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*Speaker: Honourable Tom Osborne, MHA*

Monday

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(Night Sitting)

The House resumed at 7 p.m.

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

The Chair has considered the proposed amendment and according to O'Brien and Bosc, page 768, it states, "...an amendment is out of order if it refers to, or is not intelligible without, subsequent amendments ...." Based on that, the Chair rules that the amendment is out of order.

Seeing no further speakers to clause 2, shall clause 2 carry?

All those in favour, 'aye.'

**SOME HON. MEMBERS:** Aye.

**CHAIR:** Carried.

On motion, clause 2 carried.

**CLERK (Ms. Barnes):** Clause 3.

**CHAIR:** According to what I have here, the next clause that the Opposition had raised some concerns with was clause 6, so we'll go to clauses 3 to 5 inclusive.

**CLERK:** Clauses 3 to 5 inclusive.

**CHAIR:** Shall clauses 3 to 5 inclusive carry?

All those in favour, 'aye.'

**SOME HON. MEMBERS:** Aye.

**CHAIR:** Carried.

On motion, clauses 3 through 5 carried.

**CLERK:** Clause 6.

**CHAIR:** Shall clause 6 carry?

The Chair recognizes the hon. the Member for the District of St. John's East – Quidi Vidi.

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

I'm happy to stand again and speak to this bill, and speak especially to clause 6. Clause 6 is an important clause because it talks about the

commission and the way in which the commission is established. There are eight sections to the clause, and most of them I agree with. I will be speaking to one that I will want to make a change to, but before bringing forth the amendment I'd like to make some comments.

I know some of my colleagues have said this before, but I think it's important for me to say it again, because it's going to be the main point of the amendment I make. Section 6(2) says: "The commission is an independent, non-partisan body –

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

**CHAIR:** Order, please!

**MS. MICHAEL:** – whose mandate is to provide non-binding recommendations respecting appointments to the Lieutenant-Governor in Council or the minister, as appropriate, following a merit-based process.

"(3) The commission shall consist of 5 members appointed by the Lieutenant-Governor in Council on resolution of the House of Assembly."

The first thing that struck me when I read that section when we were reading the act was, well, this is sort of like a chicken and an egg thing. We're talking about the commission, but where does the commission come from? That became the question for me: Where does the commission come from? As I started probing that, I realized a major weakness in the bill. That was that the commission, from its outset, was a commission that was actually put in place by a partisan process. It was put in place by the Lieutenant Governor in Council, so by government.

So when I looked at that I said, well, this is a real problem, because if you have a commission that's put in place by government without even any consultation – and there isn't any consultation. When you read section 6 and read through it, it doesn't say there'll be consultation, there will be meetings, there'll be anything; it's just Lieutenant Governor in Council shall be the one who shall put the commission in place and the Lieutenant Governor in Council shall designate one of the members of the commission to be chairperson.

Now, I don't mind the Lieutenant Governor in Council appointing the chairperson if the whole commission had been put together by a non-partisan process. But it is not put together by a non-partisan process. This is one of the weaknesses of the bill itself.

The bill clearly stipulates in section 5 and section 23 that Cabinet or a minister's power to appoint is in no way affected by anything in this bill. That happens a number of times through the bill. In actual fact, I don't have a problem with that either, because when it comes to the ultimate decision, an actual appointment, it really is government's responsibility to do the final appointment. That's a fact. That is a responsibility of government when it comes to the kinds of positions that this bill is covering, when it comes to putting people in key positions, in governmental agencies, et cetera. It is government's responsibility. There is no doubt about that.

That's why in sections 5 and 23 it actually says – and I'll get section 5 and read it because I think it's important. Section 5 starts off talking about the appointments. It says, "Notwithstanding another provision of this Act, the requirement to consider a recommendation under section 4" – that's recommendations that come from the commission – "shall in no way affect, alter or fetter the discretion of the Lieutenant-Governor in Council or the minister to exercise an authority to appoint a person under the applicable Act or another authority."

Now, that's fine. I have no problem with it because it is government's responsibility. All the more reason for making sure the way in which the commission is put in place is completely non-partisan. All the more reason for making sure the body that makes recommendations to council, to Lieutenant Governor in Council, that the body that makes recommendations is not a partial body. It's not a body which has been hand-picked by one group, in this case the government.

If I want to have a feeling of security that the recommendations that are going to be made to government are recommendations that are non-partisan and recommendations that are free of bias, then I'm going to want a commission that doesn't have a sense of obligation to the

governing body who appointed it. I think that is really basic.

Making the appointment system of the commission non-partisan becomes extremely important in this whole process. Having the commission itself appointed by government is enough to make me say, I don't know if I can vote for this act. I haven't got a decision made yet. I want to go through the process. I want to go through the amendments. I want to see if government is going to listen, but the whole process because of that is flawed right from the beginning because it isn't the commission, number one, making appointments. That's number one, but I understand why the government ultimately has to be able to say no, but I don't understand government saying the commission should be set up the way that it's being set up.

It's for that reason that I make the following amendment, Mr. Chair. I would like to see subclause 6(3) of the bill amended by adding immediately after the word "members" the words "selected by an all-party committee of the House of Assembly and." That means we would end up with section 6(3) reading: The commission shall consist of five members selected by an all-party committee of the House of Assembly and appointed by the Lieutenant Governor in Council on resolution of the House of Assembly.

I have copies of this amendment for the Table.

**CHAIR:** We'll take another brief recess to consider the amendment.

### Recess

**CHAIR:** Order, please!

The Chair has considered the amendment proposed by the hon. Member for the District of St. John's East – Quidi Vidi and rules that the amendment is in order.

Now speaking to the amendment, the Chair recognizes the hon. the Member for the District of St. John's East – Quidi Vidi.

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

I'm really appreciative of the ruling because I think what the amendment does is makes the action that is being described here under section 6 something that looks like was the intent of the government. The government said it wanted this process to show that it was open and transparent, and that the appointments would not be political and that the process would be non-partisan. I may be putting some of my words in there.

But the meaning we've heard from government, certainly when they had the whole notion of an independent committee in their platform – again, I said this earlier today, but I'll repeat it – that the whole thing they wanted was the creation of a commission to take politics out of government appointments. And I think what we are doing with this amendment is helping government to make sure that process is in place, that it will take the politics out of government.

Because if an all-party committee has to sit, work together and come up with five people whom they all can agree upon, then I think that we have a real possibility of a non-partisan group of people working together, coming up with a group of people who are accountable to the whole House of Assembly and, therefore, to the people of the province.

It still is in government's hands to accept or reject those nominations; it always is. But I think that we can be more certain that what would come before government would be something that they could accept because government would have been part of the all-party discussion.

What we have going on right now, for example, in our All-Party Committee on the Northern Shrimp I think is a real good example of that. We've come together on a number of occasions now because we have to make a presentation to the ministerial advisory committee, the federal committee. As an all-party committee we sit and we put all of our thoughts out on the table. We look at them from different angles. We all have the same facts to deal with. We all have the same information. We really do have very, very good discussions as we're trying to come to an agreement on what the final presentation to the ministerial advisory committee will be.

It's an excellent example of what all-party committees can do, that we're all there with a

common purpose. That's what we did; we came to a common agreement of what the ultimate goal of the committee was. Then we had to fine-tune, okay, there are some details around this, how do we get at it. We're still working. We still have a couple of more days to make our final decisions, but it's a real process that I think all of us who are taking part in are very, very pleased with.

That's what would happen with an all-party committee putting a commission together like this. We would all have a common goal. We would all want a group of people who would have, I think, the experience, the expertise, the knowledge of the province that would help them in their process of being involved in the choosing of people they would recommend for the different positions that government is putting them in place for.

I think it would give the people of the province a real sense of honesty on the part of government, that when they would see a commission that was put together, not because a phone call was made the night before by government, say, to me as a House Leader we're appointing so and so tomorrow, which is what happens now, that's what happens – that's not consultation, but an all-party committee that would sit and merely put their efforts into coming up with the best possible people that they could think of together as a group.

I certainly would think that none of us would be surprised by what we could come up with. As all-party committees we all ourselves have a variety of experiences and a variety of networks that we're part of and a variety of knowledge just as people who sit in this House. Put us around a table and I think maybe we might surprise ourselves by the names that would come out if we did this, if we were to make this part of the legislation.

I'd really implore the government side of the House to really look at what this does for them. It shows how committed they are to a non-partisan process, how committed they are to taking the politics out of the appointments of people in key positions. This would show they really mean it.

It still wouldn't take power out of government's hands to make a final appointment. Government would be the ones making the appointment of the five. It would still be in their hands. We wouldn't be changing anything in the legislation that says government doesn't have that ultimate responsibility, because it does have that ultimate responsibility. But I think it would really show the openness of government.

We have had some commissions that have been set up in the province for different reasons, but commissions set up with people sitting on the commission who had a variety of political positions. One of the ones that come to my mind was the one that was set up to look at Newfoundland and Labrador's place in Confederation. I can't remember everybody who was on it; I remember Elizabeth Davis was on it. There were three of them and I should be able to remember the others, but I can't. They definitely weren't three people who had the same political positions. They had a variety of experiences; there were just the three of them.

I think they showed how government can put in place a committee or a commission or a panel that is above political persuasion when it comes to government putting the group together. I think an all-party committee putting this commission together would definitely be that. An all-party committee would definitely be wanting to have the best people on – I know I would. If I were involved in an all-party committee that was putting this commission together, I really would want the best people we can come up with to make sure that then, in doing the search, with the help of the Public Service Commission, we would have people who would have broad experience in knowing what it is you want in the positions that government is filling. So we all would want the same thing.

The thing is if we set up an all-party committee – we don't often look at our Standing Orders but our Standing Orders have clear guidelines for committees, whether they're standing committees or select committees. My amendment doesn't say what kind of an all-party committee it is. Actually, under our Standing Orders it probably would be a select committee. It wouldn't be a standing committee because they're very well defined, but the select committee is a committee that can be set up at

various times and have time limits to it as this does. It wouldn't be a standing committee of the House; it would be a select committee.

The rules for the select committee are very, very straightforward. It even talks about what constitutes a quorum. It talks about what expenses get paid, which this legislation does too. What's in the standing committee says exactly the same thing.

The thing about a standing committee, or a select committee – standing committees would be the same – but standing or select committees can call witnesses. For example, the committee when it's put in place, the all-party committee that's going to make recommendations re the commission, the committee could reach out to people and say we are welcoming suggestions of people that we can then look at to be on the commission. That would be a further step in openness, consultation and democracy in the whole process.

For me, we are very serious about this amendment. We mean it very seriously. We honestly believe it is the thing to do. There's only one other clause that we're going to bring an amendment forward on and they're both amendments that we very strongly feel belong in the act.

So I really encourage the Members of the government side of the House, I think we do have the support of the Official Opposition, but I really encourage the government side of the House to understand how it benefits them, even in their image with the people, how it benefits them to agree with the amendment I've brought forth.

Thank you very much, Mr. Chair.

**CHAIR:** The Chair recognizes the hon. the Minister of Municipal Affairs and Service NL.

**MR. JOYCE:** Thank you, Mr. Chair.

I'm just going to spend a few minutes to speak about the amendment that was just made by the Third Party.

Mr. Chair, this bill was brought forth to try to put some independence and bring the best

people forward possible. I'm not going to get into any political debate here about what happened in the past. I'm just going to talk about the bill itself.

I've been in this Legislature for many years, Mr. Chair. I've seen a lot of people come and go. I've seen a lot of people appointed over the years. In my opinion there is no better way to have an open and accountable procedure than to have it here in the Legislature.

Mr. Chair, part of this bill, and this is the part that I guess people just don't want to understand or don't feel it's the right way to do it, is when we bring forward the names for an independent committee, they've got to be voted in this House of Assembly. So the names that are going to be brought forward for this committee are going to be laid on the table in front of you. Every person in this House has an opportunity to say aye or nay to that person if they feel they're not qualified or are going to show some bias.

Every person in this House is going to be able to stand in the House, look at that person, Mr. Chair, question in this House about if this person is qualified or if this person should be on the committee. That's what we're elected for. This is not, as the Third Party is suggesting, that we're just going to go off and appoint and no one know who is going to be on this committee. That is just not true.

What's going to happen, we're going to appoint a committee. The committee's going to be debated in this Legislature. The people who elected all of us in this House of Assembly will have an opportunity, have a fair opportunity, Mr. Chair, to stand on their feet, and if they don't feel there is someone qualified or if someone is too political, or they just feel that someone shouldn't be on it, they have the opportunity to do it.

Now, Mr. Chair, all-party committee. Sure, we had an all-party committee on the fisheries. I was part of one back years ago. How many people really feel that once an all-party committee starts you're going to have dissenting views on a regular basis? Because this one, you don't like this one or you don't like that one.

What the Third Party said, government's going to have the final say anyway. If she really believes that rationale that government's going to have the final say, I'll ask one question. If government's going to have the final say isn't it better to walk in with the five names, lay them on the table and say here are the five names, now let's debate those people so everybody in this whole House can have an opportunity to debate the names?

Before those names are even presented they're almost saying no, they're going to be so political; no, they shouldn't be there, they'll have a partisan view. That's just absolutely wrong. If we take it and pass it off to an all-party committee we're abdicating our responsibilities. If we're going to go into Bill 1, before the five names are even put forward, we're saying no, they're going to be too political.

Mr. Chair, this is why this Legislature is here. Any Opposition – the same thing on the government side, Mr. Chair. If we feel we have a problem with anything we could stand up on our own two feet, we could look those people in the eyeballs and say, listen, we don't feel you're qualified to be on this committee. We don't feel you're going to observe your responsibilities properly and we don't feel you're going to carry out your duties. That's what we're going to tell them. That's exactly what we'll tell them.

I know the Members opposite brought up something about once the committee selects people, how it's done. Look, that's all fair game. I understand all of that. There may be some changes to it; there may not be some changes to it. I understand that process, but to stand in this Legislature as parliamentarians and say we should not look at and vote for those people, and if we need to at the time, to look at their qualifications and say aye or nay, stand up in Division and vote for it so everybody can stand up and say, yes, I agree with this one; I agree or I don't. Mr. Chair, we are abdicating our responsibilities. We are not standing up as parliamentarians.

I know the Third Party, and I'll say it again, she said it many times, Mr. Chair, government will have the final say. We're going to have an all-party committee –

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

**MR. JOYCE:** I agree with you. You said it. So why not bring the names forward in the House of Assembly so all of us could debate the names? Why can't we do that, Mr. Chair? Why can't we do that? What's wrong with taking the five names coming up and laying them there? We're going to have the final say anyway, but we're giving everybody an opportunity to debate the names and look at their resumes and say, these people, here we are. Then with an all-party committee we have to come forward with the results of an all-party committee. We have to come forward.

Mr. Chair, I'll ask you a question. I'll ask anybody in this House a question. What happened at some of the meetings we had in Marystown with the all-party committee on FPI? No one knows. All you know is what we came through with the recommendations. So what's going to happen with the all-party committee? You wanted to be so open. The all-party committee is going to get together, decide on some names and say, okay, here are the names coming forward. Okay. Now, what are we going to do then?

