



Province of Newfoundland and Labrador

FORTY-SEVENTH GENERAL ASSEMBLY
OF
NEWFOUNDLAND AND LABRADOR

Volume XLVII

FOURTH SESSION

Number 32A

HANSARD

Speaker: Honourable Wade Verge, MHA

Tuesday

June 16, 2015
(Night Sitting)

The House resumed sitting at 7:00 p.m.

MR. SPEAKER (Littlejohn): Order, please!

The hon. the Government House Leader.

MR. KING: Thank you, Mr. Speaker.

At this time I would like to call from the Order Paper Bill 14, An Act To Amend The Regional Services Board Act, 2012.

MR. SPEAKER: To resume debate, the hon. the Member for Mount Pearl South.

MR. LANE: Thank you, Mr. Speaker.

It is a pleasure to continue on Bill 14, An Act to Amend the Regional Services Board Act. For the benefit of those who are just tuning in, really what we are talking – at the risk of sounding repetitive, I am not quite sure where I left off. We were discussing this, of course, before the supper break and we had to end off. I am not quite sure where I ended off so I may have to start –

AN HON. MEMBER: Start all over again.

MR. LANE: They are saying I may have to start over again, to some degree, and if I am a little bit repetitive I certainly apologize for that. I know the member, the Attorney General; I can tell that he is very anxious to hear what I have to say. I look forward to enlightening him some more.

Anyway, Mr. Speaker, as we said, Bill 14, we are talking about the Regional Services Board Act. This is really relating to the boards that we have within the Province. Currently, there are eight boards. Six of the eight are actually functioning and there are two which are established and not functioning; one in Green Bay and one in the Coast of Bays region. Primarily, these are regional boards that have been put in place to deal with waste management within the Province.

As I said before we went to break, while they are primarily in place to deal with waste management this could certainly be expanded over time to cover a whole host of regional, municipal services. Municipalities

Newfoundland and Labrador have been pressing for that model over the years and they are certainly in agreement with this piece of legislation. They are in agreement with what is being proposed here, as I understand it.

I am glad to see that because we have seen legislation in the past come before the House where the appropriate stakeholders were not consulted and that was certainly a problem. I know we had a piece of legislation that came in the House – I am not sure if it was this sitting, or maybe the sitting before last – that was a municipal bill around youth being involved in municipal councils and so on. MNL were never really consulted and they did not agree with it. In this particular case, they do agree with it, so that in itself is a positive thing.

Mr. Speaker, this piece of legislation – there are a number of changes here, but certainly the biggest change and the main thrust of this is the fact that we would be actually electing members of the regional service board as opposed to the current practice in place where the government and the minister would actually appoint these individuals to the regional service board. What is being proposed here now is that you would have a number of municipalities within a particular region covered by the regional service board and those municipalities would have the ability to put names forward from their council to serve on the regional service board.

As I indicated earlier, or at least as I would understand or suspect it would be, there would be some sort of proportional representation I would assume from the various parts of the region so that you did not have one town council or one city council with all the members on the board or with the majority of the members on the board, that it would be sort of shared up around the region to make sure there was some sort of equal representation.

Of course this bill does not get into all of those details, and I guess there will be a set of regulations or perhaps policies and procedures or whatever the case might be to cover off all those details; but certainly, the municipalities have the ability now to put names forward and to have these people elected, if there is more than one person with their name put forward for a particular part of the region or so on, that there

would be an election process to determine who the people are who would serve on the board.

That is fitting right within the whole democratic process. I think that is a good thing. I think the whole concept that the government, whoever that government would be, will just simply be picking and choosing who serves on these boards is wrong. The municipalities themselves are the ones that have to use these regional service boards and the facilities that are governed under them. They are the ones that use them. They are the ones that have to pay for it through taxes that their citizens are paying, municipal tax, to help fund these facilities, or to use these facilities that are being governed.

So it only makes sense that if the key stakeholders here are the municipalities, and they are the ones that are paying for it, then obviously they are the ones who should have the say in how these facilities are run, how they are governed, and the decisions that are being made. Obviously, there are significant decisions that these regional service boards would make.

I know if we look at just the waste management piece – which as we said, is primarily what we have now. If you look at the waste management piece – because obviously decisions are going to be made in terms of, for example, what the tipping fees will be, so how much towns will have to pay at the gate per ton when they drop off their garbage. There are going to be decisions made as to whether there will be recycling within those facilities.

Of course there are all different types of recycling. Will we be separating metals? Will we be separating plastics? Will we be doing composting and all those types of issues? There are decisions that would be made around that. There would be costs associated around that depending on the type of recycling that is taking place, who the contractors might be who would be doing the recycling and so on, where they would be selling the product.

All those decisions are going to tie into the cost of operating the facility and it is going to tie into the tipping fees at the gate. Obviously the municipalities are going to have to pay for all that. Therefore, it is important that they be the ones, through their elected representatives and

elected amongst themselves, that it be those people in that ward representing of that group who are making those decisions, impacting those user groups, impacting those municipalities, Mr. Speaker.

AN HON. MEMBER: It is democratic.

MR. LANE: Yes, my colleague is saying it is democratic. Absolutely it is, and that is certainly the way it should be.

There are other issues that come to mind as well when we talk waste management, not just the whole aspect of the tipping fees. We have had issues, we know, around transfer stations, for example. Would there be transfer stations? Where would those transfer stations be located? Who pays for the transfer stations? Does everybody who uses that facility pay for it or just the towns that would feed into those transfer stations that would pay for it? How far would the municipality be expected to transport the garbage from their town to the regional landfill site? Who pays for that cost? Do they pay for all the cost? Is some subsidized? Is there a certain distance that would be covered off by the authority and then the town picks up the rest?

There are all kinds of practical issues that deal with just waste management. We have certainly experienced that in those questions here on the Northeast Avalon, and I am sure that those same types of issues are being brought forward and concerns raised in other parts of the Province. There are a lot of municipalities that have concerns.

Then there is the whole issue around local service districts and unincorporated areas and what happens to their waste and who pays for that and what is the model around that. So there are a whole host of issues that I can think of that comes to mind just around waste management alone.

Once this is established and these people are elected to these boards, we start applying a whole bunch of other municipal services to that whether that be to include things like municipal enforcement, whether it be to include things like animal control, whether it be to include things like planning and engineering and all those things being done on a regional basis through

these regional boards at some point in time, then there is going to be significant costs around those things, significant decisions to be made. It is important once again that the municipalities that are going to pay the bill for all this are the ones that are making those decisions themselves and they are the ones that are selecting the people amongst their own municipal councillors and so on to serve on these regional authorities to make these decisions on their behalf.

It is important then as well that if somebody is not functioning the way they should or this entity is not functioning in the way that it should, there is the opportunity to be able to remove people from the boards and to re-elect other people to replace them. Again, it just comes down to democracy and respecting the users, the stakeholders, which is really the municipal council. In that regard, we totally support this aspect of the bill. We are aware that Municipalities Newfoundland and Labrador also supports this. In that regard, we are definitely on board.

One of the things I will raise, one of the things that are not addressed, or do not seem to be addressed here – and I would say to the minister, because I know he is listening intently, one of the issues here is around the terms of office. I do not think it is really there.

If there is a municipal election – because I understand that these elections will sort of occur in conjunction with municipal elections. For example, we have a municipal election, so then shortly thereafter there would be an election to elect people to these regional service boards. They would serve, I believe, for the four-year term until the next municipal election. There are no time frames. Now maybe that will be in the policies and procedures or in the –

AN HON. MEMBER: Four years.

MR. LANE: Yes, I hear the minister saying four years. I understand four years. It runs in conjunction with municipal elections. Once there is an election, could you drag it out for six months, eight months, or nine months before you get around to appointing people?

AN HON. MEMBER: Or twelve months like the Premier, right?

MR. LANE: Yes. My colleague is saying like the provincial election here where we are waiting twenty-two months or whatever it is, later, to have an election. We want to make sure that once there is a municipal election that the mechanism to elect people to the regional service board is done in a timely fashion.

Obviously if the people who are serving on these boards are elected officials, well, the next municipal election that comes around, some of those people may not run again, or some of those people may not be elected. They could run and be defeated. They need to be replaced.

We did not see anything in here that sort of outlines a timeline to ensure that we do not have a long period of time after an election where there is nobody running the shop. Maybe nobody decides to run again, or maybe they all get defeated, or a combination of both or only half of them is there. So what happens, we cannot wait like a full year to re-elect the people to this. We need some assurance that when there is a municipal election, people are re-elected in a timely fashion. That was really the only point we had here that we were really concerned about. We are suggesting maybe there should be something to say within 120 days people will be re-elected or whatever to the board.

Other than that, Mr. Speaker, we really do not have any issue with this piece of legislation. I think it is a positive thing, once again, that we would be introducing a democratic process as opposed to the current process of the minister and the government just appointing who they feel like and taking it out of the hands of the municipalities. I think it is important to put it in the hands of municipalities. Municipalities Newfoundland and Labrador, as we said, are in favour of this, so therefore we support it also.

With that, I will take my seat.

Thank you, Mr. Speaker.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: The hon. the Member for Exploits.

SOME HON. MEMBERS: Hear, hear!

MR. FORSEY: Thank you, Mr. Speaker.

Just to make a point of the Explanatory Notes for Bill 14, An Act to Amend the Regional Service Boards Act, 2012 –and I think the Member for Mount Pearl South explained some of it in very good detail, as well as the minister, and made some very good points to it as well. What we are doing here, we will “remove the requirement that the minister appoint members to a regional service board and allow members of a regional service board to be elected or appointed by the municipal authorities in each ward.”

The other note: “remove the requirement that a chairperson of a regional service board be appointed by the Lieutenant-Governor in Council and allow the members of a regional service board to elect a chairperson from among the members of the board or from outside the board.”

As it was explained earlier, the chairperson could come from outside of the municipality. Of course, now they will be given an independent election process that is more reflective of their independence. Certainly the minister can answer any question that arises, but I would think that once the board is formed the board will make some rules and regulations on how and when they will do their election for board members and their Chair, especially regarding the municipal elections. I would imagine they would want to get that done immediately after the municipal elections are completed and the new councils in place.

Mr. Speaker, even though they are going to be independent onto themselves, they still have to report and come under Municipal Affairs and they will have to prepare a report of their annual activities including an audited financial statement, and that is according to the Regional Service Boards Act. They would have to follow the regulations and prepare those reports annually anyway.

Basically what we are doing is giving them the privilege or the right to go out and elect their own board from their own councils. I know the Member for Mount Pearl South mentioned about the different regions and I will just touch on them for a second. Anybody who is listening

and wants to know about the Waste Management Strategy and where the waste management boards are set up or the regions, there is an Eastern Region, a Central Region, Western, Western Labrador, and Coast of Bays.

This has been ongoing now since 2002 and there has been quite a bit of money invested by our government in the different regions. Just for a point of interest, the kind of money that is being invested to ensure that we have a good waste management strategy – and I would like to speak about how it operates in Central, if I can get a few minutes. However, in the Eastern Region, the total funding has been \$63.5 million; in the Central Region, total funding has been \$72.9 million; Western, so far \$10.8 million that has been provided to the Western Region. That is the detailed implementation plan for the Western Region that has been completed.

The plans provide for six transfer stations strategically located at Channel-Port aux Basques, Burgeo, St. George’s, Wild Cove, Rocky Harbour, and Hampton Junction. Western Labrador, total funding of \$6.5 million; and Coast of Bays, a total funding of \$80,000 – and this is provided for the waste management study for the region. There is a study ongoing down there, Mr. Speaker.

In Central, I guess we were a little bit more fortunate because we were using shared services anyway, some of the communities in the Central Region, especially in the Exploits Valley. I had spoken about the Exploits Valley before. Basically we have now in Central Newfoundland –

SOME HON. MEMBERS: Oh, oh!

MR. SPEAKER: Order, please!

MR. FORSEY: In Central Newfoundland, Mr. Speaker, the site is set up in Norris Arm North. We have a lot of the communities already carrying and trucking to that site. We do have transfer stations in Central set up in different places. Actually we have transfer stations in Terra Nova, Fogo Island, New World Island, Buchans Junction, Gander Bay, Indian Bay, and Point Leamington. That is where the transfer stations are set up for the Central Region.

Mr. Speaker, when we started this in Central, like I said, we were rather fortunate because we had already been part of some shared services, especially when it comes to the waste management, which included Grand Falls-Windsor, Bishop's Falls, and a couple of more communities. In the meantime, the board currently provides curbside collection services to 70 per cent of communities in the region at a cost of \$74 per household for collection.

Mr. Speaker, in the Central Region, we have already started the recycling program as well. Even though it only started in March, it is working very well. I know we look at, say, Bishop's Falls, Botwood, these communities in that area, they would normally pick or designate one member for the board before. That is the way it was set up. Now what they will do is they will elect all their own members and they will also elect a Chair. As was stated before, the Chair can come from the municipalities or come from outside.

Basically that is it in a nutshell really. We are giving them that authority to do so. Of course they know what they need and they will know what services they want and provide it. They will get their budgets and they will be able to operate from those budgets.

This is a very good piece of legislation moving forward, Mr. Speaker. I will certainly be supporting this.

Thank you very much.

SOME HON. MEMBERS: Hear, hear!

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

MR. MURPHY: Thank you, Mr. Speaker.

I will not be long – I think everybody has been covering off most of the points. This is an interesting piece of legislation at the same time. If you are into municipal affairs, it would be. If you are watching, maybe not – but either way, it brings about an interesting dynamic here.

Mr. Speaker, just looking at this piece of legislation a lot of things came to mind. We know that government, for example, is looking

at making some of these boards autonomous – which is a good thing, so that some of these boards can end up self-regulating, and probably administer some of their own programs in the future. I would imagine that is probably where government is going.

We do know it is a hard road sometimes when it comes to regional governance. We also know that a lot of people have been advocating for changes. We know particularly that Municipalities NL has had a voice on this issue, and we know that it is based partially on a 2013 resolution that Municipalities Newfoundland and Labrador came up with.

We have to go back in history that it was this government back in 2003 that came out with the Regional Service Boards Act back 2003. The simple part of that act, the simple reason why they existed back then was to regulate waste management, but the roles have been changing. They have been evolving. Sometimes it is not readily apparent, but this is 2015, twelve years later, and the roles, the people who have been serving on these boards are getting a little bit used to small pieces that they have been given over the years to try out at the same time.

Mr. Speaker, we do know that, for example, three regional boards have been allowed to participate in a pilot project on water management. Even though it is kind of outside their realm, but it kind of gives them a little bit of governance, and that is a good thing. You pass it on so that somebody else can handle things. As well, we also have one example where the Northern Peninsula regional service district is administering some fire services as well. We also have forms of regional co-operation that are starting to happen at the same time. So we look at it as being a good thing.

There is no doubt, like I said, when you look at the population of Newfoundland and Labrador and the decline in some areas of population, there is a need to have a regional service board in there so that we can probably start to share a little bit more in services at the same time. We look at this as being a positive thing.

In 2012, there were major amendments to the act. They needed to provide consistency with the administrative provisions in the

Municipalities Act of 1999 – one of the reasons why they made the changes – and with some variation, given the geographic distribution of members of a board. So they did extend the term, for example, of some members. It enabled the minister to establish wards. It provided the prescribed powers of a board to include the operation of waste management systems, so that is where they evolved from, and also to clarify the fees that may be charged by a regional service board for services that they would be offering.

There is no doubt that while somebody may be living outside of a municipality and end up being in a regional service board area, you cannot get a service for nothing. I think that is recognition on the part of government. On April 29 of this year when government announced a new fiscal arrangement with the Province's municipalities, they also announced an advisory committee that would be established to explore a regional governance structure at the same time.

This is going to allow the regional service boards again to extend their wings, if you will, to see if they can actually take over part of governance and part of the administration of this Province. We recognize that it is a hard job on the part of Municipal Affairs to do that just on their own, but it is nice to have the watchdog agency there too.

The one thing that we are wondering about in all this – it looks like this is the start of the evolution of regional governance in this Province. While we did not get a straightforward answer as regards to that, nobody gave us a straight answer on it, it certainly appears to be. So, Mr. Speaker, just looking at the process of what has been happening in this Province over the years, we recognize that there has to be changes made. We are obviously going to be supporting this.

The other thing that we have to note too was about the election process, which we did notice in the bill. We did note that of course it was going to be following the Municipalities Act – the Municipal Elections Act I believe the proper name on it is. It looks like certainly that is going to be happening every four years. Certainly under section 8(1) on down to that there was

going to be changes as regards to board appointments and everything.

Mr. Speaker, just to sum up, we are quite pleased to see this happen. We have to recognize that, again, the geography of the Province simply is that we have to share services in some regard. We have to have a regulatory agency that is going to be able to present some of these services at the same time. Again, as it started off in waste management and even before in the evolution to it up from 2003 basically onwards, we have to recognize the simple fact that if you want water perhaps it is going to be done by one of these regional service boards.

If you want waste management to happen, certainly it is going to have to happen through a regional service board if you not living directly in a municipality. We have to look after our own backyards in some cases. Again, Mr. Speaker, we look at this as being a pretty good piece of legislation. It is not bad. There is certainly lots of room for improvement but it shows how the Province is changing and evolving, and we will be there to support these regional service boards as we do municipalities on this side of the House. We want to wish them all the best in their tenure.

Thank you very much, Mr. Speaker.

MR. SPEAKER: The hon. the Member for Bay of Islands.

MR. JOYCE: Thank you, Mr. Speaker.

I will just stand for a few minutes to speak about the Regional Service Boards Act that the minister – I just wanted to say that MNL has been pushing for this for a while, Mr. Speaker.

AN HON. MEMBER: How long will it take?

MR. JOYCE: How long will it take? I think 2017 is when the appointments will start because of the election now and every four years after, from my understanding of the bill. There will be a few questions that I will be asking.

Mr. Speaker, when you look at the waste management, you have to look at Western Newfoundland. You have to look at Don Downer, the chairperson, and the appointees.

When I see the government holding this up now and saying okay, we are going to start appointing people and now, all of a sudden, we are going to have an election, there is a question. If there is a CEO, do the regional service board appoint that person or hire that person, or is it the minister's discretion? Because Mr. Downer was picked out of mid-air, put in the position, and waste management now is what, four years, five years behind – a lot more than that, Mr. Speaker, because it was supposed to be done in 2012. Western Newfoundland was supposed to be completed in 2012. So we are looking at eight, ten years, but it is supposed to be completed in 2016 and now we are four years behind, up to twenty-five for the recycles.

I say to the minister, and I challenge the minister, and I said it before, part of the discontent out on the West Coast is the decision was made to bring the garbage from Western Newfoundland out to Norris Arm. I think it was sixteen members, fifteen members on the board. It was done in July, eight members (inaudible) nine voted – there was not even a full quorum. It was a quorum but it was not a full board brought together. One for sure, maybe two, was on teleconference when this decision was made.

I honestly feel, Mr. Speaker, that there was not enough discussion. I honestly feel that it was done. I brought this up before – and I know the Member for Humber West knows Don Downer quite well. He ran against him for the PC nomination actually. In actual fact, Mr. Speaker, he was on the Land Use Advisory Committee, I think. He resigned for four months, he lost the nomination, and he got hired back on again.

MR. SPEAKER: I remind the hon. member to speak to the bill, please.

MR. JOYCE: That is part of the bill, Mr. Speaker. He is running the Land Use Advisory Committee. It is part of the bill. I am not sure if you know what I am – do you understand this bill here? It is part of the bill.

