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*Speaker: Honourable Perry Trimper, MHA*

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The House met at 1:30 p.m.

**MR. SPEAKER (Trimper):** Order, please!

Admit strangers.

I would like today to welcome some guests in the public gallery; first of all, Ms. Lisa Crockwell and Ms. Annette Johns from the Newfoundland and Labrador Association of Social Workers.

A big welcome to you.

**SOME HON. MEMBERS:** Hear, hear!

**MR. SPEAKER:** Also, I'd like to welcome in the public gallery a very important colleague, Dr. Suzanne Brake, Seniors' Advocate from the Office of the Seniors' Advocate.

Welcome to you.

**SOME HON. MEMBERS:** Hear, hear!

#### Statements by Members

**MR. SPEAKER:** Today we will hear statements from the hon. Members for the Districts of Lewisporte - Twillingate, Fogo Island - Cape Freels, Conception Bay East - Bell Island, Placentia West - Bellevue and Virginia Waters - Pleasantville.

Before I recognize, I would like to point out our most important MHA visiting us today, Mr. George Murphy, former MHA of the House.

Welcome, Sir.

**SOME HON. MEMBERS:** Hear, hear!

**MR. SPEAKER:** I do thank the Clerk for her very sharp eyes.

With that, I would like to invite the hon. Member for Lewisporte - Twillingate for a Member's statement, please.

**SOME HON. MEMBERS:** Hear, hear!

**MR. BENNETT:** Thank you, Mr. Speaker.

Volunteer firefighters and first responders play a vital role in protecting our communities and residents.

On March 3, I had the honour of attending the Lewisporte Fire Rescue Annual Banquet and Awards Ceremony.

The 32 member department responded to 43 calls last year ranging from house fires, vehicle and snowmobile accidents, and other emergencies.

In addition, they run a vigorous training program, involved in community events, organize fire prevention initiatives and a very successful Junior Firefighters Program. Together, they logged close to 10,000 volunteer hours.

Two firefighters were recognized with long service awards. Brian Parady received his 20 year service medal, while Barry Budden was presented with his 35 year service bar.

The highlight of the evening was the prestigious Firefighter of the Year Award. Dave Ryan was given this honour for his dedicated service and actions that helped to save the life of a person at a local restaurant.

Mr. Speaker, I ask all Members to join me in thanking the Lewisporte Fire Rescue for the devoted service, and Firefighter of the Year, Dave Ryan, for his heroic efforts.

Thank you.

**SOME HON. MEMBERS:** Hear, hear!

**MR. SPEAKER:** The hon. the Member for Fogo Island - Cape Freels.

**MR. BRAGG:** Thank you, Mr. Speaker.

It's always a pleasure to rise in this hon. house and inform my colleagues of the great events that happen in my district. I'm delighted to report that February 11-18 was winter festival week in Centreville-Wareham-Trinity and Indian Bay.

Lorraine Ackerman and her dedicated group of volunteers hosted the 25th annual event. Their

slogan was: keep the spirit alive in 25 – and keep it alive they did.

The opening ceremony attracted over 500 people. Their mascot, Wille Melt, led the festival every day. If you ever wanted to see the perfect example of how to host a successful event, visit these guys.

Good fellowship and community spirit was always on the menu. The week was filled with great food, great music and fun activities for folks of all ages. Although there was no snow, this committee always had something on the go.

I ask all Members to join with me in thanking the Centreville-Wareham-Trinity and Indian Bay festival committee and their volunteers for another successful winter carnival.

Thank you, Mr. Speaker.

**SOME HON. MEMBERS:** Hear, hear!

**MR. SPEAKER:** The hon. the Member for the District of Conception Bay East - Bell Island.

**MR. BRAZIL:** Thank you, Mr. Speaker.

I stand today to recognize a constituent of mine who earlier this year was appointed to the Order of Canada. I speak of lifelong volunteer and community leader, Ms. Joyce Churchill, of Portugal Cove - St. Philip's.

Joyce has had a very active life as a full-time nurse, business woman, former mayor, mother of a son with special needs, cancer survivor and community activist. She has made both measurable and immeasurable contributions to the local and broader community at all levels, and particularly in the content of individuals and families struggling with severe medical or social challenges.

In addition to the many roles she has played over her lifetime, Joyce managed to find time to be a founding member of the Autism Society of Newfoundland and Labrador. She also was a driving force in the establishment of the Elaine Dobbin Centre for Autism and served as the president of the Autism Society for more than a decade.

Her contributions to our province were recognized with her induction into the Newfoundland and Labrador Volunteer Hall of Fame in 2013.

I ask all Members to join me in congratulating Joyce Churchill on being appointed to the Order of Canada and thank her for her contribution to our province.

Thank you, Mr. Speaker.

**SOME HON. MEMBERS:** Hear, hear!

**MR. SPEAKER:** The hon. the Member for Placentia West - Bellevue.

**MR. BROWNE:** Mr. Speaker, Team Broken Earth, under the leadership of Dr. Andrew Fury, has offered a helping reach to many distressed parts of the globe.

I rise today to recognize Loretta Ryan of Come by Chance and Kelsie Lockyer of Arnold's Cove who both recently joined fellow Lions on a Broken Earth mission to Nicaragua, assisting in the eye treatment clinic which includes providing eye exams, glasses and general information to those in need.

While in-country, this team performed 974 eye exams and provided much-needed support to this impoverished country with autism specialists. Giving the gift of a first pair of glasses to a child, visiting the school for the blind and witnessing elders have their first visit of their lives with a doctor, both have described these experiences as amazing and life changing.

Loretta has been a member of the Come By Chance Lions Club for over 21 years, while Kelsie is a current member of the Memorial University Lions Club and was a Leo sponsored into the organizations by none other than Loretta herself.

Mr. Speaker, I ask all hon. Members to join me in thanking both Loretta and Kelsie for their unwavering sense of volunteerism and dedication to serving those in their communities and the world who are most in need.

Thank you, Mr. Speaker.

**SOME HON. MEMBERS:** Hear, hear!

**MR. SPEAKER:** The hon. the Member for Virginia Waters - Pleasantville.

**MR. B. DAVIS:** Thank you, Mr. Speaker.

I rise in this hon. House, Mr. Speaker, to pay tribute to the Chinese Association of Newfoundland and Labrador and the fantastic evening they hosted at the CLB Armoury on February 17 to kick off the Chinese New Year celebration.

This event saw approximately 375 people in attendance to join with the Chinese community, making it the biggest celebration to date. The night also saw the Chinese Association of Newfoundland and Labrador founder honoured with the Senate of Canada 150 anniversary medal.

Dr. Kim Hong founded the association in 1976 and has watched the organization and their presence in the community grow over the past 42 years. Dr. Hong founded the Chinese Association of Newfoundland and Labrador with a vision to “make us better citizens of the land. By trying to achieve that, you would have social events and functions, integrate with the larger community and thereby become better citizens.”

The event certainly encompassed that value as we welcomed in the Year of the Dog, which represents loyalty and hard work, making the entire evening and the tribute to Dr. Hong extremely fitting.

Sharing our cultures is what makes St. John’s and our province the vibrant community it is. I’m already looking forward to next year.

Gung Hay Fat Choy King Hong Fai La.

**SOME HON. MEMBERS:** Hear, hear!

**MR. SPEAKER:** Statements by Ministers.

#### Statements by Ministers

**MR. SPEAKER:** The hon. the Minister of Children, Seniors and Social Development.

**MS. DEMPSTER:** Thank you.

Mr. Speaker, I rise today to pay tribute to our province’s social workers during National Social Work Month.

Every year in March, Canada celebrates the important contributions of social workers to society. This year’s theme, Bringing Change to Life, highlights their work and the real difference social workers make in the lives of people, families and communities throughout the country.

Mr. Speaker, in Newfoundland and Labrador social work is a regulated profession focused on ensuring quality service to the public through the work of more than 1,500 registered social workers. They practice within hospitals, seniors’ homes, adult and youth corrections, child welfare, addictions, mental health, community centres, government departments, universities, private practice and consulting businesses.

The social work profession is incredibly diverse and the important and valuable contributions of social workers help enhance the health and well-being of individuals, families and communities in our society every day.

Social workers perform their work with a high level of professionalism in what are often challenging situations. Many social workers are employed with my department and I have had the opportunity to visit a number of offices throughout the province. These visits have given me a greater appreciation for the valuable work that they do and I extend my personal gratitude to all social workers.

Mr. Speaker, I encourage social workers to participate in the many activities taking place throughout the month to highlight the profession and ask all hon. Members to join me in recognizing social workers for their ongoing dedication and support.

Thank you.

**SOME HON. MEMBERS:** Hear, hear!

**MR. SPEAKER:** The hon. the Member for Conception Bay East - Bell Island.

**MR. BRAZIL:** Thank you, Mr. Speaker.

I thank the minister for an advance copy of her statement. Mr. Speaker, our caucus joins with the government in recognizing the important contributions which our province's social workers make to our province's families, communities and society as a whole. Social workers often face challenging situations as they carry out their day-to-day duties and keep the best interests of their clients in mind.

Not only would I like to recognize the social workers who work in our schools, seniors' homes, correction facilities, hospitals and government departments, but I also wish to recognize the team at Memorial University who train and educate our social workers to be compassionate, professional and diligent in their duties.

During the National Social Work Month, I encourage all members of our community to take the chance to recognize those social workers and provide support and advice.

Thank you, Mr. Speaker.

**SOME HON. MEMBERS:** Hear, hear!

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

**MS. ROGERS:** Thank you, Mr. Speaker.

I thank the minister. As a result of cumulative budget cuts, more and more of our people are having a harder time making ends meet or having their basic needs met, especially seniors and those who rely on our social safety nets, like home care, income support, housing, adult dental care, bus passes and more.

It is our front line social workers, our brilliant problem solvers, all 1,500 of them who are there advocating for our people. They are a veritable love army working to ensure all people are able to thrive.

Thank you, social workers of Newfoundland and Labrador. Thank you for your passion and compassion.

Bravo!

Thank you, Mr. Speaker.

**MR. SPEAKER:** Further statements by ministers?

The hon. the Minister of Tourism, Culture, Industry and Innovation.

**SOME HON. MEMBERS:** Hear, hear!

**MR. MITCHELMORE:** Thank you, Mr. Speaker.

I rise in this hon. House today, on the heels of celebrating the ongoing success of the province's tourism industry, to laud the achievements of the Newfoundland and Labrador film and television industry.

A few weeks ago, joined by the Premier and the parliamentary secretary for Tourism, Culture, Industry and Innovation, I had the opportunity to visit Middle Cove Beach to tour the set of the successful television series, *Frontier*.

Mr. Speaker, what an amazing backdrop for the popular Netflix series, now filming its third season right here in our province.

The total production expenditure for three seasons of *Frontier* is approximately \$73 million. Of that, 62 per cent, or \$40 million, was spent right here in Newfoundland and Labrador.

Mr. Speaker, *Frontier* is just one of the productions being undertaken in the province. Just last week, two new programs launched on CBC: *Caught* which stars Allan Hawco and is based on the phenomenal book by local author Lisa Moore; and *Little Dog* which is written by and stars Joel Thomas Hynes and is produced by Sherry White.

I am pleased to note that the total production value of film and television in Newfoundland and Labrador exceeded \$50 million for the first time in history in 2017-18.

**SOME HON. MEMBERS:** Hear, hear!

**MR. MITCHELMORE:** That is why our government doubled our Equity Investment Fund for Film and Television production to \$4 million in *Budget 2017*.

Mr. Speaker, this industry is a generator of well-paid, skilled jobs and leverages new investment from sources outside the province.

Beyond direct employment, the local film and television industry creates economic spinoffs through spending on construction supplies, gas, car rentals, hotels, food and a wide variety of other goods and services necessary to make a film or a television show.

Mr. Speaker, the Newfoundland and Labrador film and television industry is experiencing a strong period of growth and success, and we will continue to work to ensure that we capitalize on all these opportunities.

Thank you.

**SOME HON. MEMBERS:** Hear, hear!

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

**MR. P. DAVIS:** Thank you, Mr. Speaker.

I thank the minister for an advance copy of his statement today. We join with the government in celebrating the achievements of the Newfoundland and Labrador film and television industry, just one branch of a very successful cultural and arts community that we have in this province.

He's mentioned some of the more recent productions, Mr. Speaker, that have been successful. We know that a tremendous amount of work and investment has gone on over the last decade or so to continue to have inputs and increases in the film and television industry. Those investments are paying off.

Mr. Speaker, I'd be remiss if I didn't take a very quick second just to point out that I was impressed to watch Sally Hawkins last night. She was on the stage of the Oscars for her role in the award-winning *The Shape of Water*.

But I point out as well that Sally Hawkins spent time here in Newfoundland and Labrador in the last couple of years in her role and a very powerful role in the successful film *Maudie* that was shot right here in our province. That was

backed by a great production team, including Mary Sexton and others.

I think we should applaud them as well for their great work and achievements they've done. They continue to put Newfoundland and Labrador on the map.

Thank you.

**SOME HON. MEMBERS:** Hear, hear!

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

**MS. ROGERS:** Thank you very much, Mr. Speaker, and to the minister.

As a filmmaker, it has been wonderful to watch our industry grow. Usually our big film projects begin with a crucial, very small grant from NL arts for someone like Lisa Moore with a vision and the seed of a story idea. Then it builds and builds with more and more people being brought on the team to share their creativity and expertise. Then we see the culmination of all that brilliance and teamwork on the screen – hallelujah!

*Caught, Little Dog, Maudie* and the smaller ones, too, and the TV series, congratulations to all those who have worked so hard with such dedication and passion. I can't wait to see what's next. Bravo to my friends who are making magic for us all!

Thank you, Mr. Speaker.

**SOME HON. MEMBERS:** Hear, hear!

**MR. SPEAKER:** Further statements by ministers?

Oral Questions.

### Oral Questions

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

**MR. P. DAVIS:** Thank you, Mr. Speaker.

Mr. Speaker, information contained in a recent RFP for an agency of record issued by The

Rooms read that it would be improper for The Rooms to enter into a contract with a firm that's working in direct conflict with the provincial government.

So I ask the Premier today: Premier, did your government provide any direction whatsoever to disqualify marketing agencies from consideration if they have done work which is viewed as being critical of government?

**MR. SPEAKER:** The hon. the Minister of Tourism, Culture, Industry and Innovation.

**MR. MITCHELMORE:** Thank you, Mr. Speaker.

As I said in response to the media on Thursday when this matter came to light that, as minister responsible for The Rooms, I gave no direction, or had no insight. The Rooms is an arms-length organization, as a Crown corporation. They have the authority to operate and issue an RFP to procure the appropriate resources.

They do not have to follow the *Public Tender Act*, nor do they have to follow the Government Purchasing Agency. They do have to follow Treasury Board guidelines, and this is something that The Rooms itself has undertaken.

The CEO of The Rooms has issued a statement highlighting an example that was in the Q&As that highlights that they used a poor example. But they have highlighted that the process was fair, open and transparent in awarding the contract.

**SOME HON. MEMBERS:** Hear, hear!

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

**MR. P. DAVIS:** Thank you, Mr. Speaker.

Maybe the minister can explain how the example given can be fair and inclusive when it actually excluded potential applicants.

**MR. SPEAKER:** The hon. the Minister of Tourism, Culture, Industry and Innovation.

**MR. MITCHELMORE:** Thank you, Mr. Speaker.

I had spoken to the CEO of The Rooms and they have identified that this was an RFP that they had issued. It was a request for proposals to procure a marketing and communications firm to do a specific piece of work. Any marketing agency or firm had the opportunity to make a submission. There were multiple submissions and that it was evaluated in a fair, open and transparent process in awarding the particular contract.

If the Member opposite has information to state otherwise, that there was a company of record that applied, that was rejected or whatnot, an unfair process, then he should bring that forward.

Thank you.

**SOME HON. MEMBERS:** Hear, hear!

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

**MR. P. DAVIS:** Thank you, Mr. Speaker.

In the RFP it's noted that an agency of record that represented a lobby group protesting Muskrat Falls would be in a conflict of interest. There may be companies – it could be virtually impossible for us to know if there are companies who could have applied, so my question to the minister is: How are you going to make sure it was an open, transparent and fair process if companies chose not to apply or give it a second look because of this type of language in the RFP?

**MR. SPEAKER:** The hon. the Minister of Tourism, Culture, Industry and Innovation.

**MR. MITCHELMORE:** Thank you, Mr. Speaker.

I'm certainly not going to get into theoreticals because there was no company that has issued a concern with The Rooms itself in the RFP since this matter has come to light. If there was, they certainly would have made that known throughout the process.

When it comes to conflict of interest, there are guidelines that are issued when it comes to RFPs that agencies, boards and commissions would

put into place. This is not something that government directed; this is something that The Rooms has done to procure a marketing and communications firm. They have done so in a fair and open and transparent process. They have identified that they used a poor example in their Q and A and that's something that The Rooms has since apologized for. The contract has been awarded and a Newfoundland and Labrador company, highly reputable firm, has been awarded this contract.

**SOME HON. MEMBERS:** Hear, hear!

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

**MR. P. DAVIS:** Thank you, Mr. Speaker.

No, they certainly haven't apologized for the process they used; they only apologized for the example.

I ask the Premier, the deputy minister of TCII was a hand-picked Liberal connected appointee who's appointed as deputy minister in the department and my understanding still sits on the board of directors for The Rooms.

I ask the Premier: Can you confirm that the deputy minister still sits on the board of directors?

**MR. SPEAKER:** The hon. the Minister of Tourism, Culture, Industry and Innovation.

**MR. MITCHELMORE:** Thank you, Mr. Speaker.

When it comes to the board of directors of The Rooms, there is a position for either the deputy minister or the assistant deputy minister that would have a particular seat on the board of directors of The Rooms. It's an 11-person board and we look forward to the appointments that will be made for outstanding members of The Rooms as well in the very near future.

Thank you.

**SOME HON. MEMBERS:** Hear, hear!

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

**MR. P. DAVIS:** Thank you, Mr. Speaker.

Can the minister tell us if the deputy minister and/or the assistant deputy minister sit on the board? Is it both or just one that sits on the board?

**MR. SPEAKER:** The hon. the Minister of Tourism, Culture, Industry and Innovation.

**MR. MITCHELMORE:** A representative that would sit from my particular Department of TCII would either be the deputy minister or the assistant deputy minister. The deputy minister has been attending board meetings of The Rooms that sits quarterly, but the correlation of this particular RFP is within the role and the authority of the CEO of The Rooms. They had decided that they would go out and procure marketing and communications contract that would be required for them to achieve their strategic vision. This is not abnormal for an agency, board or commission to go out and procure marketing and communication expertise. Many agencies, boards and entities have an agency of record.

**SOME HON. MEMBERS:** Hear, hear!

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

**MR. P. DAVIS:** Thank you, Mr. Speaker.

So the deputy minister sits on the board, has been sitting and attending the meetings of the board.

Was the deputy minister aware of this and participated in all, in the decisions of this RFP? I'm sure the board would have approved the RFP before it was released. Did the deputy minister participate in that process?

**MR. SPEAKER:** The hon. the Minister of Tourism, Culture, Industry and Innovation.

**MR. MITCHELMORE:** Mr. Speaker, as I said on the onset at the beginning questions, as minister, I don't approve or manage the day-to-day operations of The Rooms, nor would the board. It is the CEO and the management team that would be dealing with the day-to-day operations of the board and the activities. They



went out, through a request for proposals, to procure marketing and communications expertise which they have done.

In their Q & A that they put forward on their website, they highlight a particular conflict of interest, that if somebody is going to go and do business on one for an agency, board or commission and then have clients that could be in conflict, then that composes a problem. The same way as if you were representing government and you represent employees in negotiations.

You can't represent both, and that's all that was being put forward. They used a poor example, Mr. Speaker, and they apologized.

**SOME HON. MEMBERS:** Hear, hear!

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

**MR. P. DAVIS:** Thank you, Mr. Speaker.

It sounds like the deputy minister was aware of it. It was a very simple question. I'm trying to understand exactly what the position is on the minister of this because he doesn't seem to want to give a direct answer. It sounds like the deputy minister was involved with this.

Did the deputy minister make you aware of it, Minister, before it went out?

**MR. SPEAKER:** The Minister of Tourism, Culture, Industry and Innovation.

**MR. MITCHELMORE:** Mr. Speaker, I'm not sure what I need to say further, but the day-to-day operations of The Rooms rests with the CEO and his management team. He has the authority and the role to issue a request for proposals to go out and procure an agency of record to fill their marketing and communications needs and they've done that.

**SOME HON. MEMBERS:** Hear, hear!

**MR. SPEAKER:** The hon. the Opposition House Leader.

**MR. HUTCHINGS:** Thank you, Mr. Speaker.

Mr. Speaker, on Thursday past when asked about the federal budget, the Finance Minister said: We're still evaluating exactly what it means to this province, to the Treasury and to business.

I ask the minister: Have you identified what impact the federal budget and change to retirement income and succession of small family business will have on the small business community in our province.

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

**MR. OSBORNE:** Thank you, Mr. Speaker.

I can say that I did hear the board of trade speak publicly and were happy with some of the announcements in the federal budget. Again, Mr. Speaker, we are going through a process in our department and in government with my Cabinet colleagues of putting together our own provincial budget. We're spending a considerable amount of time on that.

We are focused on putting that together. Part of that is evaluating what the federal government has announced to determine exactly what it means for our budget process. Once that's done, I'll be very happy to share with the Member opposite what we've determined from that.