What better way than have an open, accountable procedure that lays the names on the table and say let's everybody debate it, anybody who wants to debate it – nothing hidden.

Madam Chair, we did this before with people in the gallery. The former government wanted a committee. I'm not here to play politics with it. I'm not going to bring it up. I'm definitely not. But if you agree with it or don't agree with it, it's the way to go. You can look the person in the eyeballs and say you are not qualified and here is the reason why I don't think you're qualified, or you're too political and here's the reasons why. But before even those five names are selected, here we are told that they are going to be too political and we shouldn't have them here.

Mr. Speaker, put names forward to go on the committee, if you feel that strong about it. I look at some of the other all-party committees that were in this House –

**AN HON. MEMBER:** Madam Chair.

**MR. JOYCE:** Pardon me?

**AN HON. MEMBER:** Madam Chair.

**MR. JOYCE:** Madam Chair, yes.

I look at some of the all-party committees, what we get in that, we get the end result. So we don't get this open in the House of Assembly where everybody in the Province of Newfoundland and Labrador can see the debate. Everybody in the Province of Newfoundland and Labrador will see the names put on the table. Everybody can see who said what. That's open. That's accountable. That's what you're asking for. This is what we're giving as a government.

So I say to the Third Party, I know your amendment was approved by the Table, but I can tell you I want it to be open. I want it to be accountable. Madam Chair, I can tell you one thing, when I want something open and accountable, I want to be able to stand on my two feet, whoever is looking – and I know the Members opposite feel the same way because you've done it many times. Stand on your two feet in here and speak about who's on the committee and say aye or nay who is on the committee so that everybody in the province will say, okay, you disagree, you agree, you agree and we can play it right out for all the people of the province to see.

An all-party committee, we'll see what came up in the recommendations. If you don't know who said what, when they said it, this is the place – this is the people's forum. This is the people's forum of Newfoundland and Labrador. This is why we're elected.

If, for some reason, we were taking the names and saying, okay, we're not going to tell you who is on the committee, we're going to hide that from everybody, who is on the committee, who is going to make the selection, we're not to even release the names of who is on the committee, I can see a big uproar. I honestly could.

How can you argue with taking the names and laying them in the House of Assembly and say here's the names – this is before the committee even starts, here's the names, do you agree or disagree with these names? Without even seeing

the names, everybody disagrees. Everybody disagrees with the names.

I hear the Third Party over there heckling. But that's the difference, Madam Chair, I listen. I listen very intently. The minute I say something that I disagree with, you're heckling. Just because I disagree with you doesn't mean I'm wrong. That doesn't mean I'm wrong. It's just not fair. I'm giving what I feel. If I'm going to say something – and here she is going again. I'm sorry, I'm sure everything you got to say has to be perfect, because anyone who disagrees, they're wrong. I'm sorry, Madam Chair. This is the same Member who promised not to heckle, yet now everything she does and says is right.

Anyway, I want to stand on my own two feet, I want to stand so people can look at me and say here's how I voted for the independent committee, the five people. I'm willing to do it and I'm sure all Members opposite are willing to do it also.

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

I remind the hon. Member his time is expired.

**MR. JOYCE:** Thank you.

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

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

**MR. K. PARSONS:** Madam Chair, again, to get up after the hon. Member – and he made some good points that time, but I think what we're doing here is basically a difference of opinion. We're all entitled to our opinion. That's something about this great country that we live in. If you got an opinion, you can get up and express it, just like that hon. Member did that time.

I see it a little different than what he sees it. He thinks that the government should come in with five names, lay them on the table, and say, okay, these are the five names that we selected and these are the people we want on the commission now. Being the ruling party, no matter what we do on this side, we have absolutely no say in who those commissioners are or who those people are on the commission. So your party

will come in and you'll say, okay, these are the five people that are on this commission. We'll have absolutely no say in it; the NDP will have no say in it at all.

All an all-party committee is going to do – I may have somebody that would be great on the commission that you didn't think of. Again, I mentioned it earlier today, every committee that I ever served on, I always liked to see youth on it because they bring a different perspective than what other people have. Madam Chair, that's all the all-party committee will do.

At the end of the day, you'll decide who the commissioners are. The Opposition and the Third Party, we'll have our say, but we're nowhere in line to who will be on this commission, because you're the people, you've got the majority vote in the House of Assembly, and you'll carry it. But what's wrong with hearing our opinion before you put it on the table?

All they're asking in this amendment is to set up a committee – and we'll give you names, and the Third Party will give you names, and maybe you'll look at it and say, wow, there's a person that should be on that committee. That would be a great person for that committee because it will bring a different perspective. But no, you're saying, no, no, no, no, we're going to come down with five names, we're going to lay them on the table, and we're going to let you debate and we'll say, b'y, I don't like that fellow, don't like this fellow. We are bringing people's names out that are volunteers basically, because they're not really getting paid to do anything. These people are going to be people that are going to be scrutinized by us in here in the House of Assembly.

Rather than have a committee, a committee that the Third Party and the Opposition and government met, looked at the five said, okay, these are the candidates we agree with to go forth. At the end of the day, even at Committee stage government has the authority to overrule what the other people want, but at least you'll get a say. That's what the people of the province want.

They want people to be able to look at this and say it's non-political. There's no way it's non-



political if Cabinet says, okay, we've selected five people – how is that taking politics out, I don't know – and we're going to put the five people here. We know how government works; everybody knows how government works. At the end of the day, every Member over there will stand in their place and support their government.

I have no doubt in my mind that will happen, unless it's circumstances that one person really feels that they have to do it and they'll sit down, and I don't think that will happen on something like this because it will be a recommendation from Cabinet and it will be done.

Why not go the route where other parties will have an opportunity to put names forward too and we decide on the five best people? At the end of the day, it's all about the best legislation, and the best legislation will be what everybody can have a part in it. That's all this is about, is making sure the proper people get appointed. Like I said, there may be a person that we recommend or there may be a person the Third Party recommends that you'll agree to, and that's a good thing. That will be a real good thing; it will be good for democracy. It will be good for the House of Assembly; it will be good for our province.

That's all I have to say.

Thank you very much, Madam Chair.

**CHAIR:** The hon. the Minister of Municipal Affairs.

**MR. JOYCE:** Thank you.

Madam Chair, I'm just going to stand for one second. I understand what the Member is saying. This is a valid point. It's a great discussion. Some of the things you brought forward are any position, once those five people are appointed – I just want to make this clear – we should at least look and see who these five people are. Once we find out who these five people are then if we disagree, then we can speak in the House of Assembly.

The second part of it that was brought up very briefly is that once an appointment needs to be made, it's going to be advertised. The

appointment for any position that's under this tier one will be advertised, so it's not that I, as a Member of the Legislature, not that anybody in this House got to go out and say let's go find people. It will be advertised.

Once it's advertised, then it goes through a screening process. Once the screening process takes place – there is process through the Public Service Commission and then down through the committee that will then look at the applicants, screen the applicants, and then however they decide that we're going to interview five, 10, 15, however they decide, that is how it's going to be done.

So this idea that, okay, we have an all-party committee set up here, we'll set up an all-party committee – oh jeepers, I might know someone who'll be good for this position. That's not the way it's working. Once the five people are set up, Madam Chair, and there's a position comes up, whatever the position may be – I know in tier one there's a variety of numbers under tier one, Madam Chair. I'm not sure of the exact number.

Every position that is going to go to this commission will be advertised. So people are getting the impression that because we're going to set up an all-party committee here in this Legislature, and because the Third Party may know a few names, or someone in the Opposition may have a few names, or one or two friends over here in the government is going to have a few names, and collectively we could come up with six or seven names, that's not even on. It's going to be publicly advertised. Anybody in the Province of Newfoundland and Labrador who wants to find out what positions are available, what matches their qualifications, they will know and they will have the opportunity to apply.

I have no problem with having an open debate. I have no problem having the discussion about this because it is a serious issue and we are trying to make it much better. This will be much, much, much better than it ever was before, Madam Chair. There may be times – it's like any bill we bring in this Legislature, every day that we're in this Legislature, every minister in this House, and the former government also, we have to go and check our legislation to come in

and bring legislation forth because things get outdated. That's part of it. Things may change. They may find a better way. That's part of the process of this government. This may happen with this bill, but this is where we're starting from.

So for anybody to get the impression that because you're on an all-party committee, that we may be able to get some different names from different parties, that just shows me, Madam Chair, the partisanship of it all. Well, we have a few friends over here with the Third Party, so we can bring them forth and we got a few friends too – this is not being political in any group; this is just the way politics works. I understand, but what we're offering up, instead of having this little bit of turf, we know three or four people, we know three or four, we're offering it up to everybody in the Province of Newfoundland and Labrador to say if you feel you're qualified, put in your application. We'll accept it.

I have to ensure that it's properly put forth that because it's an all-party committee that we can bring names forth – it makes no difference, Madam Chair, who's on that committee. The committee is there to select the best candidate. The committee's job is not to go out and find people and people they may know; the committee is to say, here are the people that are coming forth with us. There is a screening process in place to ensure that we have a certain number of candidates. Once we have a certain number of candidates who are qualified, then the process for that committee is to find the best candidate in that group. That is the process.

If people got the idea with the all-party committee, that's fine. I can understand that. I can definitely relate to that, why some people want to bring that forward. I've got no problem with that. But we have to make sure that when we're speaking in this House that we speak and ensure that the policy and the procedures, once the committee is set, how it works after. Because I don't want to leave anybody with the impression that the committee is going to go out and try to find names, and if we do set up an all-party committee, that they're going to go out and find some people.

It's going to be publicly advertised, unlike before. It's going to be a public process, whereby people have to go through an interview – which wasn't done before – and then they're going to come down to the independent committee who is going to end up making the selection and making the recommendations to Cabinet. That wasn't done before.

This process is much better than what it was before. It's much more open and accountable. Like I said earlier, Madam Chair, and some people may like it, some people may not like it, but when I have something to say in this Legislature, I have no problem standing on my own two feet and saying, here's why I think it's right, here's why I think it's wrong, here are the good points, here are the bad points. There's no better than having 40 people in this Legislature to stand and say, here's the reason why, black and white, stand on your own two feet as a Member, as we're all elected to do, and give the reasons why.

There's no better open process, in my opinion, instead of taking our responsibility as Members and passing them off to a committee and saying, okay, we don't feel now, the 40 of you, that you guys can make the right decision. It was already said by both parties – both parties – government's going to have the final say. If you're going to have the final say, why have it out into a room with five people on the committee to decide who's going to come forth? I'd rather for all of us to stand up here in this Legislature, every Member in this Legislature standing up and saying I want to be able to say aye or nay, I want to say why this person is qualified, why this person is not for the appointment of this independent committee. There's no better process, there's no better openness, there's no better accountability than to stand on your own two feet and defend your words and defending your actions.

Madam Chair, I think that's what democracy is all about. Once that independent committee is done, everybody in the Province of Newfoundland and Labrador can start saying what positions are open to make this province a better place. I am sure that every Member in this Legislature, and I'm sure every person in government – well, I shouldn't say that. Every person on this side, for sure, wants to ensure we

get the best possible person in the position. That's why it's going to be open. That's why everybody in the province is going to know how to apply. Every person in this province who feels they're qualified for a position will have the opportunity to apply. That is why we'll be asking the best talent in Newfoundland and Labrador to come forward to help us.

Madam Chair, I'm proud to stand with this government, and I'm sure all Members in this House – I know we all stood on many occasions in this House – will stand in this House and say aye or nay about the independent committee, who they are and explain the virtues of why these people are selected in such a way. Instead of standing up before we even know who the people are, stand up and say no, we don't even agree with you because you might be too impartial or you may be a bit biased. Without even knowing the names, without it being brought forth, right away politics has stepped in.

Once you get the names, then if you want to stand up – the co-leader of the Third Party has started again. Once again, if you don't agree with the Member, all of a sudden you're wrong. Your ideas are no good. I can't stand and express my views because they may be a bit different.

I respect everybody's view. We may have a difference of opinion. We do. I have no problem with that, but please respect my view because I'm elected. Every person in this House has an opportunity. So if you (inaudible) with the co-leader of the Third Party, if you disagree with her views, all of a sudden she starts heckling.

I listened to you very intently. I never said one word when the former Member for Cape St. Francis – because this is an important issue. Sure we have our tos-and-fros. We all have that back and forth. I understand that, but when there's an issue like this here and we're expressing different points of view – I can tell you one thing, Madam Chair, I take no better pride than standing in this House of Assembly and saying where I stand, why I stand and the reasons why I stand on different issues in this province.

I can guarantee you one thing, I'm willing to stand for anybody who comes in this Legislature that we're going to put forth and say why I want

that person, why that person should be there, show the reasons why. I'm pretty confident, when you look people in the eyeball, face to face and try to say that person is not qualified, without even knowing the people who are going to be appointed, politics has already stepped into it.

Let's put the people in front of us, let's find out and let everybody in this House of Assembly have an opportunity, Madam Chair, to do our right and to have a vote for whatever we want to do (inaudible).

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

**CHAIR:** Order, please!

I remind the hon. Member his time for speaking has expired.

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

**MS. ROGERS:** Thank you very much, Madam Chair.

I'm very happy to stand and speak to this amendment, particularly to get us back on track in terms of really what the amendment is and what it is we're talking about here this evening. The amendment is to Bill 1, An Act to Establish an Independent Appointments Commission and to Require a Merit-Based Process for Various Appointments.

This is a very important act, Madam Chair. It's an important act and one we were all looking forward to. So it's great to be able now to stand and get this debate back on track and to talk about the substantive nature of the amendment that we are looking at right now and debating right now.

The amendment we are looking at is in section 6(3). It says, "The commission shall consist of 5 members ...." And the amendment is: selected by an all-party committee of the House of Assembly and appointed by the Lieutenant Governor in Council on resolution of the House of Assembly.

Madam Chair, basically what we're talking about is enriching the process. We can't stand in this House of Assembly and debate private

citizens about whether or not they are qualified for a position on the commission, or whether they're qualified for an appointment in one of our many agencies, boards or commissions. We can't do that. We can't do that in this House of Assembly to private members. That's absolutely ridiculous, and that's not what this amendment is all about.

I'm not sure where the Member for Humber – Bay of Islands is really thinking. I can't imagine what it was he was thinking about.

Basically, what this amendment is recommending is that the five-person commission – the Independent Appointments Commission is the foundation of this whole bill. It is actually the foundational piece of this whole bill. It is they, those five members, who will assure not only to government, not only to the Official Opposition or our Third Party, and not only to the people of the province, but it also is a safeguard for the people who are appointed.

We will know by a very transparent and open process like that, that the people who are appointed are appointed because they bring a certain expertise and experience to the table, which is what we all want. We all want that. I know that's what government wants. I know that's what we all want on this side of the table. I know that's what the people of the province want. We're talking about not taking the politics out of it, because everything is political. All our boards and agencies, they're dealing with political issues. We're talking about taking the partisanship out of it. That's really important.

Again, the five-person committee is the foundational piece. It's about whether or not this bill works or not. It's about whether or not appointments to agencies, boards or commissions will be non-partisan. Well, we've just had sort of a similar example, not quite the same, but sort of similar in the Electoral Boundaries Review Committee.