Mr. Speaker, when someone in that state all of a sudden can take it and move – okay, I am going to run for the PCs now. Here is the funny part about it. After the Land Use Advisory Committee –

AN HON. MEMBER: (Inaudible).

MR. JOYCE: If the Member for Fortune Bay – Cape La Hune has something to say stand up – stand up. Just stand up, if not –

AN HON. MEMBER: She is stood up.

MR. JOYCE: One of the members said she is stood up.

SOME HON. MEMBERS: Hear, hear!

MR. JOYCE: I say to the member, I do not know if she is standing or sitting. but she always has her gums flapping, I can tell you that.

Mr. Speaker, this is a serious issue out on the West Coast. This is a very serious issue out on the West Coast. My question – I know the minister can answer it later – will the person who is going to oversee it, the CEO or the manager, will they be hired by this regional service board or will this be of the minister's discretion? That is the question that the minister could answer.

Mr. Speaker, I just want to just give you a little brief on this. There was a person out around the West Coast – no need to say his name; you can look on the minutes – who was the manager or the CEO of the Western waste management. He resigned his position. Do you know why? Lack of inaction by government, he resigned his position. Lack of action, no action whatsoever – he got frustrated, Mr. Speaker, and he resigned.

At that time, there was a Land Use Advisory Committee set up which all of a sudden became dormant for three years, no meeting, waiting and waiting, Mr. Speaker. All of a sudden, as the Member for Humber West would know, they said: Okay, Mr. Downer, this Land Use Advisory Committee is not sitting. We are going to take you now and we are going to appoint you to the regional waste management. That is how it was done, Mr. Speaker.

You hear all the discontent out on the West Coast about this, Mr. Speaker. Do I think that there has to be issues done with garbage, waste disposal? Absolutely, but we need consultation. Here is what happened, Mr. Speaker – and I said it before. When waste management, the initial

plan was brought about in 2003, when it was being implemented, out in Central they created such a large site they said: Uh-oh, we created a large site here. What we are going to have to do now to bring it up to capacity – I think the site out there is 33 per cent capacity, 30 per cent or 33 per cent, somewhere in that range.

What came up: Well, we cannot set one up on the West Coast now because we need to make sure that we bring up the amount of garbage that is going to be brought in out in Norris Arm. What they did, they scrapped the idea. With government's consent and approval, they scrapped the idea of building a waste management site on the West Coast and they put it out in Norris Arm. The garbage now is going to be shipped out and according to the minister, the transfer stations, the tenders are supposed to be let sometime this month, we were told. I have not seen them yet. I am sure they will be because if the minister says it, I am sure it will be done in the near future. I have not seen them yet.

AN HON. MEMBER: How much does that cost?

MR. JOYCE: I do not know. I do not know what consultants were hired to do it. I have not seen any work on that.

Mr. Speaker, the other question out in Western Newfoundland – and I know it was brought up a fair number of times, even the Mayor of Corner Brook – is the Wild Cove dump site. Because of the delays, can the Wild Cove dump site be active that long? It is getting to capacity. That is a big question, Mr. Speaker – that is a big question.

There are a lot of issues about waste management out on the West Coast. These regional service boards, if they are implemented and if the voting is within the regions themselves, I support that. It is a good move by the minister to have people who are within their own elections going to make decisions for their own area. I agree with that.

With the four-year terms, I also agree with that, I say to the minister. That is a proper way, unlike the Land Use Advisory Committee when they

had people elected, off the board, there was no one reappointed for up to three years.

AN HON. MEMBER: Sounds like the school board.

MR. JOYCE: Sounds like the school board. No, that was two years they were appointed, and there are still no elections. At least they were trying out there every four years.

Mr. Speaker, I agree with this bill, these amendments. I will keep on explaining, I will keep on bringing up the shortfalls of the Waste Management Strategy for Western Newfoundland. I honestly believe that this was a ploy to keep Norris Arm more active and bring up their capacity more and the people who are going to pay more are the people on the Northern Peninsula, people on the West Coast. The people on the Northern Peninsula are going to pay more because government uh-oh, we built this big monstrosity of a site that we need now to start bringing more garbage to it. I really truly feel that, Mr. Speaker.

When you get people like the Mayor of Corner Brook and other municipalities who cannot find out what is going on, cannot get the information – and I said from day one that the cost per ton was going to go over \$200, \$225, \$250, and I was laughed at – I was laughed at. I know the Member for Humber West now – Mr. Don Downer finally said: Yes, it is going to get up that high. What do people expect? It has to be taken care of.

I said it from day one and I say it again, what we have to do is we have to sit down and we have to consult, Mr. Speaker. I am hoping the minister will take this advice. It is not very often when you go out and you have all these municipalities and there is so much discontent about it, you have to consult. If there is some other way that we can make this easier and better and cheaper for the residents – and there is no one on this side of the House, Mr. Speaker, who is going to stand up and say we should not take care of the environment, absolutely nobody. Everybody agrees we should take care of the environment. I do not think there is a member in this House who would disagree with that.

Mr. Speaker, I can tell you right now and you can ask any municipality in Western Newfoundland that I deal with, since the waste management was taken over in Wild Cove, you can see more areas on the West Coast for illegal dumping. I do not condone it, but you can see it. That is a concern that we all have to face somehow.

I am sure out in Central there are sites that are now becoming illegal dump sites that people go. In Western Newfoundland I walk in the woods a fair bit, I walk around, and you can see it more and more and more. I am not sure if we need to do the education more. I am not sure if it is enforcement, or if we have to find some way to make it easier.

I will use just a good example. The people in Corner Brook, rightly or wrongly, Mr. Speaker – I am just explaining the way it is. I live in Corner Brook. If I have a truckload of garbage, I can drive over, because I am a resident I can dump off the garbage. They will tell you where to go. Now, since this waste management you have to go and get a key card. You have to go in to get a key card. You have to go in now and you have to pay for it. The hassle of people who are saying well, it is better now to just go and dump it. I do not agree with that, but that is what happening around. That is another bigger issue.

Another issue with a lot of waste management is the cleaning up of those sites, Mr. Speaker. That is another issue that we have to deal with not only as a government. No matter any municipality that is part of it, but government has to step in because there has been no solution to the sites that are going to be – the Corner Brook, Wild Cove site for example, is that going to be a transfer station? Maybe it is. Those are the kinds of issues that are not being dealt with.

I will support this bill. I think it is a move in the right direction to put the power back into the hands of the people who have the most to gain or the most to lose and who have been dealing with other councils within the area. I say the minister did a good job on this here, but until 2017 we have to do something more to try to get more information out to the councils, get more information out to the people in Western Newfoundland about the waste management

because it is becoming an issue. It is becoming a major issue for our environment with the dumping that is occurring.

I will sit down and take my seat, Mr. Speaker. Once again, I applaud the minister for bringing this forward. I applaud MNL for passing this. I think it was in 2012 they put that in one of their resolutions, pushing this forward. It is a positive step, and I am sure a lot of towns would like to have control back in their hands, not have people being appointed but have people who are appointed by the towns, who have to answer to the board and answer to their own municipalities on the decision. So I will be supporting this bill.

Thank you, Mr. Speaker.

SOME HON. MEMBERS: Hear, hear!

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

MS DEMPSTER: Thank you, Mr. Speaker.

I am going to speak for a few minutes to Bill 14. I am happy to stand and on behalf of the residents of Cartwright – L'Anse au Clair, talk for a little bit about Bill 14, An Act to Amend the Regional Service Boards Act. There are several things that this act is going to do, primarily co-ordinate and execute the Province's Waste Management Strategy.

Mr. Speaker, before I was elected, I got a bit involved and sat on the committee, the waste management in Cartwright – L'Anse au Clair – a big issue, and I am going to speak to it for a few minutes, in that area. Also, as I have said here in the House before, I sat on the provincial municipalities board. So I am very familiar with the resolution back in 2011 that MNL put forward and familiar with a lot of the Provincial Waste Management Strategy.

I think this is a very positive bill. When we see a bill that is giving some power and some control back into the hands of the municipalities, the people who are on the ground, the people who have an invested interest in that area, and taking some of that away from the ministers, no matter who was in government, no matter who is in power, I believe that is a very, very positive thing.

Mr. Speaker, this amendment to the Regional Service Boards Act is something that comes directly from a push by municipalities, and it is refreshing to see that the government listened and that we are here tonight and that we are debating Bill 14. This organization has been lobbying for significant change in the Regional Service Boards Act for some time. It is nice to see the resolution that was put forward about four years ago; they are now getting what they had asked for at that time.

Mr. Speaker, I believe when you take the politics out of something like this, there is far more work that will be accomplished in the end because the focus will be on the work that needs to be done instead of partisan favours, you do something for me and I will appoint you to this board. There are all kinds of examples across the departments and connections where we can see that political appointments were made – and not always a positive thing, and oftentimes lots of fallout from it. In the end, the regions where specific work was to be done, those are the regions, and the work ends up not being done and the regions suffer from that.

So, the resolution that was put forward by MNL back in 2011, it called for eliminating all appointment powers of the minister. Mr. Speaker, a board like the MNL, a very credible board in this Province, they obviously had reason to be concerned, fed up with probably years and decades of abuse, appointments made by ministers. So they put forward this resolution to eliminate the appointment powers of the minister and require that all members of a regional service board, including the chairperson of the said board, be elected from among municipal councillors and local service district representatives from the municipalities and communities within the jurisdiction of a regional service board.

Mr. Speaker, Bill 14, the bill we are discussing here tonight, which amends the Regional Service Boards Act, recognizes the request that was put forward by MNL in 2011 and is a welcome change for local government – a welcome change.

I was also very happy to hear the minister stand and speak to say that the act being amended would recognize the Indian reserves and provide

them a place at the board table as full members of a regional service board. It is very rewarding to see Indian reserves being recognized, the valuable role they have to play, and the contribution that they can make to the table and their close connection to the environment and the land. It is nice to see this now being an inclusive process and to see them at the table as full members of that regional service board.

Mr. Speaker, there is all kinds of detail in this that my colleague for Mount Pearl South had talked about, and I do not want to reiterate too much of what he said about the act is being amended so that the minister no longer appoints the chairperson or the members. We feel this is a very, very positive thing, as I said earlier, to take the politics out of this and to focus on the work of the regional service board. I do not need to talk tonight about how that is rolling out. There was some concern that there is no timeline provided for the reappointment, and that is something that we need to look at changing.

I want to talk a little bit about the Waste Management Strategy in the Province. There is no doubt about it that a lot of work has already been done, Mr. Speaker. I believe a press release came out on May 25 and \$161 million has been invested to date, significant accomplishments, no doubt, have been achieved; but in Labrador we are nearing a crisis stage.

In the District of Cartwright – L'Anse au Clair, as I said I was involved with the Waste Management Strategy. I got heavily involved in fall of 2012 and we pulled all of the community leaders in the district together to see if we could move a file. Hatch Mott MacDonald was commissioned to do a study; I think it was back in the early 2000s. They did a study, nothing happened for years and years and years, then we came together in December 2012 and we held a forum initiated by local people.

I facilitated that forum, Mr. Speaker, and we brought in a rep from Hatch Mott MacDonald and we discussed why we had not moved beyond where we were. We got Crow Head in the Labrador Straits. It is a very hot potato, Mr. Speaker – no pun intended. It is about to explode. The dump is overfilled. It is at a crisis state. Several other communities in my district, Mary's Harbour and Charlottetown – in

Charlottetown we have the only shrimp processing facility so we have tons of things from the shrimp plant, the bags the effluent goes in and things like that that go into the dump.

Mr. Speaker, I have travelled around the Province a little bit since the Waste Management Strategy has been implemented. It is amazing what has happened with some of the dump sites and what used to be a terrible, terrible dump site is now beautiful, pristine land, green grass; but in the District of Cartwright L'Anse au Clair we still have a string of town dumps. They are an eyesore. We are at a crisis state.

When we saw the recent press release out extending the timeline for the waste management, Mr. Speaker, there was a lot of discontent, I can tell you, on the local level in Cartwright – L'Anse au Clair. The press release specifically mentioned the development of the new landfill site for Southern Labrador. It talked about the research and the analysis that has been ongoing for over a decade.

Mr. Speaker, at the forum that we had in 2012 we did secure another \$44,000. We wanted to get answers. The municipal leaders wanted answers to some more questions they had because there has been some concern around what would be the most least cost effective, a one-site model, a two site, or a three.

As I have said many times, the district is very, very, very spread out, Mr. Speaker. It is six hours, seven hours, maybe, drive from one end to the other. It is still a bad road. It is not going to be a paved road for a number of years. Then it comes into question even the equipment. How is it going to hold up?

If you have a one-site model and you have those dump trucks that are travelling for hours every day on the road, Mr. Speaker, we know on the Northern Peninsula they are well underway with this Waste Management Strategy, but they have certainly had lots and lots of issues with vehicles breaking down, having to go to, I believe it is, Grand Falls each time and be repaired.

The initial study showed that a single-site model was the most expensive to operate: \$203 per household per year. The two-site model was cheaper: \$131 per household per year. The

three-site model would be the cheapest. Once we had the additional study done, whatever happened, Hatch Mott McDonald came back and showed that in fact the one-site model was the cheapest.

Mr. Speaker, I do not know why government has not moved forward to date on this, knowing that the crisis is in that area. The people on the ground in the district, the leaders and those involved on the waste management committee, most recently received a letter from the Environment Minister's office saying that an environmental preview report was now required.

Mr. Speaker, I am not sure if an environmental preview report was needed for any other site. I know it is important that we get this right. I understand that these models that we are putting in place is expected to last for –

AN HON. MEMBER: (Inaudible) going all night.

MS DEMPSTER: You might be going all night because it is a chance for me to talk about the waste management issues in Cartwright – L'Anse au Clair, I say to the hon. member across the way.

Mr. Speaker, the Waste Management Strategy timelines in which it was to be implemented has just been stretched out a little further. What that means is that communities like I represent that have town dump sites are going to be waiting longer, years and years more, and there is no doubt about it that we are going to be in a crisis if those communities are expected to wait into the future very long.

The people involved in the Waste Management Strategy in Cartwright – L'Anse au Clair feel that they made significant progress over the past couple of years, but right now everything seems to be at a standstill. So I encourage government to work with the Waste Management Strategy people in the district and try to move this along before we are all dealing with something that we would prefer not to be. Any further unnecessary delays is definitely going to exasperate the already intolerable existing conditions for the residents who live there, for tourists who travel through the region, many of these dump sites are in very prominent, focal areas.

I do not have a lot more to say about it. It gave me an opportunity to mention the serious issue that is in Cartwright – L'Anse au Clair with the waste management sites that needed to be addressed maybe ten years ago. We are far past when we need to do that.

Mr. Speaker, under Bill 14, An Act to Amend the Regional Service Boards Act, it is always a very positive thing when we can see that we are making a step in the right direction. I hope we will see it in more departments where a minister kind of removes himself away from political appointments and we see that we give some onus back to those people in our communities, community leaders, municipalities, local service districts that do very valuable work every day for the people that they represent.

As I said at Combined Councils last week, those people who live in these small communities who give so much, at the end of the day they want to see the places that they live and call home a little better place. I am very happy to have a couple of minutes to speak to Bill 14, An Act to Amend the Regional Service Boards Act. One of the positives that I did not mention that is here in this act is that there is also an amendment being put in directing the regional service board to publish on an annual basis their audited financial statements and their annual reports so that the general public has full access.

It is very important, Mr. Speaker. Every single day in all different departments we hear about openness, transparency, and accountability. Any time you are dealing with the public's money, residents paying money into user fees and things like that, I am really happy to see that amendment put in so that audited financial statements will be published on an annual basis.

With that, I will take my place and I am happy to have spoken for a minute to Bill 14. I do hope that things will move before they get to a crisis stage in the waste management situation in the District of Cartwright – L'Anse au Clair.

Thank you.

SOME HON. MEMBERS: Hear, hear!

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

MR. MITCHELMORE: Thank you, Mr. Speaker, for the opportunity to speak to Bill 14, An Act to Amend the Regional Service Boards Act. I wanted to speak to this particular bill after listening to the minister in his commentary of what he stated around the NorPen Regional Service Board. That particular board comprises basically, if we look at Bill 13 and what the electoral boundaries commission proposes for St. Barbe – L'Anse aux Meadows, that particular geographical space.

Last night, after midnight, when I was on my feet debating that, I pointed out how that electoral district is basically the same as the NorPen Regional Service Board, which represents the sixteen municipalities, all of the local service districts and all of the other communities that are there. There are fifty-three communities. The NorPen Regional Service Board is a model that is reflective of how these can work effectively well if they are properly resourced.

NorPen has their headquarters in St. Anthony and what they do is they are collecting fees from all of the communities. If it is a municipality, they can collect their fees on a more upfront basis. Then on other regions, they go through a different process to collect fees, but all householders pay an annual fee for waste collection services.

Also, NorPen is a unique model in a sense that it also manages fire services for the thirteen communities as the minister stated. In a region of the district where I live, between Eddies Cove and Anchor Point, there are thirteen communities, two municipalities, and there are eight unincorporated communities and three other local service districts in that region.

For the population, prior to this coming together for regional fire services, each little community, thirteen of them, a number of them had their own fire departments. Can you imagine 150, 130 or 180 people trying to support fire services, fire trucks, equipment, training and management in that way? Instead, what NorPen does, NorPen has managed to set up one regional fire centre and a second station so that it adequately covers that radius of almost fifty linear kilometres. They are properly resources in terms of having fire trucks, seeing growth and

proper training, and this is a way where government can save money and provide more efficient services to people.

I applaud this model of looking at regional service boards, how they can be implemented, and how it is fair for all because every individual pays a fee. The householder pays a fee, whether they live in a municipality, whether they live in a local service district, or an unincorporated community. So it is not like when you talk about certain people in towns pay property taxes and those who do not live in a particular town are not paying their fair share. When you look at a regional service board, you pay the fee for the services that are being provided. This could be a way to look at providing more regional fire departments. I think that works.

I do not know, I think the Member for Fortune Bay – Cape La Hune may think it is funny, but I represent some very small areas that have a lot of challenges. When you look at pooling together, working together collaboratively and finding solutions, then that is a way to make sure that you are effective.

I look at that having members elected is more democratic than being appointed. You can see where people who are locally able to make the decisions and make them public – which this amendment is doing in terms of an annual report.

There are challenges. There are challenges to regional service boards achieving that level of co-operation. There will be challenges moving forward when it comes to resourcing, when it comes to how waste management and how implementing additional services, whether it be recreation, or whether it be looking at regional water operators being added to these service boards. That is something that needs to be looked at.

I will be supporting this particular piece of legislation. I believe in what the regional service boards do. They certainly need adequate training. They need to be supported. They need that community appeal where they do have that elected voice so that they can come to government on behalf of these larger bodies and speak to the needs of what must happen in terms

of the services that can be provided to a particular region.

I think it is a really positive thing. I will support this particular piece of legislation.

Thank you.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: If the hon. the Minister of Municipal and Intergovernmental Affairs speaks now, he will close debate.

The hon. the Minister of Municipal and Intergovernmental Affairs.

SOME HON. MEMBERS: Hear, hear!

MR. HUTCHINGS: Mr. Speaker, I want to thank the hon. Members for Mount Pearl South, Exploits, St. John's East, Cartwright – L'Anse au Clair, Bay of Islands, and The Straits – White Bay North for their participation in Bill 14. It is good discussion in terms of the bill and the contents in terms of the appointments to the regional service boards, what happens now, the current method, and what we are going to do as we move forward. It is very important, in terms of the maturity of the regional service boards, that we move forward, and that autonomy for those volunteers who are so important.

