was so important.

Mr. Speaker, again, I offer this petition on behalf of the people and I ask the government to reconsider.

Thank you very much, Mr. Speaker.

MR. SPEAKER: Order, please!

I remind members again when the Speaker stands, no one else should be standing. I appreciate the race to be the first to get up on your feet, but recognize it is not the first on the feet; it is the first that the Speaker recognizes.

The hon. the Member for The Straits – White Bay North.

MR. MITCHELMORE: Thank you, Mr. Speaker.

To the hon. House of Assembly of the Province of Newfoundland and Labrador in Parliament assembled, the petition of the undersigned residents of Newfoundland and Labrador humbly sheweth:

WHEREAS government has the responsibility to ensure that Internet access is broadly available so people have the right to be able to access the Internet in order to exercise and enjoy their rights to freedom of expression and opinion and other fundamental human rights; and

WHEREAS Bide Arm was bypassed under the Broadband and Rural and Northern Development initiative, which saw high-speed Internet added to thirty-six communities on the Great Northern Peninsula in 2004; and

WHEREAS nearly a decade later, Bide Arm still remains without broadband service despite being amalgamated town with Roddickton; and

WHEREAS residents rely on Internet services for education, business, communication and social activity; and

WHEREAS wireless and wired technologies exist to provide broadband service to rural communities to replace slower dial-up service.

We, the undersigned, petition the House of Assembly to urge government to assist providers to ensure Bide Arm is in receipt of broadband Internet services in Newfoundland and Labrador.

As in duty bound, your petitioners will ever pray.

This petition is entered by constituents of mine from Conche, Englee, and Roddickton. Given the fact that you have a school that services Englee and Bide Arm and Roddickton, these three communities, and the Town of Roddickton-Bide Arm that has been amalgamated, you can imagine how difficult it is when you are looking at passing legislation around creating a level of fairness when we are looking at technology and how we share information. Councillors that would be

representing Bide Arm are at a great disadvantage when they are trying to get information out to the residents who live there.

Also, people who are doing online courses, they really are faced with a difficult challenge, and students. I think with the Rural Broadband Initiative that is put forward with close to \$5 million in this year's Budget, it would be a great opportunity to look at adding a community, a municipality like Roddickton-Bide Arm, to see that type of service.

The technologies exist, the solutions are there, it is a matter of creating a level playing field for people who live in rural communities so that we can grow and further prosper. We need to have the advanced technology in order to do that.

Thank you, Mr. Speaker, for the opportunity.

MR. SPEAKER: The hon. the Member for Mount Pearl South.

MR. LANE: Thank you, Mr. Speaker.

To the hon. House of Assembly of the Province of Newfoundland and Labrador in Parliament assembled, the petition of the undersigned residents of Newfoundland and Labrador humbly sheweth:

WHEREAS current government regulations deny busing services to students who live closer than 1.6 kilometres from school; and

WHEREAS parents have expressed concerns that children living within 1.6 kilometres of school face dangers in walking to school, such as congested streets, busy intersections and no sidewalks, especially during winter weather conditions; and

WHEREAS the \$75,000 review of the school transportation system completed by Deloitte recommended that the Department of Education consider reducing the 1.6 kilometre eligibility zone for Kindergarten and elementary students; and

WHEREAS the \$75,000 Deloitte report also noted that only 10 per cent of those surveyed for the school transportation system review agree

that the current 1.6 kilometre policy is reasonable for students and families; and

WHEREAS parents are continuing to demand more flexible policies to meet the current needs of school children;

WHEREUPON the undersigned, your petitioners, humbly pray and call upon the House of Assembly to urge government to change the outdated 1.6 kilometre school busing eligibility policy in order to ensure safe travel to school for primary and elementary school children in the Province.

As in duty bound, your petitioners will ever pray.

Mr. Speaker, I have presented this petition a number of times. I know my colleague from the District of St. John's North has likewise presented this petition. This is an important petition for many students and many families throughout Newfoundland and Labrador. Certainly, in the metro area for sure, in Mount Pearl and St. John's, it is a very big issue, particularly given the fact that we have a population that is growing.

There are a lot more cars on the road now than there ever was before. Perhaps years ago, there may have been one car per family; now there are three or four cars. The streets are very busy; certainly they are in my district. We have a lot of four-lane roads and we have small children who have to get to school. In many cases, perhaps their family may not have a vehicle. This is made even worse in the winter time if sidewalks are not cleared. We know that certainly happens. This is a real safety issues. It is a real concern.

Again, I could speak to the Mount Pearl school reorganization. One of the impacts that is going to be felt there is that fact that students who were going to their neighbourhood school, for example, in Newtown, are now going to be forced to go to St. Peter's and vice versa. We are going to have families impacted there because they are no longer going to be in their neighbourhood, but they are still going to have to require a new school.

MR. SPEAKER: Order, please!

MR. LANE: Thank you.

MR. SPEAKER: The hon. the Member for St. John's North.

MR. KIRBY: Thank you, Mr. Speaker.

To the hon. House of Assembly of the Province of Newfoundland and Labrador in Parliament assembled, the petition of the undersigned residents of Newfoundland and Labrador humbly sheweth:

WHEREAS the lack of services and supports in the school system is a serious obstacle to learning for children and youth with autism spectrum disorder; and

WHEREAS long wait-lists for pediatric assessment and diagnostic services are preventing many children with autism spectrum disorder from receiving needed early diagnosis; and

WHEREAS the Intensive Applied Behavioural Analysis Program is currently not available for children after Grade 3; and

WHEREAS applied behavioural analysis has been shown to be effective for many individuals beyond Grade 3; and

WHEREAS there is a lack of supports and services for children and youth with autism spectrum disorder after they age out of the Intensive Applied Behaviour Analysis Program; and

WHEREAS it is unacceptable to expect parents in Newfoundland and Labrador to pay thousands of dollars out of their own pockets to cover the costs of privately-delivered applied behavioural analysis after Grade 3;

WHEREUPON the undersigned, your petitioners, humbly pray and call upon the House of Assembly to urge government to extend eligibility for the Intensive Applied Behavioural Analysis Program beyond Grade 3 in consultation with parents, advocates, educators, health care providers, and experts in the autism community.

As in duty bound, your petitioners will ever pray.

Mr. Speaker, I have a number of pages again on this petition today. I presented this a number of times before. We have people from Flatrock, Southern Harbour, Harbour Main, Paradise, St. Mary's, Hopeall, Bryant's Cove, Blaketown, Outer Cove, CBS, Long Cove, Port Blandford, Burin, Kelligrews, Fermeuse, Aquaforce, Harbour Grace, Garnish, Gander, Spaniard's Bay and on and on and on. People from all over this Province have signed this particular petition.

Every time I talk to parents who have small children with autism, who have been diagnosed with autism spectrum disorder, and talk to them about this particular petition, extending the Intensive Applied Behavioural Analysis Program beyond Grade 3, they always say good idea. One of the things that I have constantly harped on here is that many children do not receive the necessary early diagnosis because of problems we have with not just the length of wait-lists, but because of the nature of autism spectrum disorder, the way the disorder is, many times children do not get an early diagnosis. What happens is they do not receive the level of early intervention they need and that causes problems later in life. Sometimes they age out of the program because they do not get the diagnosis...

MR. SPEAKER: Order, please!

The member's time has expired.

The hon. the Member for Burgeo – La Poile.

MR. A. PARSONS: Thank you, Mr. Speaker.

I have a petition. To the hon. House of Assembly of the Province of Newfoundland and Labrador in Parliament assembled, the petition humbly sheweth:

WHEREAS private and community ambulance operators provide ambulatory and paramedic services to the residents of Newfoundland and Labrador and are compensated for these services by the Government of Newfoundland and Labrador; and

WHEREAS the contract for ambulance operators expired in March of 2012; and

WHEREAS the Government of Newfoundland and Labrador completed a review of ambulatory services in the Province, which review was completed in August of 2013, and released to the public in October, 2013; and

WHEREAS ambulance operators agreed to hold off from negotiations with government until the ambulance review was complete and a show of good faith; and

WHEREAS government's current position in negotiations has been heavy-handed and will see cuts in ambulance services across the Province;

WHEREUPON the undersigned, your petitioners, humbly pray and call upon the House to urge the government to negotiate a fair deal with ambulance operators that ensures the safety of our ambulance professionals as well as the patients in our Province.

As in duty bound, your petitioners will ever pray.

Mr. Speaker, this is a petition I have entered on numerous occasions in this House, and I am going to continue doing so. We now know this group has been without a contract for over two years, and it does not look to be going anywhere fast. I know government has been employing divide and conquer tactics as they deal with the operators, and the group they seem to forget about in all of this is the patients – the patients. All those individuals out there, all of us who are sitting out there relying on this service who want to know that emergency service is there, but in many cases that emergency service is going to be cut.

Again, they talk about making a better service. That is not what they are looking for. They are just simply looking to reduce costs. That is going to compromise the service that is available to the people all over this Province, not only people right over on that side, people on this side.

I speak for all members of this House when I say let's get this government back on track and have a fair deal. One that does improve the service.

One that does get a better job to not only our operators but the actual paramedics, and make sure that we have the emergency service there that is necessary.

They talk about getting a new model. They do not even have the numbers they need to base a new model on. They do not even have those collected. Again, they are trying to strike a deal without having the information in which to strike that deal.

They talk about: Well, we are trying to make things better. Right now we have red alerts in rural Newfoundland and Labrador that are not minutes long, we have red alerts that are hours long. Those are periods of time when there is no ambulance ready to come and get you. It is simply unacceptable.

I ask the minister to get on with it, get his negotiating team back out there, and let's concentrate on a better service, not one that is just cutting dollars and risking the lives of Newfoundlanders and Labradorians.

Thank you, Mr. Speaker.

MR. SPEAKER: The hon. the Member for St. John's East.

MR. MURPHY: Thank you, Mr. Speaker.

To the hon. House of Assembly of the Province of Newfoundland and Labrador in Parliament assembled, the petition of the undersigned residents humbly sheweth:

WHEREAS consumers and businesses of Newfoundland and Labrador pay some of the highest automobile insurance rates in the country; and

WHEREAS part of the recent increases in automobile insurance is due to uninsured automobile coverage which could increase by 329.3 per cent in 2014 for taxis and limousines insured by the Facility Association; and

WHEREAS consumers may see an increase in taxi fares and limousine rates as a result; and

WHEREAS consumers insured by the Facility Association can see their own auto insurance rates increase partly due to uninsured drivers.

WHEREUPON the undersigned, your petitioners, humbly pray and call upon the House of Assembly to urge government to establish a procedure for insurance companies to co-ordinate with police, highway enforcement officers and the Motor Vehicle Registration Division to remove unlicensed and uninsured vehicles from our Province's highways.

As in duty bound, your petitioners will ever pray.

Mr. Speaker, I received this petition, I think it was yesterday or the day before, and the concerns expressed are true for all the taxi drivers and commercial vehicles that are out there. Already some have seen some exorbitant increases, particularly last year when Facility Association increased the rates.

Again this year, I am starting to hear from consumers out there who are starting to get dinged with having the likes of motorcycles, for example, just putting their motorcycles back on the road now and finding their facility insurance rates – they have been lumped into Facility Association merely by the type of motorcycle they have.

One gentleman I talked to the other day ended up with an extra \$600 in insurance rates because he was lumped into Facility Association because of the motorcycle he had. It was not a Harley or anything. He was a careful driver, a very good driver. He has been driving for the last – I think he said for thirteen or fourteen years. Still, to see his insurance rates go up was abysmal to him. It is beginning to become a cost factor.

Mr. Speaker, I just want to remind the public out there too at the same time, that we are all being victimized here by drivers who have uninsured vehicles out there. There should be a way mandated on the part of insurance companies to make sure they get in contact with Motor Vehicle Registration. It should be easy. It should be an easy fix here so that we can at least tackle the end of it where they are deeming the insurance rates for an uninsured automobile increasing by 329.3 per cent. For some

consumers that is unmanageable. I think we can do a little bit better by this and help the police actually do their work.

We keep hearing it in the news every day, Mr. Speaker, as regards the number of vehicles that are out there and the number of drivers out there, dangerous drivers at that, who think they have a right not to have insurance. I think there is something we can do about it. It should be an easy fix. I ask government to look into it.

Thank you very much.

MR. SPEAKER: The hon. the Member for St. John's South.

MR. OSBORNE: Thank you, Mr. Speaker.

I have a petition here. To the hon. House of Assembly of the Province of Newfoundland and Labrador in Parliament assembled:

WHEREAS Saint Luke's Cottages has been using the continuum of care model since it opened. It entails priority access to long-term care beds, as clearly stated in the Saint Luke's handbook which was given to all tenants. Further commitment was confirmed in 1995 under the Single Entry System established by Eastern Health. This allowed cottage tenants to join Saint Luke's if they were no longer able to function independently regardless of their level of care; and

WHEREAS Eastern Health has arbitrarily changed this practice in recent months, level 2 cottage tenants are being forced to leave and live in personal care homes when placement is needed. This breaks the commitment to the continuum of care model; and

WHEREAS we became aware of this change in practice when a ninety-three-year-old tenant, who lived at Saint Luke's Cottages for thirteen years, was forced to find other living arrangements after returning from hospital. This incident has caused other tenants to worry about their future. Saint Luke's Home is committed to the continuum of care model; however, it is being abolished by the decisions made by Placement Services.

WHEREUPON the undersigned, your petitioners, humbly pray and call upon the House of Assembly to urge government to request that Eastern Health and the provincial government direct the staff at Placement Services to continue to honour the existing agreement and past practice to have the tenants of Saint Luke's Cottages move over to Saint Luke's Home when they can no longer manage to live in their cottages.

As in duty bound, your petitioners will ever pray.

Mr. Speaker, the reason this petition is coming about, Saint Luke's has always had very much an aging and place sort of care for their residents, where they go into Bishop John Meaden Manner, from there they would go to Saint Luke's Cottages, and from Saint Luke's Cottages they would go to Saint Luke's Home. The tenants were promised under the Saint Luke's handbook that the tenants of the cottages would be given first priority to go into Saint Luke's Home. That has changed in recent months, Mr. Speaker.

This is a situation where people who have lived at Bishop Meaden and moved to Saint Luke's Cottages together, or lived at Saint Luke's Cottages for a number of years could count on going to Saint Luke's Home with their friends and people they know. They could have some sense of comfort and dignity knowing they were going to Saint Luke's Home with people they know and they would continue to be cared for by that administration.

Mr. Speaker, Saint Luke's Homes is certainly one of the finest homes in the city; there is absolutely no doubt about that. I am familiar with the home; I am familiar with the staff and the administration at the home. I understand the service they give. I understand the reason for this.

On the same token, I understand why government, because of a shortage of beds – I know I have to wrap up. I will have it done in about ten seconds, I say to the Speaker, if I could.