**SOME HON. MEMBERS:** Hear, hear!

**MR. SPEAKER:** The hon. the Opposition House Leader.

**MR. HUTCHINGS:** Thank you, Mr. Speaker.

Some of these amendments or initiatives were identified in the bill previous some months ago in the House of Commons, so this should be nothing new. Some of these moved ahead in the budget in reference. I guess that's my point.

Also, last Thursday I asked the minister about how the decrease in corporate tax in the US and the more favourable regulatory regime compared to Canada would impact oil and gas development in this province.

I'll ask the Premier: Is there a risk with a more favourable climate in the US that foreign

investment will be affected? In light of no mention in the federal budget, can you give an update on your lobbying efforts for the best interests of the oil and gas sector in Newfoundland and Labrador?

**MR. SPEAKER:** The hon. the Premier.

**PREMIER BALL:** Thank you, Mr. Speaker.

I know over the weekend, I've done a fair amount of reading on just trying to get an assessment of what's been happening in the US. There's a significant amount of analysis that would even challenge if it's actually gone from 35 to 21 per cent. As a matter of fact, I saw an interview this weekend with Bill Morneau that would suggest that it's actually not at 21 per cent in the US but substantially higher.

I read quite a bit about the tax impact and how we actually remain competitive. I know for us, as Canadians, what we've seen is making sure that we have a workforce, number one, that is available to actually meet the job skills of the future. We've put in place Advance 2030, which is working with our offshore industry. And it's not lost on anyone that it was the Fraser Institute that said Newfoundland and Labrador is the fourth out of 97 jurisdictions to actually be the most favourable province to invest in.

**SOME HON. MEMBERS:** Hear, hear!

**MR. SPEAKER:** The hon. the Opposition House Leader.

**MR. HUTCHINGS:** Thank you, Mr. Speaker.

Tim McMillan, the chief executive officer of the Canadian Association of Petroleum Producers said, referring to the Trump agenda in the US: "They are beating us on regulatory times. They are beating us on tax policy, on capital cost write-offs. It is across the board."

Premier, how will this impact your plan to double oil production by 2030 and continue to attract foreign investment?

**MR. SPEAKER:** The hon. the Premier.

**PREMIER BALL:** Thank you, Mr. Speaker.

Well, as most people in this province would know, much of the debate within the last number of months has been around how we actually get the environmental assessment done on a timely basis.

I find the question from the Member opposite – because it was back really in 2010 when we talk about CEAA, the Canadian Environmental Assessment Agency, when even our own agencies were taken out of the process. We have made some process on that, so what we're looking at now is regional assessments. We think that is important and the role for C-NLOPB.

Mr. Speaker, we will continue to work with industry, like CAPP and others, and our local industry players as well, to make sure the Newfoundland and Labrador is positioned to be globally attracting the necessary investment to our offshore.

**SOME HON. MEMBERS:** Hear, hear!

**MR. SPEAKER:** The hon. the Opposition House Leader.

**MR. HUTCHINGS:** Thank you, Mr. Speaker.

In June of 2017, the Conference Board of Canada gave the province a D grade in our ability to attract foreign direct investment.

So I ask the Premier again: How does this limit business growth and affect your proposal and, as well, affect possible impact on new mining development in Labrador?

**MR. SPEAKER:** The hon. the Premier.

**PREMIER BALL:** Thank you, Mr. Speaker.

Even just last week, we saw many people involved in the mining industry actually look to Newfoundland and Labrador as a place that's really open for business and attracting investment, Mr. Speaker. Even late last week, I met with executives from people who are looking at coming to Newfoundland and Labrador and setting up business.

Mr. Speaker, we've put a lot of time in making sure that the investment climate for

Newfoundland and Labrador is favourable and people are reaching out, just like we saw last week. The mining industry is one example of where people are looking at our province – as commodity prices change and increase – as a favourable place to invest.

**SOME HON. MEMBERS:** Hear, hear!

**MR. SPEAKER:** The hon. the Opposition House Leader.

**MR. HUTCHINGS:** Thank you, Mr. Speaker.

Mr. Speaker, Canada is the number one producer of steel into the US, with significant exports of iron ore out of Labrador and, as we heard recently, a possible report of 25 per cent tariffs on export to the US. This could be detrimental, certainly, to iron ore production, certainly in Labrador.

I ask the Premier: What advocacy have you had with the federal government to protect such an industry, and what accommodations are being considered?

**MR. SPEAKER:** The hon. the Premier.

**PREMIER BALL:** Mr. Speaker, not just for iron ore but everyone in this province, everyone in this country, as a matter of fact when you go around the world, a concern about what's happening in the US, how they are actually not just literally building a wall, they're actually putting barriers in place for people to invest.

It is the number one trading partner with Canada, Mr. Speaker. It's a relationship that has been fostered over generations. It's important, not just to Newfoundland and Labrador but to every single province in this country.

This tariff of 25 per cent, Mr. Speaker, no one wants to see that. Yes, it could have a negative impact, but I will tell you, Mr. Speaker, based on the conversations that I have, that Canada and all provinces are prepared to put in retaliatory measures, if required, to make sure that trade relationship stay strong.

**SOME HON. MEMBERS:** Hear, hear!

**MR. SPEAKER:** The hon. the Opposition House Leader.

**MR. HUTCHINGS:** Thank you, Mr. Speaker.

Mr. Speaker, since 1994 NAFTA has created one of the world's largest free-trade zones. Our province exports \$5 billion worth of products each year to the United States. We know NAFTA is now uncertain. With no reference in the recent federal budget, I ask the Premier what contingency plan is in place for our province's industry if NAFTA does indeed fail.

**MR. SPEAKER:** The hon. the Minister of Tourism, Culture, Industry and Innovation.

**MR. MITCHELMORE:** Mr. Speaker, one thing that we are always doing, the Premier and all of our ministers, we're looking at attracting investments through *The Way Forward* and our plans. We're looking to diversify our economy. This is why we've been doing trade missions in the UK and the Netherlands, where they are our number three and number four trading partners. Canada, in the federal budget, is beefing up investment into China as well. We did \$800 million, as a province, in 2016 in export. That's quite significant and substantial.

There are lots of opportunities of which we can diversify our investments, but we're also working very collaboratively with the federal minister and our Canadian counterparts when it comes to trade opportunities in the US. But we're an open marketplace here in Newfoundland and Labrador. We've always been reaching out to new markets. Whether they be in the Caribbean, Guyana, Brazil, China, Asia or Europe, we are open for business and looking forward to expanding.

**MR. SPEAKER:** Order, please!

**MR. MITCHELMORE:** Thank you.

**SOME HON. MEMBERS:** Hear, hear!

**MR. SPEAKER:** The hon. the Member for Mount Pearl North.

**MR. LESTER:** Thank you, Mr. Speaker.

(Inaudible) federal government efforts to (inaudible) there's a very real possibility that the supply management system governing poultry, dairy and eggs may be altered or even abolished. Being the highest cost of production jurisdiction in the country, are there any changes to our supply management system that could cause the immediate collapse to our egg, chicken and dairy industries here in this province?

Minister: How do you plan to protect these industries, our food supply and the supply managed sector's contribution to our economy?

**MR. SPEAKER:** The hon. the Minister of Fisheries and Land Resources.

**MR. BYRNE:** Thank you very much, Mr. Speaker, for an excellent question.

I think that's a very important subject that needs to be addressed by not only this jurisdiction but provinces and territories right across the entire country. We are indeed working with the federal government as a leader in the trade discussions, but, as well, our own minister here in Newfoundland and Labrador is taking a very active role.

I can say, Mr. Speaker, that I have had the opportunity myself to speak with key federal ministers, as have other ministers and MHAs from this side of the House, and I would encourage as well my hon. critic to work with us in supporting our supply managed agricultural system.

Thank you.

**SOME HON. MEMBERS:** Hear, hear!

**MR. SPEAKER:** The hon. the Member for Mount Pearl North.

**MR. LESTER:** Mr. Speaker, I acknowledge the invitation and openly accept. But in light of that, in efforts to avoid farmers and residents of this province falling victim to what we say in our industry, closing the barn doors after the horses have escaped, has a plan been pre-emptively developed in consultation with farmers, food security and interest groups?

**MR. SPEAKER:** The hon. the Minister of Fisheries and Land Resources.

**MR. BYRNE:** Of course, we're always interested in expanding our export markets, including Europe and other jurisdictions outside of the United States.

The hon. Member will probably note that from a trade perspective there have issues surrounding our supply managed system that predate this particular administration, whether it be with the Trans-Pacific Partnership or other trade discussions that have affected and continue to be a potential threat to our supply managed system.

So, obviously, I'd look to certain leadership from the former government as to what exactly it did in terms of its contingencies. I don't believe there were any at that point in time.

**SOME HON. MEMBERS:** Hear, hear!

**MR. SPEAKER:** The hon. the Member for Mount Pearl North.

**MR. LESTER:** If we do come up with a plan to assist in the transition, heaven forbid, when supply managed does collapse, will this plan include funding to directly assist the cost of production so as to ensure our producers' financial viability and their ability to continue to provide a top-quality consistent supply of milk, eggs and chicken to the people of this province?

**MR. SPEAKER:** The hon. the Minister of Fisheries and Land Resources.

**MR. BYRNE:** Mr. Speaker, regrettably the hon. Member plans for failure. He's asking a hypothetical question which assumes failure. I could understand where the hon. Member would come from that because, of course, every initiative they have tried with the federal government in the past has met with failure, but we are working co-operatively, collaboratively with our federal government who is the lead on trade issues.

We are supporting the federal government to protect supply management, and, yes, Mr. Speaker, we will be very, very active in protecting and ensuring a stronger foundation for supply management here in Newfoundland

and Labrador and we'll go beyond that to look for additional export markets from other jurisdictions outside of the US.

**SOME HON. MEMBERS:** Hear, hear!

**MR. SPEAKER:** The hon. the Member for Mount Pearl North.

**MR. LESTER:** Mr. Speaker, I'm not counting on failure, but as part of the farming industry and a business person there always has to be a contingency plan that you have to be prepared for the worst.

So, no, I don't aspire failure but I do aspire to be prepared. How are you prepared, Sir?

**MR. SPEAKER:** The hon. the Minister of Tourism, Culture, Industry and Innovation.

**MR. MITCHELMORE:** Mr. Speaker, I work very closely with the Minister of Fisheries and Land Resources, and one thing that we do in terms of industry and looking at bolstering up our agriculture and working with farms and working with all of those in the supply chain is we look at improving productivity, competitiveness, whether it's technology and other opportunities and looking at new markets as well. These are opportunities that we work very collaboratively with to find ways to make sure that our businesses are as competitive as they can be, whether it's using new research and development, innovative processes, lean manufacturing and opportunities, and we're seeing that. We're seeing a real transition when it comes to how farming is done in Newfoundland and Labrador.

Thank you.

**SOME HON. MEMBERS:** Hear, hear!

**MR. SPEAKER:** The hon. the Member for Conception Bay East - Bell Island.

**MR. BRAZIL:** Thank you, Mr. Speaker.

Mr. Speaker, medical research company Sequence Bio has been waiting more than three months for approval from the Health Research Ethics Authority for approval for their medical research Genome project. The delay may result

in Sequence Bio conducting research in other provinces.

I ask the minister: What is the typical amount of time it takes to get approval?

**MR. SPEAKER:** The hon. the Minister of Health and Community Services.

**MR. HAGGIE:** Thanks very much, Mr. Speaker.

The approval comes through the Health Research Ethics board which is an independent arm's-length body which was set up under previous legislation. They undertake to begin consideration of applications within 30 days. As to the timing of a decision, that kind of depends on the nature of the ethical questions and the research in question.

My understanding also is the Health Research Ethics Authority are actually looking at ways of altering their processes to improve these times, but currently this is quite a complicated process and involves a lot of academic and research input.

**SOME HON. MEMBERS:** Hear, hear!

**MR. SPEAKER:** The hon. the Member for Conception Bay East - Bell Island.

**MR. BRAZIL:** I ask the minister: Are you concerned that this may drive industry and research out of Newfoundland and Labrador because of the slowness for the authority to make improvements?

**MR. SPEAKER:** The hon. the Minister of Health and Community Services.

**MR. HAGGIE:** Thank you, Mr. Speaker.

Unfortunately, it is sometimes challenging for a health agency and government to work at the speed business would like. The Health Research Ethics Board was put in place under legislation to protect Newfoundlanders and Labradorians from questionable practices that may have occurred in the past.

I think it's a balance that needs to be struck and at the end of the day I, as minister, should not be

involved in discussions around ethics. I would say that the important thing is that the ethical and health interests of the people of this province be preserved at all costs.

**SOME HON. MEMBERS:** Hear, hear!

**MR. SPEAKER:** The hon. the Member for Conception Bay East - Bell Island.

**MR. BRAZIL:** Thank you, Mr. Speaker.

Sequence Bio has said that the legislation, the *Health Research Ethics Authority Act*, is not consistently followed by the regulator.

I ask the minister: Have you looked into this claim? What actions have you taken to find a solution?

**MR. SPEAKER:** The hon. the Minister of Health and Community Services.

**MR. HAGGIE:** Thank you very much, Mr. Speaker.

I have had two interactions with Sequence Bio; one at the beginning of February 2016. The second was an email I received last week asking for a meeting between myself and the chair of the board of Sequence Bio. Doubtless, this will be a topic he would wish to discuss at that point and I look forward to that conversation.

**SOME HON. MEMBERS:** Hear, hear!

**MR. SPEAKER:** The Member for Conception Bay East - Bell Island.

**MR. BRAZIL:** Thank you, Mr. Speaker.

This sounds all too familiar. Just a short time ago, we discovered that the new green biofuels project for Botwood was lost due to what could only be described as government departments' administrative chaos. Here we are again on the verge of losing yet another project.

Will the minister commit to immediately resolving this unreasonable delay faced by Sequence Bio, ensuring another company doesn't close up shop and leave this province?

**SOME HON. MEMBERS:** Hear, hear!

**MR. SPEAKER:** The hon. the Premier.

**SOME HON. MEMBERS:** Oh, oh!

**MR. SPEAKER:** The hon. the Premier.

Order, please!

**PREMIER BALL:** Thank you, Mr. Speaker.

I'm going to rise to this question because that question itself is just completely unfair. It doesn't reflect the amount of work that officials within government and these ministers and MHAs put into this file, Mr. Speaker. What the Member opposite doesn't know is that it was actually the company themselves that voluntarily withdrew their application.

To actually claim that this is as a result of this government is completely unfair. I would suggest that the Member opposite would be aware of that. This is the same person that said this week in a media outlet not working with businesses in Newfoundland and Labrador. This is the very minister that just a few months ago was over in a video in Romania launching ferries.

**SOME HON. MEMBERS:** Hear, hear!

**MR. SPEAKER:** The hon. the Member for Conception Bay East - Bell Island for a quick question, please.

**MR. BRAZIL:** I just have to clarify his statement there. This was years ago to supply a service for the people in Newfoundland and Labrador.

**MR. SPEAKER:** Quick question.

**SOME HON. MEMBERS:** Hear, hear!

**MR. BRAZIL:** So I want to clarify your timelines there.

But I do ask – it's continuously that we're losing businesses here because of the administrative chaos on that side of the House and their inability to govern – will you come up with a strategy that ensures companies that want to stay in Newfoundland and Labrador to do research,

create jobs, have an ability to do that? I ask that to the minister.

**SOME HON. MEMBERS:** Hear, hear!

**MR. SPEAKER:** The hon. the Premier.

**SOME HON. MEMBERS:** Oh, oh!

**MR. SPEAKER:** Order, please!

**PREMIER BALL:** I will outline three plans, Mr. Speaker. Since September of last year, it's called the agriculture sector, it's called the technology sector – we're been working with Aerospace – and it's called the aquaculture sector where it is driving investment in Newfoundland and Labrador.

This government is open for business, Mr. Speaker, and we will do whatever we can to clean up the mess. They talked about contingencies a few minutes ago. Where were the contingencies for Muskrat Falls, Mr. Speaker? It is clearly on the backs of Newfoundlanders and Labradorians.

**SOME HON. MEMBERS:** Hear, hear!

**AN HON. MEMBER:** Oh, oh!

**MR. SPEAKER:** Order, please!

The hon. the Leader of the Third Party, please.

**MS. MICHAEL:** Thank you, Mr. Speaker.

Staff and parents of Bishop Feild School learned in a February 26 letter from the English School District that there will be a one- to two-week delay in the public receipt of the engineer's structural assessment of the Bond Street Bishop Feild building and recommendations regarding necessary repairs. They are concerned that this delay may mean that necessary repair funds may not be allocated in the upcoming provincial budget, which is only weeks away.

I ask the Minister of Education and Early Childhood Development: Can he assure the Bishop Feild community that this delay will not affect allocation in the upcoming budget for anticipated repairs?

**MR. SPEAKER:** The hon. the Minister of Education and Early Childhood Development.

**MR. KIRBY:** Mr. Speaker, I'll leave it to the Minister of Finance and President of Treasury Board to make announcements regarding the upcoming budget for 2018.

In October, a portion of the ceiling in the gymnasium at Bishop Feild school collapsed and, thankfully, no one was injured when that happened. Safety is paramount to the provision of education in Newfoundland and Labrador. Since that time, the Department of Transportation and Works has contracted with a company to go in and have a structural examination done of the facility to ensure that it's safe for children and staff to return to.

Until such time that we determine that the structure is safe for children, students and staff to return to, they will remain at the former School for the Deaf, which is an excellent, world-class facility.

Thank you, Mr. Speaker.

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

**MS. MICHAEL:** (Inaudible) I would say on the other side of the city, Mr. Speaker, from where these students live.

I ask the minister: Will he assure the Bishop Feild school council that he'll work with the Minister of Finance to ensure that the school district will have adequate funds to do the necessary repairs to the Bishop Feild building?

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

**MR. CROCKER:** Thank you very much, Mr. Speaker.

I thank the hon. Member for the question, but the first thing we need to do here before we can talk about budget considerations is find out what it is we're budgeting for. So we're in doing an assessment right now. The assessment did become a little bit delayed due to the fact we ran into some environmental concerns around lead

paint. So it's taking a little bit longer than planned.

Until we actually have the assessment completed and we know that children can safely go back in that school and what's going to be needed, at that time we will take the necessary conversations with the Department of Education, the school district and all those involved to make sure for a safe return to that building, Mr. Speaker.

Thank you very much.

**SOME HON. MEMBERS:** Hear, hear!

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

**MS. ROGERS:** Thank you, Mr. Speaker.

The Minister of AESL just released today names of nine people appointed to Memorial's Board of Regents and the College of North Atlantic's Board of Governors, of the nine only two are women.

As we move into International Women's Week, can the minister justify why only two of nine positions are appointed to women?

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

**MR. OSBORNE:** Thank you, Mr. Speaker,

When we look at appointments to boards, we can't isolate one board in particular. There's been a very balanced approach to the boards that we've announced through this government.

In fact, Mr. Speaker, let me point out, not only within our boards but within core government. We have judges, 50 per cent of them are women; our executive, 57.1 per cent are women. That includes deputy ministers, ADMs and other executives. We look at professionals within government, 60.6 per cent of them are women.

Mr. Speaker, we take gender equity very seriously on this side of the House. You can't isolate one board in particular when you look at the appointments to various boards throughout the province.

**SOME HON. MEMBERS:** Hear, hear!

**MR. SPEAKER:** The hon. the Member for St. John's Centre for a quick question, please.

**MS. ROGERS:** Mr. Speaker, last year we debated the IAC act and myself and my colleague for St. John's East - Quidi Vidi debated the need to have gender and diversity embedded as values in our IAC act to reflect the diversity of our population.

I ask the Premier: Will he bring the act to the House again for amendments to ensure that legislation will ensure that population is represented in appointments to our agencies, boards and commissions?

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

**MR. OSBORNE:** Thank you, Mr. Speaker.

Again, I want to point directly to this specific board, Mr. Speaker.

**MS. ROGERS:** (Inaudible.)

**MR. SPEAKER:** Order, please!

**MR. OSBORNE:** I'd ask the Member, if she's serious about getting an answer to this to allow me to answer it without heckling.

Mr. Speaker, this specific board, as it now stands, has equal representation. It's 50-50. So even with the change it just made to this board, Mr. Speaker, there is gender equity.

**SOME HON. MEMBERS:** Hear, hear!

**MR. SPEAKER:** The time for Oral Questions has ended.

Presenting Reports by Standing and Select Committees.

Tabling of Documents.

Notices of Motion.



Notices of Motion

**MR. SPEAKER:** The hon. the Member for Torngat Mountains.

**MR. EDMUNDS:** Thank you, Mr. Speaker.

I move, seconded by the Member for Stephenville - Port au Port, the following private Member's resolution:

WHEREAS gender-based violence remains a reality for many women and girls in Newfoundland and Labrador; and

WHEREAS Indigenous women across the country experience a rate of violence three times higher than non-Indigenous women and are murdered at a rate of six times higher; and

WHEREAS the Moose Hide Campaign is a grassroots movement from indigenous and nonindigenous men taking a stand against violence against women and children across Canada; and

WHEREAS the Moose Hide Campaign helps promote the wearing of a small piece of moose hide signifying the wearer's commitment to honour, respect and protect the women and children in their lives, and to work collaboratively with other men to end gender-based violence; and

WHEREAS the Moose Hide Campaign movement has spread to over 350 communities across Canada and distributed over one million moose hide pins;

THEREFORE BE IT RESOLVED that his hon. House encourages all Members of the House of Assembly to support the Moose Hide Campaign and work towards ending violence against all women and children in Newfoundland and Labrador.

**SOME HON. MEMBERS:** Hear, hear!

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

**MR. OSBORNE:** Thank you, Mr. Speaker.

I give notice that I will move that this House resolve itself into a Committee of the Whole on Supply to consider a resolution for granting of Interim Supply to Her Majesty, Bill 36.