I think someone mentioned on the other side these are obviously volunteers. They do a lot of work in our communities. They serve on very small local service districts, municipalities, and larger towns and cities in our Province. They certainly do a great job in that, and again would put their hand up to serve on these regional service boards. This is a broad based overview of our region, and as was mentioned as well in terms of providing not only waste management, but looking at what other services that can be provided and provided very effectively for our regions.

With that, Mr. Speaker, I will take my seat. I will certainly look forward to any questions when we move to Committee.

Thank you very much.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: Order, please!

Is it the pleasure of the House to adopt the motion that Bill 14 be now read a second time?

All those in favour, 'aye.'

SOME HON. MEMBERS: Aye.

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

The motion is carried.

CLERK: A bill, An Act To Amend The Regional Service Boards Act, 2012. (Bill 14)

MR. SPEAKER: Bill 14 has now been read a second time.

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

MR. KING: Later.

MR. SPEAKER: Later.

On motion, a bill, "An Act To Amend The Regional Service Boards Act, 2012," read a second time, ordered referred to a Committee of the Whole House on tomorrow. (Bill 14).

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

MR. KING: Thank you, Mr. Speaker.

I would like to now call from the Order Paper, Bill 9, An Act To Amend The Legal Aid Act. So moved by me, seconded by the Minister of Municipal and Intergovernmental Affairs that the said bill be now read the second time.

MR. SPEAKER: It is moved and seconded that Bill 9, 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 9)

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

SOME HON. MEMBERS: Hear, hear!

MR. KING: Thank you, Mr. Speaker.

It is indeed a pleasure to have an opportunity to speak to Bill 9 this evening, An Act To Amend The Legal Aid Act.

For the benefit of those who are paying attention to the debate, there are two purposes for what we are about to debate here this evening with this bill, Mr. Speaker. One is to implement legislative requirements as a result of an external review of the Legal Aid Commission that was carried out in 2013. There were a number of statutory –

SOME HON. MEMBERS: Oh, oh!

MR. SPEAKER: Order, please!

MR. KING: There were a number of statutory requirements, legislative requirements that we need to implement as a result of the review. Also, Mr. Speaker, we took the opportunity, as part of that review, to consult with the Legal Aid Commission. We have found a number of areas in consultation with them where there is an opportunity to modernize this particular act. It is about modernizing the act and also implementing the recommendations from the external review.

By way of a little bit of background to introduce the Legal Aid Act, Mr. Speaker, the Legal Aid Act is the act in the Province that guides the operations of the Newfoundland and Labrador Legal Aid Commission. The Commission has a number of significant responsibilities. One, of course, primarily is the provision of legal counsel to those who qualify, which would be eligible residents either charged with offences under the Criminal Code of Canada, charged with other federal or provincial statutes, and those who may be involved in family legal disputes or other civil matters.

The Commission, Mr. Speaker, is located across the Province. They have eleven provincial offices with 125 employees. There is a combination there of fifty-nine solicitors – that is fifty-nine lawyers – and sixty-six management and staff. So it is quite a large organization that provides a very significant function in the justice system to support many individuals and families across our Province.

The core mandate of the Legal Aid Commission is to ensure that all residents who are eligible within our Province receive competent legal advice and representation. They are set up, Mr. Speaker, as a Crown agency or a Crown corporation under the act. It is an organization that we fund, but they operate certainly at arm's length from the Government of Newfoundland and Labrador.

By way of a little bit of background, the first purpose, I said a few minutes ago with respect to the revisions here, was to implement the recommendations of the legal aid review. Back in 2013, I happened to be the Minister of Justice at that time as well. It was decided that a review would be completed of the Legal Aid Act in the Province, part of looking at how we were using the resources we had, whether there were opportunities to better use the resources, and whether in fact there were more resources required. It was significant also, Mr. Speaker, because it was really the only substantial review that had been completed of the Legal Aid Act since 1975.

As a result of that in June 2013, I, as the minister at the time, commissioned a review of the Legal Aid Act. That was completed by John Roil who is QC, Queen's Counsel. The purpose, as I said before, there were a couple of things; one is to look at the cost efficiencies, and whether or not there were things that we could do better or things that we could improve.

The review at the time included to look at the assessment of staff workloads, Mr. Speaker. It looked, as well, at the geographical, cultural, and economic challenges that the Legal Aid Commission was facing. A significant issue we were asked to address as well was the use of private counsel and the use of choice of counsel, which I will get into in a couple of moments, and of course an examination of our service delivery model and how we were doing things throughout the Province.

The Roil review was certainly very extensive and very engaging. A lot of individuals, groups, and community organizations had some input in that and gave him and his group some very clear advice. They came back and there are a number of summary statements that I would like to share

with the House for the record, and a number of recommendations that I am going to talk about.

First of all, one of the things they did that we are absolutely proud of is they affirmed that the current model of legal aid being provided in the Province is very effective and the most appropriate for us, and certainly urged us to continue with the current model. The second one, Mr. Speaker, that I also want to draw attention to for the record is that the Roil review highlighted the quality of work that we are receiving from solicitors and others who work within the Legal Aid Commission.

I want to just draw attention to that because oftentimes there is a perception out there by some in society that the Legal Aid solicitors and the Legal Aid lawyers are not of the same quality or competence as other lawyers.

SOME HON. MEMBERS: Oh, oh!

MR. SPEAKER: Order, please!

MR. KING: This review certainly refuted that completely and reminded all of us, for the record, that we have good people who are providing good services through the Legal Aid Commission, and that the Commission has a very important, very integral role to play as part of the implementation and the administration of justice in the Province.

There were a number of recommendations that came from the review. I can talk about a couple of them as part of this legislative review: In Budget 2014-2015 we funded the Family Court Duty Counsel on a permanent basis, we also extended that service to other locations outside of St. John's, Mr. Speaker, to other areas of the Province; sustaining funding for core Legal Aid services and to ensure we had adequate staff provided, the Legal Aid Commission was also funded; a number of important projects related to –

SOME HON. MEMBERS: Oh, oh!

MR. SPEAKER: Order, please!

MR. KING: – the Mental Health Office, the Family and Child Services Offices; and, we also created the position of a Deputy Director –

Legal. Certainly, they are some very important initiatives, Mr. Speaker.

There were also a number of other recommendations that have been implemented independently by the Legal Aid Commission as a result of taking the opportunity, not only for the Roil review to take place, but for the Legal Aid Commission itself to do an internal review of its own policies, procedures, and practices. They have made changes, for example, around their intake and appeals processes.

The Commission has reviewed and revised its use of technology in its operations. That is something, Mr. Speaker, I had the opportunity to speak to this morning at the Canadian Bar Association gathering on access to justice in the Province and in Canada generally. We are using more technology in the court system overall. I think it is a very good thing. It is certainly promoting greater access to justice for many people, particularly in Newfoundland and Labrador where we are very much a rural Province and many communities are somewhat isolated from one another. So the use of technology is certainly very important.

Several of the recommendations, Mr. Speaker, to get to the heart of this bill, require legislative changes. One is the size and composition of the Legal Aid board. The second one is clarifying improving upon conflict issues on files within the Legal Aid Commission itself. The issue of maintaining choice of counsel – which I will touch on in a couple of moments – and the fourth significant one is not actually a legislative change but it is going to be a policy change that will come about as a part of the legislative change, is increasing the tariff that we pay.

I will take just a couple of moments on each of these. With respect to the size of the Legal Aid board, Mr. Speaker, the amendments we are proposing here this evening will expand the board to a total complement of seven members. Three of these members will be appointed from a list that is provided to myself, as the Minister of Justice and Public Safety, by the Law Society of Newfoundland, and that is currently the case.

One of the things that is recommended and we support, and the Legal Aid Commission supports, is that by expanding the number of

board members and the process we are going to follow, it will provide an opportunity for a more diverse management-oriented set of skills on the board. It will also permit the board, because of the larger numbers, to work more with subcommittees.

One of the challenges the Legal Aid Commission board has right now is that almost every activity it engages in the full board is required to meet. That becomes not only an onerous task for board members, but it also becomes a challenge to get a quorum for meetings when you have so many frequent meetings. So, because of the increase in the size of the board it will allow for the use of subcommittees and a greater opportunity to get more work done.

I mentioned before that we are hoping with the change in legislation it will reduce conflicts on certain files. That has to do with solicitors in the case where you have a number of solicitors from the Legal Aid Commission who may engage with the same client on certain files. Now, the legislation here is intended to clarify that particular position.

The choice of counsel, as I mentioned, Mr. Speaker, is a very important one. Currently, our act provides where an application for Legal Aid is in respect of murder, manslaughter, or infanticide, the application may select a solicitor employed by the commission or a solicitor in private practice. The choice is currently provided in the legislation.

The Royal Report recommended removal of the choice of counsel. It recommended removal so that an individual who presented themselves for the services of Legal Aid would be required to simply accept the services of one of the Legal Aid solicitors. That was a strong debate amongst the department, amongst the Legal Aid Commission, but in the end it was felt that was not the right approach to take. In fact, leaving the choice of counsel was the approach to take.

What we are doing in this particular legislation is we are remaining with the choice of counsel for those who fit the criteria, but in the choice of counsel we are clarifying in the legislation that solicitors must be first of all on a Legal Aid panel; secondly, they must be paid at the Legal

Aid tariffs. There has always been some confusion. Certainly, at least in my tenure having been the minister on three occasions, there has always been some confusion about the rate of tariffs. We have had to involve the Attorney General to try and intervene on tariffs and all that sort of stuff.

So, clearly, what we are going to do here is we are going to have two parameters that if you choose outside counsel it must be an individual who is on the Legal Aid panel and they must be paid at Legal Aid tariff rates. The tariffs rates, Mr. Speaker, while not being included in this legislation, they will be included in the regulations that follow this. A tariff will go from \$60 an hour up to \$135 an hour – the tariff will go from \$65 per hour to \$135 per hour.

SOME HON. MEMBERS: Hear, hear!

MR. KING: There are, Mr. Speaker, a number of other administrative changes contained in this bill and those are changes that have been recommended to us by the Legal Aid Commission, considered very much from their perspective at least, administrative in nature.

Mr. Speaker, I am certainly very pleased to have a few moments to speak to this bill and to provide a high level summary of the bill, Bill 9, An Act To Amend The Legal Aid Act. With that, I am going to close my remarks and invite my colleague from Burgeo – La Poile to have his chance to speak, and anyone else who wishes to speak and move this bill forward.

Thank you.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: The hon. the Member for Burgeo – La Poile.

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

I am very happy to speak to Bill 9, An Act To Amend The Legal Aid Act.

This is a very necessary piece of legislation, as I believe the minister said. This act has not seen anything very major over the last number of decades. The changes we have here, again, some may seem minor but in reality they will

have a significant effect on the administration of justice in this Province, and that is always a good thing when it is done positively.

Before I begin, I would like to say that I appreciate the department giving me and our staff a briefing, sitting down with us and going over it. It was very much appreciated. We have had a lot of time to go through this, and I will try my best to just go through it and discuss a few of the changes here. Some of them are substantive. Some are housekeeping, but like I said, that is what happens when you have a bill of this nature.

We all understand the concept of legal aid in this Province. We have a Commission, people have an opportunity. Everybody is entitled to a solicitor to help them when they are involved in a legal case, primarily when it comes to family and/or criminal law. You do see civil in some cases, although obviously that should be fairly minor. It is a much different standard than the individual who is defending himself against a criminal charge, or an individual who is involved in a family law proceeding where we are talking a division of property, or if we are talking children or spousal support, things like that.

One of the first things you will notice when you go through this bill is under paragraph 2 of section 2. We are dealing with people now, immigrants who are illegally in Canada, but they are awaiting adjudication of their case. They are now eligible for legal aid. They can be deemed a resident for the purposes of legal aid. I think that is an absolutely wonderful thing for us to do.

At the end of the day, an adjudicator will rule whether this individual should be or should not be in the country, but they are entitled to having representation. People like – anybody, but especially those who work in the field, myself, the Member for St. Barbe, and the Member for Placentia – St. Mary's, at the end of the day the value of representation is so important when it comes to the administration of justice. You need to have that. When we have somebody here in this Province who is fighting deportation or the fact that they should be here, they need a person to represent them.

I am going to move forward here. Some of the changes are fairly minor. We are moving from five members to seven members of the Commission. The fact is that Legal Aid is, as the minister said, somewhat arm's length from the Department of Justice. You need that, because at the end of the day the Department of Justice administers the public prosecutions.

It would be kind of hard, in a conflicting type of way. If the department administers prosecutions and the department administers legal aid, which primarily is defence, you are going to have a conflict at some point. So Legal Aid really is an arm's length group. Obviously, they get their funding – the lion's share of their funding comes from government. I think the number here, whether it is federal or provincial, there is almost \$17 million that goes into Legal Aid; \$3 million of that is federal, the rest comes from the provincial government.

We have this board that administers it. One of the things that came to us during this briefing is that Legal Aid is trying to revamp their operations. They are trying to revamp their management. That is why they are adding more people. From what we have been told, they are trying to add a more technical level of expertise to the management side.

I do not have the statistic here, but I believe at one point the administrator of Legal Aid had somewhere in the range of twenty-five to thirty different people reporting to them on the different functions. That is no way for any structure to operate. So they are trying to change the operations to allow it to run properly.

We have heard many times over the last number of years – and a lot of this stems out of the Roil report which government received and did accept all of the recommendations in full. That stemmed out of the 2013 –

SOME HON. MEMBERS: Oh, oh!

MR. SPEAKER: Order, please!

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

I know it is a topic that causes a lot of strife here in the House, but I appreciate the members

listening to me. It is an enthralling bill, but the Roil report stemmed out of the 2013 Budget. The 2013 Budget saw a huge cut to Justice. We saw the outrage that came out of that. Forty-eight hours later there was a committee that came in and had to change a lot of the decisions that were made.

One of the things that came out was a review of legal aid. There was also a review of the sheriff's office. There was a justice who was brought in to do the legal aid report and Mr. John Roil came in and took it over after. I think there were some health issues there. John Royal, for anybody who knows him, is very well thought of in this Province in the legal field. He has had a number of roles and he came in this report. Government accepted all of the recommendations in principle.

One of the things we know is that Legal Aid has had its share of criticism over the years. The one thing I would like to say – and this is as somebody who has practiced against Legal Aid lawyers and who has referred people to Legal Aid lawyers. I have never practiced with Legal Aid, although I did spend some time with them doing some training.

I can say that any Legal Aid lawyer I know are great, great lawyers. They are fantastic lawyers. They have a lot of experience. The amount of experience they get on a day-to-day basis – if anything, the only complaint I have ever said is that the problem is their caseload can be so high that it is very hard for them to have enough time to handle the files.

You think about it. I look at the circuit courts, where they have to travel to a court from Stephenville out to Port aux Basques, then they have to go down to Burgeo, and then they have to go to Corner Brook. You are doing your travelling. You are acting as duty counsel, so when anybody shows up to the court you have to see them to make sure that they get advice, you have your own files, you are dealing with a multitude of different lawyers, and you have people coming up. The lawyers themselves are not responsible for discussing whether somebody is applicable for legal aid or not, their job is to represent people.

They are great lawyers. Sometimes there is a perception out there that Legal Aid lawyers are not the same as a private bar lawyer and that is simply not true. That is an unfortunate perception. It is one that has been addressed by Mr. Roil. The department is trying to address it. I think that is necessary because Legal Aid is good.

Don't get me wrong, at the end of the day the private bar has a role to play here too. There has always been that sort of line between letting everybody have state-paid attorneys versus the private bar. There has always been that line there between making sure that there is a balance there. There are individuals who get legal representation at public taxpayer expense, and there are individuals who have to go out and pay for their legal needs, we will say, and they have to pay out of pocket. That is addressed in here later on.

When you move forward here we talk about the fact that there are now seven members. There used to be five. The Law Society recommends some. They are hopefully going to make this a higher-functioning organization which nobody has any issue with.

I like the fact here that they say if they fail to attend three consecutive meetings of the board they are kicked off the board. That is good, as they should be. If you cannot show up to it – and you might have valid reasons, but if you cannot do the job, if you cannot be there, then you should not be there. That is no different than anybody. It is no different than a member here. If you are not attending where you should be, then you should not be there. We treat every organization the same.

A lot of these – may establish offices that they consider expedient. The other thing too is that they are trying to take some of the authority of work off the Minister of Justice. The Minister of Justice should not decide where this is happening in some cases. At the end of the day, the Minister of Justice and Treasury Board helps decide how much money you get. Legal Aid has to figure out what to do with that money. That is the reason they have had troubles in the past. It is because the government cut the guts out of the money that they were getting. That is why we saw things like courtrooms in Burgeo and

Springdale close for savings of things like \$600 and \$900. Obviously I do not agree and still do not agree with that, but that is how they operate. They operate with the funds they are allocated.

One change here – and this is so small to many people that it probably does not generate a lot of attention. One of the big issues we have had with Legal Aid is that they have not had the backroom support to do things like auditing of their files. They have been very late filing reports with the feds. That is why now we are getting extra money coming from the feds. It is not extra money; it is money that we are getting that the feds have owed us for years. The feds have said you have to give us an audit of the files to show what you have done and we never did it.

The reason we never did it is because Legal Aid has been so short staffed that they did not have time to do that. Now we are catching up and that means more money coming in. At a time like this where we have seen the government put this Province in a difficult financial state, any money coming in is great, especially money from the feds.

What is going on here is that in some cases you have to pass on information to the Auditor General to get these things done, but then there was a case of solicitor-client confidentiality, and then you did not want to pass that on. In this case they are saying that is not going to be an issue here for auditing purposes. We are not disclosing your name for untoward reasons. At the end of the day we need to make sure that the files are done right so that the funding is handled right.

I am going to continue on here to probably the next relevant section and that is subsection 31(3.1). This is the part about choice of counsel. Anybody who watches the news on a regular basis will see individuals who are charged with crimes. They show up and they want the Province or Legal Aid, or they want the Department of Justice to pay for their lawyer. They want them to pay for their lawyer. They say I want my choice of counsel. In fact, we recently had a Court of Appeal decision that is probably the impetus for where we are with this. I think it may have stemmed some of this.

In this case, sometimes this is where the perception is created where we are saying I do not want a Legal Aid lawyer. I want my own private lawyer, but I want them to pay for it. One of the issues always has been there that, okay, we will go out and hire outside counsel, but we are going to get paid Legal Aid rates. Legal Aid rates have been so small that the private counsel will not take them. Now what we have seen is an increase in the Legal Aid rates. That is something that has been well overdue.

Anybody in the system, anybody whatsoever will say this was long overdue and we are happy to see this change made. It was a proper change. Anything that I do not touch on, I am sure my colleague from St. Barbe, who also has a significant amount of experience here – he is going to make sure to touch on these as well because he has a background in this.

What we want to see here – there is an increase in the rates. I have no problem with that. We have defined the crimes or the criminal sections for which you can go out and get counsel. I believe it is murder, I think it is manslaughter, and I think is where you can get it. I have seen some cases, there is one recently, where an individual was charged with aiding and abetting somebody, which was probably less significant than these. He is out looking for private counsel.

I continue on here; another part on dealing with conflicts within the office. What you had are lawyers who were saying I cannot do this case because I represented so-and-so and I cannot question them now. There was no means set up in the office to reduce conflicts or to allow certain things to happen. We have seen them in just about any law office, especially ones across the country. They set up something called a Chinese wall. It is a way to help partition and reduce conflict.