MR. SPEAKER: No, your time is up, I am sorry.

MR. OSBORNE: Thank you, Mr. Speaker.

MR. SPEAKER: The hon. the Government House Leader.

MR. KING: Yes, thank you, Mr. Speaker.

Moved by me, seconded by the Minister of Fisheries and Aquaculture, Standing Order 32, I move to Orders of the Day.

MR. SPEAKER: It has been moved that we now go to Orders of the Day.

All those in favour, 'aye'.

SOME HON. MEMBERS: Aye.

MR. SPEAKER: All those against, 'nay'.

Motion carried.

Orders of the Day.

Orders of the Day

MR. SPEAKER: The hon. the Government House Leader.

MR. KING: Thank you, Mr. Speaker.

I move, pursuant to Standing Order 11, that the House not adjourn today, May 27, at 5:30 p.m.

MR. SPEAKER: It has been moved and seconded that this House do not adjourn at 5:30 p.m. on Tuesday, May 27, 2014.

All those in favour, 'aye'.

SOME HON. MEMBERS: Aye.

MR. SPEAKER: All those against, 'nay'.

Motion carried.

MR. SPEAKER: The hon. the Government House Leader.

MR. KING: Thank you, Mr. Speaker.

Once again, I move Motion 8, pursuant to Standing Order 11, that the House not adjourn today, Tuesday, May 27, at 10:00 p.m.

MR. SPEAKER: It has been moved and seconded that this House do not adjourn at 10:00 p.m. on Tuesday, May 27, 2014.

All those in favour, 'aye'.

SOME HON. MEMBERS: Aye.

MR. SPEAKER: All those against, 'nay'.

Motion carried.

MR. SPEAKER: The hon. the Government House Leader.

MR. KING: Thank you, Mr. Speaker.

At this time, I move, seconded by the Member for Harbour Main, that the House resolve itself into Committee of the Whole to consider Bill 1, An Act Respecting Public Interest Disclosure.

MR. SPEAKER: It has been moved and seconded that the House resolve itself into Committee of the Whole and that I do now leave the Chair.

All those in favour, 'aye'.

SOME HON. MEMBERS: Aye.

MR. SPEAKER: All those against, 'nay'.

Motion carried.

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

Committee of the Whole

CHAIR (Verge): Order, please!

The Committee of the Whole will resume debate on Bill 1.

The hon. the Member for Mount Pearl South.

MR. LANE: Thank you, Mr. Chair.

It is certainly a pleasure to have another opportunity to speak to Bill 1, An Act Respecting Public Interest Disclosure, otherwise known as whistleblower legislation. Again, Mr.

Chair, this is something that I think we all support in principle, but we do have some concerns. I suspect there will be a few amendments coming forward fairly soon.

Before we would move on to that, I just wanted to have a couple of more comments on the bill here at this stage. When I spoke last night there were a couple of points I spoke to, but one of the last points I wanted to make – I never really had an opportunity to get into it because I ran out of time. So, I just wanted to make sure that I made it clear for the record.

Just to reiterate that point. Currently, as I see this piece of legislation written – and again if the minister can correct me, that would be great – I am not seeing anything here – whistleblower is put in place to protect a public employee, if they should disclose to the Citizens' Representative, give them protection from reprisal from their supervisor or their manager or director in their department that they happen to work, should they come forward with concerns and information around the functioning and the operations of the department or division or wherever they happen to be working. I do not see anything in here to say that, even though they are supposed to be protected here, something to say that should a manager, director or so on take discriminatory action against this person, that there would be some sanction against that manager for doing so.

Again, as I tried to compare, I think, last night – and again, I was kind of rushed for time. Under the Health and Safety Act, as an example, if an employee refuses to do what they consider to be dangerous work, they have the right to make that refusal. A supervisor, manager, or director cannot take discriminatory action against that employee because they refused to do dangerous work.

The act goes further to say that should a supervisor or a director take discriminatory action, then that particular supervisor or director can actually be charged under the Health and Safety Act for doing so. There is a penalty against a supervisory person who does take discriminatory action against an employee for refusing unsafe work.

I do not see anything here in this piece of legislation which is similar to say that there would be some sanction there against a manager, supervisor, or director who did discriminate against an employee who utilized the whistleblower legislation, which they have the absolute right to do.

When we talk about discriminatory action, it is easy to say we are not going to be obvious. They can say: I did not discriminate. I did not fire the person. Because obviously, that would be one way that you could discriminate against any employee. You blew the whistle on me, so now I am going to fire you.

There are opportunities there where a supervisor could say: Well, I will be cuter than that. I will not fire you this week, but I will let you stay on for six months and I will wait – I will give it a period of time and then I will find some other excuse to let you go; or maybe we are working the shift work situation, so now I am doing the scheduling and I am going to give this person all the less desirable shifts; or there are overtime opportunities and I am going to try to work it so that you do not get as much as this other person because I am trying to get back at you; or there are work assignments to be done and there are certain jobs or whatever that are, perhaps, more desirable and then there are other jobs that people do not really like to do, well, I am going to give all the jobs that others do not want to do, I am going to dump that all on this one person because I want to get back at them.

We do not want to see that kind of thing happen. If there is something in here that says that a supervisor or a manager would be held accountable for such conduct, if it is there, then I would ask the minister, if he could, to point it out; and if it is not there, then I think that is something that should be there to again enhance what we have here and protect the employee from any kind of reprisals from supervisors.

The other thing, Mr. Chair, is to speak to the fact of the July 1 piece, and I know others have talked about this coming into effect July 1. For the record, I want to at least get my comments in on that as well. I share the same concerns others have raised around this that it does not apply until July 1, but it is interesting – so in six months, let's say December of this year when it

is in force, if somebody can say there was some wrongdoing that occurred that could have some devastating impact on an individual or so on, as it could, it could be a health care issue, it could be whatever, and if it happened on July 2, that incident, then I can report and it is fine. If it happened on June 28, then even though it could have been a serious incident and so on, then I cannot report it. There is nothing can be done about it.

I just do not understand why that would be the case. Already in this legislation, I think, it is contemplated here – and I do not have the section, but I recall reading it here somewhere – that the Citizens' Representative has the ability, if somebody is reporting something in the past, that the Citizens' Representative now even under this new legislation, I believe, can say – because we do not necessarily want someone: Oh, I am going to report some incident that happened with a supervisor or whatever ten years ago. It might be something that may not be that serious or may not be relevant anymore; the person could be retired. There could be all kinds of things of why the Citizens' Rep might look at it and say: Well, we are not going back there. We are not going to go back twenty years ago.

That discretion is already there. I do not know why in July 1, when this comes into effect, if somebody said here is something that happened in 2013, that is very relevant, I do not know why the Citizens' Rep cannot go back to 2013 and look at that, especially if it is something serious and something that would have had a negative or potentially negative impact on an individual. Again, for me at least, it is not about an opportunity for employees who want to witch hunt against their supervisor; that is not what this is meant to be –

SOME HON. MEMBERS: Oh, oh!

CHAIR: Order, please!

MR. LANE: It is not meant to replace labour relations issues. It is not meant to replace that. It is not meant to replace safety issues.

I will go to the example of something that affects us all: health care. We have seen it. We have seen it here in Newfoundland and Labrador

unfortunately in the past, whether it be ER-PR or other things. There have been other things where diagnostic tests perhaps were not done properly for whatever reason, whether it be lack of training, lack of supervision, maintenance not done on the diagnostic equipment or whatever the case might be.

This could have resulted in false diagnosis. It could have resulted in treatment plans that were inappropriate. It could result in medication being given to people, like the wrong medication that they should not have even received, having serious impacts on somebody's health. It is important that those things be reported so that it can be dealt with and hopefully get that person on track on the right treatment regime, if they were not already there, heaven forbid.

If that had happened today and on July 1 this came into effect, and even though – whether the legislation came in on July 1 or any day, that does not impact the fact that I was not properly diagnosed; I am getting the wrong treatment. That should be able to be reported. I do not think that timeline should be put there.

I do have a concern with that as well. As I said, Mr. Chair, I will probably have more commentary when we get into the amendments, but that is it for now.

Thank you.

CHAIR: The hon. the Minister of Municipal and Intergovernmental Affairs.

MR. KENT: Thank you, Mr. Chair.

It feels like we never left. It is good to be back. I thank the hon. member opposite for his points.

I spoke to the last point he raised, the retroactivity issue, at length yesterday and on a previous day in the House as well. I will touch on it again. I want to answer his specific question that he started with around what happens to that person who has committed the reprisal.

The Labour Relations Board is a quasi-judicial entity. What that means is that the board can hear evidence and make binding decisions. The purpose of having an independent arm's-length

board is to allow oversight and also to allow independent decision making. It sets its own rules, it sets its own procedures, according to the mandate that the Labour Relations Board has been given.

With respect to anti-reprisal protection in this act, it states that a person shall not take a reprisal against an employee with respect to an action under the act. If a reprisal does occur, the person who takes the reprisal – which is to the member's question – is subject to discipline, including termination of employment, in addition to and apart from any other penalty under our law that may apply.

This is a really, really strong statement of prohibition against reprisal. There are consequences for that manager, supervisor, or director who takes a reprisal against an employee. So, the powers that are vested in the Labour Relations Board already are very powerful, and that is one of the reasons why it makes it the ideal entity to deal with cases of reprisal. Any employee who feels that they have been a victim of reprisal has the ability to make their case to the Labour Relations Board, and the Labour Relations Board has the ability to respond considerably, and it is binding. So, that should provide some comfort to the member.

I will not talk at length about retroactivity, Mr. Chair, because again it is a point that I have discussed at length already, and there is a presumption in our society and in our democratic system that legislation should not be given retroactive effect. In fact, retroactive legislation can overturn the expectations that people have of the law and how it affects them as people, and how they govern themselves and their behaviour.

Retroactive legislation can sometimes even be perceived as unjust. Retroactive legislation is primarily found when it comes to financial and tax provisions, as I have said previously. The challenge is, even if it were appropriate to enact retroactive legislation, no matter what date you choose, there will always be some matters that fall outside that timeline. No other jurisdiction in the country provided for retroactivity when their acts were brought it, and that was done for a good reason, I would suggest, Mr. Chair.

I thank the member for his questions and comments.

CHAIR: The hon. the Member for Cartwright – L'Anse au Clair.

MS DEMPSTER: Thank you, Mr. Chair.

I am going to take a few minutes to speak to Bill 1, An Act Respecting Public Interest Disclosure. It has been said here a number of times that we have been waiting for seven years, so we are really happy to see this bill moving forward. It is good to hear the debate on both sides of the House and to hear the questions being answered, and I look forward to more as this continues.

I think, Mr. Chair, the main point that you need to recognize with whistleblower is that people who report a wrongdoing will be protected. I think we are going to realize many, many benefits from that as we go forward. It is very important. Everyone will understand that we make the workplace as safe and as rewarding a place as it can be. Many of us that is where we spend most of our time, Mr. Chair.

Also, I think by implementing Bill 1 and bringing in this whistleblower legislation, Mr. Chair, we are going to be protecting the public purse. That is very important as well, because people who see incidents of wrongdoing will now have that comfort level. They will know their job is protected and they will hopefully speak out against wrongdoings that they do see, Mr. Chair.

Mr. Chair, hopefully, with this legislation coming down we will see a removal or less of an abuse of power for personal gain and revenge to fellow workers and supervisors. It is all very important aspects of things we look forward to with this whistleblower legislation. I believe the fact that it is not retro, certainly in my mind, sees the bill as flawed right now. Aspects of the bill are good, and we support it in principle, but as it stands right now somebody who commits a wrongdoing on June 30, there will be no implications from that, Mr. Chair.

I want to speak for a couple of minutes to rural areas and as it relates to my district. The single reporting versus the dual system. I am just wondering, in rural areas sometimes there might

be issues of lesser importance, I am going to say – but very important to the person who is involved – that could be resolved with the manager but still necessary to be brought forward for that person in order to feel safe.

By doing the single reporting system, I am just wondering right now, especially if you are very far removed from the OCR, how that process with unveil. Sometimes it is information that is sensitive in nature. Will that be done over a telephone? That would certainly put someone at a disadvantage, Mr. Chair.

I definitely feel, especially when you are looking at small communities far removed from here, Mr. Chair, there would be benefits of a dual system. Because as it stands right now, somebody might see a wrongdoing within their workplace and they cannot go to their chief of staff with the way the bill is being implemented for fear of repercussions, or not necessarily just being fired but having a heavier workload placed on them or things like that, Mr. Chair.

I looked at a number of other jurisdictions we know, Mr. Chair, that do have a dual system in place. It certainly seems to be more beneficial having that option, especially given the dynamics of our Province here with more than half of the Province being rural. I am just wondering, too, Mr. Chair, what the cost is going to be and how things are going to unfold. What the cost will be with the OCR dealing with many of these inquiries that will now come forward.

I was thinking about this scenario just before I came in, a former government employee, maybe who has moved on with a different company, and they may have observed many wrongdoings, but as the bill stands, once they have moved on there will be no provision for them to report back and be protected. That is sad, because they may have information that could be cost savings and could certainly make people feel safer and have a more rewarding workplace.

Those are a couple of questions I had. How will you be consulting with the OCR, for example, from Coastal Labrador? Maybe the minister is going to answer some of that when he does get up. I think it was in March when we had first reading on this bill, so it has been ongoing a

number of weeks and there are a number of groups that have weighed in on it. One of the papers I was sifting through last night, and I just want to share some of that information, a very reputable group, the Centre for Law and Democracy, have made a number of very good points weighing in on this piece of legislation that everybody agrees is certainly long overdue. I hope the minister has read the document as well and has taken some notes on that.

We know there is clear public interest, Mr. Chair, in allowing voices to be heard and ensuring they do not suffer retribution; yet, there are lots of very good things here that we could follow. Because while the principle of Bill 1, as I said earlier, is welcomed, even this group, the Centre for Law, have identified a number of shortcomings when considering in the context of the International Human Rights Standards, as well as better practice in Canadian and other jurisdictions.

The most serious shortcoming they identified in this document was the failure of Bill 1 to protect employees who report wrongdoing in the private sector. I was thinking, Mr. Chair, just to use the example of Eastern Health. You might have a small company that supplies linens to Eastern Health and they see wrongdoings every day, yet there is no protection for them to speak out against. That is very unfortunate.

These things will continue because the person would feel no reason – even though every day they go in and see wrong things, people being shortchanged and shafted, but there is no protection for them. At the end of the day, everybody needs to be able to bring home a paycheque. That is where they will be very careful in the information they share.

There are often instances where private sector employees are confronted with extremely harmful behaviour, Mr. Chair, and where there is an equally powerful moral and social imperative to protect those who report wrongdoing. That is a very key piece that is missing from this Bill 1, the protection for private sector employees who are confronted with extremely harmful behaviour.