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

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

Pursuant to Standing Order 63(3), the private Member's resolution entered by the Member for Torngat Mountains shall be the one that is debated this Wednesday.

Further, pursuant to Standing Order 11(1), I move that the House do not adjourn on Tuesday, March 6, at 5:30 p.m.

Thank you.

**MR. SPEAKER:** Further notices of motion?

Answers to Questions for which Notice has been Given.

Petitions.

Petitions

**MR. SPEAKER:** The hon. the Member for Conception Bay South.

**MR. PETTEN:** 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 Route 60 is the main highway that runs through the Town of Conception Bay South and is a vital artery in the provincial road network; and

WHEREAS Route 60 is one of the most heavily travelled roads in the province and where Route 60 has been deteriorating and requires major upgrades;

WHEREUPON the undersigned, your petitioners, humbly pray and call upon the

House of Assembly to urge the government to allocate funds to upgrade Route 60.

And as in duty bound, your petitioners will ever pray.

Mr. Speaker, I, once again, present this petition. It's one that I've presented many of and I'll continue to do so. Route 60 has become my rallying cry to the minister and his officials in the department. Constituents that make it a daily, sometimes an hourly occurrence, Mr. Speaker, are contacting me about the condition of Route 60.

I'd like to be on record so people in this House can understand I have been contacted – since Saturday evening until last night 20 tires were blown, rims and tires, and the number is counting. It's going up. I can show you documentation.

I've spoken to the minister, I've emailed the minister and I've emailed his officials. My assistant has emailed. I've spoken on social media about it. I've spoken to the local media about it. I've spoken on *Open Line* about it. I've spoken in the House of Assembly about it. Mr. Speaker, I'm getting to the point now I'm getting tired of speaking about an issue.

There are 20,000 vehicles a day. It's not 20 – 20,000. The people in CBS – it's the second largest municipality in this province – deserve better treatment. I give the minister credit. I speak to him and he's very receptive to my conversation. I get that and I respect that, but actions have to match the words, Mr. Speaker.

I feel very tired that it's falling on deaf ears. I'm constantly out saying it. I don't mind getting answers; I want action, Mr. Speaker. Friday I was told the potholes are going to be fixed. I'm telling you there's a crater in Foxtrap. It's not a pothole; it's a crater. I'm not exaggerating. I challenge any Member opposite to go and drive it. It's disgraceful.

It's absolutely disgrace for a community, for a road that's so busy travelling. The people in that area pay their taxes and they deserve better, Mr. Speaker. Forget about me being a Tory MHA, the people in CBS deserve better. They elected me, but this government represents the people of

this province, including CBS and I call upon them to take action and take action now.

Thank you very much.

**SOME HON. MEMBERS:** Hear, hear!

**MR. SPEAKER:** The hon. the Minister of Transportation and Works for a response, please.

**SOME HON. MEMBERS:** Hear, hear!

**MR. CROCKER:** Thank you very much, Mr. Speaker.

I thank the hon. Member for the petition. I'd like to remind the hon. Member these road conditions didn't happen in the last 24 months. Mr. Speaker, I reference a letter from April 14, 2015. The text of the letter is: Potholes are not as simple as you would think. This letter was actually written by the former minister, the Member for Conception Bay East - Bell Island. His EA of the day was the current Member for CBS.

They go on in this letter to explain that fixing –

**SOME HON. MEMBERS:** Oh, oh!

**MR. SPEAKER:** Order, please!

**MR. CROCKER:** Mr. Speaker, they go on to explain in this letter that pothole issues are something that we do encounter typically from March to May.

Mr. Speaker, I do agree with the Member that there are issues on Route 60. We have crews on Route 60 today addressing these issues. We'll have the hot asphalt recycler on Route 60 tomorrow addressing these issues.

I look forward to meeting with the Town of CBS tomorrow to have a discussion on Route 60, Mr. Speaker. Government has invested tens of millions of dollars –

**SOME HON. MEMBERS:** Oh, oh!

**MR. SPEAKER:** Order, please!

**MR. CROCKER:** The government has invested tens of millions of dollars in Route 2, a bypass

road for that heavily travelled area. And our primary concern is Route 2; that's where we've invested our money.

I look forward to a conversation tomorrow with the Member and with the Town of CBS on the future of Route 60 that goes through, like he just said, the largest town in the province. I look forward to a conversation tomorrow with the Town of CBS on the future of Route 60.

Thank you very much, Mr. Speaker.

**SOME HON. MEMBERS:** Hear, hear!

**MR. SPEAKER:** Further petitions?

The hon. the Member for St. John's East - Quidi Vidi.

**MS. MICHAEL:** 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 humbly sheweth:

WHEREAS deaf and hard of hearing children in the public education system of Newfoundland and Labrador are not receiving full and equivalent access to a quality education because of the lack of appropriate full-time resources; and

WHEREAS from 1964 to 2010, deaf and hard of hearing children were provided with a full-time, quality education in the Newfoundland School for the Deaf, but deaf and hard of hearing children currently placed in mainstream schools receive only a fraction of a school day with a teacher qualified to instruct deaf and hard of hearing children;

WHEREUPON the undersigned, your petitioners, humbly pray and call upon the House of Assembly to urge government to undertake an immediate, complete and thorough assessment of the supports in place for deaf and hard of hearing children by a committee of at least two independent and recognized experts in the field of deaf and hard of hearing education and to accept the recommendations of these experts and, in the interim, take measures to

honour the support commitments made to all current and future students upon closure of the School for the Deaf in 2010 to ensure that all deaf and hard of hearing children are provided with access to a quality education equivalent to hearing classmates, as well as access to sign language.

And as in duty bound, your petitioners will ever pray.

Mr. Speaker, this is an ongoing issue. I've stood a number of times in this House with this petition, signed by many people from around the province. And once again today it's mainly people from the St. John's area, but also from Carbonear, Musgravetown and Lethbridge.

The evidence is out there, as is mentioned in this petition, that the children in the public education system who are deaf and hard of hearing are not getting what they had in the School for the Deaf. The call that's here for a study to be done by independent and recognized experts is something that this government really needs to pay attention to. The deaf and hard of hearing children were ignored really by the task force on education. No reference was made – well, one sentence. One sentence, not even a full sentence on deaf and hard of hearing children was in their report, though they did have representation made to them.

Government has a responsibility to listen to what's being called for in this. These children are not getting what was promised when the School for the Deaf closed, as the petition points out. They aren't getting the same services.

Thank you very much, Mr. Speaker.

**MR. SPEAKER:** Further petitions?

The hon. the Member for Ferryland.

**MR. HUTCHINGS:** Thank you, Mr. Speaker.

Mr. Speaker, I rise today to present a petition on behalf of residents in my district related to Route 13, the Witless Bay Line. It is certainly a significant piece of infrastructure. It connects Route 10, the Southern Shore to the Trans-Canada Highway.

Therefore, we petition the hon. House of Assembly upgrade and perform immediate maintenance to this significant piece of infrastructure to ensure safety of drivers and improve the flow of traffic to and from the Trans-Canada Highway.

As I said, this piece of infrastructure is significant for the region, for commerce, for people who work on both sides of the highway and the region commuting back and forth, certainly the tourism industry. We have a vibrant tourism industry on the Southern Shore right along the Irish Loup, and it certainly leads to a large amount of traffic each year from one region to the other.

I have had discussions over the past number of weeks with the minister in regard to getting some immediate repairs done. He has committed that indeed that is to take place. We are certainly appreciative of that and have asked him to do some initial assessment on doing some preparatory work on that piece of infrastructure in the upcoming construction season.

Over the past couple of years we have, on two occasions, done two significant pieces of infrastructure upgrades to the highway and certainly calling on the minister – and I do recognize he has done an assessment and he's looking at what possibilities would be for the upcoming season, as well in doing some immediate maintenance repair with potholes and that sort as well.

So I recognize that and look forward to seeing some results in the very near future on the immediate concerns and something, as we move into summer construction season, recognizing that not all of it needs to get done but certainly the worst parts, and work with the minister and the department to see if we can get some of that accomplished as well.

Thank you, Mr. Speaker.

**MR. SPEAKER:** Further petitions?

The hon. the Member for Conception Bay East - Bell Island.

**MR. BRAZIL:** 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 infertility is not an inconvenience, it is the disease of the reproductive system that impairs the body's ability to perform the basic function of reproduction; and

WHEREAS infertility affects men and women equally; and

WHEREAS treating infertility is excessively expensive and cost prohibitive; and

WHEREAS infertility impairs the ability of individuals and couples to conceive children and begin to build a family;

WHEREUPON the undersigned, your petitioners, humbly pray and call upon the House of Assembly to urge government to implement a program that assists individuals and couples, allowing them to access affordable in vitro fertilization services.

And as in duty bound, your petitioners will ever pray.

Mr. Speaker, I had the privilege this week of meeting with a couple, who after two attempts to have a child and hundreds, and I mean hundreds and hundreds of people very expressively supportive and happy for this couple who wanted to start a family, in the later stages of their age that you would think as parents, but have been trying for a number of years. They have gone out of their way to mortgage their home to be able to do this, to travel out of the province to do the multiple attempts to have this done.

It speaks highly of people who are very diligently committed to starting a family and being a part of our bigger picture here. Keeping Newfoundlanders and Labradorians in Newfoundland and Labrador and as part of our population growth, ensuring that the next generation of Newfoundlanders and Labradorians are from here are here and have access to that.

It's a whole big picture here. We are open to immigration, it's very important to us, but we should be also open to supporting our local people who may have some restrictions due to, in this case, a medical ailment to be able to do it; and because, as I noted earlier, it's cost prohibitive, because it's not offered here, because of the cost, particularly around the travel and the attempts. In a lot of cases it doesn't take the first time; it doesn't work out. The in vitro fertilization doesn't work and it's always a second, and in some cases three times.

The number of people – it's amazing, in a good sense, of how many calls I've gotten. The notes you can see on this particular Facebook of this couple about those other people who are trying and who, while it's cost restrictive, go out of their way to do it. There are other people who do note that if they had the ability – after the first time they had no financial ability to be able to try a second time.

So I think we have a responsibility because it's a medical situation here. It's a medical ailment that should be addressed. We've done yeoman service over the last number of years of adding other types of treatment and other types of support to ensure that people have a quality of life. Well, this is a quality of life in many ways because it adds to our Population Growth Strategy. It adds to Newfoundlanders and Labradorians being able to start families here and it adds to families being broader in their community.

Mr. Speaker, I'll have an opportunity to speak to this again. I do encourage government to take a serious look at supporting, in some way, shape or manner, financial supports for families in these situations.

Thank you, Mr. Speaker.

**SOME HON. MEMBERS:** Hear, hear!

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

**MR. A. PARSONS:** Yes, Orders of the Day, Mr. Speaker.

**MR. SPEAKER:** Orders of the Day.

### Orders of the Day

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

**MR. A. PARSONS:** Mr. Speaker, I call Order 2, third reading of Bill 32.

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

**MR. A. PARSONS:** Mr. Speaker, I move, seconded by the Minister of Health and Community Services, that Bill 32, An Act Respecting The Newfoundland And Labrador Centre For Health Information, be now read a 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?

All those in favour?

**SOME HON. MEMBERS:** Aye.

**MR. SPEAKER:** All those against?

This motion is carried.

**CLERK (Barnes):** A bill, An Act Respecting The Newfoundland And Labrador Centre For Health Information. (Bill 32)

**MR. SPEAKER:** This bill is now 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 The Newfoundland And Labrador Centre For Health Information," read a third time, ordered passed and its title be as on the Order Paper. (Bill 32)

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

**MR. A. PARSONS:** Mr. Speaker, I call from the Order Paper, Order 5, second reading of Bill 34.

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

**MR. A. PARSONS:** Mr. Speaker, I move, seconded by the Minister of Education and Early Childhood Development, that Bill 34, An Act To Amend The Legal Aid Act, be now read a second time.

**MR. SPEAKER:** It is moved and seconded that Bill 34 entitled, An Act To Amend The Legal Aid Act, be now read a second time.

Motion, second reading of a bill, "An Act To Amend The Legal Aid Act." (Bill 34)

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

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

It's always a pleasure to stand here in this House and speak to legislation. Particularly, in this case, I'm very happy to speak to this particular amendment to the *Legal Aid Act*.

I'll apologize to my colleagues across the way. I'll certainly try my best to be as coherent and as streamlined as possible in explaining what we're doing here, but I think people will get the gist of where I'm going with this particular amendment.

Basically, we're here today to discuss Legal Aid. It's something we're all familiar with in this province. It's something I'm especially familiar with, especially from my practising days where I handled many files on the other side of, individuals from Legal Aid, especially on the family side, just seeing the work they did on the criminal side and other matters.

One of the things anybody who's ever dealt – especially in practice – with Legal Aid would tell you is that Legal Aid lawyers are some of the hardest working, most conscientious lawyers that you ever see. The work they have to do, the hours they have to keep – I'm just looking at the lawyers I used to deal with back when I practised. They would, in many cases, have long drives over the highway all times of year. You'd see them come into court with bankers boxes full of files. You'd see them handle Duty Counsel where people would show up and present their matters to them and they had to provide advice.

They are excellent lawyers and, in many cases, they go above and beyond the call of duty to do their work. It's something I've said since the time I started practising and I maintain that now. Legal Aid lawyers across this province handle a wide number of matters.

While we're doing it, I'd also like to throw a shout-out. It's not just Legal Aid, but we're also lucky to have an executive for Legal Aid who handles this. This is an extremely busy group. What they do – again, I don't say there's an MHA in this House that hasn't had a constituent contact them to discuss Legal Aid. I don't think there's an MHA who hasn't been contacted to say, can we look into this matter or deal with this.

Certainly, I deal with them on quite a frequent basis. I've contacted them and I know my constituency assistant herself has said the interactions she's had with Legal Aid have been tremendous. The fact that when you contact them they get back to you especially quickly, and I'd like to echo that. The work they do for their clients and our constituents is beyond reproach, and I thank them for what they do.

Many times when you're dealing with these people – I just had an individual last week on a family matter. These people are often going through the most stress they've ever been through, if they're going through a marital breakdown, dealing with custody and access as it relates to their kids, or if they've been charged with an offence under the Criminal Code of Canada. It's extremely, extremely trying.

We also have a Board of Legal Aid, of individuals who have taken it upon themselves to contribute back to their province and to provide us that overseeing mechanism. So we're very lucky in this province to have a very good organization with a great board. The men and women that are doing the work out there on the ground are doing a fantastic job. There's absolutely no doubt about that.

If there's one issue with Legal Aid, and I'm going to echo the comments made by our – well, if she's not retired she's in the process of retiring. I know she's out doing speaking engagements now, but that's our Chief Justice Beverley McLachlin, who actually did a speech

back here not that long ago. A tremendous, tremendous individual.

She mentioned in her speech there that Legal Aid was under resourced. That's something that, you know what, I'm going to echo. The fact is Legal Aid in this province and across our country doesn't have the resources it needs. In many cases I get contacted by individuals who are at that threshold. Again, when you look at the caseload these lawyers carry, it's absolutely – in some cases it's beyond belief how many files they can juggle and handle and you throw in the other constraints that come with it.

Just on Friday, I was in Corner Brook and I visited the Legal Aid office in Corner Brook. Not only do I speak to the lawyers there but I also like to speak to the staff, especially the intake personnel, because these are people who are handling very sensitive matters, very tough matters and making that decision on whether Legal Aid can be provided or not provided.

Legal Aid dealt with this I'd say since their existence, and it's something we've dealt with as well. It's something that when I look at the justice system I'd like to think we could use more on all facets, but there's an argument that can be made that that's the same for education, that's the same for health. Again, as it relates to the justice system, it's something that I'm so involved in, and have been since I got out of school, I'd like to think that it does apply, and we continually do our best. We've worked with the feds to see increased funding there.

The amendment that we're bringing forward today is something that will help alleviate that concern, but this is not just an amendment that's being brought forward for financial reasons. This is an amendment that is being brought forward for bigger reasons than that.

What I want to do is begin by just looking at the bill itself. As I'm prone to doing whenever I stand in the House, I look at the bill and I say whether it's – this one is fairly thin. There are only just a couple of sections there. Just to read it out for the record: Subsections 31(3.1), (3.2) and (3.3) of the *Legal Aid Act* are repealed. Then it says: Nothing in this act affects a certificate that was issued by the commission to an applicant for professional services and is

completed and signed by the solicitor in private practice and returned to the commission.

So, what is it that we are debating here today? Well, what I'd like to do is go back to 2008; 2008 is when the sections that are being repealed here were originally brought in by the previous administration. What we saw basically in 2008 was a change, in many ways, to the in-house counsel model that is currently provided by our Legal Aid Commission.

In 2008, what was changed was there was the addition of the choice of counsel. That was proposed and brought in, in 2008, here in this House of Assembly. I have taken the time to review the *Hansard* from that time and read the debate on both sides.

It's funny because you can sit here years later and I can say well, we would do this, we would do that, but I can understand some of the logic provided at that time made sense, for reasons that were provided. But I'd like to think that with 10 years since that, we've discovered that the move was not, in fact, positive overall and that it has had effects that maybe were not contemplated when this amendment was originally brought in.

A couple of things – so what was added was a choice of counsel where a person that was charged with certain offences, murder, manslaughter or infanticide, was basically entitled to select their own private counsel, outside of Legal Aid, but still funded by taxpayers, still funded by Legal Aid.

Legal Aid, you would go there and basically they pay the bill, very little control over what the bill is, and it became statutory. It's by law. This clause was put in saying anybody charged with those three offences was guaranteed their choice of counsel.

There were a number of different arguments made for it at that time. One was, I think, that they thought it might speed up matters going through the courts. One part – I wouldn't have agreed with it then and I certainly don't agree with it now – was that by doing so, it might improve the perception of Legal Aid.

What I can say here, Mr. Speaker – I’ve read the *Hansards* – is that this clause – take away the money, take away any other concerns, any other issues – to me, has done significant damage to both the morale and the reputation of Legal Aid. The fact that people are coming in without having met a Legal Aid lawyer, spoken to a Legal Aid Lawyer, and just saying they want their choice of counsel and the law gave it to them. What it did, it contributed to the perception that Legal Aid lawyers were not as good as the private counsel.

This is not a shot, in any way, at private counsel – not at all. What this is doing, we’re taking this out for a number of reasons but one of them is Legal Aid are excellent lawyers. People who qualify for legal aid under any of these charges are still going to get an excellent lawyer funded by the state; that is not being taken away from them. What’s being eliminated is their statutory right to choice of counsel.

There are a couple of things I’ll throw in there for people to understand and to contemplate as they look through this. One of the things that we’ve noticed is that this provision is not found in any other province, except Quebec. If it was there before, it was eliminated. In fact, some provinces referenced our province in a report that was done, that I’m going to refer to now shortly, the Roil report from 2013.

There is no statutory right to choice of counsel anywhere else. I think Quebec has a sort of a mix there. Some might question: Is there some kind of constitutional right here? My answer is an unequivocal no. No, there is not. This is not an issue anywhere else.

I want to go back to that report that was done. Back in 2013, I would note that it was a particularly tough year on justice as it related to the budget. Anybody that was involved in the field will recall that. There were a number of, again, sort of familiar, trying financial times, a lot of decisions made and there was certainly a lot of backlash within the justice and within the legal community.

One of the groups that was affected – and there were a number – was Legal Aid. The province, on June 13, the government of the day commissioned an outside counsel, external

review, by John Roil to come in and look at legal aid. The report was quite, quite comprehensive with a number of suggestions, recommendations, a number of thoughts, and I would note that again it was this report that PEI looked to when they repealed and replaced their choice of counsel provision.

Choice of counsel is specifically referenced by Mr. Roil in this report. Right here it says: “The current legislative regime calls for a legal aid client to be entitled to choice of counsel only the case of charges for murder, manslaughter or infanticide.” And there’s one part that I want to refer to here, because he actually uses the word here. It just hit me when I was reading through. What this change may have done in 2008 was may have unwittingly – that was the word, quote from Mr. Roil – led to that negative perception that exists of Legal Aid lawyers. It was perpetuated by the change, in many ways, that government made in 2008.

So government back in 2013 got the report, external report, and that report came back and said we recommend that you get rid of choice of counsel. So I’ve read the Roil Report, I’ve gone through it, and that’s something that we took to heart when we reviewed this as well.

The other thing that I would note here is we have to look at – one of the big issues, obviously, like anything that a government does, is that we have to be responsible with the money that we spend, the money that we allocate, because everything we have through our Treasury is taxpayers’ dollars. One of the things about this choice of counsel is that in many ways the cost is uncontrollable. Legal Aid has no control, we have no control and it depends on the number of cases coming in.

So we look at what’s been spent over the last eight, nine years, and it actually adds up to, under choice of counsel for these charges, \$1.338 million, which is a lot of money. It’s not ridiculously huge, but it’s a lot of money. Now, just so people know, Legal Aid often and will continue to still refer matters to outside counsel for any number of matters. It could be conflict of interest. In fact, in some cases, if they feel that it falls outside their area of expertise, they have that ability to refer out. They’ve done that in the past; they’ll continue to do that. Depending on



where the matter's heard, depending on the roster of lawyers, there are a whole number of things. They control that; they make that choice.

So what I would like to point out, though, I just gave that number. Right now, on the books for the current choice of counsel, individuals that we have the certificates out for, we're currently on the hook for \$1.395 million. So right now, at this exact moment, we're on the hook for more than was spent in the last eight years on it. That's a tremendous, tremendous amount of money.