In this case we only have so many lawyers. I think the number that I was given is sixty-odd lawyers in this. Yes, fifty-nine solicitors in this Province. When you have fifty-nine solicitors to handle a fairly small population, just over 500,000, the fact is you are going to have conflict at some point. We have to reduce the amount of conflict so that we are not having

lawyers conflicted out of every single file. There are steps being taken here. Certainly, I do not have any issue with it from my reading of it, but I will leave it to others to see if there is any issue there.

We continue on – this is an interesting section and I am all for it. Subsection 36(3) says, “In determining whether a person is qualified for legal aid, an area director or the provincial director shall consider the matter from the standpoint of a usual solicitor and client relationship, taking into account (a) whether a reasonable person of moderate means would be prepared to pay a solicitor to pursue the matter.”

Now, what is going to happen is we had to look at – I have legal aid, if I am in a criminal matter, instead of that lawyer going out and filing umpteen applications in the court, what they are going to do is they have to look at the possibility of success, the cost of proceedings in relation to the anticipated loss or recovery, and the likelihood of enforcing judgement.

The criminal side is one thing because, at the end of the day, you have the underlying factor of the person is entitled to a full and fair defence and you have to do what you have to do as a defence counsel. That is fine, but I am especially thinking about the family cases where one side of the matter has private counsel, is paying out of pocket and it is costing them significantly. The other person has state-paid lawyers.

What is going to happen here, you see in many cases especially when it comes to, unfortunately, children, you will see there is a racket between both sides and one side says I do not like this; I am going to go out and get my Legal Aid lawyer and file an application now to deal with custody and access. The person who has private counsel has to go out and defend that obviously, like you would, because it is involving your children, but it is coming out of their pocket. In many cases, you see people who cannot afford to continue on with private counsel and then you have unrepresented litigants in the court, which nobody wants to see.

Judges do not want to see it. Other lawyers do not want to see it. In fact, the people who have to represent themselves, in many cases, they do

not want to be doing it, but they have no choice. They cannot qualify for legal aid, they are above that threshold, but they cannot afford to pay for a lawyer because of all the other bills. You have some people who can use the system – I have seen it and I have dealt with it – use the state-paid lawyer to make all of these applications. In many cases, to use one of government's buzz words, they are "frivolous," and it is unfortunate.

In this case, there are considerations that are being put there now. What they are saying is: Would the person of reasonable means be doing that? So I have private counsel, would I go out and pay my lawyer to do this? Do I have any chance of success, or am I just tying up the court and tying up the resources? Again, on its face – and I may have some points to bring up in Committee, depending on what everybody else has to say – I think this is a positive move. I like to see everybody have a fair shot. I like to see everybody get fair opportunity in the court and I like to see everybody get fair representation. Nobody – whether you have money or you do not have money, whether you have private counsel or Legal Aid, we should all be treated the same in the court. That is the administration of justice right there.

Overall when we look at this we talk about the legal aid system. In many ways, this is an attempt to revamp the system. Not fundamentally. We used to have a certificate system, which has not been around for some time. Then we moved into having staff solicitors. Other provinces use other methods. In this case, Mr. Roil said: No, we are using the one that we need to use. This is the best system, but we can change the way that we operate.

I do like this here. What they are saying here is in many cases some people – and people do not realize this – go to Legal Aid and they do not get free counsel. They may have to pay some money. It is based on their means. In some cases, you can look at if I were to go to court for a family proceeding, at the end of the day I may be entitled to child support, I may be entitled to spousal support. Now I am not going to say I. Obviously when you are entitled to child support, the child is entitled to support, but I am the one getting it because it is my child.

We will not consider child support when it comes to payment back to the court because that money is entitled to the child. That is their money. That is for their means. In some cases, it is hard to believe, people have legal aid because they cannot – they are entitled to it, but they get huge amounts of spousal support in the court decisions. It is not really fair for them to continue to get state-paid lawyers and they are getting huge amounts of money.

Our job is to make sure that they have a fair defence so that they are not getting bullied by someone who has means, but in this case we are saying that can be considered. We can consider the money that they get in spousal support settlements when we go to the regulations on payment.

It looks like there have been some changes here for what legal aid shall not be granted for. Legal aid shall not be granted for civil law in terms of torts, so personal injury law. That is perfect. Our legal aid should not be paying for that. We all know now, you only have to turn on the TV or look in the newspaper. As it stands now we have a system where you go to the lawyer and if you have a good civil claim, you are not going to pay until you get some money anyway. Why should we be having legal aid do that on the taxpayer dime? That is perfect. I am glad to see that is clarified here again.

Also, you cannot get legal aid when we talk about private prosecutions such as defamation. Thank God that is the case. Can you imagine if we had to get Legal Aid lawyers out defending people – sorry, out prosecuting people for defamation. We have seen a number of defamation cases in this Province in the last number of years, some of them even related to the political field. So again in this case, legal aid is not going to cover that nor should they.

I think I have covered it off here – there are a lot of good changes here. Many of them that are not going to hit the average Joe out there who is watching this, but to those who are in the system and those who have worked within the system or dealt with the system these are positive changes.

I, for one, will be supporting this piece of legislation. I think it is a good move forward –

SOME HON. MEMBERS: Hear, hear!

MR. A. PARSONS: The members are happy to hear that, but again it is a good piece of legislation. Not all the legislation they put out there is good, but in this case it is a good piece of legislation, good changes, overdue, and I am glad to see it.

Thank you for the opportunity.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: The hon. the Member for St. Barbe.

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

This is a useful piece of legislation, a good piece of legislation, and I do not have any problem supporting it. It has some shortcomings. I would like to go through the bill and the act and point out some of what I feel are some of the shortcomings that the minister may well want to consider with his deputy.

In the definition section first of all, section 2, under 1(1), it identifies the department and says “‘department’ means the department presided over by the minister.” It does not say the Minister of Justice. That is not necessarily a bad thing, but it seems to imply that it does not need to be the Department of Justice presiding over legal aid in the future.

The second definition to me is a little more problematic. My colleague may be enthusiastic about taking on federal battles with immigration; I am not. Under section 2(s) it says: “‘resident’ means a person lawfully entitled to be or remain in Canada who makes his or her home and is ordinarily present in the province, but does not include a tourist, transient or visitor to the province.”

Now, Mr. Speaker, this changes the definition of resident to be, first of all, a person lawfully entitled to be or remain in Canada, and it says or somebody who is “illegally in Canada but awaiting adjudication of his or her immigration or citizenship status.”

Mr. Speaker, if immigration is federal and if 250 refugees show up on our shore tomorrow

morning and it is a federal claim and they go before the Immigration and Refugee Board, why should the taxpayers of this Province pay the legal costs on a federal case? Why should the \$13 million or \$15 million or \$17 million that the taxpayers of this Province, through government, set aside to represent people legally, be used to handle what is clearly a federal issue? Why should we pay, without some sort of an agreement with the federal government, to defend on refugee or immigration claims?

What about if the two guys who escaped from the prison in New York a week or so ago show up here? Are we supposed to provide them with legal aid here? Because this change in the act says that we are now exposing ourselves to provide a defence for people who I am not sure it is in the interests of the people of this Province to be taking on this federal burden.

Our Province is not a nation. We are not someone who has any authority over deporting these people. They are dealt with in a federal board, the Immigration and Refugee Board. They are dealt with in federal court, not in any of the courts of this Province. They will go to through the federal court of appeal, and they could go through the Supreme Court of Canada. Why should the funds set aside for legal aid of this Province be drained by people on what clearly looks like a federal issue? Anyway, the minister may want to discuss that with his deputy.

Mr. Speaker, under section 3(2) it says, “Where a member of the board, other than the deputy minister of the department and the provincial director, without giving a reasonable explanation to the chairperson, fails to attend 3 consecutive meetings of the board, he or she stops being a member of the board.” What about if that person is the Chair? Could it not be strengthened by saying if that person is the Chair and fails to give notice to the Vice-Chair? Because looking at this particular amendment, it looks like the chairperson need never show up and there is no way to get the chairperson off the board for not showing up. It is just a weakness in drafting, in my view.

Section 4, which modifies the old section 9, says, “The commission may establish other

offices and agencies in the province ... ” and that is an amendment from what previously said it was necessary to have ministerial approval. Mr. Speaker, I think that is a good amendment because it provides more autonomy to the board. They do not always have to come to the minister in order to setup offices. Why should they? They should be able to manage the affairs of the commission themselves.

Under section 6, which amends 27, it says, “The commission may divide the provinces into areas for the provision of legal services.” That appears to give more autonomy also to the board than the board currently has.

The next section to me is rather curious because it says under 7, which modifies section 28, “The commission may appoint, on a full-time or part-time basis, a solicitor to act as an area director.”

Mr. Speaker, if the Minister of Justice does not have to be a solicitor, why should the area director of Legal Aid have to be a solicitor? Why are there not competent people other than solicitors in the Province who could possibly be the area director for Legal Aid?

If, for example, the Minister of Justice retires at some point and would not mind doing additional work, fully familiar with the legal aid system and with the justice system, why couldn't a former Minister of Justice or any other capable person serve as the area director? It seems to me that is a serious shortcoming. I do not think the lawyers would mind because it actually reserves the job for a solicitor. I do not think it is our job here to preserve positions for lawyers.

Mr. Speaker, as we go through there is section 11 of this bill which amends section 43 of the old act. This says, “Where an area director issues a legal aid certificate authorizing legal aid to be provided by a solicitor in private practice, he or she shall advise the holder of the legal aid certificate of the names of all solicitors on the panel that practice where the court in which the holder of the certificate is required to appear ... ” where that court is located.

Mr. Speaker what that means is that if some people from St. John's, for example, go down the Burin Peninsula and get on a big tear and get charged, they get out on bail and they come back

to town, they will be given a list of lawyers on the Burin Peninsula so that the taxpayers through Legal Aid will not be paying for a lawyer to go from St. John's maybe to Marystown to represent them, if their lawyer is in Marystown. This is clearly designed to prevent abuse and cut down on overhead in the legal aid system.

If there is no counsel available in that area, then the holder of that legal aid certificate can apply back to the Legal Aid Commission for approval to hire a lawyer not where the court is located. That would mean travel. It would mean extra time, and potentially accommodations.

If at all possible, why should the taxpayers of the Province pay more expenses than would be necessary because somebody on a whim decides they do not want to deal with a lawyer who is very familiar with the area? When, in fact, they might be better off dealing with a local lawyer who knows the prosecutor, is familiar with the judge, the judge's preferences and idiosyncrasies for that matter, and knows how to put on a case before that judge. That is a very useful amendment.

Now, section 14 which amends “Paragraphs 47(a) and (b)” is quite problematic to me. I think there is a real serious shortcoming in that particular section. That section, as it exists up until this amendment goes through, says, “Except as otherwise provided in this Act or the regulations, legal aid may be granted to a person ... ” for proceedings in the Supreme Court, Family Court, or Provincial Court. Now, that would seem to make sense because that actually covers pretty much all of the courts that would handle matters of this nature in our Province.

The amendment takes out Provincial Court. The amendment says this section is repealed. It does not refer to Supreme Court, it does not refer to Family Court, and it does not refer to Provincial Court. It refers to Trial Division - General Division, and it says Family Division, but it leaves out Provincial Court.

Now, Mr. Speaker, the effect of this is that if a person is somewhere in St. Anthony area, for example, the Supreme Court never goes to the Northern Peninsula, but the Provincial Court goes to the Northern Peninsula. This means that

if this new Legal Aid Act, if this bill denies coverage in Provincial Court matters for people in the St. Anthony area, for example, on a family law case, then that person will be stuck with travelling from St. Anthony to Corner Brook, nearly 500 kilometres, to be able to attend Supreme Court; because that region of the Province has only provincial court.

If they have only Provincial Court, and if this bill has denied them the right to legal aid for Provincial Court and proceedings in St. Anthony, for example, or Forteau, then effectively they have been shut out of the legal aid system. I think it probably was an oversight; probably by drafters who are not fully familiar with some areas of the Province that are remote and do not have Supreme Court of any kind. Yes, there are three Supreme Court justices sitting in Corner Brook, but Corner Brook is 500 kilometres from St. Anthony.

Provincial Court goes to St. Anthony, Provincial Court goes to Southern Labrador, but this bill says that legal aid may be granted to only people who are seeking coverage for (a) or (b), and (a) and (b) become the Trial Division, Family Division, and General, but it knocks out Provincial Court. I do not understand why the drafters would deny the opportunity for somebody – let's say, for example, somebody in Cook's Harbour or St. Anthony area is left behind. Maybe it is a woman with a couple of small children and the guy is gone off to Alberta or wherever, and she is trying to enforce a support order or trying to get a support order.

If she is going to go to Legal Aid, the legal aid certificate – this says that it does not cover Provincial Court. Why wouldn't it cover Provincial Court? Who knows why it would not cover Provincial Court. Why should she have to go practically a day's drive to Corner Brook for Supreme Court when there is a perfectly capable Provincial Court judge who comes to St. Anthony for a week of a month, eight times a year?

Even though the Northern Peninsula seems to be withdrawing services – when this government took office the Provincial Court used to come fifty days a year. Now it comes forty days a year. So there has been a withdrawal of services, but to deny them the right to apply for

legal aid by the stroke of a pen seems to be a bit harsh.

Mr. Speaker, generally the bill is good, but like I say, it has some shortcomings that appear to have suffered from maybe hasty drafting, maybe in a rush to get it through. One particularly good area is that the tariff has been increased.

For people who are watching, legal aid is provided generally in two ways; one is through staff lawyers. We have some very capable staff lawyers with Legal Aid in our Province. I have dealt with quite a number of them. They are quite diligent and hard working. Because they see the same area of law day in and day out – handling maybe twenty-five, thirty, forty files every day, sometimes in bail court doing jury trials for weeks on end – they get considerable experience. The person who needs legal aid is quite lucky, in many cases, to be represented by them.

In some cases, because maybe the Legal Aid lawyer there has a conflict of interest and a conflict often would come about – they may be representing a co-accused. Maybe there are two or three people involved in the same alleged crime and Legal Aid is representing this person and this person, and there is nobody from that office available to represent the third accused. Maybe the person going into Corner Brook will send somebody in from Grand Falls, or maybe they just do not have anybody, but the certificate system permits a legal aid certificate to be issued.

Really, I suppose, it is almost like a coupon for a lawyer. The new tariff would be \$60 to \$135 an hour. That may sound like a considerable amount to some people, but I would doubt that anybody would open a law office today, first year out of law school, on less than \$125 or \$150 an hour. It is a very basic rate.

There are many lawyers who are quite capable who will accept legal aid certificates because they consider it part of their responsibility to provide strong representation to people throughout the Province. So, you can have a legal aid certificate, you can have a Legal Aid lawyer, and there is a considerable element of choice. The legal aid system will be significantly strengthened by this. I would not

want to see it not be passed because of the observations or glitches that I pointed out.

Mr. Speaker, there is another apparent inconsistency in the drafting. The current act says seven. Now I do not want to be correcting the Minister of Justice. He referred to five. In fact there are five. Plus the five, there are two members who shall be the Deputy Minister of Justice – but that is struck out now. It does not have to be the Deputy Minister of Justice, it has to be the deputy minister of the department, whatever that happens to be, and the provincial director.

Five plus two is seven. Now there will be seven plus two, which would be nine. An amendment that seems to be missed is that under section 3 of the existing act it says, “Three members of the board shall be appointed from a list of 5 persons to be submitted by the law society at the request of the minister.” Maybe if we are increasing the number of board members from seven to nine, this figure of three should be increased from three to five just for consistency sake.

Then, Mr. Speaker, there would seem to be other amendments that are necessary in the act that have been overlooked in the bill. This bill seems to change to say that it does not have to be the Department of Justice, so it does not have to be the Deputy Minister of Justice. It does that in its definitions where it says, “‘department’ means the department presided over by the minister.” It does not say the Minister of Justice, it says the minister. Then, the current bill still retains references to the Deputy Minister of Justice when it should probably be simply the deputy minister.

That looks like a certain number of amendments have not been done. Someone will have to go by guesswork and try to figure out what was really intended here. If some parts of it are changed and it does not have proper concordance, if it has not been changed everywhere, then it just makes it have shortcomings because it leaves people guessing as to what the drafters of the legislation intended.

But for the shortcomings that I think I have highlighted, I think that it is basically a well-intended and good bill, even if it seems to suffer

from some drafting flaws. It appears to have been drafted in haste with some things missed and not properly considered, but it certainly is worth voting for.

Thank you, Mr. Speaker.

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

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

I am very happy to stand and speak to this Bill 9, An Act To Amend The Legal Aid Act.

First of all, Mr. Speaker, I would like to thank the department for the excellent, thorough, comprehensive, and accessible briefing that was provided to us by the assistant deputy minister. He did an excellent job. He was there to answer all our questions. The information that was provided to us was so clear and so accessible. I would like to thank the whole department and whoever had a hand in preparing the briefing notes for us.

I would also like to thank all the good people at Legal Aid who provide services to the people of Newfoundland and Labrador, oftentimes under very, very difficult situations. We know their workload is very heavy. We know that we went through a real hard time, particularly because of Budget 2013-2014 where there were deep cuts. Some of those cuts had to be reinstated, had to be reversed. These are people who do their jobs because of their passion for justice. They do their jobs with professionalism, with passion, with commitment, and with generosity. I would like to thank the good people who work at Legal Aid.

The Legal Aid Act that we were dealing with was originally passed in 1975 and there has been no significant review since. That is about forty years, Mr. Speaker. That is a significant amount of time. Sometimes if we do not update our legislation, or if we do not update the way we do things, we end up doing things that become state of the ark instead of state of the art.

I know, Mr. Speaker, that all the good people at Legal Aid and all the people in the Department of Justice wish to modernize our system – wish

to modernize our whole judicial system, our court system, not just Legal Aid – to make it state of the art rather than state of the ark.

It is great to see some of the recommendations here for amendments to the Legal Aid Act. Most of them as a matter of fact, Mr. Speaker, come out of the Roil report, the Roil review of legal aid that was undertaken last year. I would like to thank John Roil, Q.C., for his excellent work and for the recommendations that came out of his work.

The Legal Aid Commission was mandated to provide legal services to those who financially qualify in criminal, family, and civil matters. Mr. Speaker, I am not so sure whether or not that is something else that needs to be looked at. That is not really being approached in the amendments that are put before us now, but it is quite possible that some of the thresholds for eligibility – because of the high cost of living that people are experiencing, the high cost of housing, the high cost of food, that in fact some of those thresholds may be too low right now.

Justice Derek Green has spoken on a number of occasions about how important it is for access to justice, that people should not be prohibited from having access to justice because of financial reasons. That is not what we are dealing with right now, though; but those thresholds, those ceilings of eligibility, whether or not they are generous enough, taking into account the high cost of living that people experience these days.

The Commission is arm's-length from the government, and that is ideal. That is exactly what we would want for our Commission. It is very important that those who work within the justice system have that arm's-length from government. It is governed by a board of commissioners of five appointees, and I will talk a little bit about that because that is one of the amendments that we are going to look at.

Legal Aid currently employs 125 people in eleven provincial offices and project locations across Newfoundland and Labrador. This was a surprise to me that there are fifty-nine solicitors and sixty-six management and staff personnel. That seemed like a lot of people to me in terms of the ratio of management and staff to

solicitors; but then when you look at they do all of their own assessments, they do all of their own billing, they do all of their own file management, then that made sense. We certainly do not want cases held up because of administrative procedures, because of lack of support staff for administrative procedures. It is pretty evident that they need those sixty-six people, that in fact it is not an odd balance.