The Electoral Boundaries Review Committee was a really important committee. It was about redrawing the boundaries for our electoral process. That's really important. Again, that's the foundational piece of our democracy, making sure we have electoral districts that reflect the needs of the province, making sure

they are drawn properly, that they are divided, because it was a big job they had to do. Those people were appointed with very clear input from all three parties here in this House.

That's what we're talking about. So there's precedence for it. Again, it's something that's a little bit different. They were a one-time committee. They had very important work to do. As will, this Independent Appointments Commission has really important work to do, because they are going to be appointing, for instance, a Child and Youth Advocate. That is so crucial, and some of the roles that will be appointed are people who will have to advocate and push against government policy, who will have to advocate on behalf of their constituents and push against government legislation or push for legislation.

When you look at the Office of the Child and Youth Advocate it's so crucial, and she does at times have to come out and criticize what government does. It's so imperative, not only for those of us in the House to see it as non-partisan, but it's also imperative that those who are appointed by this commission in our agencies, in our boards, in our commissions, they also need this safeguard. Because when they make difficult decisions, whether it to be fully agreeing with government, they need to know the public has confidence in the fact they were appointed, not on a partisanship basis, but they were appointed because of their merits, because of their expertise, because of their experience.

It's a safeguard for people like the Child and Youth Advocate, for the Citizens' Representative. A Citizens' Representative is so important, as someone lobbying on behalf of citizens. They need that assurance as well.

What we're asking is for all of us to have input in the appointment of the commission so that as the foundational piece of this bill, they're not under scrutiny in terms of their partisanship affiliation. It actually frees them to do their work. Then when they make decisions that may not be favourable to us or may not be favourable to government, they know the very process by which they have been appointed, in fact, safeguards them. Then because their role is so foundational, then that safeguards the work they do.

We know it's just the right, reasonable thing to do. It's about enriching the process. It's not about taking power from government, because ultimately government does make that decision. That is their role and that is their responsibility. It's not about taking any power away from government at all. It's not about minimizing the role of government. As a matter of fact, it's about enriching the process. It doesn't cost us anything. It's really about making it better. I'm not sure why government wouldn't welcome an amendment such as this. I'm not sure why they wouldn't welcome this type of enrichment to the process.

Again, I cannot stress enough, it's a safeguard for government. It's a safeguard for the Independent Appointments Commission. It's a safeguard for those who are appointed into some of our really, really important agencies, boards and commissions. They are people who have to make very, very difficult decisions, decisions that really affect how things are done in our province.

*The Environmental Protection Act, the Energy Corporation Act*, some of the appointments are so crucial. That commission will appoint the Board of Regents for Memorial University, the CEO for Hydro, the head of Legal Aid; very important, extremely important positions.

I bet you if there was an Independent Appointments Commission right now and it was time to turn it over and appoint anew, I'm sure they would make a recommendation such as this. It safeguards everyone. It makes it more open and transparent. It takes nothing from government. As a matter of fact, it's about making things better.

The other thing is we have the tools at our disposal, to use a select committee. We don't even have to create anything new in order to be able to do this. Again, those are our fantastic democratic tools that enable us to do the work we have to do as legislators the best that we possibly can.

I believe we can do this. I would think if government would stop and just take a look, that, in fact, it's not chipping away at their power. It's not questioning anybody's integrity

or morals. It's about safeguards. I would think that anybody in this House could get that.

Madam Chair, at this point I would like to say thank you for the opportunity to speak. I will get back up and speak again.

**CHAIR:** Order, please!

I remind the hon. Member her time has expired.

**MS. ROGERS:** Thank you very much.

**CHAIR:** The hon. the Member for Mount Pearl North.

**MR. KENT:** Thank you, Madam Chair.

I just wanted to rise briefly to speak in support of the amendment that's been proposed by the Third Party. We had an amendment drafted, and maybe we'll get an opportunity to introduce ours as well. It's slightly different. The broad intent is much the same.

The concept is about having an all-party Select Committee of the House of Assembly involved in selecting who's going to be on the Independent Appointments Commission. I think that's a good move. It is really fundamental – as, I'm not sure, one of the Members of the NDP pointed out this evening – because it's about establishing the commission in the first place.

Subclause 6(3) currently reads, "The commission shall consist of 5 members appointed by the Lieutenant-Governor in Council on resolution of the House of Assembly."

For those who may be watching who aren't as familiar with some of this stuff, the Lieutenant Governor in Council is effectively Cabinet. So we don't believe that Cabinet should select the names that will go to the House in a resolution. We, too, believe that a committee of this House should select those names.

If you want to take the politics out of this and you want to have it independent, then that seems like a logical approach. We think the NDP amendment is a good one. We think we can build on it even further, but the amendment as it

stands is a sensible one and we support it, Madam Chair.

Thank you.

**CHAIR:** Seeing no further speakers, we'll now call the vote on the amendment of the subclause 6(3).

All those in favour of the amendment, 'aye.'

**SOME HON. MEMBERS:** Aye.

**CHAIR:** All those against, 'nay.'

**SOME HON. MEMBERS:** Nay.

**CHAIR:** The amendment has failed.

On motion, amendment defeated.

**CHAIR:** Now we'll go back to continuing debate on clause 6.

The hon. the Member for Mount Pearl North.

**MR. KENT:** Thank you, Madam Chair.

We're now debating section 6. I want to talk about subclause 6(3) once again. As I just said, I think the amendment that was put forward makes good sense, but I'd actually propose going a step further. We believe that in addition to having the commission chosen by a committee of this House, that those folks should also be determined based on a –

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

**CHAIR:** Order, please!

I ask Members for their co-operation to keep the noise level down a little bit in the House.

Thank you.

**MR. KENT:** Thank you, Madam Chair.

It is difficult to hear.

We believe that in addition to them being chosen by a committee of the House, it should be done using a merit-based process. So I'm going to propose an amendment to add the following

words after the word "Assembly". I will read the formal amendment, but just to give you an idea of what we're trying to do here, after the word "Assembly" we'd like to add "and the names on that resolution shall be provided by an all-party select committee of the House of Assembly which shall receive recommendations from the Public Service Commission that are determined on a merit-based process."

The amended subclause 6(3) would read: The commission shall consist of 5 members appointed by the Lieutenant Governor in Council on resolution of the House of Assembly and the names on that resolution shall be provided by an all-party Select Committee of the House of Assembly which shall receive recommendations from the Public Service Commission that are determined on a merit-based process.

So similar to the previous amendment, but in this case we're saying in addition to having them appointed by a committee of the House, let's ensure it's a merit-based process that's used to arrive at those recommendations.

I'll move the following amendment, Madam Chair. Subclause 6(3) is amended by adding immediately after the word "Assembly" the words "and the names on that resolution shall be provided by an all-party select committee of the House of Assembly which shall receive recommendations from the Public Service Commission that are determined on a merit-based process."

**CHAIR:** The hon. Member for Mount Pearl North has proposed an amendment, again, on subclause 6(3). So the House will take a brief recess to consider the amendment.

### Recess

**CHAIR:** Order, please!

The Chair has considered the amendment put forth by the Member for Mount Pearl North, subclause 6(3), and has ruled the amendment out of order based on O'Brien and Bosc, page 767, "The committee's decisions concerning a bill must be consistent with earlier decisions made by the committee."

The hon. the Member for Mount Pearl North.

**MR. KENT:** All right, Madam Chair, it's interesting. I respect your ruling. I can assure hon. Members that we did do considerable research and consulted with the appropriate parties in preparing the amendment. So while I'm surprised by the ruling, I certainly accept the ruling and respect the role of the chair.

The amendment was remarkably similar to the New Democratic Party's amendment, which was ruled in order but unfortunately voted down, which is rather unfortunate.

I'm still speaking to clause 6, but I'm going to move to 6(4) within Bill 1. The issue here relates to the choosing of the chair of the Independent Appointments Commission. This clause is about who should select the chair of the Independent Appointments Commission in the first place and designate any replacement chairs.

The current bill says Cabinet should. Now, we believe a Select Committee of the House should. Why is that, you may ask. Well, for two reasons. First of all, a select committee is more independent and transparent. If you're serious about making this an independent, transparent process then decisions can't be made behind closed doors in the Cabinet room.

Also, the chair of this commission is going to have considerable power. Under clause 8, it's the chair of the Commission who has the authority to "appoint a panel of 3 commissioners to review potential appointees for each appointment."

Subclause 6(4) currently reads: "The Lieutenant-Governor in Council shall designate one of the members of the commission to be chairperson." The amendment I'd now like to propose deletes the words "The Lieutenant-Governor in Council" – which, again, is Cabinet. For those who may be watching this debate, when we say Lieutenant Governor in Council we mean Cabinet – and substitute the words "An all-party select committee of the House of Assembly." Secondly, by adding after the word "chairperson" the words "and that select committee shall designate a replacement chairperson in the event that the chairperson's position becomes vacant."

I will move the amendment in a moment, but the whole thing would then read: An all-party Select Committee of the House of Assembly shall designate one of the members of the commission to be chairperson and that select committee shall designate a replacement chairperson in the event that the chairperson's position becomes vacant. This addresses the issue of who should choose the chair and replacement chairs, if required.

Madam Chair, I'll move the following amendment to Bill 1. Subclause 6(4) of the bill is amended by deleting the words "The Lieutenant-Governor in Council" and substituting the words "An all-party select committee of the House of Assembly" and by adding after the word "chairperson" the words "and that select committee shall designate a replacement chairperson in the event that the chairperson's position becomes vacant."

**CHAIR:** The hon. the Member for Mount Pearl North has put forth a motion to amend subclause 6(4). This House will take a brief recess to consider the amendment.

### Recess

**CHAIR:** Order, please!

The Chair has considered the amendment put forth by the Member for Mount Pearl North, subclause 6(4), and has ruled the amendment out of order. O'Brien and Bosc, page 768, "... an amendment is out of order if it refers to, or is not intelligible without, subsequent amendments ...."

Basically, it doesn't anticipate subclause 6(5).

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

**CHAIR:** Order, please!

The hon. the Member for Mount Pearl North.

**MR. KENT:** Thank you, Madam Chair.

Once again, I respect your wisdom and respect the ruling of the chair. I am rather surprised by it and disappointed by it; nonetheless, we shall move on. We have many other amendments to consider.

The opportunity in clause 6, by bringing forward amendments we thought we could address a number of fundamental flaws with this piece of legislation, making sure first and foremost that the first Independent Appointments Commission is truly independent and is not just a committee of Liberal appointees. So it's unfortunate that is not being fixed here this evening.

Further to that, recognizing the important role that the chair plays, having a good process in place for the selection of the chair, we also felt was really critical. It's unfortunate that we're unable to effect change to those particular items at this point in time. But we shall carry on. There are other changes that can be considered here tonight and are needed. So I look forward to continued debate, and I do want to talk further about clause 6.

The next thing I'd like to speak to, now that we've addressed the issue of who chooses the committee and who chooses the chair, and we've made an effort to try and fix both of those flaws in the bill, I'd now like to talk about the issue of the rules of the Independent Appointments Commission. I'd like to draw your attention, Madam Chair, to subclause 6(7) in Bill 1.

This is a clause about who should set the rules of procedure for the Liberal Appointments Commission. The current bill says that the commission should. We also believe the commission should, but we also believe a Select Committee of the House should review those rules and have the power to amend them if they are flawed.

Why would that be important? Well, that's about ensuring greater accountability. Subclause 6(7) currently reads: "The commission shall adopt rules of procedure and keep records of its proceedings." Our amendment is to delete that wording and replace it with the following: "The commission shall keep records of its proceedings and shall propose rules of procedure to the Select Committee which may amend the proposed rules and shall direct the commission as to the rules of procedure which will apply to the commission."

So, Madam Chair, hopefully I'll have an opportunity to speak to that further, but I'd now

like to move the following amendment to subclause 6(7). Subclause 6(7) of the bill is deleted and the following is substituted: "(7) The commission shall keep records of its proceedings and shall propose rules of procedure to the Select Committee which may amend the proposed rules and shall direct the commission as to the rules of procedure which will apply to the commission."

**CHAIR:** The hon. the Member for Mount Pearl North has put forth a motion to amend subclause 6(7).

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

### Recess

**CHAIR:** Order, please!

The Member for Mount Pearl North put forth a motion to amend subclause 6(7). The Chair has ruled the amendment out of order based on O'Brien and Bosc, page 763, "The committee's decisions concerning a bill must be consistent with earlier decisions made by the committee."

The hon. the Member for Mount Pearl North.

**MR. KENT:** Thank you, Madam Chair.

Once again, I have no choice but to respect your ruling. I want to highlight for people who may be watching the debate, that section 6 of this bill is really critical for a number of reasons. It's about how this Independent Appointments Commission gets selected to begin with. Right now they are pure, political appointees. What we've been trying to do through proposing amendments is resolve that issue in terms of how the chair is selected and in terms of how committee members are selected.

I still want to speak to –

**CHAIR:** Order, please!

I remind the Member his time for speaking has expired.

The hon. the Member for Conception Bay South.

**MR. PETTEN:** Thank you, Madam Chair.



As my colleague for Mount Pearl North was just saying, it's unfortunate that the intent of our amendments to clause 6 to try and take politics out of appointments by having an all-party select committee – that was the intent of the amendments we proposed for section 6, was to do exactly that.

As Members stated many times, and we'll say it again, having an all-party or select committee gives a fairer or more neutral assessment or ability for the committee to actually make appointments, make recommendations that are more in keeping with a neutral, arm's-length body as opposed to going to Cabinet.

We've made several amendments and we've been unsuccessful in having a select committee, but that is the main goal of our – our whole intent has been to take politics out of appointments. As the government opposite has prided themselves in their red book and through the campaign trail, they want to take politics out of appointments. Unfortunately, right now the way it stands, we don't feel that politics will be taken out of these appointments. An all-party committee was a great way to achieve this. Unfortunately, that's not the case.

Madam Chair, I guess we'll soldier on. It's unfortunate, but I guess we'll keep moving through this.

Thank you very much.

**CHAIR:** The hon. the Member for Mount Pearl North.

**MR. KENT:** Thank you, Madam Chair.

As I was saying, I do want to speak a little bit more to clause 6 of this bill because it's significant for a number of reasons. While I respect the rulings that have been made on amendments we've tried to make – and I recognize that one of the amendments that was in order, presented by the New Democratic Party, was voted down tonight – I do want to talk about the issues in clause 6 that are of concern. I think this is a really substantial piece of the bill and it really speaks to the fundamental problem we have with the legislation.

In clause 6, it talks about how the so-called Independent Appointments Commission is chosen in the first place. The problem we have with that is these initial appointees, who are supposed to be independent, are going to be simply chosen by Cabinet. Now, there will be a resolution brought here.

There was a Member opposite tonight, I believe it was the Minister of Municipal Affairs, who made the point that yes, we do get to debate that in the House of Assembly – and he's correct on that point. We do get to have a debate. We can all speak our mind on those five names and how we feel about them, and whether they're the right names and whether we like the process. So I'll acknowledge that he is correct in saying that.

I guess where we differ and where we'll have to agree to disagree on all of this is that there's no ability – we can speak at length about those names and about our feelings on them, but at the end of the day there's no ability for us to stop that from passing the House. That's how this process works.