That is something that was identified by the Centre for Law and Democracy. They

referenced a number of rules. Within Canada there is some patchwork of rules at the federal level that protect private employees in some instances. The laws do not apply broadly enough to adequately protect private sector employees seeking to expose wrongdoing such as for example, unsanitary food preparation conditions.

Mr. Chair, that is something that if these people were covered under whistleblower, that would certainly protect the population as a whole when you are talking about unsanitary food preparations, the benefits that could come, the risk of people eating unsanitary food, and the people who can be sick. We all know probably stories, very sad stories of retail chains like this where there might be issues. Right now there is no provision for these people to speak up and report any wrongdoing.

Mr. Chair, Bill 1 also employs a narrow definition of public bodies, further exasperating this problem. This group identified some concern in that area. I am running out of time so I am not going to go into some of the other information I had here.

I do want to say I think it is a very positive thing in rural communities where I live where you have transportation workers, teachers, and nurses. They work hundreds of kilometres away from their supervisors and their bosses, and may see wrongdoing, and may see where money is being spent needlessly, people wrongfully taking things. I hope now that they will have the courage to come forward if they know that they are going to be protected, their job is going to be protected, that they will under this Bill 1.

So, Mr. Chair, I look forward to continuing to hear the debate. I hope, at the end of the day, the bill that we vote on is a bill with some revisions to what is on the table right now.

Thank you, Mr. Chair.

CHAIR: The hon. the Minister of Municipal Affairs.

MR. KENT: Thank you, Mr. Chair.

I would like to take a few minutes to respond to some of the points that the Member for

Cartwright – L'Anse au Clair made. The first issue she raised related to if some significant wrongdoing happens on June 30, it is not eligible to be dealt with through our whistleblower legislation. If it happened on June 30 and was definitively concluded on June 30, then that would be correct; however, if there is wrongdoing ongoing on June 30, there is good chance that it will still be ongoing, to some degree, in the first week of July.

The point I would like to make is that if a matter is ongoing, if there is a wrongdoing that is ongoing on July 1 or beyond, then the Citizens' Representative will have a mandate to receive that complaint and investigate that disclosure of wrongdoing, and that is clear. So, there will probably be a number of matters that are ongoing, that will still be ongoing as of July 1 and, therefore, would still be subject to our legislation.

The member also raises a good question around single versus dual disclosure process. I have already talked at length about the advantages of single versus dual disclosure, so I will not repeat all of that. I would say that I believe it is one of the unique features of our legislation. That is based on consulting with the other jurisdictions in the country that have had experience with dual disclosure processes. What it has taught us is that the single disclosure process to the independent entity is absolutely the most effective process for employees and for upholding the integrity of our public service.

I would like to point out that an employee can do both. There is nothing that would stop an employee in a small rural community – to use the members example – from disclosing a matter of wrongdoing to their supervisor, to a director, or to a manager; however, the anti-reprisal protections which are the key piece of this legislation, I acknowledge, they are only triggered when a disclosure is made pursuant to the act. The employee can also seek advice from the Citizens' Representative with respect to the disclosure process.

I would suspect, Mr. Chair, based on what has happened in other jurisdictions, that there will be lots of cases where an employee will suspect that something is not quite right, they will consult with the Citizens' Representative and the

team that is there in the Office of the Citizens' Representative and then make a determination as to whether it warrants a formal disclosure of wrongdoing in accordance with the act through the Office of the Citizens' Representative; or the Citizens' Representative may say you should consult with the HR person in such and such a department or agency, or you should speak with your supervisor, or you should speak with another office of government based on the kind of matter that you are bringing forward. All of those options exist. I would suspect that various options will be utilized through the course of this legislation being enacted.

We do feel that the Citizens' Representative, that independent office, based on the work that the Citizens' Representative already does for the people all over the Province is going to be fully equipped; the team is going to have the skills and the experience and the training and the expertise to be able to effectively receive disclosures of wrongdoing, and do the investigations effectively and consistently and in an efficient manner as well, which I know is going to be really important to the people of the Province.

The member raises a valid question around how this will work in our remote, rural communities. Well, the Office of the Citizens' Representative today serves all of Newfoundland and Labrador. While the office may be based in St. John's, in the capital, the Citizens' Representative's team is quite used to travelling the Province to investigate matters that are brought to his attention. That will continue to be the case. We will certainly, through our Management Commission of this House of Assembly, ensure that the Citizens' Representative's office has the resources necessary to carry out the work under this legislation.

The Citizens' Representative has advised that he is going to take a close look at the performance of his functions and duties under this act and let us know if he needs more resources. He will report back through the Management Commission to this hon. House if there is a need for more resources; but because of what the Citizens' Representative is mandated to do today, because of what the Citizens' Representative is required to be set up to handle today, he believes, and he has assured me and

our officials at the Office of Public Engagement, that he is equipped to deal with this legislation right away without additional resources; but we are all open to the possibility that more resources will be necessary if there is a high number of disclosures that require investigation and follow-up, then we need to make sure that the Citizens' Representative has the resources to do that work because it is important work and it is a commitment that we are making through this legislation, through Bill 1.

The member used the example of food safety and what if somebody in the private sector has a concern around some mishandling of food that raises health concerns, for instance, in some kind of commercial establishment. I would just remind members there are other pieces of legislation that would kick in at that point.

I am not an expert on food inspection, food safety legislation and regulations, but there are pieces of legislation and regulations that would kick in. There are Occupational Health and Safety regulations that kick in. As I said on a couple of occasions yesterday, there are numerous other pieces of legislation that have to be considered here when we talk about matters of wrongdoing.

The whistleblower protection legislation is only one component. We also have the Criminal Code; we also have multiple other pieces of provincial legislation that come into play. I would remind the hon. member of that as well.

I thank her for her questions and comments. I look forward to further debate.

CHAIR: Shall clause 1 carry?

All those in favour, 'aye'.

SOME HON. MEMBERS: Aye.

CHAIR: All those against, 'nay'.

Carried.

On motion, clause 1 carried.

CLERK: Clauses 2 through 30, inclusive.

CHAIR: Shall clauses 2 through 30 inclusive carry?

The hon. the Member for Burgeo – La Poile.

MR. A. PARSONS: Thank you, Mr. Chair.

I am happy to stand again here today in the House of Assembly and speak to this very important piece of legislation. I appreciate all the commentary from not only the minister, but the members on our side. It is our job to ask these questions.

I appreciate the fact that the minister is standing and answering them. I may not always like the answers, but I appreciate an answer. In some cases you do not always get that, so I do appreciate that.

CHAIR: Order, please!

Just by way of direction to the member, we just passed clause 1 in which we allow wide-ranging debate on the bill. From here on now we will be asking members to speak specifically to a clause on the bill.

MR. A. PARSONS: Yes.

CHAIR: If you would identify the clause you will be speaking to, you will speak to the clause.

MR. A. PARSONS: Sorry, Mr. Chair.

I am speaking to clause 4.

CHAIR: No, that is fine.

The hon. the Member for Burgeo – La Poile.

MR. A. PARSONS: I am speaking to clause 4, Mr. Chair. Clause 4 is wrongdoings to which this act applies. Just to put it out there for everybody so everybody is aware of this specific section and what we are dealing with here, "This Act applies to the following wrongdoings in or relating to the public service".

MR. KING: A point of order.

CHAIR: The hon. the Government House Leader, on a point of order.

MR. KING: Yes, just maybe clarification with leave from my colleague, are we going to do them sequentially? Is that your plan?

MR. A. PARSONS: Yes.

MR. KING: Okay.

CHAIR: Further to that point of clarification, typically when we do this in Committee, if there are going to be amendments proposed, for example, then we could vote the clauses leading up to. If it is okay with the members of the Committee, we can vote clauses 2 and 3 if there is going to be no further discussion on those and then go to clause 4.

Shall clauses 2 and 3 carry?

All those in favour, 'aye'.

SOME HON. MEMBERS: Aye.

CHAIR: All those against, 'nay'.

Carried.

On motion, clauses 2 and 3 carried.

CLERK: Clause 4.

CHAIR: Shall clause 4 carry?

The hon. the Member for Burgeo – La Poile.

MR. A. PARSONS: Thank you, Mr. Chair.

I will speak to clause 4. Just to go back, clause 4 is relating to the public service. This is what is covered when it comes to whistleblowing under this proposed piece of legislation, “an act or omission constituting an offence under an Act of the Legislature or the Parliament of Canada, or a regulation made under an Act; (b) an act or omission that creates a substantial and specific danger to the life, health or safety of persons, or to the environment, other than a danger that is inherent in the performance of the duties or functions of an employee”.

I will just speak to that one very quickly. That is a very, very important section when it comes to this piece of legislation. When you think about some of the famous cases of whistleblowing in

this country and in the world, a lot of it comes to injury to the environment, or injury to the health and safety of people. I think that one is really important and I am glad to see that covered.

4(1)(c) states, “gross mismanagement, including of public funds or a public asset”. That one is also extremely, extremely important because we are all charged with, in the government’s case, of the usage of public funds, and in our case, our job in many cases is to question government on the expenditure of public funds. We are there to protect the taxpayers’ dollars. When we talk about the possible gross mismanagement, it is important that be noted.

Obviously (d) is, “knowingly directing or counselling a person to commit a wrongdoing described in paragraph (a), (b), or (c).” That would involve somebody telling somebody else to go out and do something that is wrong, whether it be a criminal act, whether it be to take an action that may harm the wellbeing of somebody, or to take action that basically is in the gross mismanagement of the public funds.

These are the acts of wrongdoing which are wide-ranging and very important. This is one of the reasons why I just go back to the history of this piece of legislation. When we talk about whistleblowing and what whistleblowing is for and why we have it here, this specific section lays out why we are trying to cover it.

One of the things that we have mentioned to the minister in this debate is the fact that – and I have heard what he has had to say about the coming into force. That is section 4(2) “This Act applies only in respect of wrongdoings that occur after the coming into force of this Act.”

Our point is that we see no reason why we could not have this amended. What I am going to do at this point is I am going to just discuss what is should be and then we will move an amendment to this section. We are suggesting that you take out ‘the coming into force of’ and put in the words ‘October 9, 2007’. We see no reason why this important piece of legislation should not cover possible serious acts of wrongdoing going back.

The only ones who should fear this are those individuals who have committed wrongdoing.

Those are the only individual who should worry. Nobody should worry about this or have any issue with this if they have not done any wrongdoing.

I believe this will not harm the well-being of this act. I do not believe it is going to harm the well-being of this Province. I do not believe it is going to harm the well-being of anyone expect those who may have committed one of these four types of acts from October 9, 2007.

I am going to put this out there and I am going to move an amendment at this point, Mr. Chair. We would move that subclause 4(2) of the bill is amended by deleting the words 'the coming into force of this act' and substituting the words 'October 9, 2007'.

CHAIR: Does the member have a copy of the amendment?

The Committee will now take a brief recess to consider whether the amendment is in order.

Recess

CHAIR: Order, please!

The Committee of the Whole will resume.

We have considered the amendment to clause 4 put forward by the Member for Burgeo – La Poile and have ruled that the amendment is in order.

The hon. the Member for Burgeo – La Poile to speak to the amendment.

MR. A. PARSONS: Thank you, Mr. Chair.

I am very happy to be speaking to this bill, very happy to be speaking to this section, and very happy to be speaking to this amendment. I am glad it has been ruled in order.

For those who had not tuned in until now, what we are asking is that section 4(2) be changed so when the whistleblowing legislation comes into effect, that the wrongdoings covered not start from that point forward, that the wrongdoings go back. I guess alleged or possible wrongdoings, because we hope it is not out there. We hope

there is not one thing to have the whistle blown on. We are going back to October 9, 2007.

One of the reasons for possibly doing that would be this is, as we have discussed, legislation that has been promised for some time. We are saying why not cover off that period of time from which the promise was made? I am sure the minister – to the minister's credit, because he will rise and speak to this. He has spoken to just about any question we had and to that I give credit, and I am sure he is going to speak to this amendment.

What I am suggesting is I do not think in any way that this amendment harms the legislation in one way, shape or form. I think this amendment strengthens the legislation and the intended purpose of the legislation. Section 4 covers off what wrongdoings this act applies to. Section 2 says from what period are they covered? We are saying the period of time should be October 9, 2007 and moving forward.

There is the possibility that there is absolutely nothing comes out. Do you know what? One would hope that is indeed the case. However, I feel if we are going to put this legislation in, and it is a good piece of legislation in the sense it is something that is needed and we want it, I think this suggestion is going to make it better.

I may have an opportunity to speak to this again after the minister makes his points because that is the whole point of this debate, that we have it out there. We have spoken to the main motion. The motion is there. Again, we have proposed amendments. The minister will get an opportunity to speak to that and tell us whether he likes it or does not like it, and in those cases what his issues may be with that. I may do a better job once I hear if he has any questions as to the purpose of our amendment. I may do a better job of answering those after I hear that.

I think our reason for putting it out there is if you are going to put out a piece of legislation, let's cover off the period of time for which it was promised. Let's cover off the period of time since – going back. Wouldn't we want to know of any gross mismanagement that may have happened from 2007 onwards? Wouldn't we want to know of any acts that were harmful to people or the environment since 2007? Would

we not want to provide protection to those who may know of these acts if they indeed happened? Would we not want those individuals to come out and speak?

To me, it is my opinion, if we do not vote in favour of this then we are implying that we do not want to provide protection to those individuals who may know a wrongdoing during that period of time. To that, I would ask a simple question, why? Why would you not want to provide protection to those individuals? Why would you not want someone to come forward and blow the whistle, provide information that is going to protect the people of this Province and provide protection to those who want to protect the Treasury? Why would we not want to provide protection to those people who may know of a wrongdoing?

Again, you look at the wrongdoings here, 4(1)(b) “an act or omission that creates a substantial and specific danger to the life, health or safety of persons...”. Wouldn’t we want that covered? Why would we not want that covered?

One of the points that might be used in rebuttal would be – again, I do not think this is the case. Well, that is an arbitrary time. Why did you pick that time? The main reason I am picking that time – just one of the reasons – is that is when it was promised. In this way you can go back and fulfill the promise that was made and allow that protection from the time you promised it.

Maybe I was wrong. If the promise was made in 2003, maybe I should have gone back to 2003, but that is a substantial period of time. We can still go back and do an adequate job of providing protection to October 9, 2007. I do not think the timeline should have any issue there.

The second part, is there any work or expense that is created by allowing this? I say no. I do not think we should do anything to prevent our Citizens’ Representative from having an opportunity to investigate these matters or providing protection to these individuals. Hopefully this is a piece of legislation that is never used. That is the whole purpose of it. We do not want to see this used.

I put this out there. I will likely have another opportunity to speak to this amendment once we move forward in this debate. At this point, I am glad to have brought it forward. I look forward to continuing on with this.

Thank you, Mr. Chair.

CHAIR: The hon. the Member for St. John’s East.