Like I said, we cannot control that. Anybody looking at the court docket or watching the news will note that we've had, unfortunately, a number of high-profile, serious cases of murder and manslaughter, which nobody likes to see. There is no statistical basis or analysis for this as of yet. This is something I've discussed on many occasions with our director of public prosecutions. I've discussed it with our police; but, the fact remains, these people need counsel. They do need a lawyer. We would never want to see anybody not have the right to counsel, especially in a serious charge.

What we are suggesting here is that automatic right to a choice of counsel is not something that should be automatic. It shouldn't be in the statute. It should not exist. We will guarantee you the right to counsel, but it's not going to be who you choose. You will get a very fine lawyer, in many cases, from the Legal Aid Commission which is still paid for by all the taxpayers. That's what we're doing here.

If anybody says: Why would you do this? Every other province in Canada seems to have moved down this route. I don't know why we went there in 2008. All I can say is while we're here, while we're making decisions, this is one we're making in the best interest of not just taxpayers, but even within the court system. I'd like to think that in many cases people will tell you that the choice of counsel provision – because we also had, from an inquiry we had, the Lamer report, we also have usually two counsels.

You'll see in most cases now, it's two Crowns, two defence counsel. In many cases this can lead also to delays in court. It's our belief that by repealing this and by eliminating this we are not

going to do anything to jeopardize wait-lists in the courts. This is not going to have any sort of Jordan effect. We're still going to do everything we can to ensure that Legal Aid has the resources to continue to provide the tremendous legal support and legal advice they have been and will continue to do. We're going to make sure that continues.

Mr. Speaker, I'll just take a minute now. I'm going to go through – I've gone on now for about almost 20 minutes and I want to go through my notes to make sure I cover off some of the other points.

It was only through research I found out the part that we're moving in line with the other provinces. This was something I was very happy and very anxious to make happen for a long time now. This is something I wanted to do for some time. The fact that other provinces have already gone there only strengthens the position that we felt.

We have a staff solicitor model here in the province. This is just going back to more of a backdrop of Legal Aid and how they operate. We have a director who appoints in-house counsel based on resources, counsel experience, expertise on the charge, the geography, the location, you name it. Where circumstances warrant, they can go outside and still get outside counsel for any number of matters. It's happened every year. It will continue to happen. That's the nature of it.

We had the amendment in 2008 which gave individuals who qualified for Legal Aid who are charged with murder, manslaughter and infanticide the power to select private counsel and have the commission pay. We have a report by Mr. Roil QC in 2013 who recommended – and this is his words – consideration be given to curtailing entirely the choice of counsel provision saying the provision was problematic as it perpetuated the inaccurate negative perceptions of Legal Aid solicitors.

Again, I say, Mr. Speaker, I've had the opportunity to work with them, to work against them, and clients and constituents have come in and had them. I say in every case, you're lucky to have that legal experience on your side. You're extremely lucky to have that. The fact

it's paid for by the state, I think we're very lucky to have that. I wish we could do more. I wish we could do more but that's the situation we live in.

I know after I'm done speaking, I'm sure Legal Aid, if they are listening, will say: We agree, we need more, too, can we work on that? We will do that. We have to. I think we've had a great relationship doing that and advocating to the feds to pay their fair share. The feds have to continue to do their part.

I would also note to people that if they haven't ever done it, the Roil report gives a great history and background of Legal Aid, how it came about in the province, how it was originally created by the Law Society. Then we have the *Legal Aid Act* of 1975 and then the creation of the commission. It's interesting to see the rates that lawyers got then and the rates they get now.

What else do I have here, Mr. Speaker? In a time like this, where it's no secret of the fiscal situation and capacity of this province, we cannot continue to have situations that are out of our control and that are not an efficient use of the money we have. I say this here in the House and I would say it anywhere: In no way is anybody's right or rights affected negatively in any single way, shape or form.

We want to look at the money. We have staff solicitors at Legal Aid with decades of experience. They're charging – in many cases, the rate works out to \$85 an hour; whereas if they go outside, you might not get a lawyer with that experience charging \$135 an hour. Again, this is on the taxpayers' dime.

What we did is we looked out – and this was quoted in the *Hansard* from 2008. The minister at the time, he estimated about 300 hours was what was required for one of these types of trials. He would know. He was an excellent lawyer then, he's an excellent lawyer now and he's done plenty of these trials. Certainly, he would have the background to be able to discuss that.

Under our *Legal Aid Act*, both, not one, both private solicitors representing a Legal Aid client qualify for up to 200 hours each of prep time plus any additional hours spent attending court. In complex cases, which many of these murders

are, the hourly maximum can be increased at the discretion of the commission's provincial director. The commission tells us, and they're experienced, the cost of providing private counsel to a person facing a murder charge is upwards of 50 per cent higher for private than a staff solicitor. It's not sustainable. Mr. Speaker, it is not sustainable. It's straining the resources of Legal Aid.

What I would say is it is also having a negative effect. These lawyers often handle not just the criminal side but the family side. The work of the family law, the lawyers that are doing – whether it's over in the UFC. The support they provide to other groups and agencies is affected negatively by the money that's going out that can be controlled going to these types of cases, I would suggest, Mr. Speaker.

Since 2008, government had to come up with the extra \$400,000 a year to the commission's operating grant to offset the costs, but it's not being sustained. It can't be met, even providing that and continuing to provide that. Legal Aid now with this will be able to take what they have and create a serious crime unit to deal with these cases. Again, we still have that money that's going out to these solicitors. It's just over and above that. Right now on the hook, almost \$1.5 million.

In closing, and I think I've spoken to this, but I look forward to the commentary from my colleagues across the way. This amendment will not impact the quality of legal representation provided to the accused and appointed by the director.

The other thing I would note, and this is important, anybody currently on a certificate will not be affected. This is not meant to affect people that are currently on a certificate with outside counsel. Somebody that's on a certificate now for one of these charges who has private counsel retained will not lose that private counsel. We will not interrupt the solicitor-client relationship because of this. This is for ongoing.

This will not impact Legal Aid's ability to appoint external counsel in appropriate circumstances, and this will – and this is very important as well, and I know the Minister of Finance is encouraged by this – reduce an

unpredictable and significant expense, which allows the commission to better manage their resources and their demand. They do tremendous work with the resources they have; this will give them better control and allow them to do an even better job than they are already doing.

As the minister I can tell you, I have the utmost faith in the staff at Legal Aid and the solicitors at Legal Aid. I'm encouraged by the work that they are doing, especially in the last few years. Just having been here and having had a chance to even go over and visit, to see the headquarters and talk to them is absolutely tremendous.

In closing – and I look forward to speaking again after and answering questions when we get to the Committee stage – what I would suggest is that, as a government, we're very committed to providing a fair and equitable justice system, one that has justice for all, and we feel that this amendment to the *Legal Aid Act* that we are proposing will do that, will not affect that negatively in any way and will only enhance what we are trying to do as a government, which is providing more justice to all for Newfoundlanders and Labradorians.

Thank you, Mr. Speaker.

**SOME HON. MEMBERS:** Hear, hear!

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

**MR. P. DAVIS:** Thank you very much, Mr. Speaker.

I thank the minister for his introductory comments and the entrance of debate on Bill 34, which is a bill to amend the *Legal Aid Act*. As laid out by the minister, the bill pertains to a removal of subsection 31(3.1), (3.2) and (3.3) currently contained in the act, which is a provision which allows for an applicant for legal aid, who is charged with murder, manslaughter or infanticide, to select a solicitor in private practice. Under these sections, a person who is charged with one of these very serious crimes, murder, manslaughter or infanticide, can select a private practice lawyer outside of Legal Aid itself. There is tariff system put in place for charges, and I think the highest level right now

is \$135 an hour that can be charged under that particular tariff.

Mr. Speaker, I join with the minister in his commentary surrounding the respect and acknowledgement for the good people in Legal Aid who do fantastic work in Newfoundland and Labrador. They provide a great service to people who can't afford to retain their own private lawyer, or private solicitor matters. The majority, or quite extensively the work they do, would be legal matters, when a person is charged with an offence.

We know that when a person is given and provided with their Charter of Rights under the Canadian Charter and by police in a time of detention, they are notified of their right to representation or get advice from legal counsel, which is a Duty Counsel, free of charge. They provide those types of services as well.

I go on, again, to join the minister's commentary that they have some very capable and qualified lawyers. I know that from my own experience in my former career in law enforcement, I dealt with Legal Aid lawyers numerous times. Some of them were engaged in work with Legal Aid because of the very nature of their work because it was criminal in nature and, in many cases, focused on their client.

We know there's a lot of work. You talk to private practice lawyers and they'll tell you there's a lot of work just managing a practice and managing the affairs of a practice, whereby a Legal Aid lawyer doesn't have that aspect of a practice that they have to have oversight on and focus on their clients.

I always try to stay away from naming names in these types of circumstances but one lawyer comes to mind, Derek Hogan, who's been with Legal Aid in this province for probably 30 years, Mr. Speaker – 25 to 30 years for sure. My understanding is that Mr. Hogan has actually been to the Supreme Court of Canada, I think, nine times through his career.

Probably many, many lawyers never go to the Supreme Court of Canada. I'd say most lawyers never end up in the Supreme Court of Canada but Mr. Hogan, I understand, has been there about nine times through his legal career. I think

that speaks volumes about the experience that Mr. Hogan would have and his abilities as a criminal lawyer.

Having gone to the Supreme Court of Canada nine times is a significant amount. When I heard that number, I was a little bit taken aback. I wouldn't have thought that anyone would be before the Supreme Court that many times, but Mr. Hogan has been. He's a Legal Aid lawyer, a well-known Legal Aid lawyer and does really good work. So I join the minister in his comments about praising the good work they do.

I wasn't around here in 2008, but I'm sure that the amendments that were made in 2008 on choice of counsel in no way were designed or intended to create any hardship or a degrading of morale in any way, or to change the perception that people have of Legal Aid lawyers. I'm sure it wasn't that.

I know that at the time there was significant pressure on our legal aid system. There was a resource issue and that's not isolated to 2008. For several years, we've heard, from time to time, concerns and complaints from people trying to access adequate and quality legal counsel when the legal aid system is overburdened and a very busy process.

During this debate and process of this bill, I intend to ask the minister about what changes have taken place to deal with the pressures. As recently as just about a year ago, just a little bit over a year ago, in the fall of 2016, there was a story by CBC where they were talking about Newfoundland Legal Aid, in particular, and the story reads: "Recently, legal aid has been swamped with a slew of applications for assistance."

Mr. Nick Summers, who's the commission's provincial director, was interviewed and he used words like: "At the moment" – in that particular time, just a year ago – "we seem to be experiencing a particular large wave." Later in the story by Glenn Payette of CBC, the story talks about the \$135 an hour, which I previously referenced, and also a comment by Mr. Summers: "We don't have 50 files that we have to get rid of by next Wednesday or something like that. We have a problem; it's a growing problem right now. One of the solutions is going

to be to send some of that work out to the private bar." So that's a commentary which is related to this particular bill today. I would anticipate that the minister and the government have a plan on how to deal with this.

During an opportunity for a briefing with the department – and we thank the minister and officials of the department for a briefing that took place – there was reference to a senior lawyer counsel office. I thought I might hear from the minister on that today. I'm sure maybe in closing he can reference it or when we get to Committee stage, we can talk a little bit more about that, how that's going to work; has it already been established; have staff resources been assigned to it; and give some more details on what that plan exists.

The minister referenced Mr. Roil's report in March 2014. I had a look at some of this as well, because he talks about choice of counsel and he recommends curtailing entirely the so-called choice of counsel. That was a recommendation to him. What we would like to know is if you're going to do this, we're going to pass this bill and change these parts of the act, then what next; how are you going to deal with these necessities.

In our society today, in recent years, we've seen all too often cases that are before the courts, murder and manslaughter types of cases. We also know, as the minister referenced, in some of these cases a person is looking for or feels the requirement or the need exists to have two lawyers representing each client. I'm sure that can be a significant burden and cost on government. However, in order to make sure that the services are going to be provided, we'd like to know a little bit more about what is going to happen or what the options are going to be available to them.

Some lawyers I've spoken to have suggested that this will wind up with applications being submitted to the Attorney General for outside legal counsel, a process that an accused person would have to generate and undertake themselves, as I understand it. The minister can correct me if that's not what is going to take place. And what would be the cost in those types of cases.

If a person is charged today, this section is removed. They have to go through a process. What process will they have to go through if they feel the need to seek outside counsel? Then what would the cost – would the tariffs still apply that exist under the choice of counsel sections, or will there be a different process set up? We'd like to know what those costs will be to have an alternative approach.

Mr. Speaker, I thank the minister again for his comments. I'm sure we're going to have lots of discussion in Committee and I look forward to further debate on this, this afternoon.

**MR. SPEAKER (Reid):** The hon. the Member for Cape St. Francis.

**MR. K. PARSONS:** Thank you very much, Mr. Speaker.

It is indeed a pleasure to get up today to talk on Bill 34, An Act to Amend the Legal Aid Act. I want to thank the minister for his statements beforehand.

It's an interesting bill we're bringing in here today. I have a couple of concerns that I will be asking the minister about when we do get to Committee, just some questions I have.

Any time we talk about the justice system my concerns basically come back to me to make sure that people are getting the best possible justice that's out there, representation – no matter what it is – in our courts to ensure that everybody gets treated fairly. I know sometimes people look at our court system and they shake their heads and wonder why this person is getting representation and another person is not. The Legal Aid system we have in this province, we're very fortunate to be living in a country like Canada that supplies legal aid to people who can't afford it and to people who do need the assistance.

I know the minister has gone back and talked about 2008 when this was brought in first to change the Legal Aid system for private lawyers to be able to represent people. I can remember back – and I know the minister, obviously, he has more information being a lawyer himself – in the day, there were some very serious situations in our province where people didn't

have, not only in the Legal Aid system, but didn't have confidence in our legal system in the province, where there were three or four at the time, in that era – I think it was around, I'm not sure of the years – of that time when people were found guilty and then later it was overturned when new evidence came forward and people that were guilty and in jail were found that they weren't guilty at all.

I think the confidence in our legal system at the time – and since then I'm sure has gained a lot of respect for our legal system and people see it a little bit different, but at that time, it was a time in our province when our legal system was questioned by the general public. I know a lot of people had questions back and forth back then. I do believe one time there was probably about three cases, maybe four cases – again, the minister would know more about it than I would.

The minister spoke about the Legal Aid system and I do tend to agree with him. We have a great Legal Aid. Our lawyers at Legal Aid are qualified. They're excellent lawyers and they do a fantastic job.

When you look at what is happening in our court systems today, it seems like there's a backlog. People are going through the courts – to me, I don't know, maybe it's just that I watch a little bit more these days. I don't know, but it seems like we're at a stage in our society where major crime seems to be the essence of the news. Every single evening it seems like there's a murder trial or there's a serious incident that's on the go in our courts. My only worry about anything is that – again, I believe every person deserves the best possible defence or representation that they can get through our court system. I think it's important that we make sure they get it.

I know the minister, while he was doing his statement I believe – now, I could be corrected. I'm sure the minister will correct me. There are a pool of lawyers that are outside the Legal Aid Commission who also – I believe what I've heard is there are 20 in the province who are private lawyers. I'm not sure if that would still continue to exist where if there is a backlog and if there is representation somebody needs or for some reason there could be a conflict in some way or another, it could be that they could still

avail of that pool of lawyers to be able to defend them and represent them in the court of law. That will be a couple of questions that I do have to ask the minister.

I know it's the responsibility of us as a society and as a government to ensure that everybody gets treated fairly in this province. I think it's important that we make sure the best possible representation is there. Everybody deserves to be treated equally, whether you need legal aid or you're a person who just can afford a lawyer and maybe can afford a high-priced lawyer, but everybody deserves to make sure they do get proper representation.

The only other thing I would be concerned about is the resources. I know the minister spoke of it and said it was a major concern with the justice system, whether Legal Aid had the proper resources and proper personnel. Things that are given to them, whether they can do the proper investigations, and the expertise sometimes that's needed in a court of law.

Especially when you deal with murder trials, for example. We watched it in the courts. It always amazes me, the experts that come in to the court system. I know they're available for everyone, but sometimes it takes a little bit of digging. I'm not sure if there's any monetary or anything involved in getting people involved in the – again, the minister can answer that question also – people to get involved in giving their expertise in the courts when it comes to serious incidents like that. So I just want to make sure.

Also, when I looked at this bill, I thought maybe the minister would do some kind of a pilot project just to see this and see how it would work. I know he said that in every other province – other than I believe, Quebec is what he said – don't have this system. It goes back to the same system we had before 2008. Again, maybe there is some way that we could look at this over the year and just see what the system can be and do a pilot on it to make sure we're doing the proper thing, to make sure that people get the proper representation.

Also, the other thing is – and I know the finances of the province plays a huge part in what's introduced here today, and finances, obviously, is on the minds of everyone in

Newfoundland and Labrador. I'm wondering if any of the money that would be saved through this process would be reinvested probably back into Legal Aid, into ensuring that resources and what they need to make sure they represent people at the best they can possibly do would be given to Legal Aid to be able to do that.

I think, Minister, maybe that's a part of what the process would be, to ensure that – we're all about making sure that everybody in this province gets treated fairly, and I mean everybody. I just don't mean people who are on Legal Aid, but anybody who goes through the justice system. We want to make sure that if they go before trial they get ample opportunity to prove themselves, their innocence or whatever.

We don't want to see, like I said first when I started and when I first read this bill what my concerns were. I go back to a few years, and I'm not really sure when those years were, but I know of three for sure that were overturned in the court of law. I'm not saying anything about Legal Aid. I'm not even sure if Legal Aid was the representation at the time, but I know the general public out there were: What's happening to our justice system? That's what we want to make sure that everybody out there, if they're on trial, that they get the best possible legal advice and legal representation that they have.

I'm sure the people at Legal Aid do a fantastic job and there are great people down there too. But again, I think that we should look at this and if there are any monetary savings, invest it back into our justice system so everybody gets fair trials.

Thank you very much, Mr. Speaker.

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

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

I, too, am happy to stand and to speak to this bill. It's a Legal Aid bill and this bill, in and of itself, covers some very complex and tangly issues. I believe that has been highlighted by both the Minister of Justice and my colleagues in the Official Opposition.

Two of the issues that we deal with are perception and actuality. I would like to thank the fine folks in justice who gave us a very thorough briefing on this bill. I believe that they, too, acknowledge that there are some tangly issues here that will need to be dealt with.

I also want to thank the director of Legal Aid who I had an extensive conversation with, Mr. Nick Summers, who has done an incredible job under, often, very difficult situations. We heard the Minister of Justice today talk about how hard Legal Aid lawyers work. He said they work so hard and he often sees them travelling around the province with bankers boxes full of material. Their caseloads are pretty heavy.

Are they heavier than the private bar? I'm not sure, but we do know that they are incredibly busy and that they work hard making sure that the people of Newfoundland and Labrador who are eligible to avail of their services are represented with expertise, with care, with consideration and with compassion.

I would like to state, Mr. Speaker, once again, the gratitude on behalf of the people of the province for the incredible work that the lawyers who have dedicated their careers to the public as defence counsel for the people of Newfoundland and Labrador. So I will return to that issue as well.

I also would like to thank the lawyers in the private bar who I also consulted with. I consulted with a number of lawyers in the private bar who as well work very hard, very, very hard in their defence of people who are accused and also in representing people in all aspects of justice, who do it as well with expertise, with compassion and with commitment. They, too, work very, very hard on behalf of the people of the province.

Mr. Speaker, what we're looking at here is whether people feel that a certain right – now, we're talking about cases that are extremely complex, extremely serious, where people may be sentenced for life for something they have been accused of. We are talking about people who have been accused of murder, who have been accused of manslaughter, who have been accused of infanticide. I don't have to stress how

complex that it, how important that is and how serious that is.

We've had, since 2008 in our province, choice of counsel legislation, which means that if you are accused of murder, manslaughter or infanticide, you have a choice of who to represent you. You can go to the private bar or you can have a lawyer from Legal Aid who will represent you.

There is often a perception that anybody who's a Legal Aid lawyer is because they can't make it in real life, that they can't make it out there in the private bar. There is also a perception when you look at our public service that so often there's this false perception. I'd like to stress again, Mr. Speaker, that perception is not based on reality.

There's also a perception that floats around about our public sector workers; people work for the public sector because they can't get a job anywhere else. Our public sector workers are among the best educated, the most dedicated and experienced people who have a desire to work in the public sector.

The same with our Legal Aid lawyers who have so much experience because they spend so much time in litigation; they spend a lot of time in the court room. There is a lot of respect for them in the legal community and in the judiciary as well that they work hard, they have expertise, they are well educated and they are dedicated.

I would like to say, Mr. Speaker, that we are talking about whether people are represented by the private bar or whether people are represented by a Legal Aid lawyer that people have expert representation by credible lawyers. There is a task ahead of Legal Aid, there's a task ahead on behalf of public sector workers, all around, of dispelling those myths that those folks who work in the public sector do not have what it takes to work outside the public sector. As a matter of fact, they have oftentimes more than what it takes because they have worked in such a concentrated manner.

Mr. Speaker, what Legal Aid is proposing is that they will set up a special defence unit of more senior lawyers, of three senior lawyers that will deal with cases of murder, manslaughter and

infanticide. Also currently for someone who appears before the court, someone who is accused of either of these crimes, they have a senior lawyer and a junior lawyer both representing them. So we know that there is a team of lawyers.