Government has a clear majority, and that's something we all have to acknowledge and respect of course. When we talk about the fact that that's really a so-called rubber-stamping, that's what we mean. The names will be chosen by Cabinet. It will come here to be formally ratified, but there's no real process for us to effectively stop that from passing. That is how things work here. Whether that's right or wrong, that is the system we work within.

The challenge is that those appointees will be appointees of Cabinet. That will get rubber-stamped in this House, but there will be no opportunity for input from anybody else. I think that's a miss. I believe government wants to do the right thing here. I don't think it would have been a significant part of the party's platform in November if they weren't serious about it. I just feel there are some major, major flaws with this bill that probably will – unless we can get some of these amendments through, it will probably put us in a position where we have to stand against – some of us, anyway, will have to stand against this bill. Nobody is standing to say we oppose the concept of an Independent Appointments Commission. I haven't heard anybody say yet that they oppose that concept.

But what we're talking about here in clause 6 is how these people are going to be appointed. They are being appointed by Cabinet and we don't believe Cabinet should select the names that will go into the resolution that will come before this House.

Having a committee of the House select the names makes sense. Our party believes that should be a merit-based process as well. Maybe it shouldn't just be based on input that comes from the Public Service Commission as we were proposing. A committee could get input from all kinds of places to make an informed decision on who should be on that committee. The fact that it will remain that these are appointees of Cabinet and it's that simple, I think, is an unfortunate missed opportunity. I can't sit quietly while clause 6 passes without making that point, Madam Chair, and I respectfully submit.

Also in this clause there's language around how the chairperson gets selected and we have the same issue there. It's perhaps not as significant as our issue with the overall committee appointments, but the fact that the chair will be appointed by Cabinet is rather unfortunate, I think.

I think a select committee would be more independent and more transparent. Having a committee to make those appointments makes good sense. The chair of this committee is going to have some significant power and, for that reason, we think it should be a more objective, impartial, transparent process that is not political. So that's why we're raising concerns with clause 6.

Similarly, the commission will establish its own rules. While they should establish their rules of procedure – as I said, I think that makes sense – it just seems that if there's a flaw, if there's an issue with those rules, if we're going to make this non-political and make it independent, then having a role for this House to play in reviewing those rules and addressing any concerns that come up would ensure a greater accountability.

Those are the points we wanted to make around clause 6. I think there is an opportunity, by making changes to this section of the bill, to actually achieve a little bit of independence. It

won't solve all of the issues with the bill, but how the committee is actually chosen, how the chair is chosen, how the rules of procedure are established, that's big stuff. In terms of the overall functioning of this Independent Appointments Commission those are major considerations, which is why we've taken some time this evening to raise concerns about that.

So I hope that Members will reflect on those comments. I don't know whether there will be any additional amendments proposed by, perhaps, government or other Members of the House; but, to me, there's a better way forward here. There's a way to make changes to clause 6 that would allow the committee to be more legitimate and more independent, to allow the chairperson's appointment to be more independent and accountable, and to give the House some visibility over the rules of engagement for that group.

We're trying to make a sincere effort here to make this legislation a bit better, and that has to start with how this group is formed and constituted in the first place. That is the reason why I wanted to express some further concern around clause 6. I don't know if other Members of the House wish to express any concerns or raise any questions about clause 6, but I will now take my seat and allow them to do so if they wish.

Thank you.

**CHAIR:** The hon. the Member for St. John's East – Quidi Vidi.

**MS. MICHAEL:** Thank you very much, Madam Chair.

I would like to make some more comments on clause 6 because, as I said when I stood before and when I brought forward the amendment, I do think that it is really basic to the whole act how the commission is put in place. When I first read the act – and if anybody wants to see my notes, they'll see it – one of the things I wrote on the side of 6(3): no consultation with other parties. It was the first thing that struck me that the commission would be put in place by the Lieutenant Governor in Council – in other words Cabinet.

Now it says on resolution of the House of Assembly – and I think my colleague for St. John's Centre mentioned this when she spoke, but I want to make it clear again. We all know what happens in the House of Assembly when names are brought in to be in positions. It's almost a protocol of the House that you have individuals who've been named by Cabinet. It may be one or it may be a committee. And while it's brought to the floor, it is a rubber-stamping and it's a rubber-stamping because we are respecting the people who've been nominated.

We're not going to stand here in this House and tear apart an individual who's been nominated by Cabinet. We're not going to do that. It would be inappropriate to do it. So to say that we have an open process, names will be brought and we get to vote on it, even if we rejected the persons or one of them that was being brought forward – which I promise you is never going to happen on the floor of the House, but even if we did, we're not in the majority anyway and government would have their nominees passed anyway.

That is not what the spirit, I thought, of this bill was supposed to be. It's going against the spirit of the bill. We all know what I'm saying is correct. We all know that. So it's very, very disturbing. I don't understand why government doesn't see it, unless it is that government wants to have ultimate power. They want to have the ultimate say. They want to have the ultimate control, and the ultimate control is naming who the commission is. That's the ultimate control.

They have the ultimate control in the process because when all is said and done, government still can reject a nomination that comes to them from the commission when that commission is in place. So why aren't they happy enough to have that – and they should have it. Government is responsible for the appointments, but why not recognize that working together to come up with the names of people is logical.

You have a broader experience around the table. If you had a committee – I don't know how large the committee would be but, say, if we had a committee of five – which I think is sort of what we work with now, five or seven. If you had that size of a committee, you have that many more people who are known to the committee.

I don't know people in some areas of the province, obviously, but somebody on the committee from the West Coast will know. I will know people from here in St. John's. Somebody on the all-party committee from the Northern Peninsula will know people from there. Somebody from Labrador will know people from there. So you get a broader experience.

Now, government could say back to me, well, they have all their MHAs and they have a broader experience too, but we all know that we all move in different circles. So the circle becomes that much wider if you have an all-party committee choosing the commission.

Yes, I know there's a process of working with the Public Service Commission and the Independent Appointments Commission is not the one doing everything, but they're still the ones who get recommendations to them from the Public Service Commission and they still ultimately come up with names that go on to government. So we want a commission that is open, that is wise, that has a broad mixture of experience. We'll talk more about that later when we talk about the makeup of the commission in another clause.

It just makes ultimate sense, and it's such a sign to people that government is not afraid of working with the other parties when it comes to putting something like this together. This is what I don't understand. It would benefit the government. People would look at you and say, they really do know how to consult. Not the experience that people have had with this government over consultation. They will say they really do know how to consult. They know what consultation really means.

It means working together, actually. That's what it means, but this government just seems intent on holding onto the reins on this one. I don't understand it, because you do have the ultimate power to make the final decision but show the openness right from the beginning.

It really doesn't make sense to me. It doesn't make sense to me that you don't see what you're doing here. Maybe you do and you think it doesn't matter, but if you think that people will see the appointment by Cabinet of the commission as being open, transparent and non-

partisan, I got news for you. People are not going to see it that way. This is a wonderful opportunity to once again test in this House of Assembly how all-party committees work. We're learning our way with that and this is another opportunity.

When I look at all of clause 6, which has to do with putting the commission in place, I actually have no problem with the members of the commission electing from their number one person as vice-chairperson. If the government had chosen an all-party committee then it would have been logical for the all-party committee to choose the chairperson, but again, government is maintaining that control. You're maintaining the control of who even the chairperson is. You let the group, the commission itself choose its vice-chairperson, you could let the group choose its chairperson. Again, it's a sign of you wanting to have total control.

I'm glad the commission gets to adopt its own rules of procedure and keep records of its proceedings. I think it's good for them to decide how to work. Because they may decide they want to come to consensus on their decisions, they may not want to use *Robert's Rules of Order*. So for them to decide how they'd like to operate, I think is a very, very good thing.

If you really did want this to work, then, number one, you would do what we've been suggesting and talking about. You could bring the motion in yourself. You could bring in the amendment. You could show your openness by your bringing in an amendment, because as government you could do that. You wouldn't have to prove. You could change the legislation before we vote on it. You have the power to do that.

I think I am in agreement with the Official Opposition, that this Part II is called Independent Appointments Commission, and the act is called Independent Appointments Commission, and it isn't an Independent Appointments Commission. It's a commission that was chosen by government and it doesn't do the appointing. I totally agree with the Official Opposition in making that point.

I don't even agree with the name of the act, because the name of the act is not correct. It's

not what it is. It's not what the commission is and it's not what the process is.

I just really believe I needed to say some of that again and bring up the other point of the fact that it is not a consultation when names come on to the floor of this House. We are respectful for names that are brought here to this House. We are respectful.

Thank you very much, Madam Chair.

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

**CHAIR:** The Chair recognizes the hon. Member for Mount Pearl North.

**MR. KENT:** Madam Chair, I appreciate the comments made by the Member for St. John's East – Quidi Vidi, because we're in large part saying the same thing here. So I just want to make that point.

There's a legitimate attempt being made here this evening to try and improve on this legislation, and clause 6 is so important because it's about how that group gets formed and who gets appointed to it. That's why we're making an effort to bring about some changes to clause 6. There's still an opportunity here to do so, Madam Chair.

Government still has the ability to make changes if it wishes, even if our amendments are ruled out of order. The spirit and intent of what we're trying to do here this evening is to make this more independent and to make the whole thing more legitimate. If this is the flagship bill for government in its first sitting in the House of Assembly, then there should be a desire to try and do that.

That's what's at stake here this evening. What we're saying is, let's take the politics out of the appointment of that initial group of commissioners. Let's have multiple parties in the Legislature involved. Let's make sure it's a merit-based process. From the get-go then, the whole thing will have more legitimacy and more creditability.

I think it's possible to make changes to clause 6 that would make a real difference in that regard. It may not be obvious to people who may be

watching this at home, but when you're amending legislation there are a lot of technicalities. Even a minor word could mean an amendment is in order or not in order. What we're really trying to do with the various changes we propose to clause 6 is make sure that commission, when it's appointed, is independent. That's critical if it's going to be called the Independent Appointments Commission.

We also feel there should be some oversight in terms of the rules that committee operates under. Any select committee responsible for dealing with this could help achieve that as well. So we believe there's some real opportunity to make changes that will make a real difference.

I also think it should be a Select Committee of this House that should choose the chair of the committee as well. That's why we're raising concerns about clause 6. It is really critical, it's foundational. It's about how this committee will be formed and how it will operate. It just makes sense to make it non-political.

The way it stands now, if this clause passes and the bill passes without any amendments to clause 6, then what we're going to have is a commission that's supposed to be independent but is appointed by Cabinet. It will be handpicked by Cabinet with no kind of merit-based process.

On top of all that, we're still going to have a commission that can't make any appointments; that can only make recommendations that may be adopted or may not. We won't even know. If we do find out that process hasn't been followed, it could be months later before we become aware of that. So that's why we're raising concerns around clause 6.

I just want to assure hon. Members, and assure anybody who may be following this debate, that the Opposition parties this evening and earlier today are making a concerted effort to try and make this bill better so that we don't simply end up with a flawed piece of legislation that doesn't achieve what government set out to achieve.

Now, I'll stand by my belief, Madam Chair, that it would be better to start again. Because as people are seeing from the process so far, there

are significant amendments required to try and make this workable and address some of the concerns that have been brought to us and that we've observed ourselves as we've gone through the legislation.

But if we're going to just work on Bill 1 and it's going to carry through this process, as seems to be the intention here, then we've got to try and address as many of those concerns as we possibly can, which we'll continue to do here this evening.

On clause 6, it's about how the commission gets appointed. We believe that shouldn't be simply done behind closed doors at the Cabinet table. The chair shouldn't be chosen that way either and the rules that the commission sets for itself, there should be some review and oversight as well. Those things will make the process better.

Is this ideal? No. We still have concerns overall with Bill 1 and the approach that is being taken, but none of us are opposed to the concept of an Independent Appointments Commission. I was hoping we'd be able to make enough changes to the legislation this evening that we could at least live with it. But if we're not going to fix clause 6, if we're not going to fix how these people are appointed to begin with, then that's just such a deep, severe flaw that there may be no saving this flawed piece of legislation. But we're going to do our best.

Despite the fact that changes aren't being made here to clause 6, there are other changes that can still be made and we'll continue to do our best. I thank you for the opportunity to speak to these issues. We have many other changes that we'll bring forward that we believe need to be made, but not fixing clause 6, not fixing how that commission is appointed, not fixing how the chair is selected, not fixing how the rules are set and monitored, that's a major miss.

It can still be avoided if government chose to take a different approach, and we would happily work with them to come up with language that's acceptable in order to make that happen because it's so fundamental to what this bill is all about.

Thank you.

**CHAIR:** The hon. the Minister of Municipal Affairs.

**MR. JOYCE:** Thank you, Madam Chair.

I'll just stand to have a few minutes to speak on this. As I said earlier, and I don't mean to be political about this debate one bit, but in my opinion there is no fairer way than bringing names forward to this Legislature. Both parties already agreed that no matter if we set up a committee, government will have the ultimate to say who's going to be on the committee anyway. So if we're going to bring the names forward to this House of Assembly, everybody has the opportunity to stand up and question the names put forth.

If you look at the next proposed amendment that's going to be put forward it is to have all members of the committee sign an impartiality letter saying they're going to be impartial in their decisions. Even if you bring them forward, they still have to sign a letter. If you go through an all-party committee and bring the names forward, there's going to be another amendment coming up here in the next half an hour or an hour or so saying they still have to sign the form to say they're going to be impartial.

What is the process? What is the best way to go about this? Once you get an all-party committee, still they have to sign a form. So it boggles my mind on how they are going to plan to say, okay, we agree with the process because no matter what, they're going with one step now, setting up the all-party committee. The next step is to make sure the ones that the all-party committee recommends, there is going to be an amendment brought forward saying they have to sign a form of impartiality.

I always said the best way to do this, Madam Chair, and the best way to hear what you have to say is not five people out in a room who are sitting down doing an interview and people are going come out and say here's who we recommended. The best way is to open up the Legislature. Bring the names forth. Let's go. If anybody has a concern about the names that we're bringing forth on this committee, let them stand in their own place and say here's the reason why.

If you want them to stand all of a sudden and say, okay, we're going to sign a form that says you're going to perform your duties with impartiality, I have no problem with that. If you really feel you have to do that with the names you put forth and question their integrity, okay, go ahead.

If they want to sign that form, I have no problem whatsoever – none whatsoever. No matter what, it's almost like, even with the all-party committee which both sides said you can have a final say, even when they do come forward with the all-party committee, there's an amendment going to be put in that they have to sign an impartiality.

Madam Chair, is it the best process? It's much better than what we've ever had. Are there going to be changes down the road? Who knows? But I can guarantee you one thing, the best part I like about it is that we can stand in our places here in this Legislature and we can express our view, aye or nay, yes or no, about the people, look at their credentials and say yes – we haven't even seen the five names that are coming forward. We haven't even seen the five names.

Let's see how it works first. Then with the amendment coming forth – I'm pretty sure the amendment is going to come forth. You mark my words, as sure as I'm standing here there's going to be an amendment saying make them sign an impartiality.