MR. MURPHY: Thank you, Mr. Chair.

I am pleased to stand up in the House here today and talk about this amendment. I am quite disturbed that we are actually putting a date on this. Since when do we put an expiry date on any crime, any wrongdoing?

The amendment says, “This Act applies only in respect of wrongdoings that occur” – and then it substitutes the words – “after the coming into force of this Act.” with October 9, 2007. What happens, Mr. Chair, if something happened on October 8?

I cannot support this amendment – I cannot. My conscious does not let me as a legislator go ahead, come into this House and try to speak to something, for example. My responsibility as a legislator is to look after every constituent who is out there and probably to correct an inequity that probably happened in the past. Am I right, I say to the Members of this House of Assembly right now?

I have no other choice but to speak passionately about this because putting a deadline on a wrongdoing is wrong. It does not do any justice to anybody who wants to report a criminal matter that happened on October 8. That is what is wrong with this amendment right off the bat. That is one thing that stands out to me.

I have to ask in all good conscious whenever we bring in a piece of legislation, Mr. Chair, into the House of Assembly here, sometimes we reflect on the past in order to pass a piece of legislation and we date legislation accordingly to that. Sometimes we come in and we correct a piece of past legislation to correct the wrongdoings of the past or to correct something wrong that happened. We come out with amendments and that sort of thing.

It is great the members come out with an amendment that goes back to the past, but as far as I know, I have never heard of a statute of limitations on any crime that has happened that is covered under the Criminal Code of Canada. Most of the things we are talking about here – and the key word here in this section is wrongdoings. It is very important to me.

Like I said, as a legislator if we are going to get it, we get it right. If somebody wants to blow a whistle on this because of a wrongdoing – it could be a maintenance issue that was done twenty years ago in one of our ferry boats, we do not know. It could be something that was done that was wrong, like wrong work done on a highway, we do not know. Either way, if it is something that is covered under the Criminal Code of Canada – with the possibility that there could be a conviction here as the act also touches on later on – it has to be covered. I do not agree with the amendment right off the bat.

I will simply make that point and I will take my seat again.

Thank you.

CHAIR: The hon. the Member for The Straits – White Bay North.

MR. MITCHELMORE: Thank you, Mr. Chair, for the opportunity to speak to subclause 4.

I just want to make a statement after listening to the Member for St. John's East saying that they are not going to support the amendment which was put forward to strengthen the legislation. The current piece of legislation states that the act – all the wrongdoings are on a go-forward basis so that only when the act is passed will you be able to look at any activity of wrongdoing.

This piece of legislation and the amendment that is put forward is looking at strengthening. We have had much debate over the number days, when this bill is coming before the floor, on retrospective and retroactive. Why we have put forward this amendment, as the Opposition House Leader has, is looking at previously the history where the House of Assembly had introduced a piece of legislation on the House of

Assembly Integrity Act which has a piece of whistleblower legislation.

Then this became a hallmark of the PC campaign, a promise in 2007 that this would be a piece of legislation that would be enacted within the first year of coming into office. The government right now came into office after making that promise in 2007 on October 9. We are saying at this point in time that the promise was made in 2007. There has to be a period of limitation as to looking back because after a certain period of time, well then you lose the institutional knowledge, you lose documents, people pass on, and people leave the departments in the civil service.

It very difficult for the Office of the Citizens' Representative, in this case, to be able to conduct a thorough investigation, so there has to be a cut-off point. We cannot go back to an infinite period of time because then you are not going to be thoroughly able to conduct an adequate and sufficient investigation.

There are other mechanisms and avenues to pursue that. It is not just confined to this piece of legislation here. They may be able to look at other acts, as is stated in other clauses going forward. We want to cover off that period because it was something that was promised to the people of Newfoundland and Labrador in 2007.

People who were working in the public sector were advised at that period of time. I do not see why there would be a reason why we would not be able to go back and protect any whistleblower who is working or has worked in the public service moving forward, to be able to look back on an action because this looks at people having the right to disclose.

We had given examples which may have started over a period of time. This act is supposed to come in on July 1 of this year. Maybe it is a day or so later than July 1, the last piece – July 1, 2014, yes. If something happened the day prior – the member in debate had talked about the minister that if a project is part way through or something is already started well there needs to be clarity, a definitive cut-off time. I would like some clarification. If we cannot have a period of going back into the past, then a number of

things that are actually either gross mismanagement or a defined wrongdoing, as clause 4 lists – then we may miss an opportunity to really protect the public interest.

This is why we are putting forward this amendment. We think that this was something that was promised by government and I think that they have an obligation to look back. Other government agencies and entities have a period of seven years where they go back. If you look at the Canada Revenue Agency, they have a right to audit for a period of time and go back and take that look.

I think we should have that in our legislation. There should be a period of the seven years that is listed here so that we can protect the public interest. That is why this amendment has been put forward by the Official Opposition. I think it is a very good amendment and I certainly welcome other people to be part of the debate.

I completely disagree with the Member for St. John's East in his commentary saying that this date is not improving the legislation. It certainly would be doing so, because right now you can only look forward. This piece of legislation is looking at making it stronger, looking back for a period of time, and as I have stated reasons why you would not go back an extended period of time because of the loss of institutional knowledge. There would be other avenues then to pursue that investigation.

Thank you, Mr. Chair, for the opportunity to add to the debate.

CHAIR: The hon. the Member for Bay of Islands.

MR. JOYCE: Thank you, Mr. Chair.

I will just stand and have a few words and offer my support for this amendment. Mr. Chair, as we all know in this House, this piece of legislation will be supported by the members opposite here. We think it is a good piece of legislation.

With the amendment itself, Mr. Chair, once again we are trying to add strength to the legislation. We are not trying to be critical. We are not trying to point out flaws, but as the

Official Opposition we are just trying to put strength and put some teeth into this legislation.

That is why, Mr. Chair, we are offering the amendment back to October 9, 2007, when this first was announced by government that they would bring in this legislation. I just heard the Member for St. John's East talking about how he cannot support criminal activity not being reported or not going back. If anybody is wrongdoing in a criminal matter, they can go back seven years, ten years, or fifteen years. They can go back a number of years.

My colleague from The Straits – White Bay North just gave some good reasons how far it is possible to even go back. Mr. Chair, that is one of the reasons why you have to put a little limit in it. A good example in this House of Assembly was constituency allowances. Even the Auditor General said you can only go back so far. When you go back past five or six, seven years the receipts are gone and you cannot verify all the information. That is a prime example of why we cannot go back indefinitely, as the Member for St. John's East is trying to put forth here. You just cannot do it. Our own example is our own Legislature here in the House of Assembly, Mr. Chair.

We feel confident that this amendment will ensure the legislation is kept intact, but it also assures the general public that people can go back to when it was first announced so we feel very confident. First when it was announced – and I think the Member for Burgeo – La Poile mentioned the only ones who should be nervous is anybody who did wrong in the government. There is no suggestion that anybody did. There is absolutely no suggestion, Mr. Chair, that anybody did that.

The suggestion is that we have to instill public confidence in the House of Assembly. To instill public confidence in the House of Assembly when you make a commitment, Mr. Chair, and the commitment is that you will bring in legislation, people assume that from day forward that legislation then will be brought forward.

What we are amending here, Mr. Chair, is the date this government committed to bring this legislation in, and to instill confidence of the general public why we are moving it back to

October, 2007. Also, as you know in clause 4 we have it all laid out like, “gross mismanagement, including of public funds or a public asset”, paragraph (d) “knowingly directing or counselling a person to commit a wrongdoing...”.

Mr. Chair, we are trying to move it back so that we can ensure everybody in this Province that when the government committed there was no wrongdoing – which I am not accusing there was, definitely not. I definitely at no time am I making that statement, and not even inferring that. I just want to instill the public confidence.

I just want to be on record, Mr. Chair, as supporting the amendment. It is a fair amendment in my opinion. I know the Member for St. John’s East may make another amendment, I do not know, to try to bring it back to Confederation, I am not sure. It is up to him when he wants to put it in. I feel go back a reasonable period of time, the time the company made the announcement so that we can instill confidence.

Thank you, Mr. Chair.

SOME HON. MEMBERS: Hear, hear!

CHAIR: The hon. the Minister of Municipal and Intergovernmental Affairs.

SOME HON. MEMBERS: Hear, hear!

MR. KENT: Thank you, Mr. Chair.

I thank members for their participation in the debate on the amendment. As members are aware, I have taken some time to consider the amendment.

I do appreciate and understand the logic. I do understand and appreciate the rationale, but I still have some difficulty. As I have alluded to previously in the debate, Mr. Chair, I have some difficulty supporting making our legislation retroactive. Retroactive legislation – or retrospective legislation perhaps more appropriately in this instance – just is not appropriate. I would like to explain a little further as to why I believe that is the case.

Bear with me. I am not a lawyer; I do not have the advantage that certain hon. members have, but I will do my best to shed some light on this from my perspective. It is very unusual for legislation to have retroactive or retrospective clauses, and there are good reasons why. When I think about making this legislation retrospective or retroactive, that could create a whole bunch of complications and challenges that perhaps have not been considered at this juncture.

People move within the public service, people come to work, they move to other jobs, they leave government, they retire and so on. It could be very difficult for the Citizens’ Representative and his office to conduct investigations. They could potentially be compromised as a result of having to go back multiple years into the past.

There is the whole question of resources for the Office of the Citizens’ Representative and the Labour Relations Board as well. I can think of some recent examples in this House, though, that I would like to cite; one relates to amendments we made to the Fatalities Investigations Act related to the work of the Child Death Review Committee. There was considerable debate, I believe, at that time in this hon. House. I remember some of the comments from the now Minister of Finance in relation to proposed changes to the legislation and it was decided that that legislation had to be forward speaking, which is what we are proposing here.

An example that is as relevant, or perhaps even more relevant, is the House of Assembly accountability, integrity act – the act with the long name that I can never remember, but I know members know the act I am talking about, and some of them are nodding in agreement. It was brought forward by Chief Justice Green and there are whistleblower provisions in that legislation that governs us as Members of the House of Assembly. It was supported by all members of this House. Chief Justice Green brought forward a recommendation that that legislation be forward speaking as well.

Keep in mind at the time, he knew, we knew, that there had been allegations of wrongdoing involving former members of this House, but it was felt from a legal perspective and from a legislative perspective that it had to be forward

speaking because that was seen as being just in the eyes of the law.

Legislation is generally forward speaking. People today, the public service today, those who work for government departments, those who work for government agencies, they are now well aware that this is coming, that we are going to finally enact whistleblower legislation. I would suspect that there is not a public servant in the Province who is not aware of the fact that this is coming. I assure you, Mr. Chair, that in the weeks that will follow subject to the passing of this legislation that the Citizens' Representative is going to ensure that employees of public bodies in Newfoundland and Labrador are well aware of what is coming.

This is really a rule of law question. Again, I am no lawyer but I do know that people have a right; people have a fundamental right to know what the law of the day is. If that law changes for the time for which they have governed their behaviour and their actions, then there is something unjust about that; there is something unfair about that. What we are really talking about here is a principle in terms of rule of law. It makes sense, generally speaking, from a legislative perspective that the legislation be forward speaking.

I hope that has provided some context. I want to assure members opposite that I will give due consideration, serious consideration, to every single amendment that is brought forward. Beyond preparing for this bill where I acknowledged previously that I, too, raised some of these questions and wondered why we would not look at going back in time; but there are some very good legal reasons, there are some very good ethical reasons, and there are some very good practical reasons for not doing so, Mr. Chair.

While I understand and appreciate the perspective that is being shared – and I do even see the logic; I do appreciate the member's rationale – this raises a number of concerns, it raises concerns in terms of precedent as well, and unfortunately I would respectfully submit to the members of this House that this is not an amendment that I am prepared to support, Mr. Chair.

I thank members for bringing it forward.

CHAIR: The hon. the Member for Burgeo – La Poile.

MR. A. PARSONS: Thank you, Mr. Chair.

I am happy to stand again and speak to the amendment. I appreciate the minister standing and providing his viewpoint for it. Again, as I have said before, there are times when we have had debates where we do not always get the point. I do not agree with the minister, but I do appreciate the fact that he is speaking to it.

I am going to, I guess, respond to that and also respond to some commentary from the other members. One of the other members, I think the member from the Third Party mentioned that we should not support this because it is a timeline. I am not sure what the suggestion is if he has a problem going backwards to 2007 or if he wants to go backwards to time immemorial, or if he wants to go back to Confederation, I do not know; but what I would suggest very strongly is that the member, if he has a problem, put an amendment forward.

I hope the member – we have done this before. We have stood up, we have drafted amendments, and we have put them forward. If they get voted down, good; if they get supported, better. It is one thing to talk and criticize about a problem and have no solution. That is typical. That is all I am going to say about that is that it is typical.

I may speak to that again. I hope an amendment comes forward because we should see amendments to this if we do not agree with it. To complain about it and not put forward an amendment is pointless.

Going to the minister's comments, the first thing I would suggest is that going through the list one of them was the practical reasons. I am unsure as to any practical reasons why we cannot do it. I do not think the minister was very specific. I would suggest though that resources should not be an issue.

I know the minister said earlier in debate – I think it may have been yesterday, it may have been today, it has been a long debate. The minister did say that resources should not be an

issue. The Citizens' Representative will report back. At that time, if more resources are necessary then they will be forthcoming. If there is any other practical reason, I hope the minister and the departmental staff will provide those as to why we cannot do this.

I am going to talk about the difference between retroactive and retrospective. I completely understand what the minister is saying in that we have to be careful, but there is a difference. A retroactive statute is one that operates as of a time prior to its enactment. It operates backwards. A retroactive statute changes the law from what it was. In this case there is no, was, because the law did not exist before.

A retrospective statute operates for the future only, perspective, but it does impose new results in respect of a past event. It looks backwards. It attaches new consequences for the future to an event that took place before the statute was enacted. It changes the law from what it otherwise would be with respect to a prior event. My position here today and our position here today is that a retrospective piece of legislation, when it comes to the protection of individuals who are trying to disclose wrongdoing, is okay.

There are tons of cases out there and they talk about retroactivity. One place where they talk about retroactivity is when it comes to maybe pensions, or when it comes to pay, where you go backwards and harm somebody retroactivity when it comes to their pay. That is one thing and the minister's word was unfairness. Nobody wants to see the concept of unfairness applied to legislation. I would say two things to that; there is one case, the National Director of Public Prosecutions versus Carolus, the legal culture leaning against retrospectivity is where there is unfairness.

Moving forward to that, the minister said there is something unfair about it. It is my submission and the reason for my support of this is that there is nothing unfair about providing protection going backwards for those who want to disclose wrongdoing. It is only unfair to not provide that protection to those who thought they were going to have it from the date that it was promised forward. That is what I am putting out there.