The funding for 2015-2016 will be \$16.9 million. Mr. Speaker, \$2 million of that comes from the federal government. The mandate of the review that John Roil did – and he delivered it in March 2014. He said, "The review will examine the cost-effectiveness of the delivery of legal aid services in ensuring that the residents of the province have access to justice." That is what is so important. What we are talking about is that people have access to justice. That means having comprehensive, expert representation when people have to go to the court systems.

The terms of reference were broad. It included review of the effectiveness of the current service model; solicitor, administrator, and executive structures. That is those solicitors who are staff at Legal Aid, and also the backroom staff who are doing those kinds of administrative services that are so important. They take care of business so that business can get moving. It also looked at the recommendations on legal aid services that should be enhanced, maintained, or reduced.

Some of the recommendations which required legislative amendments were to increase the size and composition of the board of commissioners. We are dealing with that, Mr. Speaker, in this particular piece of legislation. Previously, there were five representations. John Roil recommended anywhere from seven to nine members on the board. Government has chosen – the department has chosen to recommend that seven be appointed. That is where they are going to be going with this.

They want to clarify and improve conflict issues on files within the Commission. That means whether or not – we will talk a little bit about that. Consider removing the choice of counsel provision of the act, and change the Law Foundation funding obligation to allow it to retain \$300,000 of its net annual resources.

Government accepted all the recommendations in principle of the Roil report.

The bill that we have before the House this evening, we are going to deal with the following recommendations. The Commission expands the Commission to seven appointed members from the current five. That makes sense, Mr. Speaker, so that they are able to handle more with subcommittees the business of the Legal Aid Commission. The Law Society will give five names to government to choose three members. So there are three members that are recommended by the Law Society. They recommend five, but government chooses three. So there are three members really that are appointments from the list from the Law Society.

The conflict issue – that expands the conflict rule clarifications to reduce conflicts on certain files. Mr. Speaker, what that refers to is that if a lawyer has a current file that he is not in conflict in a current file if he cross-examines a witness that he has formerly represented or another solicitor associated with him. So that will not be considered a conflict unless there is genuine concern of serious risk.

That makes sense, Mr. Speaker, we are a small province, we are small pool of lawyers so that makes sense, but there is a safeguard. If there is a genuine concern of serious risk, then that would be reconsidered.

Section 23(1) is about the audit. Files are audited by the Office of the Auditor General. The Auditor General is sworn to secrecy; there is absolute confidentiality. What has happened before is that when the Commission had to provide material to the Auditor General, files, they had to redact the names of the clients. We were told it could take weeks of work. Because the Auditor General is under provisions of confidentiality and secrecy, it is now clarifying that not requiring the redaction of somebody's name is not interfering with client-solicitor privilege. We know how important solicitor-client privilege is, so this is not taken lightly. This has been given a lot of thought, and there is a belief that this will not violate solicitor-client privilege.

The choice of counsel – Mr. Speaker, I think this is a very important one. Roil recommended that government consider deleting the section out of concerns that it sends the wrong message about the quality of legal aid representation. People with very serious charges – whether they be murder, manslaughter, or infanticide – could choose an outside solicitor and not go with a Legal Aid solicitor.

The concern Roil had was that there is this misconception out there that Legal Aid lawyers are not good lawyers. That the only reason Legal Aid lawyers are working for Legal Aid is because they cannot make it out in the real world. In fact, Mr. Speaker, that is quite the opposite. These are well trained, fully qualified lawyers who are passionate about the law and who have decided to serve justice by becoming Legal Aid lawyers.

The interesting thing, Mr. Speaker, that among our lawyers in the Province they are often the ones with the most court experience and with the most criminal experience. In fact, they are not second-class lawyers. There is that misconception out there, that myth. So what we have is that people who need representation feel they want a lawyer who is not a Legal Aid lawyer.

Mr. Speaker, this is about reacting to that. Government agrees that this misrepresentation is a concern. We were also told that government is looking at doing a PR campaign to highlight the profiles of Legal Aid lawyers, to show that, in fact, our Legal Aid lawyers are well trained, are up for the job, and are very experienced in their court procedures.

The amendment retains the choice of counsel provision but clarifies that private solicitors have to be on a panel, that they have to be approved. That means they have to agree to accept legal aid tariff rates. The wonderful thing now, Mr. Speaker, is we are seeing that the legal aid tariff rates have been increased to \$135 an hour from the previous \$60 an hour, which was way too low. That was certainly too low. The Budget now increases it again from \$135 an hour, up from the \$60 an hour. We look forward to seeing that increase implemented shortly, Mr. Speaker.

SOME HON. MEMBERS: Oh, oh!

MS ROGERS: Thank you very much.

Mr. Speaker, I am getting backhanded compliments from members across the floor.

Mr. Speaker, the other issues we are looking at – the amendments also are looking at that they are identifying as being required to update the act and deal with various other issues. One is when legal aid is provided. One of the issues that was highlighted during our briefing was looking at what happens if people are using legal aid just for feuds. A measure that is being applied to this is to add what Legal Aid is looking at –

SOME HON. MEMBERS: Oh, oh!

MR. SPEAKER (Cross): Order, please!

MS ROGERS: – how to determine whether a case is valid and is qualified for the criteria for legal aid. The issue that is being addressed in this particular item is whether a reasonable person of moderate means would be prepared to pay a solicitor to pursue a matter.

We do not want people abusing our legal aid system, whether people are coming to legal aid for something that is like a feud. In fact, Legal Aid has to make determinations not simply on financial eligibility, but whether or not these are cases that Legal Aid should be undertaking. This is a test that the Commission uses informally and now it is going to be used formally. It will be an amendment to the law.

Another amendment that I find kind of interesting, Mr. Speaker, is in clause 45, the payment of costs. It adds the exclusion of child and spousal support order from the calculation of costs recovered by the Commission from judgments subject to a limit to be set out in the regulations. I think that this is really important.

Payments for child support, payments for spousal support cannot be used in the calculations of recovering costs from judgments. So that means that payments for child support are not to be used for anything other than payments of child support. That protects those monies to help families. That protects, Mr.

Speaker, child supports for the welfare of children.

Also, what is amended is the definition of resident. That expands individuals who can qualify for legal aid to include non-residents in the country illegally where they are engaged in immigration or residency processes. Mr. Speaker, this is very important, particularly for people who need representation, who are not yet Canadian citizens, who may be here illegally, that they have the right to apply for legal aid so that they have access to justice and representation.

The clause 5(2) amendment is about meetings of a board. This is simply a housekeeping issue, Mr. Speaker. It says the board can meet electronically, that they do not have to meet in person. Again, that helps with people who are travelling or people who are representatives on the board, if they do not live in the capital city. The head office; again, these are a number of housekeeping amendments to the act.

Section 44, is the contribution agreement. This provides the Commission the power to amend or cancel contribution agreements. This will be carried into the regulations to provide the power to write off amounts if a contract is cancelled. This says that, in fact, the minister does not have to be involved. The Department of Justice does not have to be involved, that the Commission itself can amend or cancel contribution agreements. This makes sense, Mr. Speaker. Again, because they are at arm's length from the government and they are able to do this kind of work without making it unnecessarily bureaucratically cumbersome.

Section 58(2), the secrecy; I found this kind of interesting, and I think the people of the Province might find this interesting. It clarifies that secrecy commitments and solicitor-client privilege do not apply where the Commission is responding in court to allegations of wrongdoings by the Commission. That means if a client or if someone is accusing a Legal Aid lawyer of wrongdoing, that that Legal Aid lawyer is not bound by secrecy commitments and solicitor-client privilege, that they can defend themselves without breaking that solicitor-client privilege – and we know how important solicitor-client privilege is.

Also, suspension; this is all about modernizing Legal Aid and making sure that it is as responsive as it can be to the needs of the people of Newfoundland and Labrador.

Thank you very much, Mr. Speaker.

MR. SPEAKER: The hon. the Attorney General.

SOME HON. MEMBERS: Hear, hear!

MR. F. COLLINS: Thank you, Mr. Speaker.

Mr. Speaker, I am not going to take my full time on this bill. The Minister of Justice has gone through the focus of the bill fairly well and explained what the bill is all about. Members from the other side have also gone through the provisions of the bill and explained them very well.

I just want to add a few comments to the debate, and that is that a strong justice system requires a strong legal aid system. This Province has been committed, Mr. Speaker, to the legal aid system over the last number of years. As a matter of fact, since 2003 it has invested heavily in the legal aid system because the federal funding for the legal aid system has been drastically reduced. I think the Member for Burgeo – La Poile pointed out that we now have a budget in Legal Aid of somewhere around \$17 million and the federal government is only providing \$2 million. We have invested heavily in the legal aid system over the last few years.

Mr. Speaker, as a matter of fact, following the Roil report, when we accepted the thirteen recommendations, we committed \$7.1 million in additional funding for Legal Aid over the next three years. Last year, we spent \$2.1 million in Legal Aid. That firmed up funding for seventeen positions – established permanent funding for these seventeen positions that previous to that were not funded permanently.

We also hired four new paralegals, secretaries, and an area director. That was what Legal Aid requested at that time. This year, Mr. Speaker, we are hiring in this Budget three extra solicitors for Legal Aid. In addition, we are providing some office space for Aboriginal community

workers and doing some funding for technology improvements.

We have over \$7 million, Mr. Speaker, allocated for Legal Aid over three years. The ratio of spending in Legal Aid from what the Province spends and what the federal government spends has widened significantly over a number of years.

Mr. Speaker, I have attended, over the years when I was Minister of Justice, at least three federal-provincial-territorial meetings of Justice Ministers. The present Minister of Justice has attended a couple as well. Always on the agenda of those meetings is the topic of federal funding for Legal Aid. Every year the FPT conference pushes for more funding from the federal government, but it never materializes. The current agreement, as a matter of fact, will continue for one more year, 2016-2017. After that, a new agreement will have to be put in place with respect to the federal funding.

One of the things that we have accomplished as a result of the Roil report – and the Roil report made thirteen recommendations. I think seven or eight of them have already been completed. The rest will be done with these amendments.

One of the things we have been able to do – by putting the management structure in place and solidifying the management structure of Legal Aid, we have now been able to get our audits up to date, and consequently, we were able to access the federal monies. Previously, we were behind two or three, four years sometimes, in accessing federal money because we did not have the resources in place to get our audits done and get our requests into the federal government for our money.

Now we are up to date, Mr. Speaker, and consequently the federal monies are up to date. I think the Member for Burgeo – La Poile mentioned that as well. So that is a good thing. It comes as a result of putting the good management now in place.

One of the things Legal Aid does of course is provide legal services for those who qualify who cannot afford to pay for private legal services. Private legal services today, Mr. Speaker, are

pretty expensive and beyond the reach of a lot of people.

One of the real significant problems we have in the justice system today is the unrepresented litigant. There are more and more of them because they cannot afford private law practice, afford private law services, and are representing themselves. They cause us all kinds of headaches in the court. The courts have modified their systems and provided services to help the unrepresented litigant. They have done a lot of work in that regard.

As a matter of fact, there is a judiciary committee, a federal committee that constantly meets to look at ways and means of improving the system so that the unrepresented litigant can be accommodated. We have our own representatives sit on that committee as well. If we did not have legal aid services in place, we would have a whole lot more unrepresented litigants who would have to try to wind their way and navigate their way through the court system. That is not an easy task, Mr. Speaker.

Just very briefly, the three main things, the main focus of the recommendations, as I mentioned earlier, of the bill; eight of the thirteen recommendations have already been completed. The ones I mentioned earlier, some of the investments took care of some of these. The rest of them needed legislative amendments. That is why we are here tonight to deal with the other legislative amendments out of the Roil report.

Basically there are three main ones. Choice of counsel was one that had received a lot of discussion. Mr. Roil wanted to take that out altogether because, as was already mentioned, it sort of sets an unfavourable reaction or an interpretation of Legal Aid lawyers which was not founded. We wanted to eradicate that. Rather than take it out, we changed it and any choice of counsel, Mr. Speaker, has to conform with tariff rates. The tariffs are not addressed in this legislation, but they will be addressed in the regulations.

The courts interpreted that particular piece of the old act, Mr. Speaker, as that when you get private counsel you had to pay the market rates, and that was pretty costly. That is what the Parly decision said you had to do. This new

amendment now sets the rates at the established tariff rates, whatever these rates are going to be. They are \$135, I think, is what the regulations will establish now.

One of the big costs and one of the big headaches in Legal Aid is the whole area of conflicts. It is costing Legal Aid a lot of money. While you can have lawyers from Legal Aid represent both sides – that provision is there – where there is risk, then you cannot do that. In St. John's it is all right because you have an intake office and another office. So someone in the intake office represents one client and someone from the other office can represent the opponent.

In St. John's you can handle it for the most part, but in a lot of cases you cannot, and you have to bring in solicitors from another jurisdiction altogether so there is no perceived conflict. As a matter of fact, they have gone so far, Mr. Speaker, of having the other lawyer coming in through the back door and entering the building in the offices so there would be no perceived connection whatsoever with people on the other side.

The Member for Burgeo – La Poile referenced the China wall. The China wall is a legal term for if you have two lawyers in the one firm acting – you are trying to avoid a conflict, but it is a very difficult thing to do. Conflicts have cost a lot of money. The act puts a little bit more restriction and tries to tighten up the section on conflicts so as to make it a little bit more effective.

The size of the board was already mentioned. Mr. Speaker, I want to just briefly respond to a couple of the comments made by the Member for St. Barbe, and some of the questions he had, some of the concerns he raised. The first one he raised had to do with the definition of resident. He had some concerns over the fact that Legal Aid would be dealing with people who were illegally in Canada. He made the point of refugees coming in, and spending a lot of taxpayers' dollars to provide legal services to these people.

The fact of the matter is, Mr. Speaker, Legal Aid always has done immigration work. As a matter of fact, in the funding that Canada provides, part

of that money is for immigration work. The definition as it was, Mr. Speaker, in the old act sort of deemed that we could not do that. The previous definition was faulty.

It was deemed that you could interpret it to mean really Legal Aid could not provide these services, but they can and they should, but only to people who are illegally in Canada who are already going through the residency process. They are already going through immigration and residency process. These are the only people. If they are involved in criminal activity or family matters activity while they are going through this process, Legal Aid will cover them as well.

One of the other things that the hon. member referenced, and I think it needs to be responded to, section 14 modifies or amends paragraph 47(a) and (b) of the act. It says section 47(a) and (b) of the act is repealed and the following substituted: in the Trial Division – General Division; Trial Division – Family Division.

It gave the impression that the only place Legal Aid can practice now are in the two Trial Divisions and cannot practice in the Provincial Court, but that is not the case, Mr. Speaker. It did not repeal all of section 47. It only repealed section 47(a) and 47(b). Section 47(c) of the old provision is still there.

Section 47(c) says that the practice can be done in a provincial court or in a tribunal. As a matter of fact a couple of years ago we amended a provision to allow Legal Aid lawyers now to practice in front of tribunals. So that is still there, Mr. Speaker, under section 47(c). So it is only section 47(a) and (b) that was repealed, not section 47(c).

Mr. Speaker, these are just a couple of things that I wanted to respond to. This is a good piece of legislation. It comes from the Roil review. It completes, really, the Roil review. It is a major piece of work with respect to Legal Aid. It solidifies and sustains Legal Aid for some time to come. It makes it more efficient.

The people in Legal Aid are very happy with what has happened here. The investment of the government over this year, last year, and the next year indicates the government's willingness to accept all the Roil report.

With that, Mr. Speaker, I will take my seat.

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

The hon. the Minister of Justice and Public Safety.

MR. KING: Thank you, Mr. Speaker.

I am pleased certainly to have a few moments to close debate on this bill. I want to thank my colleagues who participated in the debate: the hon. colleague for St. Barbe, the Member for St. John's Centre, and the Attorney General. I am not going to prolong too much of my commentary here.

I want to thank the Attorney General for addressing a couple of concerns raised. I am not sure that we caught all of the issues that the Member for St. Barbe raised and if we did not, then certainly raise them in Committee. There is one that I will add to. He mentioned a concern around section 28 – by my numbers in the amended act; it is page 5 – around the Commission appointing the director or the manager having to be a solicitor.

To be clear, Mr. Speaker, the intent there is that the primary function of the staff, individuals are to be solicitors and then from those employed as solicitors, the part-time duty of being the manager is assigned to one of them so it is still a practising solicitor. If we felt – which we do not – there was a need to be a full-time manager that would, in effect, mean hiring another person or cutting by one solicitor. So at this point in time, for the benefit of the member, what they have indicated to us is that the part-time management function will be assumed by a practising solicitor who will continue to practice.

With that, Mr. Speaker, I thank members for their contribution. Pardon me, I forgot my colleague for Burgeo – La Poile – I did not see you there for a second – who also contributed to the debate.

Thank you very much. With that, I will close debate on second reading.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: Is it the pleasure of the House that the said bill be now read a second time?

All those in favour, 'aye.'

SOME HON. MEMBERS: Aye.

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

Carried.

CLERK: A bill, An Act To Amend The Legal Aid Act. (Bill 9).

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

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

MR. KING: In a little while.

MR. SPEAKER: In a little while.

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. (Bill 9).

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

MR. KING: Thank you, Mr. Speaker.

At this time I would like to call from the Order Paper, An Act To Amend The Services Charges Act, Bill 8. It is so moved by me, seconded by the Minister of Finance and President of Treasury Board, that the said bill be now read a second time.

Motion, second reading of a bill, "An Act To Amend The Services Charges Act." (Bill 8).

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

MR. WISEMAN: Thank you, Mr. Speaker.

I just want to provide a brief introduction to Bill 8. It is an amendment – let me just read from the bill itself. Bill 8 is An Act to Amend the Services Charges Act. Inside the bill cover, members will see the Explanatory Notes. Let me just read it; it is two short bullets: This bill

would amend the Services Charges Act to implement increases to charges payable to the Crown. Number one, the bill would increase the charges payable to the Crown on estate value; and number two, the second purpose of the bill, to impose a charge payable to the Crown for applications for and amendments to plans and licences under the Mining Act.

Mr. Speaker, that is simply what the bill will do. The Services Charges Act itself governs the fees and charges that are levied by government by various departments and agencies to offset some of the costs of providing those services. Throughout government we have not, as some other jurisdictions have done as a matter of policy, said that all fees on all services that are provided to the public, whether it is individuals or corporations, that all fees charged for services that are provided are in a 100 per cent cost recovery. That is not what has happened here, I say, Mr. Speaker.

What we are doing here, we have not done that. We have had some fees that represent a very small portion of what it costs to provide the service. In fact, we have some areas where services are provided where there are no fees attached at all. One of the changes we are making here is to create a fee for a service that has been provided for quite some time with no cost, no charge at all. What we are doing is affixing a fee for that now.

Mr. Speaker, fees are one of those things that governments charge to provide for some recovery of the cost of providing the service. There is a belief that governments provide certain programs and services that are embedded and the cost of them are taken out of general revenue and they are financed basically through tax revenues and it is provided as no cost to the user. There are many other services where there is a fairly significant cost of administering the system that we put in place to provide those services and we attach fees for those.

The current legislation that we are amending here now came into effect back in 1998. I will not get into the detail around it, but there was a Supreme Court decision at that time that spoke to the issue of taxation versus fees, and what constituted a fee versus what constituted a levy of taxes for general revenue. That is when this

bill came into effect. The reason I am making this comment is just to provide some context for discussion around fees, and discussion around the rationale for the actual act itself that we are making some amendments to tonight.