Okay, we make them sign an impartiality; what then? Well, it's going to be another fly into it, Madam Chair. So it is a bill that we're bringing forth to improve the process, which we have done. I welcome all Members with their comments on it. I'll take my seat and I'll just wait for the next amendment, which is going to be signing a letter that each one is going to be impartial.

Thank you, Madam Chair.

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

**MS. ROGERS:** Thank you very much, Madam Chair.

I am happy to rise again to speak to clause 6. I was quite surprised by the vote of government on our amendment – perhaps not so much surprised, but surprised because it was a very reasonable amendment that was totally in the spirit of the entire bill. I believe it was something that would enrich the process, not take power away from anybody nor give power to anyone, because ultimately government does have the authority – and that's as it should be. No one's debating that, nobody's questioning that, at least not from this side of the House.

So I was surprised, because this government has talked so much about modernizing the way we do things, and modernizing our House of Assembly, making it more responsive to the needs of the province. I applaud that, and I would believe them when they say that. Why wouldn't you believe that?

I believe that's what this amendment that was recently defeated was about. So again, I would be curious to be able to speak to each individual Member and ask why you voted against it. I can't imagine why vote against it – what would be the reason for that? Again, because I know that process would enrich the whole experience.

We've had a fabulous experience with the All-Party Committee on Mental Health and Addictions. It's been great, and all parties are represented there. It's going to come down a little bit to the crunch because we're going to be making recommendations. We all know that some of the recommendations we will make, some of them might be tough, but we share that responsibility.

It's been a great experience with the All-Party Committee on Northern Shrimp. Again, it is a very difficult area, one that's so important for the province. It doesn't take any power away from government, doesn't give any power to anyone, but it's the process and the approach. We all know that we've all been elected by the people in our districts. So every time we come into this House we all know that we are bringing all of those people with us. The people have voted for us because of a particular perspective that we would bring to the House. So I would say to extrapolate from that, then it's also that perspective we would bring to something like a select all-party committee to make those

appointments to the Independent Appointments Commission.

Again, it's such a foundational piece because the work they will be doing for three years is so crucial for our province. The agencies, boards and commissions make up a huge part of our public service, managing huge resources or critical decision-making abilities, and critical services to the people of the province.

It's 2016. We've all worked really hard to start that whole process of modernizing. Why would we stop now? I can't imagine for what reason, other than hubris, to not support such an amendment, to not look at clause 6.

I know there are people across the floor who knows that it's a reasonable thing. It's about enriching the way we do our work. Not taking power from, not giving power to; it's really about doing something better. And why wouldn't we do that? It doesn't cost any more money. What it does is it brings different perspectives to the table which can only be enriching.

I believe, again, that it protects government, it protects the people who will be on, who will be chosen as the Independent Appointments Commission. It protects them, and then it protects the people they've appointed because there's no doubt that it's non-partisan. Why wouldn't we want that? It doesn't cost us money; it's not going to take a whole lot more time. It's all about the safeguards and being open to a whole other type of engagement process.

In this kind of situation, as in the All-Party Committee on Mental Health, as in the Electoral Boundaries Commission that was representative of different parties, it means we're all pulling, ultimately, for the same goal. We might all have a different way of getting there. We may have some different paths, some different approaches that we bring to it.

Ultimately though, government makes that decision, so there's nothing that government needs to fear. But I can't imagine what the reason would be not to do it. I simply cannot imagine. I mean I can guess, but I would hope that there would be an openness to modernize

the way we do things. That has been stated by this government again and again, but we're not seeing the follow-through. This would be a follow-through on that. This would be concretely proving but also following through on their own stated way of doing things.

I don't get it. It's a mystery. It would be really interesting to hear from everybody across the floor why you voted no. It makes no sense at this point to vote no to something that is modernizing our process and using a tool at our disposal. We didn't have to make it up, those tools are available. Those democratic tools that help us do the best work we can possibly do are there for the taking. It's there for us to use. It's there for people to use and I don't understand why government would refuse to use those tools. They are there.

**AN HON. MEMBER:** We're not saying this is wrong.

**MS. ROGERS:** A Member across the way is saying: We're not saying this is wrong. Well, what I'm talking about is the process to get there. Those are the tools at our disposal. We have a toolbox to make our democratic process as open, as transparent and as enriched as possible bringing all the perspectives. Why not use them? It doesn't cost money. It's not going to take a whole lot more time and, again, it's a way that we work together. The ways in the past while that we have been working together just show how successful it is.

The other thing is that the people of the province like it too. I think the people of the province are proud. They're proud when we work together because that's what they want to see. When we hear complaints – how many times they complain about the lack of the ability to work together, and they want us to be able to do that.

If government doesn't do something other, it's really a wasted opportunity. It's a shame. It really is a shame. It's a wasted opportunity. Those opportunities are there for the taking and for the using. All it does is it brings us forward. It propels us into a more modern approach to doing our work.

I do not agree with the Member for Humber – Bay of Islands. We can't be debating in this

House about the pros and cons of individual private citizens, about whether or not they are appropriate for certain appointments. We can't do that.

Already we are asking a lot of people when we ask them to even consider positions to serve in the public good and for public service. We can't be at that in this House. That's not what this House is for. Ultimately, when those last decisions are made, they are made and hopefully will have gone through a process that is thorough, transparent, open and accountable and the decisions are made in the best interests of the people.

So it's unfortunate that government chooses not to use a tool that's at our disposal. I would hope that government might reconsider that. I believe that would be fulfilling this commitment to modernize the way we do things in this House. We've had some recent successes. Let's build on that. Let's not go backwards. I believe it's a step backwards not to do this.

I don't think we can afford, in our province, to step backwards. But I believe we have what it takes to move forward and to do things in a more modernized way.

**CHAIR:** Order, please!

**MS. ROGERS:** Madam Chair, I thank you very much again for the opportunity to speak to this bill and this amendment.

**CHAIR:** I remind the hon. Member her time for speaking has expired.

**MS. ROGERS:** Thank you.

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

**CHAIR:** Seeing no further speakers to clause 6, we will vote on clause 6.

All those in favour?

**SOME HON. MEMBERS:** Aye.

**CHAIR:** All those against?

**SOME HON. MEMBERS:** Nay.



**CHAIR:** Carried.

On motion, clause 6 carried.

**CLERK:** Clause 7.

**CHAIR:** The hon. the Member for Mount Pearl North.

**MR. KENT:** Good evening once again, Madam Chair.

I would like to take an opportunity to speak to clause 7. As I've advised you, Madam Chair, I'll advise the House that there are a couple of amendments that we'd like to propose related to clause 7.

The first one may prove to be challenging because, again, we're suggesting that a committee of this House could deal with some of the issues that we've been raising here tonight. Given the previous rulings on proposed amendments, which I respect, this may pose a challenge as well. But I still want to make the argument because I think it's an important argument to make. It's about how replacements for the commission members are chosen.

We do believe that it's not too late to establish an all-party Select Committee of the House to help with this entire process, and to give the whole process some more legitimacy, credibility and actual independence.

So this clause that I'd like to speak to now is actually subclause 7(4), and it's about replacing commission members when the House is closed, when the House is not sitting. Subclause 7(4) currently reads: "Where the House of Assembly is not sitting and a commissioner cannot act due to accident, illness, incapacity or death, the Lieutenant-Governor in Council may appoint a person to act in his or her place, but that appointment shall be confirmed on resolution of the House of Assembly within 10 sitting days of the House next sitting."

Again, Madam Chair – oh, Mr. Chair, hello; good evening to you as well. The transition happens rather fast sometimes. One minute it's Madam Chair and the next minute there's another smiling face in the Chair.

Mr. Chair, this goes back to the argument we've been presenting throughout the evening that it should be a committee of the House and not the Cabinet that makes these appointments. Such a committee could receive recommendations going through the Public Service Commission process, which would make it a merit-based process. That committee could gather input in a whole bunch of different ways, but it would make sense to utilize the Public Service Commission process so that there is something about the process that is merit-based rather than simply have Cabinet appoint commissioners or, in this instance, appoint the replacement for the commissioners.

That's what we'd now like to present. Again, I respect the rulings that have been made related to establishing this all-party committee, but I still fundamentally believe it's a solution, which is why we're going to propose a similar change here in subclause 7(4).

Our amendment is to delete the words "the Lieutenant-Governor in Council may appoint a person to act in his or her place" and substitute the words "then (a) the Public Service Commission, using a merit-based process, shall recommend 3 persons to act in place of that commissioner; and (b) an all-party select committee of the House of Assembly shall receive those recommendations from the Public Service Commission and designate a person to act in place of that commissioner; and (c) the Lieutenant-Governor in Council shall appoint that person to act in place of that commissioner."

So the amended subclause would read: Where the House of Assembly is not sitting and a commissioner cannot act due to accident, illness, incapacity or death, then (a) the Public Service Commission, using a merit-based process, shall recommend three persons to act in place of that commissioner; and (b) an all-party Select Committee of the House of Assembly shall receive those recommendations from the Public Service Commission and designate a person to act in place of that commissioner; and (c) the Lieutenant Governor in Council – which means Cabinet – shall appoint that person to act in place of that commissioner, but that appointment shall be confirmed on resolution of the House of Assembly within 10 sitting days of the House next sitting.

Now, Mr. Chair, I think this makes sense. Because, in this instance, there's nothing we're recommending here that is contingent on the previous changes we proposed. In this instance, we're talking about an all-party select committee being established to receive those recommendations.

We believe that this amendment can stand on its own merit. It's not dependent on previous amendments when we were debating previous clauses. So it's not too late for us to establish this concept of a merit-based process to select commissioners, setting up a committee of the House to receive those recommendations from the Public Service Commission and then appoint people accordingly.

The arguments for doing so are very similar to the ones that we've presented earlier tonight. Even though we're now debating a new clause, I'm not going to rehash all of that. Our objective here is not just simply to prolong debate, we're really trying to make changes that are going to make a difference and make this legislation work.

So I won't repeat all the arguments of why a committee makes sense, but I do feel this change would stand on its own merit. I recognize the rulings that have been made so far tonight. I'm fearful, for that reason, this one will also be ruled out of order, but I do feel I need to make the case again because it's a point worth considering.

I'll move the following amendment, Mr. Chair: Subclause 7(4) is amended by deleting the words "Lieutenant-Governor in Council may appoint a person to act in his or her place" and substituting the words "then (a) the Public Service Commission, using a merit-based process, shall recommend 3 persons to act in place of that commissioner; and (b) an all-party select committee of the House of Assembly shall receive those recommendations from the Public Service Commission and designate a person to act in place of that commissioner; and (c) the Lieutenant-Governor in Council shall appoint that person to act in place of that commissioner."

**CHAIR (Lane):** We will take a brief recess to consider the amendment as brought forth by the hon. the Member for Mount Pearl North.

The Committee is now in recess.

### Recess

**CHAIR:** Order, please!

In considering the proposed amendment to subclause 7(4), the Chair reviewed O'Brien and Bosc, page 767, which states that: The committee's decisions must be consistent with earlier decisions. With that in mind, clause 6 had been approved and under clause 6(4) the chair is appointed by the Lieutenant Governor in Council.

In the proposed amendment to section 7(4) rather than having the Lieutenant Governor in Council make the appointment, the amendment would say that a select committee would do so, which is inconsistent with the previous decision which negated the establishment of a select committee. The amendment is therefore not in order.

The Chair recognizes the hon. the Member for the District of Mount Pearl North.

**MR. KENT:** Thank you, Mr. Chair.

Not surprised by the ruling in light of your comments and previous rulings this evening, so I thank you for the consideration. I do want to continue discussion on clause 7. I will be proposing an additional amendment on clause 7 that does not relate to the select all-party committee.

Before I move on off that point, I just want to emphasize once again how this is really a missed opportunity. What we've been focused on this evening is how the commission gets formed, how it's appointed and the value in having some independence around that process. If you want to take politics out of something, you certainly have to take it away from the Cabinet table, which is what we've been trying to achieve through the various amendments we've been discussing tonight. I think those amendments in clause 6 and 7 are really critical to addressing that issue of independence.

I'm definitely disappointed, but nonetheless there are some other changes that we'd like to propose making. I don't think they're as

significant in some cases, to be honest, which may mean – assuming they're in order – there may be an opportunity here for government to acknowledge that some of the suggestions will make the bill better. Having said that, I would urge government to consider how that commission is appointed to begin with, how the chair is selected to begin with, because there is still an opportunity, before this bill passes the House, to make it right.

I'll now move on to a different issue that is still in clause 7 and it relates to subclause 7(6). The issue relates to an oath of impartiality. One of the Members opposite, I think it was the Minister of Municipal Affairs, made reference to it previously. Several weeks ago I had an opportunity to ask a question in Question Period about this particular issue.

I don't think it's controversial. I think it's a really small change that is perhaps more symbolic than anything else. So this may be an opportunity for us to – assuming the amendment is in order, Mr. Chair, it may be an opportunity for us to make a small change. Not as substantial, not as important as some of the other changes we've been discussing this evening, but still it's a change that would make a slight improvement to the legislation that's proposed. The bill as it stands doesn't require commissioners to take an oath of impartiality and we believe it should. So our amendment is really simple, it's about adding a new subclause.

We've already asked for this during Question Period on March 21, I believe. The question was: "We have many concerns about government's proposed Appointments Commission, and for this reason we will be advocating for changes to Bill 1. For instance, many government appointees must swear an oath or make an affirmation to be impartial.

"Will the government consider an amendment to Bill 1 to require appointments commissioners to swear an oath or make an affirmation to be impartial?"

There is precedence for this, Mr. Chair. There are other government bodies where appointees must swear an oath or make that kind of affirmation to say in this instance that they would be impartial. I think it's a relatively

simple, straightforward amendment that is consistent with other bodies. I don't see a lot of controversy attached to this one. I don't think it really changes the substance of the bill. It definitely doesn't change the spirit and intent; it's just a slight improvement. It doesn't fix the bill from our perspective, but it's an improvement that I just think makes good sense. I hope that other Members of the House will agree.

Our amendment is to add immediately after subclause 7(5) a new subclause which will be subclause (6) which reads: "A commissioner shall, when appointed, take an oath that he or she will be impartial in the carrying out of duties under this Act."

Under the *Oaths Act* an affirmation can serve the purpose of an oath. Subclause 3(1) of the *Oaths Act* states: "A person who objects to taking an oath may instead make a solemn affirmation." So, again it's pretty straightforward, Mr. Chair.

I will move the following amendment: Clause 7 of the bill is amended by adding immediately after subclause (5) the following: "(6) A commissioner shall, when appointed, take an oath that he or she will be impartial in the carrying out of duties under this Act."

**CHAIR:** The Chair has received this proposed amendment in advance. We have reviewed it and we find the amendment to be in order.

The Chair recognizes the hon. the Government House Leader.

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

I'm happy to be able to speak to this.

**CHAIR:** To the amendment.

**MR. A. PARSONS:** To the amendment, yes.

I can say just a couple of points to this amendment which has been put forward here. The first thing I'd say is that given the fact that these individuals are being placed in a position of trust, given the fact that there is a resolution that will be debated on the floor of this House of Assembly, I don't think that it's absolutely necessary.