I understand what you are saying when it comes to unfairness. If this were to happen, if the clause were to be allowed, the only person who it is unfair to is the person who might get the whistle blown on them; the person who committed the wrongdoing against a person, against this Province, against anybody else, whether it is gross mismanagement or otherwise.

What I am saying here is that there is nothing unfair about extending this protection in a retrospective manner to allow those who wish to disclose wrongdoing. There is nothing wrong with it. There is nothing illegal about it. There is nothing immoral about it. It would do nothing to harm the intent of this good meaning piece of legislation. There is nothing wrong with it whatsoever.

There is a ton of case law on this. I know the minister said, I am not a lawyer. I do not think that matters. I think the minister has done a very good job of understanding and reading his legislation and he knows what he is talking about. I think what I am suggesting is a very proper, sensible, and well-meaning position.

I would submit that the failure to support our amendment is the failure to support those people who may wish to disclose wrongdoing from that time period against something that is covered under section 4(1). That is simply what I am saying. Without belabouring that, I think I have made a number of what I think to be valid points. We will see what happens.

Depending on if an amendment is forthcoming that carries this back to whenever, the minister might say there is some practicality to that. I will leave that to if that amendment ever comes forward. What I have to deal with right now is the amendment we have put forward. The promise was made, and we do not know the date that Blue Book was created. All we know is the date of the election in which the government was elected on which made that promise. That was October 9, 2007 and this is dealing with public employees.

What I am saying is from that date to forward, not just from whenever this is passed – whether it is July 1; I think that might be the date there. Why not allow those people out there who may know something bad happened and want to

disclose it – and we hope it never happens, we hope it did not happen. Why not give them that protection they were promised? I see no reason whatsoever in any way shape or form that would prevent us from supporting the people there who need this and from voting in favour of this amendment. I will sit down at that point

Thank you, Mr. Chair.

CHAIR (Littlejohn): The hon. the Member for Virginia Waters.

MS C. BENNETT: Thank you, Mr. Chair.

I certainly welcome the opportunity to speak to this amendment here in the House. I want to recognize the minister's willingness to continue to answer questions as we continue to debate this really important piece of legislation.

I have three points and these points relate to the date and the amendment we are proposing. In a conversation this morning with the Centre for Law and Democracy, as well as in conversations with people who are much more familiar with the psychology of whistleblowers than I am, one of the things that is a struggle for somebody who wants to come forward is the emotional and psychological impact of making that decision.

It is never a decision that somebody makes lightly. It happens over a period of time. The way that this legislation or this bill is currently proposed, and why we have put forward an amendment, is that it allows for an individual who may want to come forward and make a complaint around wrongdoing to go through the emotional journey of being able to make that difficult decision. The reality is that coming forward to make a difficult claim – particularly something you feel might put yourself at risk, your family at risk, and your financial resources at risk – requires a tremendous amount of time for somebody to get comfortable with that moral decision.

One of the incidents or situations that I would certainly query; what happens in the case where there is a wrongdoing that is happening for a period of time prior to July 4, but does not come to somebody's knowledge until after July 4? Somebody is motivated on July 5 to disclose but the activity happened before July 4. In that case,

the employee may feel, the way the bill is currently worded, that they would not be protected. Hence the reason why I think it is important that we have a date that allows people who feel that struggle of coming forward and making a decision about disclosing something that could be risky for them have the confidence they are protected retrospectively.

As the minister mentioned, there are a number of reasons why he articulated there are other mechanisms that would protect people. For me, as a legislator, this whistleblower bill is about a moral obligation to create an environment and a culture where people feel comfortable to disclose. As we have discussed, it is limited obviously to the public sector currently, which is all the more reason it is important that we provide confidence to our public sector employees so that anything they feel morally obligated to disclose over any period of time, that they can certainly do that. That is one of the reasons why I support this amendment.

A specific example might be an employee discovers that a peer or a fellow employee may be accepting payment or accepting something that they should not be accepting. In those cases, it is going to be important that the employee feels confident to be able to come forward regardless of where a hard cut-off date is.

The minister referenced Judge Green's report as an example of why retrospective legislation would not work – or has not been the norm, I stand corrected. I remind the minister that the situation with Judge Green was that he had an opportunity to investigate in a very robust way the practices, the behaviours, and policies of this hon. House and the members of the House in prior history.

The disclosure of issues of wrongdoing, misunderstandings, whatever needed to be discussed and revealed, that work was already done. In this situation, because the date is in the future, as the bill currently reads, it does not provide that opportunity for employees who may want to disclose something in the past.

I do not think that was the intent of the current government when they made the promise to implement whistleblower legislation. I do not

think that is the intent of the people of the Province. I do not think that is their understanding.

I think that is one of the reasons why I am happy to stand here and support my colleagues who I am sure will speak to this amendment as soon as I am finished. I ask the minister to continue to think about the importance of having this date in a way that allows people the time to feel safe and secure in disclosing things they feel are in the best interest of the public.

CHAIR: The hon. the Minister of Municipal and Intergovernmental Affairs.

MR. KENT: Thank you, Mr. Chair.

I thank both hon. members for sharing further perspective on why they are supportive of the proposed amendment. Out of respect for the process, I will not repeat what I have already said.

In terms of the case law that the Member for Burgeo – La Poile was speaking of, my understanding from consulting with others is that is limited to tax and Criminal Code provisions, generally speaking, Mr. Chair.

To the Member for Virginia Waters, she was speaking about the wrongdoing, for instance, if somebody chooses on a subsequent date to bring the matter forward. No matter where we draw the line, no matter what date we pick with this legislation, there are going to be people who fall on one side or the other. That is the case with many, many pieces of legislation and many initiatives that we undertake as a government. I am sure it is a challenge and a reality that other governments face as well.

If I can offer any words of comfort, if the wrongdoing is ongoing – if it happened in the past but the wrongdoing is still ongoing on July 5, as the member suggests, then it would be totally within the mandate of the Office of the Citizens' Representative to receive the disclosure and to investigate that disclosure.

I do not have much further to add beyond what I have already said. I respect the point of view of members opposite. I certainly understand and appreciate where they are coming from; but, for

the reasons I have previously outlined, I would find it difficult, I respectfully suggest, to support this particular amendment.

CHAIR: The hon. the Member for Mount Pearl South.

MR. LANE: Thank you, Mr. Chair.

I will be having a few words about this amendment as well and supporting my colleagues in the amendment. Of course, as is being suggested, we would like to go back to October 19, 2007, a time that it was promised by the government.

Mr. Chair, the issue I have with it, quite frankly, is when I go back and look at 4.(1) in its entirety, it talks about "This Act applies to the following wrongdoings...". We are talking about what the wrongdoings are in the public service.

We are talking about "an act or omission constituting an offence under an Act of the Legislature or the Parliament of Canada..." We are talking about "an act or omission that creates a substantial and specific danger to life, health or safety of persons, or to the environment, other than a danger that is inherent in the performance of the duties or functions of an employee". We are talking about "gross mismanagement, including of public funds or a public asset... knowingly directing or counselling a person to commit a wrongdoing..." and so on.

My point, Mr. Chair, is that we are talking about very serious allegations, unless people are proven to be guilty. At the onset we are talking very, very serious allegations that could have very serious impacts on the health of people, very serious impacts on the safety of people, very serious impacts on the provincial Treasury.

Again, we have seen instances here in Newfoundland and Labrador where very serious things have happened. You look at ER/PR; you look at the Hughes Inquiry. We have had a history –

CHAIR: I remind the hon. member to speak to the amendment, it being very specific.

MR. LANE: Yes, Mr. Chair.

The point I am trying to make tied into the amendment of the date that we are requesting it be amended to, and what is contained here in clause 4 about these serious issues, I was just trying to give an example of some serious issues that have happened and could happen. The point I am trying to make here is if a serious incident happens tomorrow, if a serious incident of that type of nature happened last year and now all of a sudden this gets passed and somebody decides to come forward on July 2, as this is written, they cannot come forward with it. It will not be looked into.

I shudder to think, when you think back on some of the incidents that have occurred and could occur, and are covered off in section 4 in this specific clause that we are debating here, to think that a serious incident, as listed here, could happen on July 2, or on July 3 – sorry, on June 28 or in May, or happened last week or last year, that could have a devastating impact on the general public and we are going to stand here and we are going to vote for a piece of legislation as is currently written and say that is okay, we are okay with that. Because that is what we would be doing.

Now, I understand we have to be reasonable in how far we go back in time, and to simply say we can go back forever and a day, I do not think that is reasonable. We chose the date we chose for the reasons given. It is ten years, which I think is a reasonable time frame.

When you think about the seriousness of what we are talking about here, to simply say because it happened before July 1 we are not going to look into it, that could be an incident that occurred which could be ongoing. Somebody, in theory, could want to come forward and say: Do you know what? I believe these particular tests that are being done on patients, cancer patients, or whatever they might be – I believe these tests are flawed. I believe the person who is doing these tests do not know what they are doing. They are not trained for it, or I believe the machinery is not working properly. They are not maintained or whatever. I believe all of this.

That could be having an issue right now with anybody here; any of our family members, any of our friends, anybody in our Province could be impacted today by that type of a thing. I

certainly hope, I pray to God, it is not; but again, we have seen that type of thing happen. That could happen, but unless it happens after July 1, based on this legislation, we are not going to do anything about it.

It is one thing to talk about we are not going to report this incident, but in that type of an example these flawed tests could result in people not receiving treatment or receiving the wrong treatment and they could die as a result of it; but, because of that date of July 1 we are going to say no, that is okay.

In good conscience, I have a real problem in supporting that. We all do, and that is why we are bringing forth at least to go back – this is ten years – to when it was promised to have that opportunity.

I did hear the minister say – not this time when he spoke but the time before – he talked about resources. That was one of the reasons he gave about we cannot go back in time because of the resources. First of all, it is kind of contradictory because I thought that resources were not going to be an issue.

The bottom line is if it is a very serious issue, if it is an issue that falls under section 4.(1) (a) to (d), as listed there, and these are issues of that seriousness, I do not care about the resources. Quite frankly – I am going to play like the NDP now; I am going to say I do not care about the money. They say it all the time, but I will say it for this particular issue because this is a very serious issue, that I do not care about what it costs. I do not care about the resources; I really do not. When it comes to this type of an issue, I do not care. It is too important, the types of things –

SOME HON. MEMBERS: Oh, oh!

CHAIR: Order, please!

MR. LANE: – that are being contemplated here under section 4 are just too important, or too serious to put a price tag in terms of resources to investigate it. To say that because we are going to set this date of July 1 and someone could come forward and say: Well, do you know what? Last year, this happened, and this would have a major impact in the lives of many people,

it could be life and death to some people, resources is not a reason to me – it is not a reason. It has to be done.

With that said, Mr. Chair, I will take my seat for now at least and we will see where the debate goes. That is the reason why we are putting a date – that is why we believe that we should not start July 1; we should be able to go back in time. As my colleagues have said here, which is a very valid point, if you did not, the only people who are going to be impacted by this, if we were to go back seven years or ten years or whatever, the only people who are going to be impacted is going to be the person who constituted an offence under the act of the Legislature or the Parliament of Canada, or regulation under the act; a person who created a substantial and specific danger to life, a person who had a substantial and specific danger created to the health and safety of persons, to the environment, other dangers inherent to the performance of the duties of the employee; or somebody who was involved in gross mismanagement, including public funds or public assets; or somebody who knowingly directed or counselled a person to commit a wrongdoing. The only people, if we go back, who are going to be impacted by this is someone who falls under that category. If they fall under that category, so be it; they should be held accountable for what they did anyway.

Thank you, Mr. Chair.

CHAIR: The hon. the Member for St. John's North.

MR. KIRBY: Thank you, Mr. Chair.

It is a pleasure for me to stand and just have a few brief comments to this legislation again and listening to other people talking about the timing and the rationale for the timing that is being proposed by the Official Opposition for clause 4.(2). As we have said, as it stands, this would come in to effect July 1, but we want to take it back. Now, I think the Opposition House Leader has pointed out that we are talking about retrospective rather than retroactive legislation, and I think that is important.

We could go back a lot further if you wanted to; you could go back to the days that the trees were planted down at the Colonial Building if you

wanted, or you could go back to the day that they were cut down. You could pick any date arbitrarily and have that there. You could go back to Confederation or prior to Confederation, but I think the whole issue here is the issue of fairness. The reason why we are enacting this and debating it and why it was promised initially is because of fairness.

We want individuals who have information about whether it is criminal wrongdoing or gross mismanagement, or in the event where somebody has caused some threat to public health or safety, caused some danger or been complicit in that or, as the bill says, counselled someone to that effect – we want to ensure that there is fairness for people who have that information and who bring that forward.

SOME HON. MEMBERS: Oh, oh!

CHAIR: Order, please!

MR. KIRBY: I think the other issue as it relates to fairness is when this particular legislation was promised. This government, the government that is bringing this legislation forward, promised it somewhere around – well it was in their election platform during the 2007 election. Like I said, you can debate all day going back this far or that far, but I think out of fairness it makes sense to go back to when the PC Party promised this in their 2007 election platform.

There are a variety of reasons for that, not just for the fact that it was promised at that time, and it has taken all of this time for it to actually hit the floor here and see some debate on it. There could be people during that election campaign back in 2007 who said to themselves: Oh, well, now I have an opportunity to bring this particular issue forward. Whether it is negligence, or mismanagement, or criminal activity, or what have you, some violation as outlined under the act.

Maybe there are people who during that election campaign heard about the whistleblower legislation or some time afterwards. There has been a significant amount of talk about this over the subsequent years, a number of different newspaper articles, other radio and TV news stories, and letters to the editor. It has been

raised here in the House of Assembly on a regular basis in Question Period and in debate.

All over that period of time since 2007 we have been talking about it. It has been anticipated, but unfortunately, it has taken us a whole of time – sorry it has taken this government a long time to actually introduce it to the floor of the House of Assembly.

I think it boils right down to a question of fairness. I think that seems to me to be a reasonable compromise is to take it back to that period of time. If there is somebody who has been in the public service who is aware of that and has been thinking about it since this government proposed the legislation, then now they have an opportunity to bring that particular issue forward. They will not be subject to reprisal. They will not have any fear of bringing the issue forward because they will have protection under the act.

I think I will leave it at that, but I think it is a reasonable compromise. As I said before, you could go back any length of time, you could pick any date arbitrarily. I suppose you could go back infinitely if you wanted to go back infinitely. I would be interested in hearing justification for going back infinitely.

The only other thing that I will say is that I could say I do not agree with having any stipulation so I would make an amendment to take subclause 4(2) out of it all together. I will leave it for your expert opinion to make that determination, Mr. Chair. Based on my limited experience here in the House of Assembly it would seem to me if you are going stripping clauses out of legislation, then that is probably going to be out of order.