What Legal Aid is proposing is that they will set up a special defence unit of three senior lawyers who will be available to anyone who is accused of murder, manslaughter or infanticide and that there will also be a junior lawyer appointed as well. So it can be a junior lawyer from Legal Aid. I was also informed that there would be a possibility of, instead, a junior lawyer from the private bar, if there's a junior lawyer who would like that additional kind of experience to work with a well-experienced senior lawyer.

There will also be times, still, when there will be a lawyer from the private bar that will be appointed, depending on certain circumstances, even outside someone having to make application for an Attorney General application for a lawyer of choice.

But, Mr. Speaker, what we have again in terms of the perception is that I have people calling my office saying they can't get hold of their Legal Aid lawyer because there's a perception that their Legal Aid lawyer is too busy. Whether or not the expectation of access to their lawyer is unreasonable or not, it's hard to say but I do know that when we do contact Legal Aid, that Legal Aid will follow up when we call on behalf of folks who feel that they can't get hold of their lawyers.

Chief Justice Beverley McLachlin has said publicly, as she tours the country, that Legal Aid has been and continues to be, across the country, under resourced. It is people without the private funds who count on access to Legal Aid in order to have fair and comprehensive representation. The Minister of Justice himself today said that Legal Aid lawyers work so hard. He sees them travelling across the province with banker boxes. They work long, hard hours. They're extremely busy lawyers. Their caseloads are beyond belief, he said, at times. The number of files they juggle is really high. We know that, and we've heard that from the director of Legal Aid himself.

So that's a concern. Whether or not they're not able to fully represent and comprehensively represent people in these very complex cases, that's a question that needs to be answered, because again we know how under resourced our Legal Aid has been. We also know that – Mr. Summers has told – there has been a 20 per cent increase in Legal Aid applications. So that's 20 per cent more people in the province who are applying to Legal Aid for representation in the past year. It's in different parts of the province. Now, this could be because of people coming back from Saskatchewan and Alberta. So it becomes a strain on the system. So we know that our legal aid system is strained.

Chief Justice Green also said, in the Pardy case, that he believes that the issue of confidence in the lawyer who's representing you in these cases is very important. So he supported the issue of choice of counsel if you are accused of murder, manslaughter or infanticide. So that's an issue to look at.

Mr. Speaker, I believe that Legal Aid lawyers are experienced and have the necessary education and legal experience to be able to represent folks who have been accused of murder, manslaughter or infanticide. I believe the private bar has the experience and the education to be able to do so.

But what I am concerned about and what my caucus is concerned about is whether or not the resources that are needed by Legal Aid in order to fully represent these particular accused members of our society, whether Legal Aid will be given resources that it actually needs in order to do this project properly so that it doesn't fall off the rails. We have seen the budget for Legal Aid shrink over the last few budgets.

Is there a possibility of phasing this in? The other issue that we are dealing with is the issue of perception, the perception out there that Legal Aid is too busy or the perception about the qualification of our Legal Aid Lawyers. So there is a lot of work to be done in terms of looking at those perceptions and how to counteract those perceptions. That just doesn't happen overnight. Will government agree to phase this in and in the meantime do a campaign that helps build the profile and the confidence of the people of this province in our excellent legal aid system?



These are important issues. We know that Attorney General applications – for people to be able to go to the Attorney General to ask for representation by a private member of the bar – are still possible. We also know for those who are already in the process of their trial and they have a choice of counsel, a lawyer from the private bar, it will continue until their case is wrapped up.

We also know that there will be exceptions, that the director of Legal Aid has some discretionary powers. He has assured us he will at times allow for choice of counsel under certain circumstances, which means that an accused would not have to go to the Attorney General. He also said if an accused person has a history with a certain lawyer, then the director of Legal Aid can issue a certificate.

He also said that we are reasonable – this is Mr. Summers – always looking for best representation. I believe that, Mr. Speaker. I believe the administration and the staff at Legal Aid are always looking for best representation for people but, again, my confidence is shaky in the government providing adequate resources. Not just resources where people can just hang on, where Legal Aid can just keep its head above water.

These are very serious issues. They're very complex issues. We need assurance from government that they will fully resource Legal Aid. We've already lost the family resource section of Legal Aid because of budgetary considerations. What else will we lose?

We have been warned that there was a 20 per cent application in those who are looking for legal aid in the past year. We also know that Legal Aid has had to turn down people that they may have taken in other situations had they not experienced budgetary cuts.

These are valid points. I believe they are valid points made by groups on the opposite ends of the spectrum. They are valid points that need to be addressed and we understand – all of us in this House – the need to save money. We believe that with correct supports and investments Legal Aid could do this work, but it cannot be just enough money to keep their head above water.

We also do not believe or have confidence that government has a proper plan in place to implement such a change. Again, it is not a simple change. It's about perception and it's about the actuality. People may feel that in fact a right has been taken away from them, that this is simply a budgetary cut. Because issues are so complex, so tangly, so serious, the issues of manslaughter, murder and infanticide, we cannot err on the issue of perception.

Government has to have a plan in place to address this; otherwise, we will constantly hear people banging on the doors saying that they did not have access, the same access to justice that people who are poor, who are economically poor, do not have the same access to justice as somebody who has money. We, as a society, cannot tolerate that. We have to ensure that is not what's going to happen.

We have to make sure that the resources required to make sure this doesn't go off the rails is in place. Also, at the end of the day, are we really saving money or will we have appeals based on perception?

The other issue because this is so complex, because it is so tangly, government should have done stakeholder consultation on this matter to try and identify a proper course of action. I am not convinced, because the lawyers from the public bar that I have spoken with did not know that this was being introduced. This was new to them. Why wasn't proper stakeholder consultation done? Again, because this is so serious – and who knows what may have come up if proper consultation with stakeholders would have been done, consultation with the expertise and the private bar who have been doing this defence for years.

There are a handful of private bar lawyers who have been doing choice of counsel representation. Why were they not consulted? This is a reasonable discussion that could have happened, Mr. Speaker, and a way forward may have been found that may have been a phase in, for instance, so that we could deal with some of these issues.

This is about building a solid confidence. We know how important it is for our society, for our communities, for our people to have solid

confidence in our justice system. That's what stakeholder consultation would have done, ensured that there is solid confidence in our justice system, because these are such tangly, such serious, such complex matters.

Mr. Speaker, I rest my case. It is my hope that government will look at the whole issue of perception. If people feel that only people with money have access to real, full representation and a lawyer who has adequate time to represent them, I would think that government has to deal with those issues. Government has to ensure that the resources are there so that we have a strong, healthy, thriving Legal Aid system where the people who have dedicated their lives to the legal justice system of the province have the resources they need in order to continue to do the very important work that they do, not on their backs but in a fair and just manner to the workers in the system and also to the people who have been accused.

Thank you very much, Mr. Speaker.

**MR. SPEAKER:** The hon. the Member for Mount Pearl - Southlands.

**MR. LANE:** Thank you, Mr. Speaker.

I'll take a couple of minutes, I guess, to give my perspective on Bill 34, An Act to Amend the Legal Aid Act.

First of all, Mr. Speaker, I want to say that listening to my colleague here from St. John's Centre, I totally agree with her from the perspective that legal aid has to be properly funded and so on and have the appropriate resources. I agree that legal aid is something that could impact anybody.

I know there's a perception out there that there are members of the general public – I've talked to people in the past who have taken umbrage with the fact that some people could just get a lawyer of their choosing, and particularly some of the individuals and high-profile cases, individuals who may be repeat offenders and in and out of the system all the time – and there are people in the general public that take offence to that.

I think it's important for us all to realize that anybody – it's not just someone with a criminal record that's three or four pages long that could potentially face a serious charge of murder or manslaughter, it could happen to anybody. Anybody could, under the right circumstances, whether there's alcohol involved, whether it be in a heated discussion – I mean manslaughter is basically an accident. Somebody dies as a result of an accident, so to speak. There may have been some aggression but it wasn't a case of first or second degree murder, someone planning on murdering somebody.

These things could potentially happen to, what I will term as, your average law-abiding citizen. Somebody could be accused of something who was totally innocent, someone who is normally considered a law-abiding citizen. When we look at legal aid, it is important that we ensure it's done properly, that people have fair representation and the resources are put in place for everybody, because it could be anybody who may need to use it.

It's important to make that point. This is not just about the guy you see doing the perp walk on NTV who's covered in tattoos or whatever and has a record a mile long. That's not what it's about. Those individuals could be involved, but it could impact anybody.

When we look at the justice system, the legal system in general, I think it's always important to bear in mind a lot of times we hear about people getting off on technicalities and stuff, on different things and we say: My goodness, how could that happen? Why are there so many appeals? The thing we have to bear in mind is that's put there for a reason, to protect us all. Whether we have a history of criminal activity or we don't, it could impact us tomorrow. We could be falsely accused of something. If God forbid that ever happened, we would all want to make sure that we receive justice, that we were treated fairly, that all provisions of the *Criminal Code* were followed and that we had proper legal representation.

While legal aid is tied to income, again, we can't get caught up in the idea of only certain people would be availing of legal aid. There are lots of people, plenty of people that meet the means test, if you will, for legal aid that are good law-

abiding citizens and they could have to use it. It's important that everybody be treated fairly by the system. That's an important point.

Where I to take, not exception, to what the Member for St. John's Centre is saying, I agree with a lot of what she's saying. I think the point, though, that we need to get back to here is while it's a good opportunity in speaking to this bill, I suppose to talk about those general principles and so on, that's really not what this bill is about. This bill really has nothing to do with resources and whether or not we have appropriate resources. That's a budgetary issue.

If we don't have appropriate resources then obviously the minister, through the budgetary process, should try to have additional resources, or if we're not satisfied with the resources when budget time comes around we can certainly speak to the resource issue and encourage government to put in appropriate resources. That's not what this bill is about. This bill is simply about the right of an accused, someone who has been charged with murder, manslaughter or infanticide to select a private lawyer versus a Legal Aid lawyer. That's what this bill is about.

Now, if I for one second thought, and I know there's a perception, it's been talked about already. There's a perception out there by many people in the general public, I'd say most people in the general public to be honest with you, that somehow legal aid is a lesser – the lawyers and the system is less than what you would receive should you go to a private lawyer, particularly one of the high-profile, I'll call them, celebrity lawyers, for lack of a better term.

They're known in the public. They're the ones whenever you see the big cases on TV and so on, murder cases, high-profile cases. We all know who they are. We don't need to name them, but there are probably three or four, in particular, individuals who are lawyers that people consider that somehow they know more than the other lawyers. I'm not saying they don't. I mean they're all great lawyers. I'm not in any way comparing them. I don't know how they stack up against some Legal Aid lawyers.

In speaking with Mr. Summers, who I had the opportunity about a year ago – not when this bill

came forward. About a year ago I had the opportunity to go down and meet with Mr. Summers down to Legal Aid. We had a great chat about the Legal Aid system, how it works and so on, because I had that perception myself to a certain degree. I didn't exactly understand how it works, but as the minister and others have said, the lawyers down at Legal Aid are just that. They're lawyers and they're trained. They have all the credentials the same as a private lawyer would have. A lot of them have been there for a long time. It's not a case of I'm going to go to Legal Aid until I get a better job. No, no, that's not the case at all.

There are lawyers who've been there for a long period of time practicing, and they're very experienced and they're very professional. They do a great job and they represent people well.

If I thought for one moment that the intent here was to somehow take away the rights of an individual to have competent counsel, then I would not support it, if I thought that's what this was about. But I believe, in speaking to Mr. Summers and looking into it, and listening to the minister and others and certainly looking at how it works in other provinces as well – it's not just Newfoundland and Labrador. As a matter of fact, we're the only province I think – and there's some exception, there's some difference in Quebec, I'm not sure exactly, but it's a different system in Quebec, to some degree.

Beyond that, we're the only province that allows an accused to select a lawyer of their choice versus the Legal Aid lawyer. I am really not sure why we ever changed that to begin with. I think it probably did more harm than good in the sense that it only added, as the minister said, to the perception that somehow Legal Aid lawyers were not as good as private lawyers. Because if not, why would you even do it.

I think it makes sense to do this. Is it going to save the taxpayers some money? Yes, it is, I believe. And that's not a bad thing either. We have to be mindful of that. Now, if we were going to sacrifice someone's rights to save a few dollars, again I wouldn't support it. But that's not the case.

I think the important thing to note here, a couple of things, is that first of all if somebody already

has a private lawyer, and they had the certificate that you're given to get a private lawyer, if you already had a private lawyer, you can continue to retain that individual. So if they're in the middle of a case, we're not going to just whip it out from under their feet and say here, he's gone or she's gone, and here you go, you got him or her. That's not going to happen. They're going to get to keep that lawyer to see the case through and do appeals and whatever the case might be.

Also, important to note, just because this particular ability to choose a lawyer is going to be removed, that's not to say that private lawyers will never be used by Legal Aid, because they very well may. It may be a case of Legal Aid is looking for someone that has some specific expertise in a particular area. There may be some perceived or real conflict with utilizing Legal Aid in a particular case. And speaking to the issue of resources, there may be a case where there are cases backed up and so and there are not enough resources on staff at Legal Aid and, therefore, Legal Aid would still have to contract out services to private lawyers to get through that. We know since the Jordan ruling, for these type of cases, timeliness of getting the cases through and so on is a real issue. So sometimes there are probably going to be cases where private lawyers will still be used by Legal Aid for any of the reasons that I already mentioned.

With that said, Mr. Speaker, I think the bill makes sense. It's not going to take away, in any way, from the rights of the individual to be well represented, to be fairly represented. I don't think it's going to back anything up or slow anything down, per se. If there is a resource issue, there's a resource issue. Whether we have this provision or not, there could still be a resource issue. How Legal Aid responds to that resource issue and how the minister responds to the resource issue if Legal Aid should come to him at some point and say we don't have enough resources, that's not going to change one way or the other based on this particular change. It has nothing to do with it. That is simply a resource issue, possibly a budgetary issue, and that will have to be dealt with in another way.

As I said, the bill makes sense. I don't see it in any way doing any harm to anybody. It's going to save the taxpayers a few dollars, perhaps,

that's always a good thing and I will be supporting the bill.

Thank you, Mr. Speaker.

**MR. SPEAKER:** The hon. the Member for St. John's East - Quidi Vidi.

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

I am happy to have the opportunity to stand and speak to this bill. It's an important bill and one that, along with my colleague for St. John's Centre, I have studied carefully and looked at both sides of the issue. The bill itself which deals with amending the *Legal Aid Act* to repeal the provisions which allow an applicant for legal aid who is charged with murder, manslaughter or infanticide to select a solicitor in private practice.

Mr. Speaker, the issues for me have to do with questioning the reason why the bill is being brought in at this point in time. As I've studied these situations, as I've studied the bill, as I've studied the issues that have come up around the bill, I can see the two sides of the argument because there are two sides to the argument of not having this provision and having the provision. We've heard the arguments with regard to the fact that we're the only province and jurisdiction in the country that has it the way that we have it. We've heard several arguments around that.

We've heard arguments with regard to the qualifications and the expertise of lawyers inside of Legal Aid and I absolutely believe that – I know a number of lawyers in Legal Aid. These are not people who aren't full lawyers; they are. As has been indicated by some of my colleagues in the House, there are perceptions around Legal Aid which you just wonder where they come from.

The issue with lawyers inside of Legal Aid is that they are absolutely overworked because there are not enough resources. Sometimes when we have calls from constituents upset because they aren't getting calls back et cetera, it's not because the Legal Aid lawyer doesn't know what he or she is doing, it's because they are so overworked that they may not have the time to

get back in as timely a fashion as the client expects to happen. The issues around Legal Aid are not the qualifications of the lawyers. That's for certain, and that I absolutely believe.

What concerns me with regard to the bill is that there's been – I'm not aware of it because if it happened we would have gotten it in the briefing, I think. But no analysis has been done, as far as I can see, of the program as we have it now where people who are qualified for legal aid can choose a lawyer in the private sector. We haven't had an analysis of how that worked over the last 10 years, the benefits or are there negative sides. The only analysis we have is the financial one, the argument that approximately \$3 million of the \$18 million budget of Legal aid is going towards allowing for this.

That concerns me that that's the only argument that we've heard from government. I would have liked to have seen an analysis done of the program as it exists, an analysis from all perspectives, not just from a financial perspective. So I'm really concerned about this legislation coming in quickly without that analysis. That analysis could have included, as my colleague for St. John's Centre has said, speaking with stakeholders on all sides, doing statistical examination, presenting statistical facts to us with regard to the program as it exists, not just statistics of how much the money costs.

If an analysis showed that in actual fact – whether it exists elsewhere or not – it's working in this province, if an analysis showed that, then it wouldn't be on the shoulders of Legal Aid to come up with the money. Government should put extra money in to pay for the program. We don't have an analysis of it, and that's what bothers me, Mr. Speaker.

All we have is \$3 million is going towards it out of Legal Aid and it being done more cheaply. The thing is we don't have an analysis of the figure showing it will be cheaper as well. There have been some lawyers in the private sector who have spoken out who have pointed out that – and they've given an analysis of why it might happen – it could end up being more expensive.

It's very problematic from that perspective. I'm not saying it's problematic from the perspective

of taking away choice or saying they're not going to get as good a treatment or the expertise they get outside of Legal Aid if clients of Legal Aid now who are charged with murder, manslaughter or infanticide now will be using Legal Aid.

I understand the office that will be set up here in St. John's; I understand there will be allowance made for some use of private lawyers in that setting. I understand all that, but we don't know if it was necessary to do this, and if a full analysis had been done, in actual fact, was the system working.

From that perspective, I'm not ready to vote on the legislation. There could be a time, if I had more information. If I knew exactly how government was really going to support this, I might vote for it. Right now, I can't see voting for it because of the fact that it just seems to be a way to save money without even the proof that it's going to save money, Mr. Speaker.

It concerns me without a plan – government seems to be repeating the kind of thing that's happening with cannabis for example. There, again, no plan in place. We've raised that here in the House, no plan in place.

We don't know if government is going to make any money from cannabis. We know who is going to make money from the cannabis sales in this province, the production and sales, but we don't know how much government is going to make. We have no idea.

As a matter of fact, the different analyses that are being done around the country is the one who is least going to make money, both on a federal level and a provincial level, is going to be governments. It's going to be those who produce it who are going to be really making the money. It won't even be the retailers who are going to make it.

This is what has concerned me about the government. Is this going to be something else? Is this removing the provision for Legal Aid clients to be able to use private lawyers? Is this going to go the same route?

No plan in place, no analysis of how the system is working at the moment, and not seeing any

need to put any more money in to Legal Aid to deal with this. All of this is problematic.

Where's the analysis that shows the \$3 million that is now going out to the private lawyers, to the private sector, that that's going to remain at \$3 million as this moves inside of Legal Aid?

We don't know.

So I'm not against the principle of what the government is trying to do with this legislation. I'm against the fact they're bringing it in without a full analysis, without a full detailed plan that shows us it is their responsibility to make it work. It's not the responsibility of Legal Aid to say, okay, government has done this now, so we have to make sure we don't spend any extra money.

They shouldn't have to wait. Government is the one who is responsible for doing this. There should have been an analysis to show, will what is in the budget now for Legal Aid meet the need with the change in the way things are happening. What was it like 10 years ago before the change happened, before that provision was brought in? No analysis whatsoever.

So without all of that, Mr. Speaker, while I do not speak against the principle of this legislation I wouldn't be able to vote for it at this time.

Thank you very much.

**MR. SPEAKER:** If the hon. the minister speaks now, he will close the debate.

The hon. the Minister of Justice and Public Safety.

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

Thank you to my colleagues for their commentary on this particular piece of legislation and their thoughts. From what I can gather, I know the Official Opposition stood up and spoke about this. I appreciate their comments.

I know the Leader of the Official Opposition is looking forward to the Committee stage. He's indicated he has some questions to ask and I'll certainly do what I can to answer them.

The Member for Mount Pearl - Southlands stood up and indicated his support for the bill, which I appreciate. I like the fact that he laid out, if you had done this, we wouldn't be supporting it, but from what I can tell this is where it's going.

The Third Party, the NDP, has indicated they will not be supporting. What I want to do, and I'll have plenty of time in Committee, I want to talk about some of the factual inaccuracies in what they just said. I have to point that out. I think that's important, because that's what it is.

**AN HON. MEMBER:** (Inaudible.)

**MR. A. PARSONS:** And not the last Member who spoke, the first one; the first one, St. John's Centre. The Member for St. John's Centre said there's been a trimming of the Legal Aid budget over the last few years. That is not true. That's not correct.

I would suggest that if we're going to have a debate, let's do it on actual facts. The one that was suggested – and do you know where I got that information? From Legal Aid, so Legal Aid has said that to me. I would note Legal Aid was at the briefing and was free to answer any questions.

The other thing, I think it was brought up about cases being overturned. I would note – and this is not so much of an inaccuracy but just pointing out – Legal Aid lawyers weren't involved in those cases. Let's keep that in mind.

What else was there? The stats that were referenced by the Member for St. John's Centre as going up, those are wrong. That's the year before. The stats last year, they're going down. We have to get the facts right if we're going to have a proper debate. The Member talks about perception. She is perpetuating the perception that this amendment is trying to get rid of.

We talked about consultation. I actually spoke to one member of the private bar. He had a similar suggestion to what the NDP did, which is if you want to fix it, give us more money. I would suggest, Mr. Speaker, that's not a fix. That is not a fix. How does more money fix the existing perception that Legal Aid lawyers aren't up to snuff or aren't equal to their colleagues at the private bar because that's false.

I would note, and I have to say this for the record. I didn't say a word while they spoke. Already, we talk about decorum in the House; I can hear them asking their questions while I'm speaking. What I say to the Members opposite is: We're going to have Committee, ask away, but, right now, it's my turn to speak. I'm going to keep speaking.