That being said, we're certainly happy to agree to it. If it makes the Opposition feel this will be a better piece of legislation, then I don't think it's harmful, per se. I think these individuals, whoever is placed in this position, will have no issue. The same as all Members in this House sign an oath then I think these individuals will also have no issue signing an oath to carry out their duties in an impartial manner.

So I can just put forward to the Members of the Official Opposition, the Member for Mount Pearl North, that again, pending any further comments, we will be supporting this amendment.

**CHAIR:** The hon. the Member for the District of Mount Pearl North.

**MR. KENT:** Just quickly, to say I thank the Government House Leader for that commentary. I acknowledge this is not essential. He makes a legitimate point, but I think it's still a good thing to do. I'm pleased to hear him say that he supports this amendment. That's a positive step and, hopefully, we can work together on some more amendments as the evening continues.

Thank you, Mr. Chair.

**CHAIR:** Seeing no further speakers to the amendment, shall the amendment carry?

All those in favour, 'aye.'

**SOME HON. MEMBERS:** Aye.

**CHAIR:** All those against, 'nay.'

The amendment is carried.

On motion, amendment carried.

**CHAIR:** Shall clause 7 carry, as amended?

All those in favour, 'aye.'

**SOME HON. MEMBERS:** Aye.

**CHAIR:** All those against, 'nay.'

On motion, clause 7, as amended, carried.

**CLERK:** Clause 8.

**CHAIR:** Shall clause 8 carry?

All those in favour, 'aye.'

**SOME HON. MEMBERS:** Aye.

**CHAIR:** All those against, 'nay.'

Carried.

On motion, clause 8 carried.

**CLERK:** Clause 9.

**CHAIR:** Shall clause 9 carry?

The Chair recognizes the hon. the Member for the District of St. John's Centre.

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

I'm very happy to stand again to speak to Bill 1. As we know, when we look at the history of gender equality, whether it be in the political arena or whether it be in business, that things are moving very, very, very slowly. As a matter of fact, sometimes we even see steps backwards.

*The Huffington Post* released an article on September 30, 2015, which is just a little over half a year ago, or about a half a year ago. It was written by Emily Peck. She's the executive editor of business and technology at *The Huffington Post*. The title of her article is: Things are getting better ... very, very slowly.

She said things are improving so slowly for women in corporate America – and I believe it's the same in Canada – that we aren't going to achieve gender equality at the top for another 100 years, according to a report released on Wednesday. She also went on to say it's not for reasons that you might think. She said some of the biggest barriers are cultural and related to unconscious biases that impact company hiring, promotion and development processes.

If we look at the political landscape as well, all we have to do is look here in our House and of the 40 Members, only nine are women. That's less than 25 per cent of the MHAs here in the House are women. But, we do know, when we look at the federal election that we just had in

2015, women made up 533 of the 1,732 nominated candidates – so they made up 29.7 per cent – and women went on to win 88 of the 338 available seats. That's 26 per cent.

What we're looking at, Mr. Chair, is that although we've made some gains, despite our historical highs, Canada now only ranks 60th – 60, not 16, but 60th in the world when it comes to achieving equal representation in our democracy. What's even worse is that we have fallen from being ranked 21st in the world – so Canada was 21st best in terms of gender representation in our elected positions in 1997, and now we're 60th. So not only are we not progressing very quickly, in some situations we're actually losing ground.

So we talked this evening and debated about how important the Independent Appointments Commission is and the crucial work that they will do, and how much of what they do – that 43 per cent of the total of government expenditures are agencies, boards and commissions that this Independent Appointments Commission will appoint members to – 43 per cent of the total of government expenditures. And that is 75 per cent of the total public sector employment, so it's a considerable piece of the activities and the action that goes on within our province.

Mr. Chair, I know that most of us in this House support gender equity. Theoretically, most of us do – maybe all of us, who knows. I know that most of us support diversity. We want to see diversity in appointments, in our employment, in our political house. We want to make sure that the regions of the province are represented, but just because we want that to happen it doesn't mean it's going to happen.

The proof is in the pudding, in the statistics that I've shown, that Canada is now actually ranked 60th in terms of gender equity and gender representation in political office. We've fallen. We used to be 27th and now we're 60th, so we cannot simply rely on people's good will. We cannot simply rely on what we have in our hearts, our theories or our political philosophies. We have to have legislation, we have to have policy and we have to have regulations to ensure that it happens. We know that there is a cultural bias and that it's so hard for women to get beyond that.

The amendment that we are proposing – and it's simply an amendment that gives direction to the Independent Appointments Commission, that it gives them a direction on how to work and how to move forward.

Our amendment to clause 9(1): The commission shall provide recommendations –

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

**CHAIR:** Order, please!

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

The commission shall provide recommendations respecting appointments in accordance with a merit-based process – I totally agree with that, Mr. Chair, totally – but we add: “and those recommendations shall accurately reflect the province's society as a whole in terms of gender balance, diversity – we are becoming a much more diverse population – and regional representation.

Again, Mr. Chair, we have nothing to lose by this. This is again one more step towards modernizing the way we do our business, modernizing the way that anyone we appoint also carries forth that philosophical approach, that commitment to equality. It also falls in line and is in alignment with our *Human Rights Act*, which many people have worked so hard to develop, and which we should all be using and I'm sure we all use in this House as a valued principle in how we undertake our business.

So, Mr. Chair, I have copies of the amendment here. I'll read it one more time without embellishment and editorializing. This is an amendment in the Committee of the Whole of the House for Bill 1, An Act to Establish an Independent Appointments Commission and to Require a Merit-Based Process for Various Appointments. Subclause 9(1) of the bill is amended by adding immediately after the word “process” the words “and those recommendations shall accurately reflect the province's society as a whole in terms of gender balance, diversity and regional representation.”

I move this –

**AN HON. MEMBER:** That is all you have to do.

**MS. ROGERS:** Oh, that is all I have to do, apparently.

Thank you very much, Mr. Chair. I have copies here which I will bring to the Table.

**CHAIR:** We are going to take a short recess while we review the hon. Member's amendment to determine whether or not the amendment is indeed in order.

The Committee is now recessed.

### Recess

**CHAIR:** Order, please!

The Chair has considered the amendment. The principle of the bill is that the appointments would be merit-based. Therefore, the amendment goes against the principle of the bill. So it is not in order.

The Chair recognizes the hon. the Government House Leader.

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

I just want to take a moment to speak to the proposed amendment. I am just speaking to the general content that was put forward. I don't know if that's acceptable. I'm obviously not questioning this at all, but I just wanted to have a discussion of some of the comments that were made by the Member opposite.

From what I can gather, just a couple of things I'll toss out. I believe, number one, you mentioned human rights and the fact that under the *Human Rights Act* it's discriminatory not to consider these factors. I think in this case that's actually not going to be an issue. There is always a lens applied, even if it's just a matter of policy within the Public Service Commission. So I don't think that's going to be an issue here.

Again, I see the Member – I didn't turn down the amendment, I say to the Member opposite. What I'm saying is that the Public Service Commission does collect this info, does tabulate this and is going to ensure that these things are

considered. It's not just going to be a gender lens. It's going to have to be a youth lens and it has to be a regional lens, all this information.

At this point, I will sit down and let the Member opposite have her say.

**CHAIR:** The Chair recognizes the hon. the Member for St. John's Centre.

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

**CHAIR:** Order, please!

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

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

I'm happy to stand and speak to this again. I very much was listening to the Minister of Justice there, and he is right that it should have a youth lens and other lenses.

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

**CHAIR:** Order, please!

**MS. ROGERS:** Well, our proposed amendment, in fact, Mr. Chair, talks about that this should accurately reflect –

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

**CHAIR:** Order, please!

**MS. ROGERS:** – that in fact that the –

**MR. HAGGIE:** A point of order, Mr. Chair.

**CHAIR:** I would ask the hon. minister what section of the Standing Orders he would be standing on?

**MR. HAGGIE:** (Inaudible) 49, no Member may reflect upon any vote of the House except for the purpose of moving that such vote be rescinded. This is not (inaudible).

**CHAIR:** The Chair never really heard the commentary that the minister is referring to, so I'll have to review it and report back at a later time.

The Chair recognizes the hon. Minister – maybe the Chair is misunderstanding what the hon. minister is trying to say.

**MR. HAGGIE:** I am objecting to the line of discussion being put forward by the Member opposite under section 49, on the basis that the Member is reflecting upon a vote of the House for purposes other than moving that the vote be rescinded.

**CHAIR:** The hon. Member for St. John's East – Quidi Vidi.

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

Speaking to the point of order, there has been no vote. There was an amendment turned down. There was no vote by the House on that amendment. I presume the minister is speaking about the Member for St. John's Centre. She's still speaking to the section that she didn't get an amendment for, but she can still speak to the section, I would put forward to you.

**CHAIR:** The Chair would have to agree with the hon. Member for St. John's East – Quidi Vidi. There was no vote on this section. Therefore, it is not a point of order.

I now recognize the hon. the Member for St. John's Centre.

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

Again, I'm happy to get up and to speak to this section. I understand that the amendment was ruled out of order and I would hope that government might consider perhaps making another amendment to its own legislation that would reflect the spirit of the amendments that we put forth. It's unfortunate that the Minister of Justice sat down and I hope he does get up and I'm more than willing to listen to what he is saying.

My concern is that the *Human Rights Act* would be in reaction to any kind of complaint. I know that not appointing women or not appointing youth or not appointing diversity would not be in violation of the *Human Rights Act* in and of itself. It's only if a complaint were brought

through that someone wasn't appointed because they were a woman or somebody wasn't appointed because of their ethnic origin or whatever.

What this amendment asks for – and I ask government to perhaps consider a way that they may be able to integrate this. I do know that government is committed to gender equality. It's committed to pursuing diversity in all kinds of appointments, but we do know that without guiding principles, without policy, without legislation it doesn't work. It doesn't work.

Look at this House of Assembly, it doesn't work. It doesn't work if it's just because we want it to. We know that to be true. The evidence is there and we all know that the evidence is there. I appeal to the Minister Responsible for the Status of Women to speak on behalf of this. I appeal to her to speak on behalf of women.

If we look at our boards and commissions – I spoke in this House when this legislation was first introduced and I went down the list of appointments for the different agencies, boards and commissions and looked at who were the heads of those positions. It was embarrassing and I kept saying that I know that this is tedious but I went male, male, male and the odd female, or man, man, man and the odd woman. That's the reality. It's the reality. It's not someone's philosophical approach. That is what's happening in this province, and unless we do something about it, it's not going to change.

We see that Canada was 27th in terms of gender equality in political positions years ago, now we're 60th. It doesn't get better on its own. It simply doesn't get better on its own. We have to do something that's proactive.

I appeal to the Minister of Justice, I appeal to the government to do the right thing. It's not just about representation of gender, it's about – the appointments have to reflect our province. If they don't reflect our province, we keep committing the same problem again and again and again. We have to get out of that loop, because that's what it is, Mr. Chair. It's a vicious loop that keeps repeating itself.

We need something that binds the Independent Appointments Commission to reflect on the diversity of the province in making those appointments. If not, we're not going to see the change. It's so important we do.

I believe it's Iceland – if not Iceland, it's another Norwegian or Scandinavian country – where what they did is they passed legislation to say that 40 per cent of the representatives in their government have to be male and 40 per cent have to be female. So that makes it 80 per cent, and the 20 per cent – well, leave that to whatever. But they knew that without those kinds of regulations we will not get gender equality. We will not get equality in terms of diversification. It doesn't work.

We've been talking about this for years. Again, all we have to do is look around this room. I wish I had brought with me the list of people who are heading some of our most crucial and important agencies, boards and commissions. The majority of them are led by men. Look at what happened when we just found out about the sunshine list in Nalcor. The majority of the high earners and the managers there –

**CHAIR:** I would ask the hon. Member – I'm trying to provide as much latitude as I can, but I'm asking you to be relevant to the bill.

**MS. ROGERS:** I understand that, Mr. Chair.

Well, the relevance to the bill, Mr. Chair, is to look at what happens if there are no guiding principles, if there are no directions to appointments what happens. We see that again in this House. We see that at Nalcor. We see that in our boards and our commissions.

Nalcor is one of our agencies as well where appointments are made. We saw that the majority of them in positions of management are men. It's undeniable. That's the thing, it's undeniable. Even if we wanted to be different – if we believe it's not going to be different, it's not going to happen because of cultural biases, because of all the biases that we have to push against.

If we do not do this, Mr. Chair, we will not see a difference. History has proven that. The evidence is before us here tonight. All we have

to do is look at our boards, our commissions and our agencies, and it's evident. We also have to have regional representation. We have to have representation. We need to see seniors being able to be in positions to be able to make decisions. It's even more crucial in some boards, agencies and commissions than perhaps others.

Again, I appeal to the Minister Responsible for the Status of Women to look at this. How many people do we have with physical disabilities managing any board or agency or commission? I don't know, but certainly it should be if we request our population –

**CHAIR:** Order, please!

The Chair reminds the hon. Member her time for speaking has expired.

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

**CHAIR:** The Chair recognizes the hon. the Minister of Finance and Minister Responsible for Treasury Board.

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

I just wanted to take a quick minute in the debate this evening to speak to this particular section, in light of the comments by the Member opposite.

The work we've done in bringing the legislation into the House had a very robust discussion around the importance of making sure that gender lens and gender equity was part of how we actually execute and operationalize the Independent Appointments Commission. I think it's important for the Member opposite to know, I've had three different meetings with the Public Service Commission lead, our deputy there, to make sure that as we work through the regulations, that the regulations reflect the intent, which is to make sure that individuals of merit are provided an opportunity to get into the pipeline for consideration by the Independent Appointments Commission, or the Public Service Commission, depending on what tier board we're talking about.

Certainly, one of the most important things for us to do, in my responsibility on the Public



Service Commission, is to make sure we are actively recruiting and encouraging all individuals, including, as the Member opposite has suggested, women are participating at a higher level than they have been.

Mr. Chair, I can assure the Member opposite, that from a regulatory perspective, making sure we actually have the regulations in place that provide the action that yields a result is something that's very important to our government as part of this legislation. Equally providing opportunities for women throughout the province, as well as other groups that we –

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

**CHAIR:** Order, please!

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

– other groups that maybe feel that in the past they have been under-represented as part of former administrations' practice of filling the board positions on agencies, boards and commissions, that we provide an opportunity for those individuals to participate in a very fulsome way through the recruitment position.

I would suggest to the Member opposite, a legislative change in the absence of what we have committed to, which is a robust regulatory regime supporting this legislation in the actual execution of the legislation through the Public Service Commission, I believe will be something that will provide opportunities for us to have the boards that represent the agencies, boards and commissions to be representative of the demographics in our province.

I'd also remind the Member opposite, that the focus of the Independent Appointments Commission is to make sure we have a merit-based approach. While there is no doubt, there is a need for increased representation of women in all areas of government, including this House, I would argue to the Member opposite, that making that happen through the Independent Appointments Commission and the regulations that will be in place will be a responsibility that I won't take lightly. As a matter of fact, I've already had conversations with stakeholder groups on this very issue.

I look forward to continuing to discuss this in the House, Mr. Chair.

Thank you.