As I said a moment ago, there are two amendments to this act. The first one deals with the Crown on estate values, charges payable to the Crown and settling estates. Just very specifically, it is pursuant to section 4(1) of the act itself, "A charge is payable to the Crown by the estate of a deceased person for a grant of letters of probate or administration ..." on the estate.

Right now, today, there is a charge that is payable only if the value of the estate is greater than \$1,000. That is not changing, Mr. Speaker. What is changing, though, this particular bill repeals section 4(3) of the act and substitutes it with the following – and just let me read into the record what we are actually adding to the bill, "Where the value of an estate exceeds \$1,000, the amount payable ... upon a grant of letters of probate or administration or the repealing of a foreign grant is \$60" – a flat amount – "plus \$0.60 for each additional \$100 in the value of the estate." Simply, what we are doing here is making an adjustment in the fees, the additional costs per \$100 based on the value of the estate.

The second amendment deals with the Mining Act. This is something we are adding. This was not something that was in place before. I made a comment a moment ago, sometimes we have been providing, in this case here, forever and a day, a service that has been utilized by a select number of individuals or companies as they make application, and we have never charged for that, but at the same time there is a significant cost of doing it.

We need to deploy people to evaluate these applications. We need assessments done. Many of them are fairly detailed. Many of them are very technical in nature and you require a great deal of time and expertise to process these applications. These applications are being made to undertake an operation to generate revenue, an operation to turn profit. It is an area where our resources are being pursued in the act of mining and mineral development.

So what we are doing, Mr. Speaker, is now creating a fee structure to provide for compensation for the effort and time and human resources that goes into processing these applications. What we are doing, in accordance with the Mining Act an operator must submit according to that act a development plan for the approval of the Minister of Natural Resources, approval of a plan for rehabilitation and the closure, or the establishment of a mine. That needs to be approved by the minister prior to that project getting sanctioned. There is a licence required and they need to have an application for that development.

As I said a moment ago, there is no charge currently for that service. What we are doing, we are providing a fee structure now and a greater fee will be charged in circumstances where it is a metal mine versus a non-metal mine; unique differences, different income generated from both. Different capacity for different income levels from both necessary to the operation.

The metal mines will have a greater fee structure than the non-metal ones. When we get into committee, no doubt there will be some questions with respect to how these mining applications are processed and issues tying to the involvement of the officials in Natural Resources. I am certain the Minister of Natural Resources will be only too glad to answer those specific questions around the application of the Mining Act welded to these fees.

I want to provide an overview of the fee structure itself. At the time these applications are made – and this is where the dollar amounts are attached that I am going to share with you now. The amounts payable for each initial application and each application for an amendment will look like this. For the initial application for a metal mine the filing of a development plan, the charge will be \$4,000. If an operator, though, intends to make an amendment to that plan an additional \$2,000 shall be applied.

Now for the initial application for a non-metal mine, filing of that development plan, the charge shall be one half of that, which is \$2,000. For the metal mine it will be \$4,000 and for the non-metal mine it is \$2,000. Now if the operator

intends to make any amendments to that plan, again, it is one half of the previous value. So an amendment will attach to it a fee of \$1,000.

Mr. Speaker, for an initial application for a metal mine development rehabilitation and closure plan – because many times there are two steps here. At the front end we have an application for the development of a mine, so a development plan gets filed. At some point in time, as the life expectancy of all operations, there will be an end.

There will be a need to provide a plan for the closure, a plan for the rehabilitation of the site. That requires another application. For the metal mine there is a \$4,000 fee for the application for the development of the rehabilitation and the closure plan. If there are amendments to that there will be a \$2,000 fee attached to that amendment application.

Following that same kind of logic with respect to non-metal and metal mines, the initial application for the non-metal mine development and rehabilitation and closure plan, the charge will be \$2,000. If there are any amendments to that original plan the developer will need to file an amendment to the original application. To have that re-evaluated there will be \$1,000 charge I say, Mr. Speaker.

For an initial application of a mill licence, a \$1,000 charge will apply and a \$750 charge will apply to the licence, any kind of an amendment application. So what we are doing here, Mr. Speaker – again very briefly to provide an overview – we are making amendments here to two provisions. Under the authority of the Services Charges Act we are making an amendment to that act to provide for changes in fee structures for two different services: one is the settlement of estates and probated estates; and, the second deals with a – and that is a fee structure that is already in place and we are making an amendment to that fee structure. The second part of the bill deals with the creation of a new set of application fees associated with mining developments.

Just to speak in general terms with respect to the concept of having fees associated with services, we have had an opportunity through this past budgetary process to look at a number of areas

where we have had to evaluate what it cost to provide certain services. What kind of human resources do we deploy? What kind of other supports are necessary to put in place for us as a government to receive applications from a variety of people for certain things that they avail of? Motor Registration is probably the one that comes to mind for a lot of people because there are such a large number of individuals with vehicles that they register and there are driver's licence systems. There are fees that you have to pay for the maintenance of those systems and the processing of your application.

Throughout government departments and agencies there are a variety of programs and services that we charge fees for. The criteria that we have used have not always been a total cost recovery. Some jurisdictions have looked at a total cost recovery. We have not done that. We recognize sometimes that the fee structures – if it is a total cost recovery, there may be extreme financial difficulties for many people to access the services.

In these cases here, these two fees that we are talking about, one is where we have a mining application. An entrepreneur, an individual, or a corporation sees an opportunity to prosecute the resources that we have as a Province, and so we want to make sure the people of Newfoundland and Labrador get value from that resource. That is why we have such things as corporate tax systems. That is why we have such things as mining royalties to give us a return on that resource. It is the people's resource and we need a return on that.

The other part of that is the cost of working with that, accompanying that entity to process their applications to ensure they are able to comply with the regulatory regime of the Province, to ensure that we understand how they are going to go about doing the development, what implications might it have for other things, how they are going to rehabilitate the site when it is done, and what their closure plan will look like. Whether it is economic issues or environmental issues, we want to make sure these applications reflect an appropriate response to that kind of regulatory regime we have in place.

The only way to do that is to have someone who works with Natural Resources. A lot of our

officials get involved in reviewing the detail of those applications, frequently going back to the proponent looking for additional information. A lot of analysis goes into that. That requires a lot of technical expertise, talented individuals who spend a lot of time and energy in evaluating those applications. We believe it is appropriate that those companies who are going to get the value of those operations should pay to have that as a part of their development.

When they look at developing a mine they look at their total cost of developing. It is built into their business plan the cost of financing, the cost of labour, the cost of materials, and the cost of shipment. All of those things become a part of their factor that they give consideration to. Obviously the fees associated with the development and the application process would be a standard part of – they will get building permits from municipalities potentially. They will get permits from other agencies to carry out their work. This is a natural part of their developing these operations and that is what these fees are intended to do.

With those few brief comments, Mr. Speaker, and introduction to the bill – because, like I said, the bill is very straightforward. It is not one that requires, like many money bills, lengthy debate on a variety of issues. This is not a money bill. It is very specific around a set of fees; therefore, it is not one of these things that require a great deal of elaboration on my part.

However, if members opposite have some questions when we get in Committee I will be only too glad to answer them. The Minister of Justice might have answers to some of the questions with respect to the estates. The Minister of Natural Resources may have some answers with respect to the development of some of the mining operations under the Mining Act. Clearly, the substance of the bill is pretty straightforward and very precisely around two amendments we are making to an existing act.

Thank you for the opportunity to make the introduction.

SOME HON. MEMBERS: Hear, hear!

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

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

I am happy to stand and speak to Bill 8, An Act to Amend the Services Charges Act. The minister has provided a detailed overview of the bill. I want to take this opportunity to thank the members of his department. The staff of his department met with us a couple of days ago to brief us on the bill, and certainly had ample time to explain and answer any questions that we had on what the language was in the bill.

As I listened to the minister's comments – there were a number of things that I would like to reference as part of my comments tonight. In particular, some of the questions and things that have arisen from his comments, as I listened to him introduce this bill as part of the debate this evening.

Mr. Speaker, he spoke in great detail to the first change which is the subsection 4(3) of the Services Charges Act to repeal the following and substitute. This is the item that the minister referred to with regard to estates and those estates that exceed values of \$1,000. The amounts that are payable under subsection (1), under the "... grant of letters of probate or administration or the resealing of a foreign grant of \$60 plus \$0.60 for each additional \$100 in the value of the estate."

Mr. Speaker, one of the questions that I have asked the minister – my understanding is that this is about a 20 per cent increase in the estate value, or the fee associated with the estates. I would like to ask the minister to clarify that. I think that is right, but I may have my information incorrect. I am sure he will provide that more accurately.

When we were briefed on this bill, one of the things that certainly reminded me, as we spoke about estate planning and people whose estates are being filed on behalf of the family members, et cetera who have passed, is that we have legislation – or lack of, some people would say – around seniors who have to pass on their assets to family members so that it is protected from taxes. This legislation may impact those individuals and their choices. Other provinces have brought in – exclusive of this piece of legislation they have brought in legislation that allows individuals, particularly seniors, to

maintain that wealth without having to transfer it to family members.

The second part of the act is the part which references the increases in mining, or the implementation of a new fee that is around the Mining Act. It is for the amounts that are associated with application fees, so initial application fees, and then a fee related to amendments.

One of the things that the minister spoke about in both situations was the cost of administration and that government really looks, in some cases, to not necessarily implement a full cost recovery program under the fees, but in these two cases, part of what is trying to be accomplished is cost recovery. I think it is interesting that when you talk about cost recovery, one of the things the corporation that may be paying the fee or the individual who is paying the probate fees would have to pay for is if there are any inefficiencies in the costs that are going to be recovered.

If, for example, the minister referenced the cost of administration and the cost of processing as we have seen in this House earlier today – and we have had debates around some of the Auditor General's recommendations. There are certainly questions around some of the systems and processes that are in place, and whether or not those systems and processes are cost effective. If you have a cost recovery model, those inefficiencies then are captured in the costs that are trying to be recovered from the people or the corporations that are paying these fees.

The minister mentioned that there is not currently a policy in government. My understanding is that he said there was not a total cost recovery model. He mentioned that a total cost recovery model would actually put undue hardship and undue pressure on individuals and corporations that are paying fees, such as the two that are described in this bill.

I would go back to the comments I made earlier that if government was looking at a cost recovery model, if we had an individual who had to pay, for example, a fee associated with, as the minister talked, a driver's licence. Understanding that processing that driver's licence, if there are any inefficiencies in that and

then you pass all that cost onto the person who is getting the driver's licence, then there are increased costs that the end-user has to pay.

The mining licence fees, one of the things that surprised me when we went into the briefing with staff – and I guess for somebody who has been in the House for just over a year representing the great people of Virginia Waters, one of the things that I was surprised at is that there was no application fee before. These applications, I wonder if the Minister of Natural Resources could maybe provide for this House the volume of new applications, the number of amendments, as well as the number of changes that may happen that would result in these fees.

I am curious to know if the Minister of Finance could provide some detail on what the actual estimate is for revenue from these two fees. I understand from the Finance staff who were at the briefing that they do very comprehensive forecasting on some of these figures, so I am sure that the Minister of Natural Resources would have the number related to these fees of the applications that they are processing. The minister, I am sure, has extrapolated that out with staff to come up with a revenue target that I am sure they can share here with the House tonight as we debate this.

One of the things that we certainly thought about as we were being briefed on this particular piece of legislation was situations like we currently are seeing in Wabush. When you talk about fees associated with mining applications, including the application for a metal mine rehabilitation or closure plan, it is hard to stand in this House and not think about the situation that is unfolding in Wabush and the difficulty that the families and the community there are faced with. We have asked questions. The Leader of the Official Opposition has asked questions with regard to the closure plan in Wabush. If the minister would like to take the opportunity to share some information on that tonight, I am sure that everybody in the House would be very interested in hearing that.

Interestingly as well – I think it was earlier this week, maybe late last week – we were able to see some of the – I will not use the word celebrations but maybe the reflective community coming together in Central Newfoundland with

the anticipated closing of the Teck duck mine, and certainly thinking about the community there as well who are faced with the reality of that particular facility closing as well.

Certainly, when you see the bill and you see the language about fees associated with closure plans, I do not think anybody in this House of Assembly wants to even think about the reality that those fees had to be changed, and I think as we debate this tonight it would be certainly appropriate for us to take a moment and think about the communities that are affected by those two particular mine changes that we see in our Province as we speak.

Mr. Speaker, the Services Charges Act that the minister is amending with reference to probate and administration, particularly around the value of estates and the fees associated with the value of estates, there is no doubt that those individuals who are maybe a couple, seniors who have maybe lived a long life together and sadly one of them has passed on, that those costs now and the increase in the probate fees will have an impact on some of those individuals, and certainly for those people who are on fixed incomes. Even though they may still have a nest egg tucked away, the reality is that nest egg is going to get a little bit smaller here as a result of that. I think that is something that those people who are watching at home tonight would need to understand about this particular piece of legislation.

The reality is that the minister is absolutely right. There is a need for government to capture and collect fees as part of the work that it does and if citizens or corporations require services from government that are outside what is considered core services, then certainly one way to recoup the cost associated with providing those services is to have fees in place that allows those fees to be recovered.

One of the dangers, I guess, in having this conversation, in light of some of the things we have been talking about here through Question Period and through the debates, is around the efficiencies and whether or not those costs that are going to be passed on to the end-user are going to be, as the minister's words, the right value.

With that, Mr. Speaker, I will ask a couple of questions from the ministers, and I look forward to hearing them provide the answers as part of the debate or as part of Committee as we move into Committee.

Thank you, Mr. Speaker.

SOME HON. MEMBERS: Hear, hear!

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

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

After a late night last night and now 10:00 tonight my voice is starting to give out a bit. I will make it strong and no matter how long we are here tonight, it will be there; I promise. This is a pretty practical bill that we are dealing with here, rather technical, but also practical. I am not going to spend a lot of time on it because I think the minister has certainly explained it. There are a couple of points I would want to make.

I think the difference between a fee and a tax is important. It is a totally different mindset. It is interesting that it took a Supreme Court ruling to see the difference between a fee and a tax when it came to the probating of wills. That is what the first part of this bill is all about, An Act to Amend the Services Charges Act. The probating of a will is more than a service; it is something legal that is needed to be done to make sure that the people who benefit from a will, from a loved one, or maybe in some cases not a loved one who has left them an inheritance, it is very important that legally everything is covered so that the wishes of the will are carried out. In actual fact, that is what the probating is all about and making sure that everything is done as it should be done.

It is more than a service. The Supreme Court ruling, by saying that it was a tax, certainly changed the thinking around what is going on when a will is being probated. The provincial bills for the imposition of any tax must originate in the Legislature to be valid. So that is why we are here tonight. Because where this is a tax and we have not done this before in the Province, we now are making sure that the probate fee is

recognized as a tax and therefore, from here on in, will be in legislation, which is extremely important.

As the minister pointed out, it goes right back to 1998 when the Supreme Court of Canada ruled on the constitutional validity of Ontario's probate fees in the case of an estate called the Eurig estate. I will not go into the details of that; however, the probate represents the court's recognition of the validity of a will and the appointment of the personal representative or the executor.

This is a really important legal thing that happens, and I am sure some people in the room have been executors. Unfortunately, I am sure a lot of us have had somebody in our family die and we have had to be the executor of the will. It is extremely important that a will is seen as being valid and that the person who is then the representative of the deceased is recognized legally.

Applying for letters of probate requires the filling of various forms. There is a lot of work that goes on because of all the forms that have to be filled out and there are fees that go to lawyers and fees that go to government, so it is important that this is all done correctly and having this in legislation is extremely important.

I do not think there is any need to go any further with that, but I would like to make comments about the second part of this bill which is the one that has to deal with the Mining Act and a charge being payable to the Crown for applications for and amendments to plans and licences under the Mining Act.

The minister, again, has explained well the content that is in the bill, the amount of money that is being charged, et cetera, but there is one thing that I would like clarification on. The minister can either do it tonight – well, do it in second reading or do it when we are in Committee. If I do not hear the answer in second reading, then I can ask it in Committee again.

I fully understand an application for a metal mine development plan. You are applying, you want to develop, you are making an application to develop and there is a fee for that: \$4,000 and

\$2,000 if you do an amendment to that plan. That I fully understand. Now, it is the language in section 5.1(2)(b) that I am not clearly understanding. It is just the language: \$4,000 for an initial application for a metal mine rehabilitation and closure plan.

My understanding is – and maybe I am wrong – that the applicant is the one who has to put a rehabilitation and closure plan together. If that is the case, why is it called an application for the plan? I am not quite sure on the language. If the applicant is presenting a rehabilitation and closure plan, I do not see that as an application for it. I just wanted clarification of that language. The minister is nodding, so I know I will get the clarification of that.

I do know that, for example, under our environmental assessment act, both provincially and federally, one of the things that gets demanded, having been on a panel myself and I remember this clearly, an applicant, a company, a corporation putting a development plan together for a mine – and the one I was on was the Voisey's Bay mine for example. They have to prove in that plan that they actually have the ability to pay for the rehabilitation and the closure. There has to actually be a legal financial agreement put in place that indicates that the money is there, and they are able to do that rehabilitation and closure.

I am wondering is that something that is part of this application. That, I do not know. That is what I am trying to get a handle on what this rehabilitation and closure plan is. As I have said, if the minister cannot get it for – excuse me, I said my voice was going. I need some water. Thank you.

If the minister cannot get it for second reading I would like to have that explained in Committee, the whole connection between this application and then actually having in place the whole financial system to show – I forget the language for that – that the money is there when the time comes for rehabilitation and closure. So that is something I would like the minister to speak about. I know that is not part of this act per se, but I think there is a connection so I would like to hear what that connection is.

Having said that, Mr. Speaker, I am glad to see that this charge is now being put in place with regard to the applications under the Mining Act. I think it is important as part of the spirit of wanting to make sure that companies, whether they are companies from our Province or other companies, that are going to benefit from our resources should actually be paying for services and paying their way, and I think starting right up front when they first make an application is part of that.

What I do not know either, and I do not have the information – maybe the minister can get it. He did make reference – he did not put it this way; it is my language – to not being too tough on the companies. I would like to know how the \$4,000 compares to the fees in other provinces in Canada to see are we giving a really easy way out, or are the fees in other places a lot higher than what we are charging here.

Those are the two issues that I have questions about. I hope I have been clear in those questions for the minister, and I look forward to hearing the answers.

Thank you very much, Mr. Speaker.

MR. SPEAKER (Verge): If the hon. the Minister of Finance and President of Treasury Board speaks now, he will close debate.

AN HON. MEMBER: (Inaudible).

MR. SPEAKER: The hon. the Member for St. Barbe.

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

I have no concern with the second part of this bill, and that is the part that sets to charge a fee for amounts payable to the Crown related to mining applications. It appears, based on the submissions of the minister, that there is a substantial amount of work involved in going through mining applications. There is a real benefit, but there is also a substantial amount of work.

The first part of the bill, I do have a problem with. This type of a fee was ruled by the Supreme Court of Canada in 1998 to be a tax, and an unlawful tax, in a case called the Eurig

estate. The Government of Ontario sought to charge an estate probate fee similar to this one, only less than this. The estate trustee in that particular estate, the Eurig estate, challenged the amount that was being paid, the amount that was being sought to be recovered from that estate.

The argument they made is that a fee is for a service. A service must be in relation to what you have actually done, and it costs no more, proportionally speaking, for the court to issue probate in a small estate, medium estate, or large estate. Therefore, if you insist on increasing the amount you charge in relation to the size of the estate you are not providing any value. Therefore, you, in this case the Province of Ontario, was found to be charging a tax. The majority of the Supreme Court of Canada said in the Eurig Estate – and there were interveners.