The whole point here is to try to find a compromise, to try to find something that would be in order, that we can all agree on, that there is some sort of logic, there is some sort of rationale, and there is a reasonable argument to be made in favour of having a particular date. It is a good argument to make to set it around the time of the election in 2007, because as I said, the government promised it at that time. I will not go back over all of the reasons I gave subsequent to pointing that out. This government promised it back then, so it makes

all sorts of sense to go back and try and have it started from that point in time rather than having it begin at July 1.

I will leave it at that, thank you.

CHAIR: The hon. the Member for Burgeo – La Poile.

MR. A. PARSONS: Thank you, Mr. Chair.

I just have a quick point to make. I do not presume that the minister is going to respond. I think I know his position, I think he has put it out there. I am just putting this on the record because half of this is having it in Hansard so people know where we stand.

One of the things the minister stated when we talk about why we are not going back, one of the good things is that if there is an ongoing issue, at least we will catch that. I just wanted to put it on the record that I still think that to be a very big weakness in this legislation, that we have to hope for the wrongdoing to be ongoing.

The fact remains if something were to happen today, right now, it is not covered. I want to put it out there I still think that is a weakness. I do not expect the minister to change based on what I am saying now, but I just wanted to make sure that we had our thoughts on the record as we move forward.

I appreciate that opportunity.

CHAIR: The hon. the Minister of Municipal and Intergovernmental Affairs.

MR. KENT: I thank members for their further comments. I will not belabour the point either. I just want to acknowledge the member's point.

The only thing I would say, in closing, on this particular point is that if a matter is ongoing, if it happens today, there is a likelihood, it is not definite, granted – and I fully understand the point he is making and why he is making it. If there is matter of wrongdoing that is occurring today, the likelihood of it still being an issue a month from now or a month-and-a-half from now is a good likelihood. It is not definite, there is no doubt about it, but there is certainly a likelihood.

I know that perhaps does not fully address the member's concern, I acknowledge that. I just thought I would provide that clarification for the purpose of the record as well.

Thank you.

CHAIR: Shall the amendment carry?

All those in favour, 'aye'.

SOME HON. MEMBERS: Aye.

CHAIR: All those against, 'nay'.

SOME HON. MEMBERS: Nay.

CHAIR: The nays have it.

The hon. the Member for Burgeo – La Poile.

MR. A. PARSONS: Division.

CHAIR: Division is called.

Summon the members.

Division

CHAIR: Are the Whips ready?

AN HON. MEMBER: Yes.

CHAIR: All those in favour.

CLERK: Mr. Andrew Parsons, Mr. Osborne, Ms Dempster, Mr. Edmunds, Mr. Lane, Mr. Kirby, Mr. Slade, Mr. Mitchelmore, Ms C. Bennett, Ms Michael, Ms Rogers.

CHAIR: All those against.

CLERK: Mr. King, Mr. McGrath, Mr. Felix Collins, Ms Johnson, Mr. Jackman, Mr. Hutchings, Mr. Verge, Mr. Hedderson, Mr. Dalley, Ms Sullivan, Mr. French, Mr. Kent, Mr. Granter, Mr. Cross, Mr. Little, Mr. Pollard, Mr. Brazil, Mr. Forsey, Ms Perry, Mr. Kevin Parsons, Mr. Cornect, Mr. Hunter, Mr. Russell.

Mr. Chair, the ayes eleven, the nays twenty-three.

CHAIR: The amendment has been defeated.

On motion, amendment defeated.

CHAIR: The hon. the Leader of the Third Party.

MS MICHAEL: Thank you very much, Mr. Chair.

I have a great interest in subclause 4 of the bill. Last night I spoke to it on a couple of occasions and I still have it.

The amendment that was brought in by the Official Opposition was better than what is in the bill from my perspective. In the bill of course the bill does not allow for retroactivity of any kind.

SOME HON. MEMBERS: Oh, oh!

CHAIR: Order, please!

MS MICHAEL: The amendment that was just defeated by the government at least recognized the need for retroactivity, though the retroactivity went back to 2007. I voted for it because it was better than what was there.

Now that it is defeated, I want to bring forward another amendment to subclause 4. That amendment is that subclause 4 of the bill is amended by deleting subsection (2).

CHAIR: The House will recess to consider if the amendment is in order.

This House is now in recess.

Recess

CHAIR: Order, please!

The amendment as presented is not in order.

Shall clause 4 carry?

All those in favour, 'aye'.

SOME HON. MEMBERS: Aye.

CHAIR: All those against, 'nay'.

SOME HON. MEMBERS: Nay.

CHAIR: Carried.

On motion, clause 4 carried.

CLERK: Clauses 5 and 6.

CHAIR: Shall clauses 5 and 6 carry?

All those in favour, 'aye'.

SOME HON. MEMBERS: Aye.

CHAIR: All those against, 'nay'.

Carried.

On motion, clauses 5 and 6 carried.

CLERK: Clause 7.

CHAIR: Shall clause 7 carry?

The hon. the Member for The Straits – White Bay North.

MR. MITCHELMORE: Thank you, Mr. Chair, for the opportunity to speak to clause 7, which for everyone following along it is the disclosure process by an employee.

We have had debate in second reading on this matter. The process itself here in this proposed legislation is strictly just an external process going through the Office of the Citizens' Representative. Where all other jurisdictions have a dual process, where they first would have the opportunity to go to either a supervisor or to a designate internally, a designated employee, and deal with that matter. There would also be some clarification around if they would go directly to an external process and deal in that medium there.

Clause 7(1) states they would make the disclosure directly to the Citizens' Representative. I think there would be a greater level of accountability if somebody had the opportunity to go to his or her supervisor or the chief executive as in other provinces where some matters would be dealt with internally.

They would be dealt with more expeditiously, and it would also then protect them from a reprisal so that that particular employee, if they did go to their supervisor or to their chief executive first, they would be protected

internally as well. Because right now somebody would have that fear if something is happening, whether it is in a department or in an office, that the only person they can really go to is the Office of the Citizens' Representative for that type of protection.

We should have confidence that our managers, supervisors or designates would be able to take the appropriate action. If the appropriate action is not taken, then there should be some other mechanism put in place such as the Office of the Citizens' Representative where they would have a timeline and a time limit to be able to deal with and explore if something is not happening internally.

A dual process I think makes quite a significant amount of sense when it comes to the accountability and the protection against reprisals for employees in the public sector. It also allows the streamline of government services to be happening in a more efficient manner. It also gives greater protection to the employee, not weaker protection as this bill is currently proposing.

In section 7(2) it talks about, "The identity of an employee making a disclosure shall be kept confidential to the extent permitted by law and consistent with the need to conduct a proper investigation." I certainly agree with the statement that any employee who is making a disclosure, the information should be kept confidential. There will be some situations and circumstances whereby law, if this does become a civil matter or it goes before the Labour Relations Board, their identity may become known. That is a very important piece is to keeping the confidentiality of disclosure.

I am not in disagreement with that particular statement, but I will state, Mr. Chair, I will be moving an amendment that "Subclause 7(1) of the Bill is amended by adding immediately after the word 'disclosure' the words 'to his or her supervisor or chief executive or'."

Also, "Clause 7 of the Bill is amended by adding immediately after subclause (2) the following: '(3) A disclosure may under subsection (1) to a supervisor or chief executive shall be referred to the citizens' representative who shall, within 5

days, acknowledge to the employee making the disclosure that the referral has been received'."

Thank you, Mr. Chair.

CHAIR: We will take a recess to consider the proposed amendment.

This House is now in recess.

Recess

CHAIR: Order, please!

The amendment, as presented, is in order.

The hon. the Member for The Straits – White Bay North.

MR. MITCHELMORE: Thank you, Mr. Chair.

The amendment itself is looking at creating a greater level of accountability that exists in all other jurisdictions that have whistleblower legislation, whether that be in the United States, whether that be across Canada, whether it be in Australia, or the United Kingdom. This is a process that would allow an individual to basically make a disclosure to their supervisor or chief executive or the Office of the Citizens' Representative; and if after a disclosure has been made, the supervisor or chief executive shall refer to the Citizens' Representative who shall, within five days, acknowledge to the employee making the disclosure that the referral has been received.

This is a situation where you are making sure that if the Office of the Citizens' Representative has received a complaint – I could be an employee who goes to the Office of the Citizens' Representative, follows as the legislation has proposed, but we have no way of knowing what actions have been taken by the Office of the Citizens' Representative.

Also, this is a way to look at the streamlining of the approach and trying to deal with wrongdoings internally first; to have that ability so that if I am an employee, I would have the protection. The protection if I went to a supervisor or to a CEO or the designate that would be associated there, so that if there a

wrongdoing, if there is an intent, as defined by the legislation, that they would be able to feel comfortable, if they have that option, to go there to take that approach. If no action is taken, then it would be referred within five days to the Office of the Citizens' Representative. This ensures accountability, it ensures that action will be taken, and it provides a paper trail because this whole process is that the Citizens' Representative would provide an annual report, would outline wrongdoings, but would keep matters, the identity – and that is what clause 2 is doing; it is keeping the identity protected.

I think that this would really strengthen the legislation as it has existed. Across all other jurisdictions, when they have introduced whistleblower legislation, they have not amended their legislation to go to a single process. So, I put this forward that I think that we should have confidence that internally our public sector employees can handle and deal with situations if they are put forward with a wrongdoing.

This reduces the amount of calls that may end up going to the Citizens' Representative unnecessarily. It allows for an employee and other smaller issues to get dealt with so that people have confidence that they can go to their superior or to their CEO in that situation and not have to be constantly going to the Office of the Citizens' Representative. I think this is a way of handling anybody who feels that there is a wrongdoing as defined by the act, that they would have a dual option. I think that this amendment certainly makes sense. I hope the minister will see the intent of what this amendment is going to do and how it will certainly strengthen the legislation, as is in all other jurisdictions that has whistleblower legislation across the globe, not just in Canada.

Thank you, Mr. Chair.

CHAIR (Verge): The hon. the Member for Burgeo – La Poile.

MR. A. PARSONS: Thank you, Mr. Chair.

I am very happy again to stand to speak to this second successful amendment that we put out here to this piece of legislation, and one that I think certainly is necessary. It is well meaning.

Again, I think it should be noted on the record. During the main motion and during many of the debates sometimes we are criticized for speaking and maybe not making suggestions. You are criticizing for the sake of criticizing. It is our belief that every time we speak to this, we are trying to add value. In this piece of legislation, it is not like some where you completely disagree. This legislation is one that we have called on the government to do. In particular, we have some suggestions to make it better, in our mind.

In this case the Member for The Straits – White Bay North has proposed an amendment to section 7. What we are saying here, for people that are wondering, it comes down to the disclosure by the employee. Very simply what we are saying is “Where an employee reasonably believes that he or she has information that could show that a wrongdoing has been committed or is about to be committed, the employee may make a disclosure to the citizens’ representative.” We are simply asking that the section be amended by saying after “disclosure”, it should say “to his or her supervisor or chief executive”. This comes down to the crux of the single versus dual disclosure.

We still believe – and I do not need to reiterate this again because I think we have done that very well during the course of this debate, we have laid out our concerns, especially when it comes to the process that this Province has chosen to take when it comes to single disclosure versus what is being used in many other jurisdictions which is dual. Now, I will note that the minister has said we have checked with other jurisdictions and it seems like this one is the best way to go, but I would be interested in knowing, because I do not know, how many of these jurisdictions actually have plans in place to change to this model. That would be interesting to know, so I put it out there.

I have to recognize the minister has spoken to and answered this. I do not like many of his answers but he gives us an answer. I will give him an opportunity, if he is prepared. I know he takes the information – we are trying to give him an opportunity to respond, and we appreciate that. I will let him respond to the amendment which we have put forward, which we are

hoping he will see the value of and be supporting.

MR. CHAIR: The hon. the Minister of Municipal and Intergovernmental Affairs.

MR. KENT: Thank you, Mr. Chair.

I am attempting to respond to the various points as they are raised. Sometimes in order to consider the amendment it does require consultation with others. I appreciate the patience of the members opposite. I also acknowledge we are working to make the legislation stronger. That is the purpose of making amendments. It is to see if there are opportunities to make the legislation even better than what it is. We take that very seriously.

In an effort not to get ruled out of order, I will speak to the amendment. I do have some concerns about the introduction of a dual-disclosure process.

The Member for Burgeo – La Poile is correct in pointing out that we have talked to other jurisdictions. It is worth recognizing, as well, that whistleblower legislation in Canada has evolved over the last decade or so. We have certainly taken our time to watch what is happening in other jurisdictions and to benefit from their experience. What their experience has taught us is that in cases where there is a dual-disclosure process, employees tend to opt for the external process. There are a number of reasons for that, which I will elaborate on while we discuss this particular amendment.

It is possible that employees would refrain from making a disclosure because they might be uncomfortable going to somebody within their own agency, within their own department, or within their own division of government. They may be concerned about confidentiality if their own department was involved in not only receiving their disclosure, but actually carrying out the investigation as well. What we have done through this bill is remove that obstacle.

I acknowledge that in most other places in the country there is a dual-disclosure process, but the fact that we have opted for the third party independent, consistent, arm’s-length office, the office being the Office of the Citizens’

Representative, actually is a real strength. It is one that the Citizens' Representative himself endorses. He has suggested that this – and that is one of the most unique things about this legislation. He has suggested that this legislation is going to be the best in the country.

We have talked to other jurisdictions as well. We have a dual-disclosure process in Manitoba, New Brunswick, Nova Scotia, Saskatchewan, and Alberta, and that allows for the internal process, as is being suggested here by the Opposition amendment, but we really want to uphold the integrity of the public service by making sure that the process is as transparent and as effective as possible. We want to facilitate disclosures of legitimate wrongdoing in the safest environment possible.

The single-disclosure route is considered the most effective, for a number of reasons. It ensures that an independent office that has the skills, experience, expertise, training and dedicated resources will carry out investigations in a fair manner, and in an impartial manner, but also in a very consistent manner.

If you had multiple agencies and departments of government at various levels receiving disclosures and carrying out investigations and reporting on that, then there is a real concern around consistency. There is a real concern about consistent training and resources. There is a real concern about impartiality. I really think the principles of procedural fairness would actually be difficult to meet if we were to have an internal process as well as the external one.

From what we have seen in other jurisdictions, we see that employees are not going to their supervisor. They are not going to their CEO or their deputy minister. When they have a choice, they are opting for that impartial third party process. Let's all keep in mind as well, that is not to say employees are not going to bring concerns to their supervisors, or that we are somehow going to curb that practice. What this bill deals with, it deals with significant wrongdoing, serious wrongdoing.

There are lots of routine day-to-day administrative HR matters or minor concerns that employees have about others' conduct or things that might be going on in a department

that they would probably feel quite comfortable talking to their immediate supervisor about, or walking into the deputy minister's office or the CEO's office. When it comes to the significant and serious wrongdoing that we are talking about under this legislation, based on what we have seen in other jurisdictions, they have told us that having the dual process is really less supportive of employees. It really creates an awkwardness for employees that is not necessary.