**CHAIR:** The Chair recognizes the hon. the Member for the District of St. John's East – Quidi Vidi.

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

This is an extremely important issue. When we discussed this bill in second reading, and even when we were briefed on this bill, we brought up the issue of the commission only providing recommendations respecting appointments in accordance with a merit-based process.

So, I'm speaking to the fact that government has made a decision to use a process, which we were told when we asked the questions – I think it was both here in the House and in briefing – a process which itself, through the Public Service Commission, it has been said very, very clearly that they use totally a merit-based process. We brought up the problem with that, if that means you cannot also put on the whole layer of diversity and see appointments through the lens of diversity.

I'm very, very disappointed that government hasn't taken that seriously.

**MS. ROGERS:** Shocked.

**MS. MICHAEL:** Yes, my colleague here says shocked. I am shocked that in this day and age the government is putting this process in the hands of a commission and saying the only thing being used is a merit-based process.

It's just unbelievable actually. It's absolutely unbelievable and it explains, I think – I'm sorry but the Official Opposition, you were government too and we've had so many people put in positions on boards, et cetera, where in actual fact our balance of men and women has gone skewed again. There was a while when more women were being appointed. Now sometimes you're getting three and four appointments made and not one woman or not one Aboriginal person or all from the same area. It's happening over and over.

I'm really imploring government, as has the Member for St. John's Centre and I think we're going to hear from the Official Opposition as well, imploring you to rethink this. You put in place a process that is flawed, seriously flawed. I'd like you to look at what's happening in other provinces.

For example, let's take one that's close to home, New Brunswick. They have an appointment policy for New Brunswick's agencies, boards and commissions. They say, "A properly functioning board should have a diversity of perspectives. This diversity could be gained by having a board with a mixture of professional qualifications, or it could come from having a board with differing personal experiences (ideally, a board will have both). Therefore, special efforts will be made to appoint individuals from a diverse set of professional backgrounds, while being inclusive of New Brunswick's two official linguistic communities, women, First Nations, persons with disabilities, visible minority groups, and residents from all regions of the province."

I would like to suggest that New Brunswick is light-years ahead of this piece of legislation that government is putting in place. I can't believe that you're doing it in this day and age. So you're saying we put it in the hands of the Public Service Commission, they use merit based and then that's fine. It's not. It's going to be up to government to have to recognize and how you're going to – we got to have it in legislation, like my colleague has said. It will not happen if it's not in legislation. It will not happen. So you've got to put in legislation how the commission is going to relate to government to meet those needs. You have to make sure that it's in there or it's not going to happen. It's not happening now, so it's not going to happen.

If there's a particular board, for example, that's going to be appointed and you need two or three people on that board, I would say the commission has an obligation to make sure that the new appointments add diversity to the board. They have, but there's nothing in this to say that. So you're leaving it in the hands of this so-called neutral process under the Public Service Commission. That can't be, and that's what was said to me.

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

**MS. MICHAEL:** May I continue speaking, Mr. Chair?

**CHAIR:** Order, please!

**MS. MICHAEL:** It seems like the minister is not even conferring with me. I'm talking about some really serious stuff here. I don't want to be made fun of; I don't want to be mocked. This is 2016 and we cannot see how to put into this legislation something that will cover diversity. I think the minister is probably embarrassed that it's not here.

Let's look at British Columbia. Their body is called the Board Resourcing and Development Office. Every province has a different name. What do they say in British Columbia? In this agency's appointment process guidelines, which are over a decade old, they look for "a diversity of professional skills, experience and approaches to problem solving is critical for effective board performance." "Rather, the recruitment process should be undertaken in such a way that it facilitates the consideration of people from these minority populations based on the particular skill sets sought."

So you see what they've done. Yes, there's a skill set that they're looking for and, yes, they want merit; but they also put in the layer that you are looking for people from minority populations. Folks, we're not making this up. This is the world of today. We have a piece of legislation that's not recognizing it. I mean, it's absolutely unbelievable.

If government is getting upset over there, I'd say they are being defensive because they know that they're making a mistake. In Manitoba they say agencies, boards and commissions need members with a variety of qualifications and competencies in order to carry out their mandate. A diverse mix of experience, age, gender and culture can bring valuable perspectives, options and insights.

The guidelines also note the fluidity of the challenges faced by recruitment. Challenges change over time, but they have to be met, and the composition of members and the expertise which may assist an organization should also

evolve over time. Surely to goodness we've evolved in this province into understanding how to make a piece of legislation recognize diversity. Just hiding behind the merit based – I mean, the ruling that the Chair had to make, I fully understand because it's filled with this merit based, without any other layer.

There's no other layer in the piece of legislation, no other lens; it's all just the merit based. I think we should be ashamed of that. I think we should be ashamed to say, well, it's in the hands of our Public Service Commission and all they do is look at merit based. There's something wrong with our whole practice here.

This is the time to try to make a change. This is the time. We have a piece of legislation here that is flawed in a couple of serious ways that we've pointed out. I hope to goodness – well, I'd like to see change. Are we going to see in two years' time with what we saw with Bill 1, what we saw with Bill 29, the infamous Bill 29, that both parties in the House voted for initially and the Official Opposition finally changed their mind when they were government and made changes and brought it back to where it should have been because they finally listened to the uproar?

Well, I suggest there is going to be uproar over putting in a piece of legislation with regard to appointments to all these major bodies that are covered by the legislation – major bodies, and we're not just talking about positions at the top. In most cases, you are talking about appointments to boards as well. To say that all of that is going to be only merit based is just unconscionable in this day and age.

If government over there is feeling defensive and ashamed, they should. They shouldn't get angry with us because of the mess that they've made in this piece of legislation. It is absolutely unbelievable.

I think I've said what I have to say, Mr. Chair. I think the Official Opposition will follow me.

**CHAIR:** The Chair recognizes the hon. the Member for the District of Mount Pearl North.

**MR. KENT:** Thank you, Mr. Chair.

I want to just rise briefly and speak in support of the sentiments expressed by the Third Party here this evening. Debates can get emotional in the House. We've seen that many times in the past, and sometimes for good reason.

What I want to focus on here is the notion that was put forward earlier this evening by the New Democratic Party to basically try and get yet another issue addressed in this legislation that would make it a little bit better. Amendments can be ruled technically out of order. That's part of this process, but the point I want to make in relation to clause 9 that we're now debating is just like the issues we raised in clause 6 and 7, there's still an opportunity here to address the concerns that are being brought forward. There is still an opportunity to bring forward more amendments if government wishes. They can make this right.

When it comes to issues like ensuring gender balance and diversity and regional representation, I don't think it's reasonable to say, well, we can just trust that will happen. Because if we look at the public service today, if we look at this Legislature, if we look at other systems in our democracy, it doesn't just happen. It takes a heck of a lot of commitment and work. Maybe we'll get to a point in our society where it will just happen but I don't believe we're there, sadly. So an effort to put something in the legislation that ensures this commission would have to consider issues like gender balance and diversity and regional representation, I think that will be a positive improvement.

I want to stand and support that principle while we're debating clause 9. I think that not finding a way to enshrine that in the legislation is another missed opportunity. Just like the missed opportunities we were talking about earlier around ensuring the appointments of the commission are independent and some of the other issues we've raised that we think are serious.

Well, I think the suggestions that have been put forward tonight by the New Democratic Party make good sense. I would urge government to figure out a way to enshrine those issues into the legislation. Maybe clause 9 is the appropriate place. It feels to me like it is. Somewhere here in

clause 9 that we're debating this evening, but if not here then somewhere else in the legislation.

Just like I would encourage the government to consider the concerns we've raised around how the commission gets appointed. Even if some of the amendments we've proposed are ruled out of order for technical reasons or for some other reason, it doesn't mean there isn't a good argument to be made for making changes to make the legislation better. So that's the point I want to make while we're still debating clause 9 here this evening, Mr. Chair.

It makes sense that the appointments that are going to be recommended by this commission – and ultimately made in the Cabinet room behind closed doors, unfortunately. It makes sense that those recommendations should reflect Newfoundland and Labrador and reflect Canada today and address issues like gender balance and diversity overall, and regional representation overall. That just won't happen on its own. I do think there's merit in finding a way to work that into the legislation.

I wanted to rise tonight to speak in support of the effort that my colleagues are making, because it's the right thing to do, Mr. Chair. It's the right thing to do, and that's why we support the notion that's been advanced by the New Democratic Party tonight.

**CHAIR:** The Chair recognizes the hon. the Member for the District of St. John's Centre.

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

It's odd to be standing in May of 2016 to have to be debating and arguing and pushing for this at this time in our evolution. I'm quite surprised.

I'm particularly surprised as well by the Minister Responsible for the Status of Women, because if not her, then who on that side of the House will stand up and look at this issue? She, above anyone else, should understand the ramifications of not – putting something in this legislation that binds the commission to reflect the diversity of the province in making appointments. That's what we are talking about.

We are talking about putting something in legislation that would bind the commission to ensure that diversity of the province is reflected in the appointments to our agencies, boards and commissions. That is not an unreasonable request. As a matter of fact, I believe it's probably best practices in almost every province in the country.

We know the Premier noted when he introduced the legislation to create an Independent Appointments Commission that the province's agencies, boards and commissions make up 43 per cent of the total of government's expenditures. That is 75 per cent of the total public sector employment. That's what we're talking about, Mr. Chair, a considerable piece of the activities and the action that goes on within our province.

The Premier has clearly said he wants to modernize how appointments are made. He has a clear path for the most qualified people to apply for a position, be considered and selected on the merits, but without something binding the commission to reflecting the diversity of the province, it isn't going to happen.

This does not diminish, in any way whatsoever, the merit-based overriding principle. It does not. This is the kind of legislation that human rights activists, women, people from the disability community, that First Nations people have been pushing for and fighting for, for decades. We thought we had solved this issue, and here we are in our House of Assembly as if none of that has happened. I feel like I'm Alice in Wonderland at the Mad Hatter's tea party. I cannot believe it.

Let's look at what's happening federally. My colleague from St. John's East – Quidi Vidi pointed out what's happening in a number of provinces. Let's look at what's happening federally. Also, the Liberals federally made a decision, the prime minister made a decision to appoint half of his Cabinet women. Also, there are a number of faces in that Cabinet that reflect the diversity of the country.

In 2008, the federal Conservative Party election platform promised to continue to –

**CHAIR:** Order, please!

The Chair is providing, I think, a lot of latitude.

**MS. ROGERS:** Yes.

**CHAIR:** But I would ask the hon. Member to bring her points back to the merits of section 9 of this particular bill, Bill 1. That's what we're debating.

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

What I am doing is looking at diversity does not affect the merit principle whatsoever; but, in fact, what we are looking at is what is happening in other boards, in other jurisdictions when they do appointments, what they use as their guiding principles. Because that is what we're looking at right now, what's happening in other jurisdictions that provide legislation and guiding principles to their Independent Appointments Commission.

What happened in 2008, federally, the government, in fact, didn't follow through because they said that they were going to appoint a taskforce to find ways to ensure that appointees to federal agencies – which is what we're talking about here – and Crown corporations reflect the diversity of Canada in language, gender, region, age and ethnicity. So they're talking about appointments, their commission that appoints to boards, agencies and commissions. It didn't happen.

Now the federal government recently, on May 2016, changed the appointment process to reflect the fundamental role that appointees play – and that's more than 1,500 people. So this is what the Appointments Commission for the federal government has done in relation to appointments to their agencies, boards and commissions. The federal government has decided appointments will achieve gender parity and reflect Canada's diversity in terms of linguistic, regional and employment equity representation.

So, Mr. Chair, it's happening everywhere and why government wouldn't do this and hold us back – this is not state of the art; this is state of ark. That's what it is. It's state of ark; it's not state of the art. We can expect better. I expect better out of this government. I know that they

can do better and I know that they can do the right thing.

I am not sure what will stop it now. I am pleading to government to do the right thing. I am pleading to the Minister Responsible for the Status of Women to do something that would make it binding for the Independent Appointments Commission to make recommendations, keeping in the mind the diversity of the province. We know, history has shown us, all the recent research has shown us, the very faces that sit in these chairs in this House of Assembly have shown us, the heads of our agencies, boards and commissions in the province shows us it doesn't work unless it is legislated.

For government to not take the steps necessary to ensure that these appointments reflect the diversity of the province is nothing short of I don't know what – again, I can't believe that, in 2016, we're debating this like this. It should be a given. This is about enriching our province; this is about making sure that the people of the province are represented. What is wrong with that? What is wrong is to not put in place measures that do ensure that is happening.

Mr. Chair, I'm going to sit down because I don't think there's anything left to say. It's just so clear. I hope that this government will do the right thing and not drag us kicking and screaming backwards but, instead, propelling us forward and do the right thing.

Thank you very much, Mr. Chair.

**CHAIR:** The Chair recognizes the hon. the Member for the District of St. John's East – Quidi Vidi.

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

I just want to make a couple more points with regard to the whole issue of the appointments happening based on merit. Nobody has any problem with that. We obviously want appointments to be based on merit, but history has shown us – and there is all kinds of research to show us – that because we are still in a society that is patriarchal actually, we're still in that society that when people, when organizations,

when governments, when businesses, when boards themselves look at new members to go on their boards or people to be in certain positions, because of the male dominance there is this thing where they're only looking at males when it comes to merit. It's a fact. It's a scientific fact. It's been researched.

So you have to make an effort in realizing that person in a wheelchair also has merit; can do this job. You have to look at that women can do this job. You have to look at the person with a brown face can do this job. You have to look at this Aboriginal woman can do this job. It won't happen without that.

That's why in Ontario – their body is called the Public Appointments Secretariat; PAS is its acronym. PAS does stipulate government has a responsibility to ensure government agencies are made up of members who are qualified to do the job and are representative of all segments of Ontario's society.

So it's a repetition of what I referred to earlier when I said what British Columbia has in theirs. The name of their body is the Board Resourcing and Development Office. When I read what they have in Manitoba, in Manitoba the appointments are actually under the Auditor General. It's called the Auditor General/agencies, boards and commissions. That's the name of their body and I read what they have.

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

**CHAIR:** Order, please!

**MS. MICHAEL:** In New Brunswick, they don't so much have a body but they have their policy, the appointment policy, and I've outlined what is in their appointment policy.

So the point I'm making is that it's not merit based or diversity – we want merit based – but it's the recognition that because of how we have developed in a patriarchal society that unless we look for merit in other places besides in male domain, we continue to have male dominated. And, in our society, it's not cliché, it's just a reality: white male dominance. That's the reality.

If we say we have a Human Rights Code in our province, we have a Women's Policy Office – I remember some years ago under another premier – well, four or five premiers ago now, I suppose – saying that the government believed in making sure that women were getting appointed to boards. What we're saying here today is it's not just women, it's the whole face of our province and the merit-based process on its own is not going to work.

I really am pleading with the government, stop this process, slow down, work on this and get it right before we vote on it and make it legislation, because you'll be carrying it on your heads. There's no way that we can vote for this bill as it is. We can't. We just can't vote for it as it is. It has other things that are small things that we might like to see changed, but the two issues we've brought up, and which have also been spoken to by the Official Opposition, are crucial issues. And this issue of the merit based is just so obvious.