Thank you.

**SOME HON. MEMBERS:** Hear, hear!

**MR. A. PARSONS:** The other thing I would point out here is they talk about there was no analysis done. There was no review, why are they doing it now? I referenced this earlier; I'm going to reference it again. In 2013, John Roil QC did a province-wide external review of Legal Aid in this province which was actually commissioned by the previous administration. It's right here.

This is one of the pieces of analysis that we looked at. I'm going to quote from Mr. Roil's report which I would imagine – I know Mr. Roil, I've dealt with him before. He's done work for administrations, for private companies. He's got a tremendous reputation.

On page 73, here are some of the things where he specifically talks about the Choice of Counsel Mandate. He talks about the fact that why are these the only three offences: murder, manslaughter and infanticide? Why are these the only three that are covered off? Why not dangerous offender applications, which can carry with them a significant higher penalty?

There are many serious provisions contained within Canada's *Criminal Code*. Why other offences or applications with serious consequences are not included is a matter that must be left to some speculation.

The right to choice of counsel, which was introduced as an amendment, is perhaps a recognition that some serious charges bring with them additional rights. Otherwise, it cannot be rationalized. This is again Mr. Roil. It's not us; this is Mr. Roil.

“As has already been noted, legal aid staff solicitors have significant amounts of experience

in handling serious crime defenses.... This ‘choice of counsel mandate’ in the *Act* may even be unwittingly supporting the ill-conceived notion that legal aid lawyers are not ‘real lawyers’, an issue dealt with earlier in this Report.” So he mentions it specifically.

The NDP are saying this is all about money. Why hasn't it been done before? Well, I'll tell you why. It was brought in in 2008. John Roil did a report for the previous administration in 2013. We got in government December of 2015 and, now, we are ready to move this forward because we've spent the last two years looking at the different pieces of information that come to us: Legal Aid's budgets, working with Legal Aid – who I would note are extremely happy to see this and have told us that they will ensure that everybody – they don't need new resources to cover this off. The 400K that's allotted will continue to be used and they're going to, in fact, comprise a serious crime unit made up of senior solicitors that will handle this.

Now, going back, this is not just about savings. I don't want to just see this money get saved and thrown into the Treasury and leave Legal Aid out hanging in the wind; I want to continue to work with Legal Aid to help them be even better than what they are now. They're excellent. I've said that I'll continue working with them. I've said that we know they have challenges. There are challenges felt everywhere, Mr. Speaker. There are challenges felt in the education system. There are challenges felt in the health care system, and there are challenges in the justice system. These aren't challenges that just exist now.

Chief Justice Green was mentioned earlier. I sat down with Chief Justice Green who showed me writings from the 1890s talking about the challenges in the justice system here in this province, talking about the courthouse, how we needed a new one. That still exists. We know that those challenges are there. Chief Justice McLachlin stood up; I agree with her. I'd like to continue to do more and we'll continue to do this, but this provision – the Members opposite talk about the effect on Legal Aid. Legal Aid wants this. I want to work with Legal Aid to make this happen, and we've taken the time over the last two years to look into this.

I know who's not going to be happy: private solicitors; that's who are not going to be happy, I know that. I know they're not going to be happy; that's fine. And we're not taking away anybody's right to a defence; they're still going to get one that's paid for by taxpayers. They're still going to get it. It's not just a defence; it's the best possible representation you can get. We talk about the Pardy case; the Pardy case is referenced here where in that case it didn't come down to the Legal Aid lawyer. This individual wanted his lawyer. He wanted his lawyer. There was a roster of lawyers presented, nope, can't work with them – can't work with them. And in that case it was ruled against, because they saw through it and saw it for what it was.

So, Mr. Speaker, I've got a whole number of other points here that I want to reference. Again, Legal Aid talking about that they can handle any of these new murders with the resources. If they have a challenge, I'll work with them. I'll work with them to make sure this happens. This change is to prevent people from having an uncontrolled right to private counsel – their choice of counsel – at taxpayer expense with no controls whatsoever to Legal Aid or to the taxpayer. If it's an issue, apparently it's not felt by every other province, except Quebec, who 53 per cent of their work goes to private counsel.

Every other province, if they had it, they got rid of it. And there's a reason they got rid of it, because you can't control it. You can't control the number of murders happening. We can't control that. Right now, we've seen that number spike. I'd like to see it decrease, but that wouldn't be just the driving factor here.

It's not just about the money, as the NDP would like you to believe. They say there was no analysis; I've pointed out the analysis. This is about the perception. They keep talking about perception. Well, the fact that they're going to vote against this means that they continue to perpetuate the perception that Legal Aid aren't up to snuff. I'm getting rid of that. I'd like to work to get rid of that, because they can do these cases.

So, Mr. Speaker, on that note, I'm going to sit, and I'll be happy during Committee to answer any of the questions and to make sure that we

get the actual, accurate facts out on this. I look forward to support from the other side.

Thank you.

**MR. SPEAKER:** Is the House ready for the question?

The motion is that Bill 34 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.'

This motion is carried.

**CLERK:** A bill, An Act To Amend The Legal Aid Act. (Bill 34)

**MR. SPEAKER:** This bill has now been read a second time.

When shall the bill be referred to a Committee of the Whole House?

**MR. A. PARSONS:** Now.

**MR. SPEAKER:** Now.

On motion, a bill, "An Act To Amend The Legal Aid Act," read a second time, ordered referred to a Committee of the Whole House presently, by leave. (Bill 34)

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

**MR. A. PARSONS:** Mr. Speaker, I move, seconded by the Minister of Education and Early Childhood Development, that the House resolve itself into a Committee of the Whole to consider Bill 34.

**MR. SPEAKER:** It is moved and seconded that I do now leave the Chair for the House to resolve itself into a Committee of the Whole to consider the said bill.



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.'

This motion is carried.

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

### Committee of the Whole

**CHAIR (Warr):** Order, please!

We are now considering Bill 34, An Act To Amend The Legal Aid Act.

A bill, "An Act To Amend The Legal Aid Act." (Bill 34)

**CLERK:** Clause 1.

**CHAIR:** Shall clause 1 carry?

The Chair recognizes the hon. the Member for Topsail - Paradise.

**MR. P. DAVIS:** Thank you, Mr. Chair.

As the minister referenced in second reading just a few moments ago, I have just a few points and questions I'd like to put to the minister. The minister referenced – I think the number he used is \$1.338 million last year in choice for counsel. I think in the first year, in 2008, it was around \$400,000 was the actual budget. So we know from 2008 to this past year, there was a significant increase.

Minister, I think you referenced \$1.338 million, but is that what you anticipate the actual savings are going to be? What will happen with that \$1.338 million? Is that just going to be a significant savings or is it going to be redistributed through the system in some way to (inaudible).

**CHAIR:** The hon. the Minister of Justice and Public Safety.

**MR. A. PARSONS:** Yes, thank you, Mr. Chair.

I appreciate the question. Right now, yes, the \$1.338 million is the amount that's actually been expended since 2010-11 on choice of counsel. As it stands, we have a future liability of \$1.395 million. That's in the cases that are currently booked, the certificates are done.

We also know we've been investing since 2008, \$400,000. Again, that's something that's up for debate about what you do with the savings. Does it all go back in the Treasury? Does it all go back into Legal Aid? That's a debate that has to happen internally.

I'd like to be able to invest more in Legal Aid. In a lot of cases it depends on what comes up. I'd like to see the number of cases of these types of nature go down; but, right now as it stands, we know Legal Aid has been basically getting by with the amount of monies that is there. So that's a discussion that will happen.

The other thing is the money they're currently receiving, the \$400,000, they've indicated it will cover the murders that are there. What they're going to do is basically create a new unit to handle that. If something else arises we'll deal with it and discuss it and figure out where we want to go with it.

**CHAIR:** The hon. the Member for Topsail - Paradise.

**MR. P. DAVIS:** Thank you, Mr. Chair.

I take it, Minister, when you say the new unit, you're referring to the senior lawyer counsel office – I think is the way it was referred to in the briefing.

Can you give us some more details on the senior lawyer counsel office, how that will operate? Will it be staffed from within existing resources within Legal Aid, or do you see that as a new entity being established and then being resourced separate from or up from what currently exists?

**CHAIR:** The hon. the Minister of Justice and Public Safety.

**MR. A. PARSONS:** Yes, thank you.

From my understanding, and I would be happy to suggest that – I believe Legal Aid was present at the briefing, and I'm happy to do my best to help accommodate if there are questions specifically for them. Again, Legal Aid makes their operational decisions. It's not a ministerial mandate.

What I have been told is the new defence unit will have three senior lawyers who will coordinate the involvement of any other Legal Aid lawyer that's needed to handle the case. They also handle the training and mentorship that goes with it. Whether that requires in house counsel right now that they already have, or the requirement to go out and hire new people, I'm actually quite not sure. What they say is the \$400,000 will cover what's currently on the books.

I'm happy to refer anybody to Mr. Summers and the rest of the Legal Aid to have this discussion, but this is the plan that's been indicated to me.

**CHAIR:** The hon. the Member for Topsail - Paradise.

**MR. P. DAVIS:** Thank you.

Minister, I'm just trying to understand; if we're going to change this legislation then the process that currently exists for a person making a request in these very, what quite often are very high-profile cases, very serious cases and, obviously, the most complex cases. If this is to be eliminated, if the bill passes and eliminates it, what will happen then the very next day? If the senior lawyer counsel office hasn't been established, what will happen the very next day in the case of a person who finds themselves charged with one of these very serious offences and wants to find an alternative to legal aid representation?

**CHAIR:** The hon. the Minister of Justice and Public Safety.

**MR. A. PARSONS:** Yes, thank you.

Anybody that's charged can apply to Legal Aid to see if they qualify. Again, I would point out that if you're paying your own bill then you're free to go wherever you want. In this case, you're going to make the application for Legal

Aid. This is something that's been contemplated for some time. It's not like we just threw this bill on the table and there it is. We've been working with Legal Aid to see this advance for some time. They're prepared for the possibility.

As it stands, if somebody comes in now there are a number of counsel within Legal Aid. It's not just one, in most cases it's two as recommended by Lamer. There are going to be various counsels that will be assigned, depending on the caseload, depending on the location, the facts, circumstances. These are all duties and questions that will be put to the provincial director who makes these assignments and handles that.

What I can say is I have every confidence that if somebody were charged tomorrow with one of these offences or any offence, they will have excellent representation when it comes to Legal Aid, all at the taxpayers' expense.

Thank you.

**CHAIR:** The hon. the Member for Topsail - Paradise.

**MR. P. DAVIS:** Thank you, Mr. Chair.

My recollection or understanding is that prior to this existing back in 2008, a person could make an application through the Attorney General to seek a private lawyer to represent them in cases such as these. Will that be a primary default position for a person who is seeking a private lawyer? Is that the process we followed?

**CHAIR:** The hon. the Minister of Justice and Public Safety.

**MR. A. PARSONS:** Yes, that's correct. That's still open.

In the past, people would make an application to the AG, the Attorney General, for funding. It would go to court and they would make a decision. In many cases they did not rule in their favour, but that's still open.

If somebody still feels they can't form a solicitor-client relationship, that the counsel is not – they just can't form that relationship or don't want that counsel, they still have every

right to make that application to a court and to have the AG select AG fund to counsel. We'll see how that goes and we'll deal with it. In this case, we're removing the statutory right to automatically happen.

**CHAIR:** The hon. the Member for Topsail - Paradise.

**MR. P. DAVIS:** Thank you, Mr. Chair.

My purpose for questions this afternoon, for much of it, is to clearly understand what process will be in place once the bill is changed.

Do you have any understanding or recollection of – my understanding is back in 2008, during the debate, and the minister of the day, who was Jerome Kennedy, he was minister of the day. If I remember correctly, he made some commentary about the length of time it was taking for a process, that there was a delay in process. We know we have Jordan now in place, which was nowhere in consideration back in 2008, but we know we have a Jordan ruling in place now which puts time limitations.

Do you anticipate that the approval or the application process through the Attorney General could in any way impact Jordan? Of course, I would think then that an appeal process would go to the Supreme Court, if I understand correctly. How would that impact Jordan at all?

**CHAIR:** The hon. the Minister of Justice and Public Safety.

**MR. A. PARSONS:** Certainly, the Member makes a very good point.

In 2008, when this was brought in, the Jordan case was not something that was on the radar. It's not something we had to deal with. Now we know we have the hard and fast caps that are put in place.

What I would suggest is that every decision we make within the department and everywhere else within Justice, whether it's private counsel, you name it, has Jordan in mind when it comes to these criminal matters. What I would suggest is that we keep this in mind – excuse me, I'm just going to refer to my notes for a second, Mr. Chair.

What I would suggest, as it relates to the Jordan case, we have every assurance that the court matters will not be delayed. This is something we keep in mind. There were issues back in the court process then. We still have them now, but the problem is we have that hard and fast rule that we have to deal with.

Again, from what I've been told by Legal Aid, this will not affect the process. In many cases the delay is not just when it comes to this assignment of staff and solicitors. In many cases the delay can come from a whole number of fronts. It can be defence induced by private counsel, it can be Crown induced, you name it. It can come from all over the place but it's something that guides us, and Legal Aid will certainly be aware of that.

**CHAIR:** The hon. the Member for Topsail - Paradise.

**MR. P. DAVIS:** Thank you, Mr. Chair.

Again, thank you, Minister.

Also, back in 2008, I know you referenced there's no other jurisdiction that has this, but during debate the minister, Mr. Kennedy at the time, made commentary in – when I had a review of *Hansard* of what was said back then and how it was presented, he said: "Mr. Speaker, Saskatchewan, Nova Scotia, Prince Edward Island, and Newfoundland and Labrador were the provinces where there was no counsel of choice provision. However, Nova Scotia and Prince Edward Island, by way of policy, allowed counsel from the private bar to represent eligible legal aid clients at \$85 an hour. The Provinces of British Columbia, Alberta, Manitoba and Ontario all rely upon mixed model to deliver legal aid services. Therefore, counsel of choice is not an issue. In Nunavut and the Northwest Territories, resident lawyers are relied upon in the delivery of legal aid services."

So there's a variety of models around the country. When this was brought in, in 2008, there was a tariff established – and I believe the minister referenced that earlier – \$135, I think, is the top rate currently for lawyers.

If we do away with the current choice of counsel provisions in the current legislation, am I to

think the tariff will be gone as well, or will that tariff remain in place? If a person applies to the AG to say, I can't develop that relationship with a lawyer, I'd like to have this particular lawyer represent me. Will that then be fixed at the – well, if it's a lawyer with 10 years plus, \$135 rate, or will it be another rate or a negotiation to decide that?

**CHAIR:** The hon. the Minister of Justice and Public Safety.

**MR. A. PARSONS:** Thank you.

The Member references the tariff which did come about – we had a debate a couple of years ago on that where the rate raised from, I believe, \$60 to \$135. My understanding is that the tariff will still stay the same.

One of the big things that we note is that private counsel is costing about 50 per cent more in some cases. What I'm being told is that average in-house counsel staff solicitor, even senior, can do these cases for roughly \$85 an hour on average is what it works out to, as opposed to the \$135 you're paying outside counsel.

What I want to do, I also want to go back; we talked Jordan delays. What I'm being told is that in many cases the small contingent of lawyers who are handling the murder files may actually cause more of a delay than the fact that we have 64 lawyers in Legal Aid, the vast majority of whom can handle a file like this. So there is just as much of a delay to be found in the fact that there are not that many lawyers handling the murder files you see, especially – I think Member for Mount Pearl - Southlands referenced – what you see on the news. So the delay can be just as prevalent within private counsel as opposed to in-house or legal aid.

**CHAIR:** The hon. the Member for Topsail - Paradise.

**MR. P. DAVIS:** Thank you very much, Mr. Chair.

Minister, as well, you referenced private counsel lawyers who could be impacted by this. I understand that.

Did you do any consultation with private counsel lawyers in our province to discuss this potential change? If so, what type of consultation occurred or what did you learn from that?

**CHAIR:** The hon. the Minister of Justice and Public Safety.

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

I did very little consultation with the private bar for this because I knew what the answer was going to be. In fact, I had one conversation and the lawyer's suggestion was: Well, you just got to put more money in it. That's what I was told.

When you're bringing in an amendment like this, you know what various members of the private bar are going to say. They'll make any number of arguments, and that's fine; but, in this case, we have a duty to do what's right for the people of the province, including the accused. That's why we went ahead with this.

We had the Roil report done, which was done back in 2013 by the previous administration. I know there will be a number of people who are opposed to this, but I would bet you, Mr. Chair, that the vast, vast majority of those are private counsel who, again, this is something that may affect them.

There is it. I'm putting it out there, very plain.

**CHAIR:** The hon. the Member for Topsail - Paradise.

**MR. P. DAVIS:** Thank you, Mr. Chair.

The Law Society of Newfoundland and Labrador, I think, represents all lawyers, including those who would work within Legal Aid. There's the Canadian Bar Association. There's also a group I learned about: the Canadian Council of Criminal Defence Lawyers.

Did you do any consultation with any of those groups before you considered making those changes?

**CHAIR:** The hon. the Minister of Justice and Public Safety.

**MR. A. PARSONS:** No, I didn't speak to the Canadian Council of Criminal Defence Lawyers. I certainly didn't speak to them. This is something I have mentioned to members of the CBA and members of the Law Society, where every one of the Legal Aid lawyers also belongs to the Law Society.

What I would say here is that seeing the fact that this is not a constitutional issue, nobody is going to have less representation than before, which would be an issue to me. This is not about lesser representation.

Again, I did have, like I said, the one contact, and I've spoken about it to many people. We've had debates over the last two years within the department about it. This is something that we felt was necessary in moving forward. It's going to improve Legal Aid, it's going to improve representation for those people who require it and it's not going to do it at the expense of anybody that requires representation.

Thank you.

**CHAIR:** The hon. the Member for Topsail - Paradise

**MR. P. DAVIS:** Thank you again, Mr. Chair.

Thank you, Minister, as well. Minister, in our discussions about establishing a senior lawyer counsel office and I referenced in second reading comments made by Mr. Summers as recently as the fall of 2016, just over a year ago regarding what he referred to – they were, at the time, experiencing a particularly large wave is what he said.

I'm just wondering if you can give me a breakdown of staffing levels today in Legal Aid services. And with the establishment of a senior lawyer counsel, how are they now compared to, say, even as recently as 2016? Have staffing levels changed? Have there been resources for more staffing? How are we going to create that office? I know you commented on it earlier, but maybe if I can give you an opportunity just to give us more comment on it, I'd appreciate that.

**CHAIR:** The hon. the Minister of Justice and Public Safety.

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

Right now, we do have 64 lawyers. With the creation of this office, we'll probably see some backfilling going on where there will be senior lawyers that move into this new unit and we will need to fill those positions. I actually can't tell you – I know that in the last two years we have not reduced Legal Aid in any way, shape or form. I'm not sure how 2013 was for Legal Aid; I can't recall exactly what the effect was. I do know, as was referenced earlier, there was a spike in cases a couple of years ago. That number has gone down according to Legal Aid.

Speaking generally about it, I've had a number of conversations with Legal Aid. I've spoken at their AGMs, I've met with their board on multiple occasions and we know that there are pressures. What I can say is that I know there are pressures in Legal Aid but I have people within the judiciary, people within the Crown, Victim Services, you name it, there are a lot of pressures there within the justice system that we face and we try our best to deal with what we have.

What I will say is I will continue to work with Legal Aid. Legal Aid is telling me, with this move, this will make them more efficient and better able to handle the clientele that they have. This is something that they certainly want, they've been advocating for and they're very supportive of this move.

**CHAIR:** The hon. the Member for Topsail - Paradise.

**MR. P. DAVIS:** Thank you, Mr. Chair.

Minister, a little bit earlier you referenced current liabilities of \$1.395 million I think is the number, if I copied it down right, the current liabilities for choice of counsel. How many certificates are currently underway, and do you have any idea of how long before – maybe it's impossible for you to say, but I was just wondering, how long do you expect before those cases may be cleared up?

**CHAIR:** The hon. the Minister of Justice and Public Safety.

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

I don't know that number offhand right now. I think it's 21 to 22 right now. How long they're going to take, I don't know. I don't know where they are, what process they are, if they're in the Supreme Court.

I will tell you that the Supreme Court has a very large number of jury cases this year compared to what they normally have. That's what we're seeing. The Supreme Court is certainly feeling some pressure with what they have. So that's the number as I have it right now.

How long it will take to get past that amount, depends on the case. It's hard for me to speculate on what it's going to take.

**CHAIR:** The hon. the Member for Topsail - Paradise.

**MR. P. DAVIS:** Thank you, Mr. Chair.

This may be my last question for the minister. This will create a change in how services are delivered from very serious files on homicides, manslaughter and infanticide cases. I'm glad we don't see that very often, but homicide cases, we've seen what seems to be a daily occurrence and discussion in public media today about cases of such matters.

The government and Legal Aid has a responsibility to make sure these services are provided. There are great people – as I've said in second reading and I reiterate here now, in the 64 lawyers that they have at Legal Aid, I know many of them would be very competent, very capable, well experienced and have their best interests of their clients in mind.

I don't like to talk about or push on failure too much, but, Minister, do you have a process in place or what you anticipate would be a process to observe as things happen just to make sure we don't get back to where we were, just as recently as 2016, when there were serious concerns expressed? I wouldn't want to see a process go back.

What would take place if you saw, all of a sudden, we had a run on – as Mr. Summers talked about in the fall of 2016, he saw what was an increase in a need for Legal Aid services. He used the words: We are experiencing a

particularly large wave. He said other things besides, but if that's the case and it happens again, then I would think they're going to need the support from government, especially that now the option for outside counsel is not going to be permitted as a matter of regular court but there will be an application process.