Employees might be hesitant. They may be reluctant to bring forward concerns to somebody within their own department, their supervisor or the deputy minister, whatever the case may be. If that extra step was added, as is being proposed here – this may sound a little farfetched, but let's say an employee has a concern and they go to their supervisor. Well, if it not already documented and it is not formalized, the supervisor would also then have an opportunity to talk them out of it, and say: Okay, I will handle that. You do not need to write up a disclosure. I will make sure that matter is dealt with and goes away. There are all kinds of opportunity for a more complicated and less effective process by adding that step.

We want employees to feel safe. We want employees to be able to go to that independent impartial third party and we want to uphold the integrity of our public service at the same time. During the break I shared this with one of the members opposite. I did raise the question myself in preparing this bill. I said: Well, if in many jurisdictions there is a dual-disclosure process, even if one route is preferred, even if the external route is preferred, why not do both?

What I learned was that the experience in other jurisdictions is perhaps the most compelling reason not to do that. There are some other reasons as well that were significant. It adds a level of administration. There are major policy implications if all levels of the government were going to be training and requiring employees to receive disclosures and ensure investigations take place. There are training issues, there are reporting issues, and there are consistency issues.

I believe at previous stages of debate I have spoken to why the single-disclosure process is

such a strength of this bill. I still believe that. I have reflected on the amendment as proposed, and based on the experience in other jurisdictions and based on some of the concerns I have just expressed, this particular change would be a difficult one for me to support. I am sure other members will have some points to raise and I will certainly listen carefully to those concerns as well, as others will, and perhaps there will be some further dialogue on this point before we get too much further into the debate.

I thank members for proposing the amendment, and I thank them for the arguments that have been presented so far.

CHAIR: The hon. the Member for The Straits – White Bay North.

MR. MITCHELMORE: Thank you, Mr. Chair.

I want to, in response to the minister's statement, talk about the amendment itself and just clearly state that they would have to make a disclosure to his or her supervisor or chief executive or the Citizens' Representative. This is not saying they have to go to their supervisor or their CEO. It gives the option to do so. They would still have that option to directly go to the Office of the Citizens' Representative. This is about giving people choice in the whole process and the manner of which they would feel comfortable in doing so.

This is why the third clause being added is very important for the accountability factor. The example the minister gave really is addressed in the actual amendment itself. If somebody goes to their supervisor, the minister said they might not do anything on it. Clause 3 says that if a disclosure is made under subsection (1) to a supervisor or a chief executive, it shall be referred – not may, it has to be referred – to the Citizens' Rep who shall, within five days, acknowledge to the employee.

They are going to get the feedback. It will be a direct loop knowing that action is being taken, that there is accountability. The legislation is quite clear and it shows people who make legitimate complaints are actually going to get the action taken. It is a very clear mechanism here that gives people the option by going

directly to the Citizens' Representative, not necessarily will they see this level of action, whereas if they had the option of going directly to their supervisor or chief executive.

The amendment itself puts forward the answer to the suggestion that the minister had stated it would not. Clause 3 does that. I think it deserves due consideration because this has been thoroughly thought out by the Official Opposition. It provides greater accountability. It will protect the public sector employees and those of the public interest.

I think this is a great amendment. It gives people the option and will certainly reinforce and strengthen the act when it comes to the public interest disclosure whistleblower legislation in Newfoundland and Labrador.

Thank you, Mr. Chair.

CHAIR: Shall the amendment carry?

All those in favour, 'aye'.

SOME HON. MEMBERS: Aye.

CHAIR: All those against, 'nay'.

SOME HON. MEMBERS: Nay.

CHAIR: The amendment is defeated.

On motion, amendment defeated.

CHAIR: Shall clause 7 carry?

All those in favour, 'aye'.

SOME HON. MEMBERS: Aye.

CHAIR: All those against, 'nay'.

Carried.

On motion, clause 7 carried.

CLERK: Clauses 8, 9 and 10 inclusive.

CHAIR: Shall clauses 8 through 10 inclusive carry?

All those in favour, 'aye'.

SOME HON. MEMBERS: Aye.

CHAIR: All those against, 'nay'.

Carried.

On motion, clauses 8 through 10 carried.

CHAIR: Clause 11.

Shall clause 11 carry?

The hon. the Member for St. John's North.

MR. KIRBY: Thank you, Mr. Chair.

I would just like to have a few brief comments to this clause. It is a pleasure again to stand and speak to this important piece of legislation which we have been waiting for and the people, voters in the Province of Newfoundland and Labrador have been anticipating for quite a lengthy period of time. I will not belabour that, though.

Clause 11(1) says, "Notwithstanding section 10, nothing in this Act authorizes the disclosure of (a) information or documents which would disclose the deliberations of the Executive Council or a committee of the Executive Council" and I will continue in a moment. I just wanted to ask members of the House of Assembly to cast your memory back almost two years ago when in this House of Assembly we debated another bill that had broad blanket provisions pertaining to documents that would be seen by Cabinet.

There was a provision in Bill 29, An Act to Amend the Access to Information and Protection of Privacy Act that talked about Cabinet confidences and documents which would fall under the ambit of Cabinet confidences. It was a very broad blanket provision that basically set-up a situation whereby you could just say that is a Cabinet document so we cannot disclose that information.

Similarly, I believe the paper that members have been referencing from the Centre for Law and Democracy – which the hon. the Minister of Municipal Affairs has rightly pointed out, the Centre for Law and Democracy has been quite helpful to the Province of Newfoundland and

Labrador in reviewing whether it is Bill 29 or Bill 1 or what have you, and pointing out the shortcomings in the legislation, and where it can be strengthened in some places. I do not have an amendment to this, but I really wanted to express some caution. I believe once again a government is setting up a situation whereby blanket provisions, such as this one, "information or documents which would disclose the deliberations of the Executive Council or a committee" of it.

It really is a broad stipulation that really puts information once again behind the curtain away from this legislation and exempts it. I think this is a stark contradiction when we remember back to the opening of this House of Assembly some months ago when government launched its new open and transparency Web site. We announced that it had now a newly-found attachment to openness and transparency. Yet once again, Mr. Chair, we have a provision such as this, a blanket provision pushing information away from this legislation, disallowing selected pieces of information from falling underneath this.

I think that is really problematic and I think it shows a pattern. It shows a pattern of selectivity when it comes to information that we want government legislation and the people's legislation to pertain to. It is information that this government does not want people to have access to, or for to be considered in the instance of a situation where someone is blowing the whistle, whether it is criminal wrongdoing, or gross negligence, or some threat to health, or public safety, or the environment and so on.

I wanted to point that out because when we get to the point where this particular legislation is enacted, I want to be able to look back and make sure that someone here in the Official Opposition stood up and cautioned government on once again taking information and putting it beyond the reach of its legislation in a very selective way. I just want to get that out there.

This particular section as well, Mr. Chair, goes on to say, "Notwithstanding section 10, nothing in this Act authorizes the disclosure of (b) information or documents that are protected by solicitor-client privilege." I do not want to repeat myself because I did at length go over this the other day. I will reiterate again here we have

an instance where we are saying that if you seek out legal counsel, seek out legal advice; one can claim solicitor-client privilege with – well as we have seen in the recent deliberations regarding the legal counsel that was sought out by the Minister of Transportation and Works regarding the Humber Valley Paving imbroglio. We saw that sort of very loose interpretation of what it is to seek legal opinion and to get solicitor-client advice.

The other thing the Centre for Law and Democracy pointed out, and it is almost really laughable if it was not sort of tragically sad, because ultimately Bill 1 applies to evidence of gross mismanagement, criminal offences, or substantial threats to health, safety or the environment. You think about whether it comes to Cabinet documents in section (a) or solicitor-client privilege in section (b), you are more or less setting up, I think, relatively easy ways for information to not be considered in a whistleblowing situation.

It is easy to say, if you go back to the discussions again, like I said, that we had here a couple of years ago about the whole idea of Cabinet confidences, I think this is worded in a very similar way. It is relatively easy to say okay this document here is a Cabinet document, this is an Executive Council document, so we stamp that. This one is not, so you can use that. Or you could take both of them and you get your lawyer on the phone at the Department of Transportation and Works and get some legal opinion on the both of these. Now they are put beyond the reach of Bill 1 of the whistleblower act.

I think, in a way, it violates the spirit of what it was we thought we were going to get in the end. I want to point out I am sure there are situations whereby a legitimate case can be made for solicitor-client privilege, where there is something to do with somebody's privacy or something of a personal nature that would reasonably justify this particular move.

I think, really, you would want to have a greater level of detail here just to take this out altogether and in those very rare, rare, rare instances, have it dealt with by the courts; because, ultimately, what you are setting up here is a litigious situation where people do not have any other

alternative but to seek out that particular legal advice. The fact that this is such a broad interpretation of Executive Council documentation, documentation covering the deliberations of Executive Council, again that sort of violates what it is we thought we were going to get. This really exempts a whole lot of information, and it sets up really neat ways that government can get around whistleblower protection and whistleblower provisions.

I will not belabour that any further, but I thought it was important for me to stand and to put that out there. We made a big mistake – or not we, but the government made a big mistake a couple of years ago when it brought in the changes to the Freedom of Information Act with similar provisions and look what happened. When the new Acting Premier came in, he had to throw all of Bill 29 out and call in a select committee to get them to go and review it all. Who knows how long it is going to take, how much money is going to be spent on that, and how much energy is going to be used up before all of that is straightened away when these things really were unnecessary in the beginning. We have pointed all of that out at the time, Mr. Chair.

Thank you very much. It is a pleasure to have an opportunity to say a few words.

Thank you.

CHAIR: The hon. the Member for Burgeo – La Poile.

MR. A. PARSONS: Thank you, Mr. Chair.

I just wanted to stand briefly and make a few comments as to section 11 of the whistleblower act, which my colleague for St. John's North has done a great job of speaking to. I, more or less, had a very pointed question. This is a question that if the minister gets an opportunity, he can answer. I will read this and then ask I will ask the question.

Section 11 says, "Notwithstanding section 10, nothing in this Act authorizes the disclosure of (a) information or documents which would disclose the deliberations of the Executive Council or a committee of the Executive Council; or (b) information or documents that are protected by solicitor-client privilege".

The simple question would be: Is it correct that whistleblower legislation does not in any way, shape or form apply to Cabinet and/or Cabinet ministers? That would be the simple question.

CHAIR: The hon. the Minister of Education.

SOME HON. MEMBERS: Hear, hear!

MR. KING: Thank you, Mr. Chair.

I thank the hon. colleague for drawing attention to that item. The language used in this particular bill, first of all for the record, would be consistent with many other acts that are currently within the Province. Two, in particular, come to mind: the Auditor General Act and the House of Assembly Act. Both of which provide protection, if you will, to Cabinet deliberations. That would be very much not unique to Newfoundland and Labrador, but what would be very much the standard practice throughout Canada, in particular, and part of the democratic process where it is recognized that in Cabinet deliberations it is expected that members ought to be able to speak freely and participate openly in the decision-making process.

There is certainly no intent in this bill to have any of this language show something different, something untoward, or a different direction than what would exist in other particular pieces of legislation with the same clauses attached.

CHAIR: The hon. the Member for Burgeo – La Poile.

MR. A. PARSONS: Thank you, Mr. Chair.

I guess the point of the question – and I appreciate the minister answering the question, but where we are getting at is that the difference here is that this piece of legislation provides protection against those who want to disclose it. By asking it, I am not inferring wrongdoing, I am not saying wrongdoing, anything like that, but what I am saying is that in no way, shape or form is the Cabinet subject to whistleblower legislation. The rest of the public service is, everybody else is, but Cabinet is not subject to this. So, an individual who may have information – that would go back to clause 4, I believe it was, where we talked about the

different forms of wrongdoing – would not have that protection.

I am putting that out there. I want it on the record. I think it should be noted. Again, I am not even putting an amendment out because I know for a fact that it would not get accepted – or, I guess, supported; but I am putting it out there because I think it is due some recognition that people who may have that are not given that protection under this piece of legislation.

Thank you, Mr. Chair.

CHAIR: The hon. the Minister of Education.

MR. KING: Thank you, Mr. Chair.

I accept the member's comments for the spirit for which they are intended. Just to clarify, this clause does not exempt Cabinet ministers from whistleblower. What it does is it provides protection for the Cabinet proceedings, the actual Cabinet meetings. That policy has followed Progressive Conservative governments and Liberal governments in Newfoundland and Labrador since we have been here, and it follows all other governments across Canada. There is nothing different or untoward about that language; but, to be very clear, it is Cabinet proceedings. It is not protection for Cabinet ministers in their day-to-day dealings of their work. It is only the deliberations of Cabinet in the Cabinet room.

CHAIR: Shall clause 11 carry?

All those in favour, 'aye'.

SOME HON. MEMBERS: Aye.

CHAIR: All those against, 'nay'.

Carried.

On motion, clause 11 carried.

CLERK: Clauses 12 and 13.

CHAIR: Shall clauses 12 and 13 carry?

All those in favour, 'aye'.

SOME HON. MEMBERS: Aye.

CHAIR: All those against, 'nay'.

Carried.

On motion, clauses 12 through 13 carried.

CLERK: Clause 14.

CHAIR: Shall clause 14 carry?

The hon. the Member for The Straits – White Bay North.

MR. MITCHELMORE: Thank you, Mr. Chair.

Clause 14 is around the investigation by the Citizens' Representative. I just wanted to have a little bit of discussion around this and ask a couple of questions.

It states: The citizens' representative is responsible for the investigation, and the investigation shall be conducted as informally and expeditiously as possible. Now, other pieces of legislation that I have reviewed has listed that there would also be a mechanism which would require the Office of the Citizens' Representative to inform the employee who is making the request, the disclosure, or blowing the whistle over a period of time; sometimes it would be over a period of ninety days.

There is no time limit listed to go back to at least inform them of the status of the investigation. Also, when it comes to consent, when it comes to sharing information, sometimes there is an expiry lapse of once you give that consent to share with other departments within government, after a certain period of time has lapsed then they would have to go back and get consent again.

There is nothing listed here in this piece of legislation that clarifies that process. Maybe the minister will clarify the reason why it is not listed, or maybe this will be something that would be identified in a regulation that would come forward based on this process, to outline clearly when the Citizens' Representative conducts an investigation that it does put a mechanism in place knowing that action is being taken and the person who blows the whistle is informed throughout the process, and that

consent is requested within the ninety days and every ninety days thereafter to continue such a process.

I would just like to ask those questions as to why such a process was not included as it has been in other pieces of legislation.

Thank you, Mr. Chair.

CHAIR: The hon. the Minister of Education.

MR. KING: Thank you, Mr. Chair.