The Attorney General of Quebec intervened and the Attorney General of British Columbia intervened. Those were the only two other provinces to intervene. So as we increase this fee, which really is a tax. It is a tax because it is not related proportionately to the value being provided – to have a real concern that we are inviting litigation from estates, from somebody in this Province who will make the exact same argument that was made before the Supreme Court of Canada in 1998 and made successfully.

I would ask the Minister of Finance if he has obtained a judgement or a legal opinion from the department or from anybody who deals with tax and estates as to whether this bill as proposed will run afoul of the Supreme Court of Canada in the Eurig Estate.

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

MR. WISEMAN: I am trying to address some of the issues raised in second reading here that have been raised by other members. So if I do not give a satisfactory answer, I am certain we will get a question in Committee.

The Member for St. Barbe just provided a legal commentary. Obviously he is a lawyer. He is trained in the law so obviously he is in a position to express a legal opinion. I respect that. I do want to point out though, to the member, that the

act we are amending was brought into force in 1998 which was after the case that he has cited.

The act, when it was introduced in 1998, created a legislative framework to introduce the fees that are already in place. Keep in mind there is already a fee in place and that fee still remains at \$60 for the first \$1,000 value and fifty cents per \$100 of any value over the \$1,000. The legislation, the act itself introduced in 1998, made or created a legislative authority to allow the fees to be imposed in the first place. What this amendment this evening does is amend that fee from fifty cents per \$100 to sixty.

In as much as I appreciate the member's legal opinion and his suggestion that it will run afoul to the Supreme Court decision that has already been made, as a part of our process of developing a piece of legislation such as this – this happens to be a bill that was crafted by Legislative Counsel. It is a bill that I am introducing as the Minister of Finance, but it is an issue that has been advanced by the Department of Justice and obviously has been vetted by legal counsel.

Obviously, as in many cases before courts and as in many legal opinions, there are always many. We have relied on the legal advice of the Department of Justice to provide the structure of this bill we are introducing tonight, which is an amendment to an act. The act itself was created with the advice and in consultation with lawyers in the Department of Justice. I thank him for his opinion. It may be one of those that we will agree to disagree.

With respect to the Member for Signal Hill – Quidi Vidi, the question around the application process and the rehabilitation; I will get absolute clarity for you by the time we get to Committee. What I understand and I will verify this as the evening progresses, (a) and (b) are two separate pieces. As you pointed out, when a company makes an application, they want to go into a territory and develop a mine. They will put together a development plan and they will attach a cheque for \$4,000. If they make an amendment to it they will advance another \$2,000. That is in the initial application.

I think one of the things you referenced was that they are demonstrating an ability to be

financially viable in order to allow them to do the real rehabilitation at the end of the life of the mine. They need to put together certain financial sureties to make sure the reserves are there for that to happen. That is the financial test to determine whether or not you will be able to do the rehabilitation at the time it is required. Have you set aside some kind of financial security for the Province to make sure you do it?

The second thing though, which is separate and apart, is the actual day that you go to close down your mine. So let's say today you make the application in 2015. You put together your development plan. You attach your cheque for the \$4,000. You then, at that time, demonstrate that you will at the end of – say the life of the mine is twenty years, that you will be in a position at the end of twenty years to pay for the rehabilitation, yet you have not filed a rehabilitation plan.

Advance yourself now twenty years. The mine is coming to an end. You now develop and send in an application for the rehabilitation and closure. That is another application that will follow near the end of the life of the mine. You at the front end said here is my application for development and here is my financial surety that I will be able to finance and pay for the rehabilitation at the end. Here you are now at the end of the life of the mine saying, by the way, we are about to close it down, here is my application for the rehabilitation of the site and my closure plan, and here is my \$4,000 for that plan. That is the connection. I will make certain that is an accurate description of what takes place, but that is what I understand. When we get into Committee, by that time I will have that verification for you, but I think that is what it is.

Hopefully that satisfies the questions that have been raised. I just want to go back to the point around the estates. I thank the Member for Signal Hill – Quidi Vidi for her commentary with respect to what that process actually involves, how significant it is, and how important it is to get it right. It is a legal process. It requires a tremendous amount of work and effort by a number of people. This is a piece of work that has a huge impact on people's assets. It is protecting the assets that they have amassed.

The Member for Virginia Waters expressed some concern that people amass this kind of value and they have their estate, and then someone else at the end of the day takes some of that value away from some of the beneficiaries. Keep in mind they are doing work on behalf of those very same beneficiaries to make sure that the proceeding was legal and that they have not opened themselves up for some legal challenge because the estate was not handled correctly, and something got dealt with in a fashion that now somebody else who may have laid claim to the estate will come back and want to make a claim against the person who now assumes that they have the full value of that.

It is important to understand in both these cases here – and I think it is a valid point with respect to both of these amendments. These are areas where the application for these mining applications, the issue around administration of estates – these are areas where there is a lot of technical expertise at hand, highly skilled, well-paid individuals who put a tremendous amount of effort and work in doing the work at hand with respect to those two significant issues.

Because it is such a highly skilled, highly technical area of work, it requires a tremendous amount of due diligence. It is not taxation for the sake of generating revenue, it is an ability to be able to get a recovery for the effort that has gone into dealing with those two very significant issues: one on behalf of the estates of individuals and their beneficiaries; and second, in the development of our resource-based economy that we have, mining has been a huge part of our history. Given the tremendous reserves that we have, it will no doubt become and continue to be a tremendous part of our economic future as well, Mr. Speaker.

Hopefully that responds to a couple of the issues raised in second reading. As I said, when we get into Committee if there are some questions very specific to these, then we will be only too glad to address them at that time.

MR. SPEAKER: Is it the pleasure of the House to adopt the motion that Bill 8 be now read a second time?

All those in favour, ‘aye.’

SOME HON. MEMBERS: Aye.

MR. SPEAKER: All those against, ‘nay.’

SOME HON. MEMBERS: Nay.

MR. SPEAKER: The motion is carried.

CLERK: A bill, An Act To Amend The Services Charges Act. (Bill 8)

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. KING: Now.

MR. SPEAKER: Now.

On motion, a bill, “An Act To Amend The Services Charges Act,” read a second time, ordered referred to a Committee of the Whole House presently, by leave. (Bill 8)

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

MR. KING: Thank you, Mr. Speaker.

At this time I move, seconded by the Minister of Municipal and Intergovernmental Affairs, that the House do resolve itself into a Committee of the Whole to consider Bill 8, An Act To Amend The Services Charges Act; to consider Bill 12, An Act To Amend The Income Tax Act, 2000 No. 2; to consider Bill 9, An Act To Amend The Legal Aid Act; and as well, to consider Bill 14, An Act To Amend The Regional Service Boards Act, 2012.

MR. SPEAKER: For clarity, Government House Leader, you did not refer Bill 13 to the Committee, did you?

MR. KING: Not right now.

MR. SPEAKER: Okay.

The motion is that the House resolve itself into a Committee of the Whole for the Committee to consider Bills 8, 12, 9, and 14.

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.'

The motion is carried.

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

Committee of the Whole

CHAIR (Littlejohn): Order, please!

We are now considering Bill 8, An Act To Amend The Services Charges Act.

A bill, "An Act To Amend The Services Charges Act." (Bill 8)

CLERK: Clause 1.

CHAIR: The hon. the Member for Virginia Waters.

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

In the earlier debate around Bill 8, I asked a question around the revenue target or revenue forecast for both of these changes. I am wondering if the minister might be able to provide some information on that.

CHAIR: The hon. the Member for St. Barbe.

MR. J. BENNETT: Mr. Chair, I ask the minister: How much is generated to the Province by the probate fees annually today?

CHAIR: Shall clause 1 carry?

All those in favour, 'aye.'

SOME HON. MEMBERS: Aye.

CHAIR: All those against, 'nay.'

Carried.

On motion, clause 1 carried.

CLERK: Clause 2.

CHAIR: Shall clause 2 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 Services Charges 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.

CHAIR: Shall I report the bill without amendment?

All those in favour, 'aye.'

SOME HON. MEMBERS: Aye.

CHAIR: All those against, ‘nay.’

Carried.

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

CHAIR: We are now considering Bill 12, An Act To Amend The Income Tax Act, 2000 No. 2.

A bill, “An Act To Amend The Income Tax Act, 2000 No. 2.” (Bill 12)

CLERK: Clause 1.

CHAIR: The hon. the Member for Virginia Waters.

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

I am eager to ask my questions tonight as you can see by my jumping up out of the chair. I understand there are some other people on this side of the House who are very eager to ask questions in Committee.

Mr. Chair, with regard to Bill 12, one of the questions that I would like to ask the minister with reference to this particular piece of legislation is around the timing of the HST credit. The legislation that we are voting on will require that the changes take place as of January 1, 2016. In recent days, the Premier has actually spoken about the fact that he may rethink his entire plan to increase the HST.

Now I understand that the two actions are separate, the charging of the HST and a rebate of an HST credit. I am wondering if the minister could clarify if government has any intentions of changing this particular piece of legislation depending on what they do with the HST that they are going to collect under the piece that they introduced in the Budget, and if so, when in fact they would do that.

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

MR. WISEMAN: Thank you, Mr. Chair.

The issue of the tax credit – what we are talking about is the HST increase is going to take effect

January 1, 2016. This credit we are talking about here will apply to your 2016 tax year.

There is a tie between the two, and I made this comment when we talked about it in second reading earlier. We made some changes in the proposed HST rates from 13 per cent to 15 per cent. What we are doing here now is providing a relief to people with \$30,000 and less – in fact, it is more than that because it is graduated out from \$30,000 onward. From \$30,000 under, it is 100 per cent of the \$300.

The reason we are bringing in this credit is because we are trying to minimize the impact on those individuals at that income threshold as a result of the changes we made in HST. If we were to contemplate a change in the announced HST rates, then we would have to contemplate making a change to the effective date of this – or the rebate structure here is predicated on a change in the HST rate.

I just want to go back to the important question that the member has raised. I think one of the things that the Premier has indicated is that we as a government have been extremely optimistic about the performance and the rates associated with oil revenue. At the first quarter of the year when we did our projection based on the Budget, we took the annual forecast and said we believe it will average out to be sixty-two. We broke it down quarter by quarter.

The first quarter performance of Brent on the market has been much better than we had anticipated in the first quarter. We forecasted fifty-five and it has been somewhere in the mid-sixties. If that trend continues into the second, third and fourth quarter – and the Premier’s comment was based on an optimism and pleasure with the performance in the first quarter. So to talk about what – at the end in the fall, and if we are making the same kind of progress that we made in the first quarter, it was in that context that the Premier made his comments.

To the member’s question. The changes we have made to the credit was in response to the increase in the HST in the first place. This was intended to shield lower-income families from the impact of that increase in the HST from 13 per cent to 15 per cent.

CHAIR: The hon. the Member for Virginia Waters.

MS C. BENNETT: Mr. Chair, I thank the minister for his answer.

I would just ask him, the intention of the credit is to soften the financial blow of a HST increase that would take place on January 1, 2016. The reality is that for many low-income and fixed-income individuals, their weekly cash management issues are more real than tax credits that come nine months later.

I would ask the minister how government would assume or feel that a credit in October is going to help somebody who has to pay 2 per cent more on a light bill in February when, in fact, they may not have the cash for that particular purchase.

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

MR. WISEMAN: Mr. Chair, the question the member – I will answer the question but it not relevant to the bill.

What the bill does, it makes an amendment to an already existing provision. The HST rebate, whether it is on a provincial jurisdiction or a federal jurisdiction, takes place in the fall of the year. It is a rebate. It is a credit that occurs after the taxes have been paid.

The current legislation that you see before the House, Bill 12, amends an already existing act that provides for a mechanism and a timing to pay HST. The subject of the amendment is around changing the dollar amount. The principle of paying it once a year and the principle of paying it in the fall is embedded in an act that is not subject, and that provision is not subject to the amendment. Inasmuch as I have answered your question, it is not relevant to the bill at hand.

CHAIR: The hon. the Member for Virginia Waters.

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

I appreciate the minister clarifying that the legislation that would actually address the cash

flow implications of the 2 per cent HST increase on low-income and fixed-income individuals is not being addressed as part of this legislation. It is in fact only the value of the rebate that is received. So ten months after the HST is increased.

I would ask the question with regard to – I believe it is the section that refers to, “establishing the criteria for determining who or what is (i) an eligible corporation, (ii) an eligible product, (iii) an eligible project, and (iv) a qualifying expenditure.” I would ask the minister if he could provide some specifics on exactly what those items are.

I am confused, is that list of items determined based on federal guidelines that the Province has to follow, or does the Province have any flexibility with regard to those items? I am assuming from this legislation that those lists are created for the Province, but I do not really know. Hence, that is the reason I am asking the question.

I appreciate the minister’s willingness to answer the questions as we go through this important piece of legislation here tonight.

Thank you, Mr. Chair.

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

MR. WISEMAN: Yes, Mr. Chair.

Those items that our tax lawyers established are harmonized with the federal legislation.

CHAIR: The hon. the Member for Virginia Waters.

MS C. BENNETT: So, Mr. Chair, I just want to clarify that any changes then that the federal government would make in products that would be applicable to HST charges or HST credits, would be under federal jurisdiction and not under provincial jurisdiction? Is that correct?

CHAIR: Yes.

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

MR. MITCHELMORE: Thank you, Mr. Chair, for the opportunity again to speak to in Committee, An Act To Amend The Income Tax Act when it comes to looking at the HST credit.

The GST/HST credit, when we look at the concept, is paid in quarterly installments when you look at the federal GST in January, April, July, and October. The question I believe the Member for Virginia Waters had pointed out is that the government, in its current Budget, is increasing the HST. It is going to be effective on power bills in July and there is also going to be a 10 per cent increase in January, 2016.

In January, 2016, HST is going from 13 per cent to 15 per cent, yet there will be no HST credit paid out by the Province in the concept of a quarterly installment, which is a possibility to look at that type of option to mitigate the burden as what the Finance Minister is stating is that the reason it is done, it is done annually. I would like some clarification on that particular matter.

As well, when you look at the threshold and the analysis of the increase, it is up to \$300 from a smaller amount that was there and \$60 for a spouse, that would be attached. I want to ask, what type of analysis was done to come up with the \$300 amount?

When looking at the budgetary documents, it is very clear for the 127,000 filers that the Minister of Finance stated would be eligible for an HST credit – what is put there is \$3.7 million. For 127,000 tax filers this is a very small amount of money that we are talking about when you look at the overall amount that this government has allocated in the past, in 2014-2015 Budget, and in 2015-2016 Budget.

I do want that clarification around the analysis piece, looking at their purchasing power and consumption. Did the Department of Finance do any type of thorough analysis on this particular piece? Also, pointing out the threshold that it gets reduced by 5 per cent as it goes past the \$30,000, but at what point? Is it like the federal government, once it gets over \$50,000- something of an individual or net income, that there is absolutely no HST rebate paid? What is that threshold that is put forward where people will get absolutely no benefit, yet will be dinged by an HST increase?

I put forward those questions to the Minister of Finance, and hopefully he will be able to answer those. I have many others, but I will give you the opportunity to answer those that I have put forward.

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

MR. WISEMAN: Thank you, Mr. Chair.

To answer his question, as a concept the 5 per cent rate does fall off the end. I will get the exact number for you, but it does fall off.

The issue around the analysis that was done – there was a sensitivity analysis done. Because of the increase in 2 per cent, going from 13 per cent to 15 per cent, those individuals who were going to be impacted by that with an income level of less than \$30,000; we wanted to make sure that we are going to take away the impact that was going to have on that low-income level by having that \$300 rebate. That is where the fear came from.

We wanted to neutralize the impact that we would have to have by having that increase. Keep in mind the previous income level was \$15,000. So we took a 2 per cent increase and added what we would need to do to increase the income threshold, together with the dollar of the credit, to ensure we negated the impact of that 2 per cent increase on low income. That is where the two numbers came from, both the \$300 and the \$30,000 level.

That is the analysis that was done. There is data that profiles a percentage of income that people will pay for HST relative to their income. We have data with respect to tax filer information on income levels. With that kind of sensitivity analysis, those two figures were arrived at.

CHAIR: The hon. the Member for Virginia Waters.

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

I was pleased to hear earlier in the discussion today about this particular bill that the minister clarified the 127,000 filers. As most people in this House of Assembly would know, the Budget documents that were released as part of

the Budget many weeks ago actually referenced, I am assuming in error, a phrase that said 127,000 families. Certainly that created a lot of questions when we were in the lock-up with reference to the information. I am very grateful that the minister has clarified that in fact was an error of 127,000 families and that in fact it was 127,000 filers.

One of the questions that we did ask, as part of the Budget lock-up in the subsequent days, was around the breakdown that the minister just referenced in a sensitivity analysis, particularly around the number of individuals who are in each of the categories between the \$15,000 and the \$30,000 range. We wanted to get an appreciation for how many individuals would actually be qualifying and at what particular annual income.

As many of us in this House have seen regularly, in talking with our constituents throughout the Province and talking to seniors groups, the annual income of between \$26,000 and \$28,000 certainly falls – there are many, many people in the Province who are in their retirement years, certainly seniors who are in that age bracket. We would certainly like to get a little bit more detail from the minister if he is able to provide it tonight on the data points that he mentioned, specifically between the \$15,000 and the \$30,000. How many of those 127,000 filers, as opposed to families, are in that particular area?

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

MR. MITCHELMORE: Thank you, Mr. Chair.

I go back to the first time when I had spoken. The Minister of Finance, I guess in part, answered some of the questions that I had. I am looking for the details of the 5 per cent, when it gets actually cut off, the figure where the income threshold is where you would get no particular credit, as well as the sensitivity analysis.

If the Minister of Finance could either table that sensitivity analysis or make it publicly available through the Open Government Initiative and provide that information out there showing that government had done due diligence on this particular matter, or if there was a consulting

report, or if somebody like Dr. Wade Locke was consulted on the particular report as he has been doing taxation mechanisms for the provincial government. I had the opportunity to say hello to Dr. Wade Locke yesterday actually in the building.

When I look at the question that I had pointed out previously around the quarterly reporting, HST or GST gets paid quarterly when it comes to aspects. Why isn't that an option, when you look at this credit, to mitigate the cost, the impacts of raising the HST? I go back to point out for the viewers who are watching at home that the government in this year's Budget is putting the 8 per cent back immediately in July on home heating. So in January, that power bill will be 10 per cent more expensive.

If in the course of that year from January to December a consumer spent \$3,000 on electricity, it would be \$250 a month. So that basically equates to your \$300 full credit of HST rebate. That is above and beyond anything that exists now because right now there already is a credit. It has been enhanced to mitigate these consequences.

If you are a consumer who is making under \$30,000, or a family that is earning under \$30,000, well then if you spend \$3,000 a year on home heat under this year's Budget, that is going to take everything and more of your HST credit. Then if you are purchasing things like gasoline or consumer goods and services, paying your phone bill or your cable bill, all these things are going to have an extra 2 per cent charge.

If you do your overall cost analysis, or you look at that impact, that is going to add up to money as well. That is extra cost, extra taxes, and extra fees. When you look at the credit that is being put forward of \$300 – I am just pointing out very clearly that there are so many things in the Budget of 2015 that was passed by this government across the way – the \$300 is not going to be sufficient to mitigate against the overall cost.