So, Minister, I don't know if you can comment on that. If I'm not making myself clear, let me know, but my concern is that government has a responsibility to make sure the services are provided. Are you going to be able to roll with the punches if that wave continues as been seen in the past?

**CHAIR:** The hon. the Minister of Justice and Public Safety.

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

I'll certainly try my best to answer that as much as I can. I may miss a few of the points. I will go back to one thing earlier; there are actually 26 certificates for 13 accused. That's the number right now as it stands. So my apologies; I got the accurate information right now, which I feel a duty to put out there.

One thing to keep in mind, the director always has the discretion to retain whatever counsel they feel necessary to ensure that the accused have the best possible representation. So depending on any particular set of circumstances, any particular case, if somebody is off sick, if there's a case being held somewhere else, they have that discretion. That director can make sure that the person gets representation, and that can still be private outside counsel.

What we're saying here is we're removing the automatic right to that private outside counsel. I would say that it's a duty, an incumbent on every single lawyer in this province, no matter who you are or what you do, if you're a member of the Law Society, you have pretty strict standards governing you. You have to ensure that you provide the best service possible to your client; you're not going to provide a service that you don't feel can be up to snuff.

I can tell you that if somebody came to me back in the day for certain offences, I probably would

have steered them on somewhere else, because who wants to take on the responsibility of not being able to do what's best for your client. It happens right now, in many cases, where somebody will come to you, they want representation on a certain matter, that's not my area of expertise; I'm going to refer you elsewhere.

In this case, we have 64 lawyers in this province who handle criminal and family matters, and I'm especially positive that they'll continue to be able to do this. I'm not even worried about 2016 because there hasn't been a crisis in justice. A crisis in justice, I'd go back to 2013 when we had the guts cut out of it. I'd go back to 2006 and 2007 when we had the Lamer inquiry. That's what I go back to; that's was a huge turning point in this system. That's why we went to two Crown counsel and two defence counsel; that was one of the recommendations.

Since that time, look, we have financial challenges; we do the best we can. We've handled one of the biggest cases to come out of the Supreme Court as it affects courts: Jordan; we've handled that. I don't have the stats here but if you talk to the director of Public Prosecutions Miss Jennifer Mercer, QC, she'll tell you that we've handled every one of them. This is something that every jurisdiction is grappling with – every jurisdiction.

I go up and speak with my counterparts across the country, and I see some of the stories that they have to go back and tell people, people that have had their cases tossed out because of these timelines. We haven't had to deal with the same level of difficulty, we'll say here, but I agree with the point that the Member is making. The point is that if it got to the point where we felt there was a challenge and Legal Aid felt there was a challenge, I can guarantee you they'll have no difficulty coming to me or whoever is in the department and I would have no difficulty working with them to make sure that people get the best possible counsel here.

I think this is a responsible move that fits every criterion. I think this is the right thing to do. Again, we've got external counsel telling us this is a good thing to do. We've got departments and legislation across the country saying this is

the way that we're going and we have a Legal Aid Commission here that I think is fantastic.

The Member's concerns are very right. They are right; we need to have that concern. Do you know what? I share that because at the end of the day one failure in the system is not something that any of us wants to see. It does bring down the rest of the system.

So we strive to do our best. I think this is a move in the right direction that will help ensure that we have the best possible system.

Thank you.

**CHAIR:** The hon. the Member for Cape St. Francis.

**MR. K. PARSONS:** Thank you very much, Mr. Chair.

It's just interesting listening to the answers and the back and forth dialogue here. I've learned a lot, actually, this afternoon.

Minister, you said that it costs 50 per cent more for private versus the legal aid system when there are trials. Can you elaborate on the cost, why it would be 50 per cent more? Is it because of the cost per hour? Is that one of them? Or is it the different resources that are available to Legal Aid versus the private lawyers in the province?

**CHAIR:** The hon. the Minister of Justice and Public Safety.

**MR. A. PARSONS:** That's a good question and one that Legal Aid would probably be better off to tell you why. What I can tell you is that we have a tariff rate that goes up to \$135 an hour. Everybody that works within Legal Aid is on salary. It doesn't matter how much work they do, that's salary. So it's not like a billable hour as it is on the outside.

If you do the math looking at \$135 an hour, for 200 hours for two lawyers for each case, plus the court time and extra time and they can get that approved, Legal Aid can pretty accurately book what it's going to cost for one murder for two counsel based on that rate. Then you look at the Legal Aid rate of you know what the salary is. These numbers come directly from Legal Aid.

That's why it is more expensive the private counsel way.

The number we have is that it used to be \$60. Right now we're saying \$85 an hour is what Legal Aid works out to be and \$135 is what the tariff is now since 2014-15.

**CHAIR:** The hon. the Member for Cape St. Francis.

**MR. K. PARSONS:** Just another question here, too.

When we look at a lot of trials that are on the go right now, there are all these expert witnesses brought in. This is just a question. I don't know, you're a lawyer, you know more about it than I do. I'm just wondering those costs for those experts to come in to a trial; I know that probably private would have a certain unknown budget, what we're paying them. Is there a cost to Legal Aid for getting the experts to come to trials like they do with the private industry?

**CHAIR:** The hon. the Minister of Justice and Public Safety.

**MR. A. PARSONS:** Yes, there is. If you have your own counsel that you're paying for, you can pay for whatever witness you want. At the end of the day, it's all on you. You determine what witnesses you can call and bring in, or your lawyer does, and they can be quite significant.

In this case, these people who have Legal Aid that would be one of the costs that has to be covered. The lawyers will make the decision based on who should come in, who is necessary. In a lot of cases – and not just criminal, this could be especially civil or anything else. Money does play a significant role in who you bring in, but it's not inexpensive is what I would say.

**CHAIR:** The hon. the Member for Cape St. Francis.

**MR. K. PARSONS:** Again, just to that point, Minister. I think the idea of this is to make sure everybody gets the best possible representation that they can. I don't think any legislation is brought in for criminals to get off with anything. It's mainly to protect the innocent, we'll say.

My question beforehand; if you say it's \$85 an hour for Legal Aid, that's basically the cost, is that included in the experts? Is that where – it's not included in that at all. Where would the extra funds come from if – like you see on these, I'm just watching TV, watching TV regularly on the evening news. Especially in the trial we just went through, there were so many experts. Every evening there was a new expert brought in.

I'm wondering if this would still be available for someone to get – because they need the experts to come to be able to justify what the lawyers are trying to say. I'm wondering where the funding would come from in order to be able to pay for that.

**CHAIR:** The hon. the Minister of Justice and Public Safety.

**MR. A. PARSONS:** When they bring an expert in, it's also done on the certificate as well. My understanding is it's not just any cost. The lawyers that take this work on do it at the Legal Aid tariff rate. The experts would have to do it as well. Maybe it's lower than what they normally charge.

The other thing is at the end of the day the provincial director determines which experts are going to come in or not. It's not free reign where people can call in every witness they want at the taxpayers' expense. The lawyers are going to do, and the office, the Legal Aid Commission is going to do what they have to to ensure the best possible representation, but there also has to be a reasonability to it.

**CHAIR:** The hon. the Member for Cape St. Francis.

**MR. K. PARSONS:** This is the last question. On Legal Aid right now, I'm sure there are lots of wants and needs as there are in every department in government, and the justice system is no different.

When this is passed, or if it gets passed, is there any request from Legal Aid to up their resources in any way at all to make the cost so they are able to do what we want them to do?

**CHAIR:** The hon. the Minister of Justice and Public Safety.



**MR. A. PARSONS:** No, Legal Aid has indicated they're able to handle this with the savings.

Now, we're probably not going to see any savings right away because right now we've got X number of certificates – 26, I think mentioned – booked for however long. So that cost is still ongoing. That's what's actually booked right now. It's just about \$1.4 million. That's an estimate. Actually, that's probably conservative. It could probably go higher than that.

Again, we have to see where this goes. Going forward, if this amendment is passed, and I'd like to say it should be passed, what we're going to see is a better ability going forward to gauge what the costs are going to be, and then Legal Aid – Legal Aid has always been fiscally responsible. It's not like they have an endless pit of money where they can do what they want. They've also ensured that they're very responsible with the funding they get, and I'm sure they're going to continue that. With the savings that come out of it, at whatever time, that's a discussion: what do you do with this? Where does it go, reinvestment, you name it.

The other thing about the legal system, the justice system, is things change sometimes very quickly that we don't anticipate or can't anticipate. So what we have to do is deal with these situations as they come. If you look at this, their numbers went up. Nobody can tell you exactly why. There was some talk earlier – and Legal Aid, I think, was sharing the sentiment that the increase might have been the Alberta effect for people coming back. It might have been an increase in family cases, an increase in criminal, you name it but there's no way to say exactly whether that's the case.

If we look at murder files, that's an anomaly. That's a spike like we've never seen. Hopefully, we'd like to see that go down but we can't anticipate exactly. We'll see where it goes.

Thank you.

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

**MS. ROGERS:** Thank you, Mr. Chair.

Earlier in debate, I had mentioned that the provincial director for Legal Aid had said to me that the cases have gone up by 20 per cent and that, in fact, there is a wait list. Then just referring back in July 20, 2017, when he spoke to media, he spoke again about the increasing workload of Legal Aid. They actually had to close the family and child office on July 31.

I would ask the minister, Mr. Chair, the provincial director does believe that the caseloads have gone up and that the strain on the workforce for Legal Aid is significant. There is a waiting list for some cases. I'm just wondering what the minister would have to say about how that squares with bringing these cases back into – by eliminating choice of counsel, bringing these cases back into Legal Aid. I know what will happen is three additional junior lawyers will be hired and three senior lawyers will be moved to the special defence unit.

I'm just wondering what the minister thinks about how that squares with the increasing workload that Legal Aid seems to be under.

**CHAIR:** The hon. the Minister of Justice and Public Safety.

**MR. A. PARSONS:** Thank you.

The office that the Member references, the family child office, which I've had an opportunity to speak to these people, it wasn't closed due to workload. It was closed for a reallocation of resources. That's exactly why we're here.

We are here to help them become more efficient with the resources so that they can continue to provide the work. It wasn't just a caseload issue. Mr. Summers, who I have met with on a number of cases – and we've discussed this and talked about the caseload which did spike last year. All I'm going to say is this: If they're worried about the caseload, why are they coming to me saying please bring this in?

Legal Aid wants this. I mentioned this at their AGM and got a round of applause. For a group of people that are concerned about caseload, they have a weird way of showing it is what I'm saying. I know I'm being a facetious.

They do have a tremendous caseload, but this move is not something that's going to prevent them from being able to do their job. This is about Legal Aid has X number of dollars to do their work. This will allow them to better handle the resources they have, be more efficient and to continue providing top-notch service.

That's how this squares. We're making a move that's going to allow Legal Aid to continue to do the good job they're doing.

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

**MS. ROGERS:** (Inaudible) Mr. Chair.

I really acknowledge and thank the fine folks at Legal Aid for the incredible work they do with the resources they have and the increasing push on their resources. The expertise they bring to all cases, I cannot stress that enough.

My other question for the minister is earlier my colleague, the Leader of the Official Opposition, asked the minister: Did you consult with private counsel about this? That was a question I, too, wanted to ask. The minister answered: I did very little consultation because I knew what their answer would be.

I would be curious to ask the minister, in fact, what did he think their answer would be and why. Why not do that consultation with the Newfoundland section of the Canadian Bar Association, the Law Society of Newfoundland and Labrador and the defence attorneys association. I'm just wondering why he didn't and what he thinks their answers might have been.

**CHAIR:** The hon. the Minister of Justice and Public Safety.

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

I did speak to the Law Society about this some time ago and mentioned what I was going to do. They're not really an advocacy body in the sense of saying whether they approve something or not approve something. Legal Aid belongs to the Law Society; private counsel belongs to the Law Society.

I've spoken to the CBA. I've mentioned this. This hasn't been a secret; I mentioned what we were hoping to do some time ago to Legal Aid. Some of Legal Aid actually belongs to the CBA. So it's never been an issue brought up to me.

I did mention it to one private counsel, whose name I don't need to reference here, and that private counsel said to me: Well, there's a solution to it: Put more money in it.

Now, at the end of the day, we have a responsibility here. I have no doubt there are members of the bar who may come out and not be in agreement with the amendment that we're bringing forward. That's fine. That's certainly their right. But right now, we're doing what we think is the best move, is the right move, for a number of reasons that I've laid out ad nauseam.

I would tell these individuals the same thing. This is something that's right for the people of the province. It's certainly right for the taxpayers. I think this has no negative effect in any way, shape or form on individuals who avail of Legal Aid resources.

Thank you.

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

**MS. ROGERS:** Thank you very much, Mr. Chair.

I guess the question I had was really why not do a real consultation with stakeholders because it may very well be the right thing to do. We have a situation where we still will need Legal Aid counsel and also the private bar to work together. That will be the reality of the situation. There will be some crossover. So I'm surprised.

I would say to the minister: Why not do a real consultation so that it can be a smoother transition?

**CHAIR:** The hon. the Minister of Justice and Public Safety.

**MR. A. PARSONS:** Mr. Chair, I don't know where the Member is getting that it's not going to be a smooth transition. I don't get that. Who said this is not going to be a smooth transition?

This is just something that's being put out by the Member without any substantiation whatsoever.

Right now, Legal Aid is prepared – tomorrow, if this amendment came in – to handle any case that comes in. So to insist that there might not be a smooth transition continues what I'm saying about the NDP, which is that they perpetuate the myth that Legal Aid can't handle it. I don't know why.

We talk about consultation: *External Review of Legal Aid in Newfoundland and Labrador* by John F. Roil, QC. He went around the province, and this wasn't even commissioned by our government. It was commissioned by that crowd. I praised them for doing it.

**SOME HON. MEMBERS:** Oh, oh!

**CHAIR:** Order, please!

**MR. A. PARSONS:** I don't know what else we're supposed to do here. I don't know why they're not supportive of Legal Aid. I don't know why they're not supportive of taxpayers. I am bogged here.

The stuff that they're saying: There's not going to be a smooth transition. They might not be able to handle the caseload. What are you trying to say, that Legal Aid can't handle it? I disagree.

Thank you.

**SOME HON. MEMBERS:** Hear, hear!

**CHAIR:** The hon. the Member for St. John's East - Quidi Vidi.

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

I just want to ask a question of clarification of the minister. In responding to the Leader of the Official Opposition who asked questions about the cost of experts, I'm really not clear. If experts have to be called in – which is allowed for and I'm glad that's allowed for – it's still not clear to me what the cost of those experts will be because these are going to be counsel from private practice. Will there be a contract with them?

The tariffs that exist right now are tariffs that exist as part of the provision that's in place for people to go out and get private counsel instead of using Legal Aid. Is the minister saying that those tariffs will still be in place for the use of experts? If not, how will Legal Aid decide how these experts get paid? Will it be if their fee is \$400 an hour, that's what they'll get? I'd like clarification on that, please.

**CHAIR:** The hon. the Minister of Justice and Public Safety.

**MR. A. PARSONS:** Certainly, I have no issue providing clarification. There's absolutely no change as it comes to the practice regarding experts – no change whatsoever. Any changes we're discussing here today have only to do with private counsel and Legal Aid lawyers. It has nothing to do with expert witnesses that are brought in. The provincial director still has discretion. They'll be handled on certificate; the cost varies. Again, what we're suggesting today will have absolutely no change on expert witnesses.

**CHAIR:** The hon. the Member for St. John's East - Quidi Vidi.

**MS. MICHAEL:** Mr. Chair, I think we may be speaking about two different things. I use the word expert because I heard it used. What I'm talking about is if it's decided that the unit that is going to deal with murder, manslaughter and infanticide needs to have a private counsel brought in to work with them, when that happens, what will be used as the basis for paying the private counsel?

**CHAIR:** The hon. the Minister of Justice and Public Safety.

**MR. A. PARSONS:** Thank you.

This would be decided by the provincial director and the tariff rate would still apply.

**CHAIR:** The hon. the Member for St. John's East - Quidi Vidi.

**MS. MICHAEL:** Just to be clear, the tariff rate as it exists right now?

**MR. A. PARSONS:** Yes.

**MS. MICHAEL:** Thank you.

**CHAIR:** Shall the motion carry?

All those in favour, 'aye.'

**SOME HON. MEMBERS:** Aye.

**CHAIR:** All those against, 'nay.'

Carried.

On motion, clause 1 carried.

**CLERK:** Clause 2.

**CHAIR:** Clause 2.

Shall the motion carry?

All those in favour, 'aye.'

**SOME HON. MEMBERS:** Aye.

**CHAIR:** All those against, 'nay.'

Carried.

On motion, clause 2 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:** An Act To Amend The Legal Aid Act.

**CHAIR:** Shall the title carry?

All those in favour, 'aye.'

**SOME HON. MEMBERS:** Aye.

**CHAIR:** All those against, 'nay.'

Carried.

On motion, title carried.

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

**CHAIR:** The hon. the Government House Leader.

**MR. A. PARSONS:** Yes, I move, Mr. Chair, that the Committee rise and report Bill 34.

**CHAIR:** The motion is that the Committee rise and report Bill 34.

Shall the motion carry?

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, the Speaker returned to the Chair.

**MR. SPEAKER (Trimper):** The hon. the Chair of Committees.

**MR. WARR:** Mr. Speaker, the Committee of the Whole have considered the matters to them referred and have directed me to report Bill 34 without amendment.

**MR. SPEAKER:** The Chair of the Committee of the Whole reports that the Committee have considered the matters to them referred and have directed him to report Bill 34 without amendment.

When shall the report be received?

**MR. A. PARSONS:** Now.

**MR. SPEAKER:** Now.

When shall the said bill be read a third time?

**MR. A. PARSONS:** Tomorrow.

**MR. SPEAKER:** Tomorrow.

On motion, report received and adopted. Bill ordered read a third time on tomorrow.

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

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

I would call from the Order Paper, Order 4, second reading of Bill 33.

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

**MR. A. PARSONS:** Mr. Speaker, I move, seconded by the Minister of Municipal Affairs that Bill 33, An Act To Amend The Access To Information And Protection Of Privacy Act, 2015 be now read a second time.

**MR. SPEAKER:** It is moved and seconded that Bill 33 entitled, An Act To Amend The Access To Information And Protection Of Privacy Act, 2015 be now read a second time.

Motion, second reading of a bill, “An Act To Amend The Access To Information And Protection Of Privacy Act, 2015.” (Bill 33)

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

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

Again, I am happy to stand here in this House today and speak to an amendment to the *Access to Information and Protection of Privacy Act*, 2015. It’s a little bit complicated, so I’m certainly going to try my best to make sure I can explain it so that even I can understand it, which sometimes can be tough.

Without belabouring anything, we know the history in this province of access to information. Most Members in this House have had a lot of debate on access to information and it’s a topic that when people in the general populous hear it, it’s something that they think about now probably more so than they did even 10 years

ago. It’s a topic, when it comes up, people are more aware.

What we have is the ATIPP Act, ATIPPA, which was assented to June 1, 2015. I don’t need to get into the history of the piece of legislation, but what I would say is that the version we have now is certainly extremely, extremely broad.

So what we’re doing here today is we’re trying to bring in an amendment to this piece of legislation that would basically add the Muskrat Falls inquiry to Schedule B of this act to be included as an exempted body. Basically, to be exempted from the ATIPP Act. Now, when you say that, it sounds certainly like it could be something that’s contentious. What I want to try my best to do is to give some history and background as to why we are here today debating this and how this arose basically.

Just to give some background to ATIPPA itself. ATIPPA 2015 applies to public bodies, as defined in section 2 of the act. So public bodies can include your core government departments, Crown corporations, municipalities, college, House of Assembly, statutory offices. It actually excludes certain offices from ATIPPA as well. There are certain exclusions such as constituency offices that are actually excluded. The courts are excluded from the act. I think there’s some law enforcement application to this. And the purpose of this is just to add in that simple exemption that is Muskrat Falls inquiry to this.

Just so people would know, right now – and there are two sides to ATIPPA. We often get caught up in the access to information side, which is one that certainly I think the public is more aware of, and then there’s the protection of privacy. Under the access to information, as I said there, most public bodies – a person can make an application to get certain information. Again, there are certain limitations to that. There are certain bodies that you cannot get information from. What we are doing, upon request, I would note, is adding the Muskrat Falls inquiry to that.

What I’d like to do is provide some background as to the request, why the request was made, who made the request and why we are here debating. What we have here, we all know in the

public, certainly everybody in this House knows, is that there was a Commission of Inquiry that was commenced, I guess appointed, and terms of reference drafted for in November of 2017. This Commission will be headed by Justice Richard LeBlanc, and he now has in place Commission counsel, Kate O'Brien and Barry Learmonth.

They received the terms of reference on November 20, 2017. They also have an end date, which is some time in 2019 – I think it's December 2019, but if I'm wrong, I certainly welcome correction on that. It's started and we know what the end date is. In that period of time, there's a significant amount of work that has to be done.

I'm not going to, at this point, get into what's going to be done and what the terms of reference are. What we're talking about is why are we proposing an amendment to eliminate that inquiry from the application of access to information legislation. In December 2017, Justice LeBlanc wrote to the Department of Justice. It was Justice LeBlanc who asked for this exemption under ATIPPA, under section 4 of the act.

I have the act here. I just want to refer to section 4. As you can see this is a substantive bill. Section 4 says: "When the House of Assembly is not in session, the Lieutenant-Governor in Council, on the recommendation of the House of Assembly Management Commission, may by order amend Schedule B, but the order shall not continue in force beyond the end of the next sitting of the House of Assembly."