This is more for clarification perhaps. To the Member for The Straits – White Bay North, are you asking about a process where a complainant or someone who files a complaint gets acknowledgement that the complaint is received, or are you asking if or why there should be updates provided to the complainant on a process? Just to be clear.

CHAIR: The hon. the Member for The Straits – White Bay North.

MR. MITCHELMORE: Thank you, Mr. Chair.

What I am asking about is once a complaint is received, an investigation – it states under this piece – should be conducted as informally and expeditiously as possible. In other pieces of legislation there is a ninety-day process where the person who has blown the whistle, who has made the complaint, is updated. There is no clause here that highlights that the Citizens' Representative is obligated to provide any type of update.

Also, over the course of time if somebody consented to give their information to departments, is that consent extended beyond ninety days? How long can that information then be shared with departments? Because normally there would be a process in place where consent would have to be given after a period of ninety days.

CHAIR: The hon. the Minister of Education.

MR. KING: Thank you, Mr. Chair.

I draw members' attention to page 9 of the bill, or specifically section 18.(4). There is commentary there which indicates, "The citizens' representative shall report on the result of his or her investigation to the employee whose disclosure initiated the investigation in the manner and at the time of the citizens' representative considers appropriate." I think that is the clause that speaks to the issue we are discussing here.

CHAIR: The hon. the Member for The Straits – White Bay North.

MR. MITCHELMORE: The particular matter is the timelines, it is open ended. It does not give any timeline or any responsibility for the Citizens' Representative to go back and report to the person who is making a legitimate complaint of a wrongdoing that is happening. I am asking for consideration that either – it is not clearly written in the legislation itself but I want to make the point for the record that the Citizens' Representative should have an obligation to go back. It should be clearly stated.

Maybe that is something the minister would consider in a regulation or direction to the Citizens' Representative on a go-forward basis. Just something for consideration. I am not proposing an amendment to the particular piece of legislation but just asking for some consideration on that because it is not clearly stated in the legislation here.

Also, around the point of one consent is given, if the minister could clarify that. Does it expire or not? If I give consent to the Citizens' Representative does it go forever and a day, or would there be a process where the person would have to give consent again if too much time has lapsed?

CHAIR: Shall clause 14 carry?

All those in favour, 'aye'.

SOME HON. MEMBERS: Aye.

CHAIR: All those against, 'nay'.

Carried.

On motion, clause 14 carried.

CLERK: Clauses 15 through 19 inclusive.

CHAIR: Shall clauses 15 through 19 inclusive carry?

All those in favour, 'aye'.

SOME HON. MEMBERS: Aye.

CHAIR: All those against, 'nay'.

Carried.

On motion, clauses 15 through 19 carried.

CLERK: Clause 20.

CHAIR: Shall clause 20 carry?

The hon. the Member for Burgeo – La Poile.

MR. A. PARSONS: Thank you, Mr. Chair.

I am speaking to clause 20 of the whistleblower act, and this is the annual report. This is an important part of what the Citizens' Representative is going to do. To lay it out, "The citizens' representative shall make an annual report to the House of Assembly on the exercise and performance of his or her functions and duties under this Act, setting out (a) the number of inquiries relating to this Act; (b) the number of disclosures received and the number acted on and not acted on; (c) the number of investigations commenced under this Act; (d) the number of recommendations ...". It is all good stuff. It is certainly not an issue, and necessary. It is not an issue.

However, when we get to sub (2) it says, "The report shall be given to the Speaker, who shall table a copy of it in the House of Assembly within 15 days after receiving it if the Assembly is sitting or, if it is not, within 15 days after the next sitting begins." That is the issue we have. Obviously, the report has to be tabled here in the House. That is what we want to see, that is what the public wants to see. However, what if the report comes and the House is not sitting? What if we have a situation where the House empties out in June and goes until next March – because that has happened – and there is no sitting in the House? That report sits there, it is not tabled. We are not going to get to see it.

What we are suggesting, and I do have an amendment here to it, and before I get to the subject of what I am saying – I do not want to not be able to speak to it. What we are saying is it should be in such a way that if it is fifteen days and the House is in session, great, that is what we want. If the House is not in session, there should be a format by which after fifteen days it can be received by the Clerk and then deemed to have been tabled by the Clerk, therefore becoming public knowledge to all those out there. That way the information is out there in a timely fashion. I do not see any way in why that would not be appropriate and necessary.

I am unsure in the past as to whether there have been cases where public reports should have been received and sat there on the desk because the House was not sitting. I do not see any reason why this could not happen. So, I am going to propose an amendment.

“Subclause 20(2) of the Bill is amended by deleting the words ‘within 15 days after the next sitting begins’ and substituting the words and comma ‘the Speaker shall give a copy of the report to the Clerk of the House of Assembly and 15 days after receipt of that report by the Clerk it shall be considered to have been tabled in the House’”.

CHAIR: The House will take a brief recess to consider the amendment.

Recess

CHAIR: Order, please!

We have considered the amendment to be in order.

The hon. the Minister of Education.

MR. KING: Thank you, Mr. Chair.

I thank the member for proposing the amendment. As I understand it, the intent as proposed here is simply to make sure the documents that are tabled within the fifteen-day time period become a matter of public record in instances where the House of Assembly is not sitting. Government has no issue with that

amendment, and we will certainly be supporting it.

CHAIR: Shall the amendment carry?

All those in favour, ‘aye’.

SOME HON. MEMBERS: Aye.

CHAIR: All those against, ‘nay’.

The amendment is carried.

On motion, amendment carried.

CHAIR: Shall clause 20 carry?

All those in favour, ‘aye’.

SOME HON. MEMBERS: Aye.

CHAIR: All those against, ‘nay’.

Carried.

On motion, clause 20 carried.

CLERK: Clause 21.

CHAIR: Shall clause 21 carry?

The hon. the Member for Burgeo – La Poile.

MR. A. PARSONS: Thank you, Mr. Chair.

I am sorry if I am smiling so much now. I pulled something off here I never thought possible.

I would like to thank the Minister of Education who really spoke to this. I do not know if the Minister of Municipal Affairs had anything to do with it, but I give the credit to the minister who spoke. In all seriousness, I am glad to see that.

Moving forward, this section is 21. Section 21(1) says, “A person shall not take a reprisal against an employee or direct that one be taken against an employee because the employee has, in good faith, (a) sought advice about making a disclosure from the citizens’ representative; (b) made a disclosure; or (c) cooperated in an investigation under this Act”. Section 21(2) says, “A person who takes a reprisal against an

employee or directs that one be taken contrary to subsection (1) is subject to appropriate disciplinary action, including termination of employment..." This is a good thing.

Obviously we do not want to see reprisals. The only thing we would suggest is adding an employee or former employee.

We are going to be proposing an amendment to section 21(2). Subclause 21(2) of the bill is amended by adding immediately after the word employee, the words or former employee.

CHAIR: Order, please!

The House will take a brief recess to consider the amendment.

Recess

CHAIR: Order, please!

We have considered the amendment to be in order.

The hon. the Minister of Municipal and Intergovernmental Affairs.

MR. KENT: Thank you, Mr. Chair.

Once again, I extend my appreciation to members opposite for their participation in the Committee stage of debate this evening. Some good suggestions and some interesting suggestions have been made through a number of amendments that have been proposed.

On this particular amendment, and we are talking about subclause 21.(2) of the bill, it is proposed to add the words "or former employee" after the word "employee". I think I understand the spirit and intent behind the amendment. I appreciate where members are coming from. I would point out that clause 21 is a notice provision. When you step back and think about it, I cannot think of a circumstance – I cannot think of how a reprisal could be taken against a former employee.

So you will notice further in the bill, even in the very next clause, in clause 22, there is reference to a former employee. I think members were striving for consistency and trying to ensure that basis is covered. When you look at the

definition of reprisal in subclause 2.(j) it says "‘reprisal’ means one or more of the following measures taken against an employee because the employee has, in good faith, sought advice about making a disclosure, made a disclosure or cooperated in an investigation under this Act".

To have a reprisal taken against you, at that point in time when a reprisal is taken against you, you have to be an employee; but in the next clause, which we will get to, it does include former employees for good reason, because in that instance it makes sense.

It may be that there is just some confusion between clause 21 and 22, because again, I cannot think of how a reprisal could be taken against someone who is not a former employee. Protection for former employees, which I would suspect is the intent behind the amendment, to protect former employees, and that is a good intent, that is actually covered under clause 22, which we will hopefully debate shortly. So, I appreciate the suggestion. I really believe that this is covered elsewhere in the legislation, and that the amendment as proposed would not actually be necessary for the reasons that I have just explained. I do appreciate and acknowledge the suggestion, Mr. Chair.

CHAIR: Shall the amendment carry?

All those in favour, ‘aye’.

All those against, ‘nay’.

SOME HON. MEMBERS: Nay.

CHAIR: The amendment is defeated.

Shall clause 21 carry?

All those in favour, ‘aye’.

SOME HON. MEMBERS: Aye.

CHAIR: All those against, ‘nay’.

Carried.

On motion, clause 21 carried.

CLERK: Clauses 22 through 30 inclusive.

CHAIR: Shall clauses 22 through 30 inclusive carry?

The hon. the Member for Burgeo – La Poile.

MR. A. PARSONS: Thank you, Mr. Chair.

I have a quick question for the minister on section 28, Regulations. It says: The Lieutenant Governor in Council may make regulations (a) designating a body as a public body; (b) exempting acts or regulations; (c) respecting the provision of legal advice; and generally, to give effect. So I would just ask the minister: When it comes to the associated regulations, is there any timeline in which to have these in place? Has that been considered at this time?

CHAIR: The hon. the Minister of Municipal and Intergovernmental Affairs.

MR. KENT: Mr. Chair, I thank the member for his question, and I will endeavour to get him a more precise answer than the one I am about to give. We recognize that it will take some time. The language that is proposed here in terms of how regulations will be made is consistent with other jurisdictions, and a lot of what exists in other jurisdictions relates to the internal disclosure process. Any regulations that we develop would only address our single-disclosure process, of course. We certainly want to move quickly to get those regulations in place, and we will do the appropriate consultation to do so.

In terms of a precise time frame, I would be happy to reflect a little further on that and get back to the hon. member in short order.

CHAIR: Shall clauses 22 through 30 inclusive carry?

All those in favour, 'aye'.

SOME HON. MEMBERS: Aye.

CHAIR: All those against, 'nay'.

Carried.

On motion, clauses 22 through 30 carried.

CLERK: Be it enacted by the Lieutenant-Governor and House of Assembly in Legislative Session convened, as follows.

CHAIR: Shall the enacting clause carry?

All those in favour, 'aye'.

SOME HON. MEMBERS: Aye.

CHAIR: All those against, 'nay'.

Carried.

On motion, enacting clause carried.

CLERK: A bill, An Act Respecting Public Interest Disclosure.

CHAIR: Shall the title carry?

All those in favour, 'aye'.

SOME HON. MEMBERS: Aye.

CHAIR: All those against, 'nay'.

Carried.

On motion, title carried.

CHAIR: Shall I report the bill with amendment?

All those in favour, 'aye'.

SOME HON. MEMBERS: Aye.

CHAIR: All those against, 'nay'.

Carried.

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

CHAIR: The hon. the Government House Leader.

MR. KING: Thank you, Mr. Chair.

I move, seconded by the Minister of Fisheries and Aquaculture, that the Committee rise and report the bill as amended.

CHAIR: The motion is that the Committee rise and report Bill 1 as amended.

All those in favour, 'aye'.

SOME HON. MEMBERS: Aye.

CHAIR: All those against, 'nay'.

Carried.

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

MR. SPEAKER (Wiseman): The hon. the Member for the District of Lewisporte.

MR. VERGE: Mr. Speaker, the Committee of the Whole have considered the matters to them referred and have directed me to report Bill 1 carried with an amendment.

MR. SPEAKER: The Chair of Committee of the Whole reports that the Committee have considered the matters to them referred and have carried Bill 1 with amendment.

When shall the report be received?

MR. KING: Now.

MR. SPEAKER: Now.

On motion, report received and adopted.

MR. SPEAKER: When shall the bill be read a third time?

MR. KING: Now.

MR. SPEAKER: Now.

MR. SPEAKER: The hon. the Government House Leader.

MR. KING: Thank you, Mr. Speaker.

I move, seconded by the Member for Port de Grave, that Bill 1, An Act Respecting Public Interest Disclosure, be now read the third time.

MR. SPEAKER: We need to deal with the amendment first, Government House Leader.

Do you want to move and have it seconded that the amendment be now read a first time? The amendments we have to deal with first.

MR. KING: Thank you, Mr. Speaker.

I move, seconded by the Member for Port de Grave, that the bill, as amended, be now read the first time.

MR. SPEAKER: It is moved and seconded that the amendments be now read a first time.

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

All those in favour, 'aye'.

SOME HON. MEMBERS: Aye.

MR. SPEAKER: All those against, 'nay'.

Motion carried.

CLERK: First reading of amendment.

MR. SPEAKER: The hon. the Government House Leader.

MR. KING: Thank you, Mr. Speaker.

I move, seconded by the Minister of Innovation, Business and Rural Development, that the amended bill be now read the second time.

MR. SPEAKER: It is moved and seconded that the amendments be now read a second time.

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

All those in favour, 'aye'.

SOME HON. MEMBERS: Aye.

MR. SPEAKER: All those against, 'nay'.

Motion carried.

CLERK: Second reading of amendment.

MR. SPEAKER: The hon. the Government House Leader.

MR. KING: Thank you, Mr. Speaker.

At this time I move, seconded by the Member for Harbour Main, that Bill 1, An Act Respecting Public Interest Disclosure, be now read the third time.

MR. SPEAKER: It is moved and seconded that the said bill be now read a third time.

Is it the pleasure of the House to adopt the motion that Bill 1 be now read a third time?

All those in favour, 'aye'.

SOME HON. MEMBERS: Aye.

MR. SPEAKER: All those against, 'nay'.

Motion carried.

On motion, amendments read a first and second time. Bill ordered read a third time presently, by leave

CLERK: A bill, An Act Respecting Public Interest Disclosure. (Bill 1)

MR. SPEAKER: The bill has now been read a third time and it is ordered that the bill do pass and its title be as on the Order Paper.

On motion, a bill, "An Act Respecting Public Interest Disclosure", read a third time, ordered passed and its title be as on the Order Paper. (Bill 1)

MR. SPEAKER: The hon. the Government House Leader.

MR. KING: Thank you, Mr. Speaker.

I move, seconded by the Minister of Child, Youth and Family Services, that the House do now adjourn.

MR. SPEAKER: It is moved and seconded that the House do now adjourn.

All those in favour, 'aye'.

SOME HON. MEMBERS: Aye.

MR. SPEAKER: All those against, 'nay'.

Motion carried.

The House stands adjourned until 2:00 p.m. tomorrow afternoon.

On motion, the House at its rising adjourned until tomorrow, Wednesday, at 2:00 p.m.