Mr. Chair, \$300 is going to be something that they are not getting until October 2016, yet they are going to be taxed on power from July right on up to October before they ever get any type of cheque in terms of a rebate credit. So that is

money that is going to be out the door, out of the pocket.

We are talking about the 127,000 tax filers. Not all of those tax filers would be under the \$30,000, I am assuming. The Minister of Finance, maybe he can clarify that. My take on this is the 127,000 tax filers would be up to and including the full and in part as to who would be receiving \$300 or \$60 if they are married or attached. Then there would be some people who would be receiving in part.

Could the Minister of Finance put before the House and really be open and transparent, and clarify how many people fit each range, under \$30,000; and the spousal amount of \$60? How many households are getting a \$360 credit as a total? That will be \$30,000 or under. Then how many households would be, as you go 5 per cent above that and keep going and break that down, because that is really valuable information. That is worthwhile to find out the reason why. It would actually allow us to make sense of the income levels that are there. That information the Minister of Finance says he has, that they have that valuable information.

In doing so, I think the Minister of Finance should put before the House, before we can pass this particular bill – because I have questions on this. I am asking about it because I have a lot of people in my constituency who would be making \$30,000 or less, or making \$40,000 or less, who would qualify for such a credit. When I go and connect with them in the community and they talk about this year's Budget and how the power is going up and how this government – every member on the other side voted for that, in favour of adding 10 per cent to power bills.

Then also voting to raise the HST and put more on every bill and every goods and service they buy that has tax on it. Well, then a \$300 credit, if you can get it in full – which is only small potatoes compared to what you would have had before. You are taking way more of their disposable income out of their pockets. That is exactly what is happening. I do not feel the sensitivity analysis will show that there was enough mitigation for those who are the most vulnerable in society to offset that cost.

I have clearly highlighted that just based on the cost of electricity, on home heating. That if somebody spends \$3,000, with a 10 per cent increase that is \$300. It takes away the full credit. It is quite concerning, and all of these members across the way are going to have to clearly explain this to their constituents when they go back to the community. When they say we voted to put 10 per cent back on the power bills, and we say 2 per cent up on HST, and we are going to give you \$300. Well, they were getting something previously.

My colleague, the Member for Mount Pearl South, clearly stated that this is some feel good legislation. Unless the Minister of Finance can table and put forward a sensitivity analysis to back up that case, I have to side with the Member for Mount Pearl South. I think he is right. I completely think that he is right. I would like to see that breakdown.

I will give the Minister of Finance an opportunity to answer those questions. If not, I will have the opportunity to get up and raise a number of other questions. There are many clauses and pieces here, sections and sections that I have questions about. Maybe he will have that opportunity to get on his feet, or else I am sure another member of my caucus will stand and ask a question.

Thank you.

CHAIR: The hon. the Member for Virginia Waters.

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

We will give the minister a moment to get the information to answer the question for my hon. colleague. I will move on to maybe the other part of the bill which is around the new Interactive Digital Media Tax Credit.

One of the things that was certainly evident when we had the briefing – and I want to take again the opportunity to thank the staff who provided the briefing. Those of us in the House who have read the legislation, we see language such as, “‘eligible corporation’ means a corporation which satisfies the conditions prescribed in the regulations.”

The legislation goes on then to say in another section, “‘eligible project’ means a project of an eligible corporation to develop an eligible product which satisfies the conditions prescribed in the regulations.” The legislation continues to read, “‘qualifying expenditure’ means the eligible proportion of salaries and remuneration paid by an eligible corporation for or during an eligible project as prescribed in the regulations.”

Mr. Chair, one of the things that I think I asked in the briefing – and let me be clear, certainly the investment in the technology sector and encouraging entrepreneurship in that sector is very important. We have huge opportunities in this Province to do that. One of the things that surprised me is when I asked the staff around what exactly were the regulations governing this particular tax credit, I was not able to get the answers.

I cannot imagine, with the competent public sector we have, that there has not been some work done on the regulations governing the Digital Media Tax Credit. I am wondering if he could enlighten this House on just maybe the flavour of some of those regulations, when those regulations will be ready, and when they will be communicated to the business community so the business community understands what those regulations are.

The benefit of the tax credit is only truly a benefit when an entrepreneur can actually take advantage of the credit. In the absence of the regulations, it is very challenging for business operators and innovators to be able to take advantage if they do not know the rules that they have to play by.

While I understand from the staff that this tax credit was an announcement made as part of this Budget, actually executing the tax credit in a business environment would require that the regulations also be ready. I am assuming the minister may have some information to provide some clarity on that. I look forward to hearing that.

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

MR. MITCHELMORE: Thank you, Mr. Chair.

Before I go back to asking more questions around the HST, because I have more around that, I want to pick up where my colleague, the Member for Virginia Waters, had just taken off. Absolutely, businesses and entrepreneurs want confidence and they want predictability. Whenever a tax credit or an incentive is provided there should be particular regulations that are outlined; that are stated.

Actually, what is very interesting about this one is that this credit has been made available back to January 1, 2015, well before the Budget was passed or put forward. Even those companies that are established, if they qualify –

SOME HON. MEMBERS: Oh, oh!

CHAIR: Order, please!

MR. MITCHELMORE: – under what this act is stating, it is giving the framework and it is allowing a company, even prior to this legislation, to qualify.

The Official Opposition, we have not seen the regulations that are being put forward. There are some definitions and some clauses here that set up the parameters and the framework for establishing such a tax credit but we would like to know who was engaged, who was consulted in the process. Was NATI, for example, consulted? Others in the tech sector, those that are in the gaming and digital media, as well as composers and artists, were they engaged and consulted upon? What type of jurisdictional scan was taken to arrive at the current tax credit?

The dialogue, based on the budgeting process, I am sure the Minister of Finance could share some of that information because in this year’s Budget \$1 million has been allocated for this particular rebate. In doing so, there would have had to have been some type of consultation. If the Minister of Finance would like to clarify for this House what activity was taken to arrive at the \$1 million and how that analysis came about, because he has not yet shared with me the sensitivity analysis to arriving at the HST.

If we go back looking at the HST piece, as I was pointing out previously, is \$300. Well, if somebody who collects HST or is eligible but they pass away, based on the federal regulations

then they are no longer eligible to collect that credit. How does that impact a spouse who would have only gotten \$60? Will they qualify then for \$300?

SOME HON. MEMBERS: Oh, oh!

CHAIR: Order, please!

MR. MITCHELMORE: We would not want to see somebody who would be lost in bureaucratic red tape that would exist, who is of a low income, who would have been taxed and taxed and taxed from July onward until the following October when it comes to home heating of 10 per cent. Then also being taxed on every consumer good that would have HST, from phone bills to cable bills, to all of these things. Would they then qualify for the \$300 should their spouse pass away in that time frame? Because it clearly states that if somebody passes away, then they are not eligible for HST.

This is a tied amendment that states \$300; \$60 for a person who is a qualified relation. We all have to look at when the filings were made and what would happen. The product obtained, when \$60 is multiplied by the number of qualified dependants of the individual for that year.

Also, when we look at this particular piece, we would like to know when it comes to the \$360 per couple with dependants, is there any type of cap, I would say to the Minister of Finance, on the number of qualified dependants that anyone can have? Is there a particular cap? That would be something that would be of interest to me.

I will leave it at that to give the Minister of Finance – because I have asked a number of questions in my last time that I stood up and I have not received a response. So I will keep asking them as long as there is an intervening speaker. I will go back and repeat – should I have to – until I get an answer.

Thank you.

CHAIR: The hon. the Government House Leader.

MR. KING: Thank you, Mr. Chair.

Mr. Chair, I move, seconded by the Minister of Municipal and Intergovernmental Affairs, that the Committee rise and report Bill 8, and also report Bills 9, 12 and 14 and ask leave to sit again for those three bills.

CHAIR: The motion is that the Committee rise and report Bill 8 and ask leave to sit again for Bills 9, 12 and 14.

Is it the pleasure of the House?

All those in favour, 'aye.'

SOME HON. MEMBERS: Aye.

CHAIR: All those against, 'nay.'

Carried.

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

MR. SPEAKER (Cross): The hon. the Member for Port de Grave, Chair of the Committee of the Whole.

MR. LITTLEJOHN: Mr. Speaker, the Committee of the Whole have considered the matters to them referred and have directed me to report Bill 8 without amendment and ask leave to sit again for Bills 9, 12 and 14.

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 8 without amendment and ask leave to sit again for Bills 9, 12 and 14.

When shall the report be received?

MR. KING: (Inaudible).

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

MR. KING: Later.

MR. SPEAKER: Later.

On motion, report received and adopted. Bills ordered read a third time on tomorrow.

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

MR. KING: Thank you, Mr. Speaker.

I move, seconded by the Minister of Municipal and Intergovernmental Affairs, that the House resolve itself into a Committee of the Whole to consider Bill 9, An Act To Amend The Legal Aid Act.

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 said bills.

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

All those in favour, 'aye.'

SOME HON. MEMBERS: Aye.

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

Carried.

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

Committee of the Whole

CHAIR (Littlejohn): Order, please!

We are now considering Bill 9, An Act To Amend The Legal Aid Act.

A bill, "An Act To Amend The Legal Aid Act." (Bill 9)

CLERK: Clause 1.

CHAIR: Clause 1.

The hon. the Member for St. Barbe.

MR. J. BENNETT: Thank you, Mr. Chair.

Mr. Chair, there is an amendment in the amendment in Bill 1, and I am looking at it. It says resident, and defines resident.

I was pleased at the response of the Attorney General who explained some of the issues that dealt with representing people who really are a federal responsibility. I was also very concerned, because at the same time as it seems that this Province is – actually we are not getting along with the feds that well. The feds seem to be downloading all sorts of things on us and in the case of this Province providing legal aid for people who are illegally in Canada, but awaiting adjudication of his or her immigration or citizenship status.

I do not think anybody questions that people should have fair and reasonable legal representation if they are facing immigration or citizenship status. Mr. Chair, these people are not Canadian citizens. Clearly, there has been an issue that has come up with them with the Government of Canada.

The Government of Canada looks after immigration nationwide, yet it seems that this Province has agreed to shoulder the burden to pay for legal aid for people who are illegally in Canada. That is not someone legally in Canada. That is not someone who is lawful. That is someone who is illegally here and they are awaiting adjudication of his or her immigration or citizenship status.

Mr. Chair, first of all you are looking at the Immigration and Refugee Board, the IRB. The IRB is a federal tribunal. So people go before the review board. On occasion, having appeared before the immigration review board let me explain the type of person who appears before the IRB who we are looking at supplying Legal Aid representation for.

It was in the case of an individual who was from Iraq, a business person from Iraq. He had left Iraq when Saddam Hussein was in power. He escaped through Turkey and came to Canada with his immigration papers – forged immigration papers. So this person came on a flight into Canada, into Toronto. We have seen him in years gone by walk off flights in Gander quite routinely. When the Soviet Union was the Soviet Union and our relationship with them was not as good as it is apparently today, people were flying through all of that. They will walk off in Gander and now they will claim refugee status.

For example, in the case of people I have represented, most of these people have some means to get here. So they are here in Canada. They destroy their identification papers. Mr. Chair, you have absolutely no way of knowing who they are. You cannot possibly know who they are.

They claim that they come from a certain country. They claim that they are being persecuted. The definition by the United Nations High Commissioner for Refugees says that this person must have a well-founded fear of persecution in their home nation if they are sent back. It does not mean they are being persecuted. It does not mean that they can prove they are being persecuted. All that it means is that they have a well-founded fear that they will be persecuted if they are sent back to wherever they came from.

The taxpayers of this Province are supposed to take money from the legal aid fund that is built up for the taxpayers of this Province. That same legal aid money that would represent people, maybe single mothers who are trying to get custody and access, or support payments for children, people who are involved in all sorts of matrimonial disputes, people who are escaping abusive relationships here in Newfoundland and Labrador; these are the people we fund. With no harm intended to people who are refugee claimants illegally in Canada, this is a federal responsibility. Mr. Chair, how can it be that this Province continues to take on more and more federal responsibilities?

This is clearly taking on a federal responsibility and paying with the hard-earned taxpayer's dollars from this Province. We are actually subsidizing the current Stephen Harper government. They have made it more and more difficult for immigrants and refugees in any event. As they make it tougher and tougher we have to keep paying and paying provincial money so they can stay in Canada, and they are not even legally here. How can that be fair to the taxpayers of this Province?

I heard the Solicitor General say that of the \$17 million or so that we fund Legal Aid with, the feds have cut back their payments from much, much more, to only around \$2 million. Why should this legal aid bill now extend this type of

legal aid coverage to people who are not legally in Canada?

Mr. Chair, I ask if the Minister of Justice can answer that question.

CHAIR: Shall clause 1 carry?

Oh, I am sorry.

The hon. the Member for Virginia Waters.

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

I have to say it is the first time I have actually stood up to speak, in Committee, to a piece of legislation that falls under the area of Justice and Public Safety. Rarely do I get the opportunity to ask the Minister of Justice and Public Safety a question, so this is a real treat tonight. I am very, very honoured to be standing here asking him this question.

When I had a chance to read the bill several days ago, I guess in contrast to my hon. colleague, one of the questions I certainly was intrigued by was that the bill that is being amended here under the Legal Aid Act – particularly around the amendment of the definition of a resident, which is to include a person who is illegally in Canada, but awaiting adjudication of immigration or citizenship. One of the real practical examples of that – as we have seen in this House and we have actually spoke about – was last year I was able to present a private member's resolution around the legal rights of those individuals who come into our country and come into our Province to work from other countries. Through no fault of their own they may be in a situation where their work permit may have expired. Technically, without an extension of the work permit, they may in fact fall into the category as is described here, as an individual who technically is illegally in the country of Canada.

For me, when we have situations where individuals have come to our Province to work, come to our country to work, and they have an issue with an employer who is not treating them fairly, or is not treating them within the confines of the Canadian law as it comes to labour standards, there is an expectation for us as a community and an expectation for us as a

Province to make sure that we respect those individuals.

I would ask the minister if he could just clarify that if an individual is here, for example, on an expired work permit, a work permit that for no fault of the individual has expired, would –

SOME HON. MEMBERS: Oh, oh!

CHAIR: Order, please!

MS C. BENNETT: – they qualify as part of the definition here, defining a resident to include a person who is illegally in Canada, but awaiting adjudication of immigration or citizenship?

Thank you, Mr. Chair.

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

MR. KING: Yes, I thank the member for the question.

The answer is yes, the revised definition simply reflects what we already do in practice. We provide work for those who are in transition.

The review by the Legal Aid Commission suggested that maybe we need to tighten up the definition to reflect what we do. That is all we are doing here. So the quick answer to your question is yes.

CHAIR: The hon. the Member for St. Barbe.

MR. J. BENNETT: Mr. Chair, this bill in the definition section – and drafters of legislation do not put things in legislation without some sort of a reason. They have added in the definition section that department means the department presided over by the minister. Obviously, departments are presided over by ministers. However, throughout the original act, the one that we are changing – which is the Legal Aid Act, Chapter L-11, Revised Statutes of Newfoundland and Labrador – refers consistently to the Minister of Justice and the Deputy Minister of Justice.

The act has not been changed. When you look at the underlying act under section 3(4) it says, “A member of the board, other than the Deputy

Minister of Justice and the provincial director, shall hold office during pleasure for the term of 2 years from the date of his or her appointment and is eligible for reappointment.”

Is this simply a drafting oversight? When we say department, we say the department is presided over by the minister, which would imply that it could be the minister of a department other than the Department of Justice. I am not sure why. It may have been going back to when we got rid of the Department of Justice back last year. The only Province in Canada, as far as I know, to ever get rid of their Department of Justice and call it the department of public safety.

CHAIR: I remind the hon. member to speak to the amendment. It is an amendment bill.

Thank you.

MR. J. BENNETT: Thank you.

The bill does not provide an amendment other than in the definition that the department is supposed to be presided over by the minister. Is this the Minister of Justice? If so, why was that necessary? Why is it to say the department means the department presided over by the minister as opposed to the Minister of Justice when the underlying act says the Minister of Justice? Why is that definition necessary at all? If it is necessary, why hasn't it been changed throughout the entire act?

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

MR. MITCHELMORE: Thank you, Mr. Chair.

This is my first opportunity as well to speak to Bill 9, An Act to Amend the Legal Aid Act. I do not often speak to justice bills. I do have a question, though, around a particular clause, and that is around the audit.

We talked a lot about the Auditor General, his role, and the effectiveness of reporting. We have also talked about looking at the new privacy legislation and access to information law. On page 4, clause 5, section 23(1) under Audit, “The auditor general shall audit the

accounts of the commission and may request the books, vouchers, records and documents that he or she considers necessary for the audit and the commission shall comply with that request.”

Then if we go to section 23(1.1) it states, “The commission’s compliance with subsection (1) shall not constitute a breach or waiver of solicitor-client privilege even where the books, vouchers, records and documents contain names and information of clients or applicants.” It seems like this is something that is allowing or superseding some privacy information of what would be under the Access to Information and Protection of Privacy Act when it comes to the solicitor-client privilege.

It seems like this particular clause is allowing for information around names, clients, and their applicants to be revealed upon the request of the Auditor General. I am just wondering how this falls with other acts and information. Is there any type of conflict of providing, or is it necessary to provide such names and whatnot when doing a particular review or an audit by the Auditor General when it comes to Legal Aid?

Certainly information can be provided, but could it be – I know that it is stating here that it will not constitute a breach or waiver of solicitor-client privilege if this information is revealed. For the protection of privacy is this something that will be reviewed or the Auditor General will have an open book when it comes to individual names, cases, and information around Legal Aid?

We know the Auditor General has not had an open book when it comes to the transportation strategy that did not exist around \$5 billion. Former Auditor General Wayne Loveys –

CHAIR: I remind the hon. member to speak to the bill and the amendment, please.

MR. MITCHELMORE: Mr. Chair, I am speaking to section 23 around audits and around solicitor-client privilege. I would like clarification by either the Minister of Justice or the Deputy Premier who is Responsible for the Office of Public Engagement around that particular act because this is what that clause is

stating around privacy and around information and around an audit.

That is why I put forward that concern. The Auditor General in the past has been denied or not available to certain pieces of information; but, in this case, when it comes to clients of Legal Aid, upon request, all that information seems like it can be provided. So I am just wondering if there can be some clarification, just for the record on that particular clause.

Thank you, Mr. Chair.

CHAIR: The hon. the Minister of Justice.

MR. KING: Thank you, Mr. Chair.

I move, seconded by the Minister of Municipal and Intergovernmental Affairs, that the Committee rise, report progress, and ask leave to sit again.

CHAIR: The motion is that the Committee rise, report progress, and ask leave to sit again.

All those in favour, ‘aye.’

SOME HON. MEMBERS: Aye.

CHAIR: All those against, ‘nay.’

Carried.

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

MR. SPEAKER (Cross): Order, please!

The hon. the Member for Port de Grave and Chair of Committee of the Whole.

MR. LITTLEJOHN: The Chair of Committee of the Whole have considered the matters to them referred and have directed me to report progress and ask leave to sit again.

MR. SPEAKER: The Chair of Committee of the Whole reports that the Committee have considered the matters to them referred and have directed him to report progress and ask leave to sit again.

When shall this report be received? Tomorrow?

On motion, report received and adopted.

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

MR. KING: Thank you, Mr. Speaker.

I move, seconded by the Minister of Finance, that the House do now adjourn.

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

All those in favour, 'aye.'

SOME HON. MEMBERS: Aye.

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

Carried.

This House stands adjourned until tomorrow, Wednesday, at 2:00 p.m.

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