What the act expressly permits is for the Cabinet, on the recommendation of the Management Commission, to amend this act, the Schedule to it, to add parties to it. Where that's done outside of the House of Assembly, it does not survive the ending of the next session. It has to be brought to the House to be debated here in the House on the floor.

We also talk about what this act applies to. That's under section 5. We talked about the exemptions here. I have a list here. I think section 27 is one exemption under here. Cabinet confidences is one exemption. Actually, there are local public body confidences. Section 31 is disclosure would be harmful to law enforcement.

Just so people understand, access to information is not unlimited or universal; there are some cases where the disclosure of said evidence would be harmful. Those were contemplated by former Chief Justice Clyde Wells when he drafted up this piece of legislation.

Justice LeBlanc wrote to me in my capacity as the minister for the Department of Justice. He asked for an exemption for the Muskrat Falls inquiry. I have a copy of the letter here. It's dated December 21, 2017.

Basically what he's saying is that he wants a partial exemption to the Commission. The exemption being sought at this time "relates to the ongoing investigation including requests and disclosure of documentation as the Commission investigates for the purposes of responding to the Terms of Reference for the Inquiry. We are in no way seeking exemption with regard to administration or finances with regard to the ongoing Inquiry. We are seeking the type of exemption that is permitted with regard to investigative bodies that provide a privilege so that the Commission staff can appropriately and effectually investigate the matters required under the Terms of Reference."

Justice LeBlanc wrote in and said he wanted this exemption for the inquiry. Now, he wrote in again after that. This was a decision that, as I referenced in the legislation, went to the Management Commission of the House. So that wasn't a government decision.

Anybody in this House understands what the Management Commission is. It's a group of MHAs made up from the all sides of the House, including the Speaker, and they make decisions on a whole range of matters that, basically, in many cases, guide the administration of the House, statutory offices, you name it.

Because the session wasn't on, because the House did not open until last week, February 26, they had no choice because the Commission wanted this done as soon as possible. They had to send it to the Management Commission where it was heard on February 1 and then brought into force. It says quite clearly there: While that decision cannot survive the ending of the next session, herein lies why we are here debating this amendment.

So we go back to where Justice LeBlanc wrote this request and asked for this. The House is not in session, he brings it in, we send it off immediately and have that meeting. From my understanding – and I appeared at that meeting; I was on a teleconference – I believe Commission counsel were here to actually answer questions that were asked of all parties about why we were doing this; what's the purpose; what's the effect; what does this mean.

As I said, this was done February 1 and the committee recommended at that time the requested exemption. An order-in-council was issued on February 8 to add the Commission to Schedule B.

Now, in that letter, Justice LeBlanc asked for the exemption and he gave three reasons for the exemption. One was the impact on the Commission's ability to carry out a thorough investigation. Again, I would point out to anybody that is watching or listening or taking this in, this is the independent Commission of Inquiry led Justice LeBlanc who is independent, making the request. They're the ones coming here to this House and saying this is what we want.

If the Commission is required to respond to ATIPP requests during the course of its investigation into the Muskrat Falls Project, its investigation may be hampered. The Commission's investigators must be able to carry out their work in confidence, with the full freedom to explore all avenues and with assurance that all relevant evidence is preserved and available. This is similar to other investigatory bodies for which ATIPPA provides protection from disclosure, like the police or statutory offices or this House of Assembly.

The application of ATIPPA could impact on the Commission's ability to collect evidence. The Commission's Rules of Procedure require production of all documents to commission counsel, even those to which legal privileges may apply, solicitor-client privilege.

I would note, we have another piece of legislation on the Order Paper here that we need to discuss that is relevant to this in that particular request.

If the Commission cannot assure parties that documents received will not be subject to release under ATIPPA, parties may be less willing to co-operate, leading to time consuming legal challenges.

Justice LeBlanc has made clear on a number of occasions, he has a very strict timeline that he must follow if he wants to get this in on time. In fact, when this was announced there was some significant pressure: why couldn't it be done quicker?

Not granting this amendment would significantly delay this investigation, significantly delay the commission of inquiry, and this is according to the commissioner. The commissioner himself is saying this. What's going to happen is if people don't know they're exempt or if their privilege is going to survive, they're going to be less likely to comply with the request that's gone out.

The Commission has gone out and made an actual request throughout all of government for any document that may be relevant. Again, that's something I'm going to reference when we discuss another piece of legislation that we'll be debating in this House this week.

The impact of ATIPP requests on the Commission's resources would be significant. So what they've basically advised is in order to do this we would require significantly more staff, including additional legal counsel, just to deal with the ATIPP requests.

They are anticipating that during the life of this inquiry they will receive well over a million pieces of paper, a million documents during the investigation. That's not an insubstantial amount of paper, that's tremendous, that's huge. If you have to take the resources you have for the investigation and put it right into ATIPP, you're going to be delayed and you're going to have significant cost. Again, I would note, this is not a government directive. This is the commission of inquiry saying this is what we want, this is why we want it.

It's important to remember, Mr. Speaker, a commission of inquiry under the *Public Inquiries Act* is a tool designed to allow for openness and transparency. As a government,

and as the government that commissioned this inquiry, we want the information. We want everything out there in the light of day. That's what the people want, that's what we want. That's why we commissioned this inquiry. This is a plea from the commissioner to say allow us to do this. The public record that results from the hearings will include published exhibits, testimony of public hearings and the commissioner's full report and recommendations.

The Commission itself with this amendment would be exempt from ATIPPA. Any records in the custody or control of any public body – including any department, including Nalcor – which pertain to Muskrat Falls or the Commission, will remain subject to the act. It's not like they're going to end up in some void where they're not going to be disclosed. That is not the case at all. The exemption being requested here is temporary. It only has effect while the Commission is doing its work.

Section 28 of the *Public Inquiries Act* says that once the Commission is finished its work, the records get turned back over to government. Once they're in government's hands, ATIPPA applies. Any fear that they would be going into some black hole never to be seen again is not accurate, not real, not even close to being real.

One thing I would point out – it's very important here. It's very important. I think this is something we need to make sure is on the record. One thing we did do was consult with the Office of the Information and Privacy Commissioner, Mr. Donovan Molloy. We consulted, got the letter back and the commissioner put out his own press release. I think it's important that we put that out here.

“Commissioner Molloy has received a number of inquiries in regards to the announcement of the agenda for today's meeting of the House of Assembly Management Commission.” This was discussed pretty extensively in the House here, roughly three hours. There was a good debate by the Management Commission on the request that came in.

“The OIPC views exemptions of the Commission of Inquiry Respecting the Muskrat Falls Project as appropriate and consistent with

the treatment of similar records pursuant to section 5(1)(a) of the *ATIPPA, 2015*. The OIPC anticipates that consistent with recent commissions of inquiry, exhibits will be available to the public via the Commission's website ....

“Any present exemption effected pursuant to section 4 ... ceases at the expiry of the next sitting of the House of Assembly.”

In considering any amendment to the ATIPPA to exempt the Commission of Inquiry from ATIPPA, the OIPC – Commissioner Molloy – again would view that treatment as appropriate and consistent with the treatment of similar records pursuant to the act.

Here's an important sentence: “This treatment would allow the Commission of Inquiry Respecting the Muskrat Falls Project to proceed more efficiently and expeditiously. At the conclusion of the Inquiry, the Commission's records will be under the custody and control of the Department of Justice and Public Safety. At that time, all of those records will be subject to access to information requests pursuant to the *ATIPPA, 2015*.”

I think that's pretty important, Mr. Speaker. Donovan Molloy, an Officer of this House, Statutory Office, under no influence from anybody, looked at the legislation, looked at the request and said: I agree with it. I think it's appropriate. I think it's consistent with the act. He has no fears – not a single fear. We consulted to make sure that would be the case, and that is the case. I'm going to continue on.

We had the meeting on February 1, which was a good thorough meeting, lots of questions asked, hopefully questions answered. Commission counsel were there to answer these questions and layout why they wanted this. Commissioner Molloy released his report, and that leads us to where we are.

One of the concerns brought up during the Management Commission meeting was: Is your government going to bring this forward or is it just going to die? Again, we are here; we brought forward that piece of legislation the first week the House was open. We brought it forward. We've provided briefings to



government caucus, to all Members of the Opposition. Everybody's had a significant opportunity, I would suggest. Today is Monday, this was done last week. There's a fair amount of time put into this and allow for people to consult, to ask questions and to look into this. Commissioner Molloy has already put his input into this.

What I would note is let's get down to why we're here. We have a commission of inquiry into the biggest, single project in the history of this province, one that right now is well over \$12 billion. A lot of questions, a lot of questions.

What we've done as a government is we've decided it is worthy of an independent commission of inquiry under the *Public Inquiries Act*. It's a pretty substantial terms of reference that's out there. I don't need to reference it right here. It's available online to anybody who wants to see. At the end of the day – again, I've had the experience now of going through one commission of inquiry that we commissioned and finished. We have this one, I've reviewed old ones.

To me, an inquiry has two points: (a) what happened; and (b) what do we do to avoid a similar situation from happening in the future? What are the recommendations? We want nothing more than a full, thorough, open, transparent investigation by an independent justice, and we couldn't have anybody better than Justice Richard LeBlanc. Anybody who knows him, knows his thoroughness, his efficiency. He has indicated in the letters, which are public record, he wants this exemption to allow him to get the work done and done on time as quickly and efficiently, as expeditiously as possible.

They recommended it. It was voted on by the Management Commission here. We're here today to have a vote to make it effective. It will last for the lifetime of the Commission. At the end of the day, all the documents come back to government and they will be ATIPP-able. People will have access to this information. You know what, people will see it before then. Because the whole purpose of an inquiry is to do things in the light of day. That's the whole reason for this. I want nothing more than all the information out there. We want that. We

wouldn't want anybody to be hoodwinked. We don't want that.

So, on that note, what I would suggest is that – I can't say it better than Mr. Molloy: Any present exemptions ceases at the expiry and, in considering any amendment, we would view that treatment as appropriate and consistent.

Mr. Speaker, I think we've covered all the bases here for what it is we are doing, why we are doing it, who is requesting it, what it's going to mean, how long it's going to last and how does it apply. I think we've covered that off.

With that being said, I do look forward to the commentary from my colleagues across the way. I believe there are some Members on our side who may speak to this as well. Certainly we'll hopefully move forward into the Committee stage.

I'm going to take my seat now but, prior to the Member standing, I would like to move a notice on the Paper.

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

**MR. A. PARSONS:** Yes, I would adjourn debate on Bill 33.

**MR. SPEAKER:** All those in favour, 'aye.'

**SOME HON. MEMBERS:** Aye.

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

Motion carried.

The hon. the Government House Leader.

**MR. A. PARSONS:** At this time, Mr. Speaker, I move, pursuant to Motion 1 on the Order Paper, that this House – and pursuant to Standing Order 11(1) – not adjourn at 5:30 p.m. today, Monday, March 5, 2018.

**MR. SPEAKER:** All those in favour, 'aye.'

**SOME HON. MEMBERS:** Aye.

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

The motion is carried.

The hon. the Government House Leader.

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

I call from the Order Paper second reading of Bill 33, An Act To Amend The Access To Information And Protection Of Privacy Act, 2015.

**MR. SPEAKER:** The hon. the Opposition House Leader.

**MR. HUTCHINGS:** Thank you, Mr. Speaker.

I'm pleased to rise today to speak to Bill 33, Access to Information and Protection of Privacy. I just listened to the minister take us through, I guess, the previous discussion we had in the Management Commission in regard to this particular piece of legislation – well, at that point, the provision was because the House wasn't sitting that, on a temporary basis, to entertain the exemption, it would go to the Management Commission. At that point in time, any decision made, if it was approved, would be in place on a temporary basis until the House of Assembly sat and it could be brought forward here as an amendment, as the minister has done.

At that particular time, we did sit here, and probably for a couple of hours, had a very good discussion on the content on a bill, certainly the intent. We also, prior to it, I think had requested that Judge LeBlanc attend. And recognizably, due to various reasons, he could not, but the co-counsels that were appointed did attend.

I have to say, in my 11 years sitting here and the privilege of sitting in the Legislature, I thought it was an excellent exercise in terms of bringing in, from the committee perspective, experts or people who could draw on their knowledge and expertise and give some reason and rationale from what we were discussing. It was a great discussion, as I said, a couple of hours, that we asked direct questions to the co-counsels for the inquiry and, I think, went to the breadth and scope of what we were trying to discuss and making a decision on what was put forward to the Management Commission.

At the end of the day, there were diverging views on what the intent was being asked for and what was voted on. There wasn't full agreement, but that was fine. I think the real point here I want to make and to recognize is that it was a very good exercise in terms of moving forward with it and having a discussion.

So the exemption to the Commission of Inquiry respecting the Muskrat Falls Project and the *Access to Information and Protection and Privacy Act, 2015*, basically was looking at, during the inquiry – and the minister went through and talked about Judge LeBlanc and his three criteria that he had wrote to the Minister of Justice and Public Safety, I think it was in December, and asked to entertain this exemption and, in particular, it related to an investigative component of the inquiry and that information is to be accessed and how it can be accessed. There was concern expressed in regard to the volume of information and compared it to other inquiries we had in the province. I could be corrected, I don't think the – well, the ATIPPA Act was amended in 2015 but, since then, any public inquiry, it is my understanding, hasn't asked for that exemption.

Some of the issues that were brought forward in regard to the reason for it were related to the volume of information that would be made available and would want to be collected, the investigative process that would be required and would that be interrupted and would it cause concerns in regard to due process and what the inquiry had to do, co-counsels and a part of that investigative component of what they needed to do to access the information.

As I said, there were concerns about the large volume of information under the ATIPPA legislation while the inquiry was going on. I remember the co-counsel talked about three stages of the actual inquiry. The first stage was the investigative component where you look at extracting information, looking at who has information, what information is relevant and trying to obtain that information and get access to it. I remember asking: Is that a continuation through the inquiry process? I think Ms. O'Brien indicated, yes, it is, but the real focus is at the first of those three components in terms of the investigative nature of the process.

That was the discussion about you have this vast amount of information during the inquiry, if someone was to exercise the provisions under ATIPPA and ask for or ATIPP certain documents that the inquiry may be pursuing and may be investigating, the question fundamentally became – and as parliamentarians we have to decide would that infringe on the process and the inquiry. As opposed to the importance of total openness, transparency and that all information that anybody would want during the inquiry could be ATIPPed and it could be made available during the inquiry. That information would be out in the public domain for people to see, for people to engage in and to pass any judgment on that and that would be available.

That was one of the issues that we talked about in the Management Commission. The other issue that was brought up relates to, I think it was about 80 per cent of the documents would be coming from Nalcor and/or government. There was some discussion about that volume. There was reference to in the process of the inquiry if the issue of privilege is brought up and what can be designated by the inquiry at a particular time, what would be privileged and what would be not. That would be exercised with the exemption in place.

There would be an evaluation of the documents that were obtained. Determination would be made, if it was a case of privilege, and then some would not be made public. It could be solicitor-client privilege, it could be something like commercial sensitivity, one of those areas like that where there could be a determination made.

The decision to provide the exemption would mean that information, or an ask for that information at that particular time during the inquiry, wouldn't be allowed. The questions we asked related to that from co-counsel was – not that it wouldn't be made available, but possibly after the inquiry. What would happen, we were told, is that if the exemption was in place after the inquiry, all the material I guess would be boxed up and whatever, accumulated, and sent off to the Department of Justice and Public Safety. I understand they would be the holders of that information at that particular point after the inquiry.

I think the recommendation is that the inquiry would conclude and make recommendations in late 2019. At that point, the information would be sent on the Department of Justice and Public Safety. Somebody who wanted information that was relevant to that inquiry during the process, would have to apply under ATIPP to access that information.

Some of the questions we had about that, and I asked one of the co-counsels in that regard. Information that's reviewed by the inquiry at a particular time during the process, if there were issues in regard to information that was redacted, information that was not in regard to whether a privilege was exercised by an individual or a group, would that automatically be made available after the inquiry?

The response was no, that cannot be guaranteed, because there's a secondary process that would happen after the inquiry. After all that information is gathered it would be referred on, I think under the control of, as I said, Justice and Public Safety. Then there would be a process in and of itself at that time to do an ATIPPA request for that information.

That was of some concern because the issue here is the availability of information, access to it. People want to know as the inquiry goes on what information is available and how that relates to conclusions or decisions that may transpire leading up to any possible interim report, or certainly leading up to final recommendations and findings by Justice LeBlanc in late 2019; or, if there's some delay, maybe early 2020.

As we look at the whole issue of the records of inquiry and the issues of legal privilege, that was one of the things that was talked about. The other issue, in terms of the volume of information, there was some discussion about making it efficient and expeditious. There was some conversation: Is this an issue of cost or is it an issue of making sure it's fully open and the information is made available? The issue was brought up about what would be needed if there was no exemption provided to entertain those requests that could come in from ATIPPA during the inquiry.

I think the co-counsel for the inquiry indicated that it could be a possible four other individuals,

somewhere in the range of \$300,000 to meet the needs or the expected needs, because no one really knows. No one really knows how many requests are going to come in for ATIPPA for that particular period of time. I know the previous Dunphy inquiry, I think we asked and there was none for that particular inquiry in regard to ATIPPA requests.

This is trying to project, and respectfully, those who are involved with the process and those who were here in the Chamber answering our questions, trying to project what the amount would be. No doubt, there could be hundreds of thousands. I have no idea of the number of records and documents. The issue then they're trying to project: What would it take when you're looking at ATIPPA requests during that period? That was some of the discussion we had as well and some concerns in regard to that and how we do it.

In regard to ATIPPA requests during the inquiry and the possible cost, I guess the other point is this. Even after the inquiry is over those costs are still going to be incurred, because whether there are a few or a lot, whether it's during the inquiry or after the inquiry, when the documents are with the department, those requests will still come. The only difference would be after the fact that information is made, after the inquiry is over and after recommendations have been made.

As I said before when we went through, there was a very good discussion in regard to various aspects of the inquiry and what that would mean. Some very good answers given from the co-counsels in regard to some of the issues that came up.

From counsel's perspective, they wanted to ensure that investigators had the ability to carry out their work in confidence, both to give the investigators full freedom to explore avenues of investigations to help ensure that all relevant evidence is preserved and available. Judge LeBlanc added that the inquiry will need the full co-operation of key players. If the inquiry is unable to assure parties that the documents provided will not be potentially subject to an early release of ATIPPA requests, I expect we'll lose some or much of the co-operation needed.

We had a discussion on that point as well, and when asked counsel could not – they're expecting that if there's an issue someone brings up related to solicitor-client privilege and if that individual or persons don't see there's an exemption, they may be reluctant to bring that information forward; yet, at the end of the day, if this proceeds as described, that information or that presentation of information, that allowance of information to come forward, I guess voluntarily, is still going to have access to the public domain after the public inquiry. Because from what we're being told, that information is going to be accessible even though we would have to make a particular ATIPPA request to do it.

We certainly had discussion about that in regard to what that would mean. As I said, there was no clarity in regard to that particular aspect of it.

The minister went through and talked about – I won't repeat that – the reasoning for Justice LeBlanc. I respect, obviously, his knowledge and expertise and his reasoning in regard to some of the information he had particularly talked about. He talked about, too, the assurances that the documents provided did not get released, other than through the procedures they developed. That was tied to the co-operation of those individuals in regard to the information and how it would be released.

I just wanted to go over a couple of other points in regard to what was discussed and some information that was relayed back to us.

It was talked about in 2015, we know the ATIPP legislation was amended. At that particular time I believe it was – yeah, the Chair was a former Chief Justice Wells. In that particular review, I think he did contemplate whether an exemption should be a part of the legislation automatically. There's some reference to other jurisdictions and the fact that it exists in other jurisdictions.

I do believe Justice Wells went through that, looked at it and determined it should not be part of it, and it wasn't part of it when the ATIPP legislation was amended in 2014. I guess 2015 was the final report. He didn't see that an exemption, or the committee did, should be part of the legislation at that particular time. It would be something that would be outside of that.

I think there was some reference, too, if I remember correctly, to his decision making and thought making process related to a prior judicial inquiry that I think formed the basis of some of his recommendations and some of his thoughts on that. I think it may have been the Cameron inquiry and some of the discussions that were there about access to information and what that would mean. He had used that in the review of the legislation, not to include an automatic exemption in regard to the information at a particular inquiry.

As we go through this, certainly, there will be questions as we go through and go through Committee. This has been dealt with through the Management Commission on a temporary basis. Now we're back here in the Legislature, as required, to make a final decision on this information and making sure where it goes from here.

I think it's incumbent to make sure in the process, at the end of the day, that the public feels comfortable that all information will be made available at the time of the inquiry. If there's information to be accessible, that it is accessible and people have the confidence in the due process. I say that as a parliamentarian with full respect for the co-counsels that came in and shared their expertise with us, with Judge LeBlanc and with respect to Justice Wells and the report he had done in the review process in amending of the ATIPPA legislation, which is recognized now, I think, as one of the best reflection of ATIPPA legislation in the province.

These are points we'll have discussions on as we go through. I'm looking forward to debate from all Members of the House on this issue as we move forward with an inquiry that we, as an Opposition, have certainly called on and supported. I'm looking forward this evening as we move on with debate.

As we're nearing the supper hour, Mr. Speaker, I would propose that we adjourn debate on Bill 33.

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

**MR. A. PARSONS:** Yes, thank you, Mr. Speaker.

I would suggest, with the consent of my colleagues, that we recess now for one hour and then come back to the House at 6:30 p.m.

**MR. SPEAKER:** This House stands in recess until 6:30 p.m.