Again, I'm not going to go on much longer because I said a lot the last time I was up. But I wanted to get on record the other places in the country where they are concerned about this and where they have systemically put stuff in either legislation or rules and regulations to make sure. And I'm not comforted by the Minister Responsible for the Status of Women saying trust us. It's not you. It's the process that is being put in place and we have to have it built into the process.

So it's not who you are as individuals; it's not even who you are as a government. This has to be a piece of legislation that on its own, on its own legs, used by anybody, used by any party who happens to be government, used by any of the public service sector, legislation that on its own will ensure that not only will people of merit and skills and experience be on our boards and be in the heads of our various agencies, but we will also have the diversity we've talked about already: women and men, Aboriginal people, people who are immigrants who are not part of our society, people with disabilities, regional differences.

Once again, it's 2016, please stop it. Please make the changes to this legislation. We're not going to make any more amendments. It's in

your hands. Make the changes. Minister, you can stop this and say we'll put this on hold and make changes.

I know of other pieces of legislation over the years I've been here that got withdrawn and held back and changed and came back to the House. That can happen with this, too. Let's do the right thing. Let's not do what – and I mentioned earlier. Let's not repeat Bill 29.

Thank you very much, Mr. Chair.

**CHAIR:** The Chair recognizes the hon. the Member for the District of St. John's Centre.

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

I fear that not only is the budget that this government passed hurting women disproportionately, but they now refuse to ensure that women are fairly represented in our agencies, boards and commissions.

Mr. Chair, I asked the Minister Responsible for the Status of Women if a gender lens was applied to the budget. I asked her to table that. We haven't seen that.

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

**CHAIR:** Order, please!

**MS. ROGERS:** So I ask her now, was a gender lens applied to this piece of legislation? If so, can she table it?

I ask the minister: Did this piece of legislation pass through the Women's Policy Office? Did the Women's Policy Office analyze this particular piece of legislation as it relates to their mandate? Was there a specific gender lens tool applied to this piece of legislation before it came to the House?

**CHAIR:** The Chair recognizes the hon. the Member for the District of Mount Pearl North.

**MR. KENT:** Thank you, Mr. Chair.

I'm just rising briefly once again to speak to clause 9. I think the questions that are being posed by the Member for St. John's Centre are

legitimate questions. I hope that while we're working through this bill together at Committee stage that we will get some answers to those questions around what thought and what research has gone into getting us to where we are.

Again, I'd highlight that while some amendments may pass tonight and some may fail, and some amendments might be ruled in order and others may not, there's still an opportunity to make this right. There's still an opportunity for government to do, as the leader of the New Democratic Party was just suggesting, maybe just press pause and go away and do some of the work that's required to make this bill work better.

**CHAIR:** Order, please!

The Chair reminds the hon. Member that we are speaking specifically to clause 9, and I would ask the Member that he direct his comments toward that particular clause.

**MR. KENT:** No problem, Mr. Chair. Thank you.

Clause 9 is very much about the merit-based process. In addition to focusing on a merit-based process, which makes lots of good sense, there are other things that need to be considered: like overall diversity, like making sure we have appropriate gender balance, like making sure the various regions of this province are reflected in the appointments that get made. So it's not simply about determining whether people are technically qualified to serve in a given role. It's also important that consideration be given to those other factors.

Anyway, the Member for St. John's Centre has raised some legitimate questions. I respectfully ask Members of government to respond to those questions because I think they're worth discussing as we work our way through this bill.

Thank you.

**CHAIR:** Shall clause 9 carry?

Seeing no other speakers; all those in favour, 'aye.'

**SOME HON. MEMBERS:** Aye.

**CHAIR:** All those against, 'nay.'

**SOME HON. MEMBERS:** Nay.

**CHAIR:** The vote has been taken.

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

**CHAIR:** The Chair would say to the hon. Member, an opportunity was given, nobody stood. The question was called, it was voted on.

Clause 9 is carried.

On motion, clause 9 carried.

**CLERK:** Clause 10.

**CHAIR:** Shall clause 10 carry?

The hon. the Member for the District of Mount Pearl North.

**MR. KENT:** Thank you, Mr. Chair.

We had an additional amendment for clause 9. I couldn't rise because, of course, there needs to be an intervening speaker. I saw the Member for Conception Bay South take to his feet. It's unfortunate he didn't get an opportunity because we did have an additional amendment to clause 9 that we wish to present.

**CHAIR:** Order, please!

The Chair would remind the hon. Member that clause 9 has been voted on, it has been passed. So we are now on clause 10.

**MR. KENT:** We are.

**CHAIR:** The hon. Member for Mount Pearl North.

**MR. KENT:** I'll speak to clause 10. Given that we didn't get an opportunity to present our additional amendment on clause 9, I'll now propose another amendment to clause 10. It relates to the commission's report when it can't appoint three appointees. I'd like to speak to that now, Mr. Chair.

We just spent considerable time talking about the merit-based process. Sometimes the commission will not be able to recommend three appointees for a post. The current bill says when this happens the commission will have to report to Cabinet on its best efforts.

Once again, we've got a process that's shrouded in Cabinet secrecy. We believe the commission should report to the Speaker of the House and the report should be made public. The commission should be accountable to the people, and this is the people's House. So it just makes sense that rather than have that report go to Cabinet and be discussed behind closed doors, that there be discussion in this House.

Subclause 10(2) currently reads, "Notwithstanding paragraph (1)(b), where, in the opinion of the commission, it is not possible to recommend 3 persons for an appointment, the commission may recommend fewer than 3 persons but in that case it shall report to the Lieutenant-Governor in Council or minister, as appropriate, outlining its efforts to comply with paragraph (1)(b)."

I'm going to propose another amendment, Mr. Chair, that would delete "Lieutenant-Governor in Council or minister, as appropriate," and substitute "Speaker of the House of Assembly." Because if you want to take politics out of this, then the decisions can't continue to be made in secrecy behind closed doors in minister's offices or at the Cabinet table. That is the fundamental problem with this legislation. In various sections of the bill we've pointed it out. We're pointing it out again here in clause 10.

Our amendment would insert before the final period, the following words, "and the Speaker shall table a copy of it in the House of Assembly immediately after receiving it if the Assembly is sitting or, if it is not, the Speaker shall give a copy of the report to the Clerk of the House of Assembly and immediately after receipt of that report by the Clerk it shall be considered to have been tabled in the House."

The amended subclause would read: Notwithstanding paragraph (1)(b), where, in the opinion of the commission, it is not possible to recommend three persons for an appointment, the commission may recommend fewer than



three persons; but, in that case, it shall report to the Speaker of the House of Assembly, outlining its efforts to comply with paragraph (1)(b) and the Speaker shall table a copy of it in the House of Assembly immediately after receiving it if the Assembly is sitting or, if it is not, the Speaker shall give a copy of the report to the Clerk of the House of Assembly and immediately after receipt of that report by the Clerk it shall be considered to have been tabled in the House.

I need to note, Mr. Chair, because it's relevant to this amendment that I'm going to propose that there's a parallel amendment to clause 16 regarding the Public Service Commission. So I want to note this amendment's tabling provisions reflect the wording of the *Public Interest Disclosure and Whistleblower Protection Act* which is another piece of legislation in this House of Assembly.

That subsection reads: "The report shall be given to the Speaker, who shall table a copy of it in the House of Assembly within 15 days after receiving it if the Assembly is sitting or, if it is not, the Speaker shall give a copy of the report to the Clerk of the House of Assembly and after 15 days after receipt of that report by the Clerk it shall be considered to have been tabled in the House."

I point that out because the wording we're proposing here is along the lines of an amendment that was proposed by the Member for Burgeo – La Poile in the House in 2014 and it did pass. Ours is similar, but it's not identical because ours calls for the release immediately and not after 15 days. I could quote what was said at the time, but I don't feel it's necessary to go into all of that, depending on how the debate unfolds on this particular amendment.

We think there is precedence for this. Our provision regarding immediate tabling in the House does actually reflect wording that's also in the *Centre for Health Information Act* and it reads, "The report and statements referred to in subsection (1) shall be submitted to the Speaker of the House of Assembly and the Speaker shall table the report and statements in the House of Assembly immediately after receipt of the report by him or her or, where the House of Assembly is not then sitting, within 7 days after it resumes sitting."

Really what we're talking about is amalgamating those provisions here. I think there's sufficient precedence for this. Again, we're trying to address what happens when the commission's report is that it cannot recommend three appointees and then where that report goes from there.

Now that I've provided you with those references to the *Public Interest Disclosure and Whistleblower Protection Act* and the *Centre for Health Information Act*, I'll now read the amendment into the record and move the following amendment:

Subclause 10(2) of the bill is amended by deleting the words and commas "Lieutenant-Governor in Council or minister, as appropriate," and substituting the words "Speaker of the House of Assembly" and by adding immediately before the period at the end of the subclause a comma and the following: "and the Speaker shall table a copy of it in the House of Assembly immediately after receiving it if the Assembly is sitting or, if it is not, the Speaker shall give a copy of the report to the Clerk of the House of Assembly and immediately after receipt of that report by the Clerk it shall be considered to have been tabled in the House."

**CHAIR:** The Chair has received this amendment in advance and considered the amendment, and has found this amendment to be in order.

The hon. the Member for Mount Pearl North, to the amendment.

**MR. KENT:** Thank you, Mr. Chair.

I've outlined the rationale for the amendment. I won't repeat all of that. I'm glad that the amendment is in order. I think what we're proposing is a sensible change. It's about making this process more transparent, removing politics from it and having less decisions made behind closed doors in the Cabinet room and more decisions made in a process that's connected to this Legislature, to the people's House.

So I think establishing this role for the Speaker and making sure that the reports are issued and

provided in a timely fashion makes good sense. I won't prolong the matter. I think this is a sensible and reasonable amendment, and I ask for government's consideration.

Thank you.

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

**CHAIR:** The Chair recognizes the hon. the Member for the District of St. John's East – Quidi Vidi.

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

I don't have a lot to say because this is very straightforward, and I think it makes a lot of sense actually in terms of openness and transparency because when we read what 10(2) says, it says: "...the commission may recommend fewer than 3 persons but in that case it shall report to the Lieutenant-Governor in Council or minister, as appropriate, outlining its efforts to comply with paragraph (1)(b)."

What the report will be doing, it doesn't look like to me that it would be personal, naming people. We've had this discussion in second reading about we have to be careful about names being used. That was why we had it presented to us, and I actually agreed with it, that if a name goes in and it's rejected by government, it really would not be proper to release that name publicly.

But what's being talked about here is process; the commission recommending what it's gone through and why it has fewer than three persons. They definitely would not have to name names or anything, just the process. It could be as simple as they didn't have enough applicants or they didn't have enough applicants who had the background that was needed, et cetera.

I think from that perspective, it certainly is not a violation of confidentiality to do that kind of report. Based on that, I think the amendment that's being put forward really does make sense and I support it.

Thank you.

**CHAIR:** The Chair recognizes the hon. the Minister of Natural Resources.

**MS. COADY:** Thank you very much, Mr. Chair.

Thank you for the opportunity to speak to the amendment. I've listened very intently all night to a lot of discussion and a lot of amendments, a lot of changes proposed to this bill. I listened intently because I thought it was very important, and I've spoken to it a couple of times already. This bill really speaks to ensuring that we have a process to place the best, the most qualified candidates. It encourages some separation in making sure that we do not have a political lens on people being appointed to our boards, commissions and agencies, making sure that we do as best possible to have the right people of the boards, agencies and commissions that are so important to the people of the province.

Mr. Chair, what bothers me most is when we consider a process, when we consider how best to move forward and choosing people to sit on boards, agencies and commissions, we want to make sure that we have a process that's fair, that's equitable, that encourages people from around the province, that encourages diversity, that encourages people to be involved, that we have an ability to choose, then, from an array of people from around this province. We open up the process.

Far too often the former government for the last 12 years did a lot of this behind closed doors. I listened intently to the Member opposite when he kept saying behind closed doors. Mr. Chair, the intent is to throw open the doors, to ensure that we have a website collecting addresses, people's interests, people's resumes, people's involvement, people's information to ensure that we have a vetting, if you would, of all those who would be interested in being involved.

Mr. Chair, I think it's of concern to me, as an accredited corporate director, that opportunity to have the politics removed from this and the opportunity to ensure that we have some –

**CHAIR:** Order, please!

The Chair would just remind the hon. the minister that we are currently debating clause

10. Clause 10 is pertaining to the concept of if we are unable to appoint three persons to the board, what the process would be. We're debating the amendment around that. So I would ask the minister if she could try to bring the comments relevant to the amendment.

**MS. COADY:** Thank you very much, Mr. Chair.

My relevant point was the entire bill itself, including this proposed amendment, was – we felt the bill itself, the Independent Appointments Commission, did take politics out of it. I think in making the amendment it is just trying to layer another mechanism on top of that.

**CHAIR:** Order, please!

**MS. COADY:** I'll continue to listen to the debate, continue to listen to what they have to say on this very issue and perhaps they can change my mind, Mr. Chair. But my concern here is that we're layering on more provisions rather than trying to get to the heart of the matter, which is ensuring that we have the right process for agencies, boards and commissions.

Thank you, Mr. Chair.

**CHAIR:** The Chair recognizes the hon. the Member for the District of Mount Pearl North.

**MR. KENT:** Mr. Chair, we're not layering on anything. What we're talking about is taking this out of the Cabinet room and having an impartial process that's non-political, where there's a greater role for the House of Assembly to play. So I'm not sure what the minister is referring to.

What we're doing here is addressing the issue when the commission is not able to recommend three appointees for a post. If that happens, they report to Cabinet. We're saying there's a better way. We're saying make it public, report to the Speaker of the House. The commission should be accountable to the people. That's what we're saying. We're not adding an extra process. In fact, if it had to go through Cabinet to ultimately get publicly exposed at some point, well, that's additional layers.

We're saying skip all that. Skip the behind-closed-doors stuff; skip the smoke and mirrors

of pretending this is an impartial, independent process when all the decisions are still going to be made at the Cabinet table. Call it for what it is and if you're actually serious, then bring those kinds of recommendations, like the ones we're addressing here in subclause 10(2), directly to the House of Assembly.

I believe that's the right move. I believe there's precedent for it. I've pointed that out in two other pieces of legislation, so I'm disappointed to hear government ministers rise and speak against this. Passing this amendment would demonstrate some commitment to making this thing a little less political and a little bit more legitimate. I'm very saddened to hear the commentary that was just presented by the Minister of Natural Resources.

**CHAIR:** The Chair recognizes the hon. the Government House Leader.

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

I'm happy to stand and speak to section 10 and the amendment made by the Deputy Opposition House Leader. For those out there watching, when you look at section 10 basically what that's saying is that: "The commission shall, (a) together with the Public Service Commission, administer a merit-based process for appointments; and (b) recommend 3 persons for those appointments.

"(2) Notwithstanding paragraph (1)(b), where, in the opinion of the commission, it is not possible to recommend 3 persons for an appointment, the commission may recommend fewer than 3 persons but in that case it shall report to the Lieutenant-Governor in Council or minister, as appropriate, outlining its efforts to comply with paragraph (1)(b)." So I think in the amendment put forward by the Deputy Opposition House Leader, they're replacing LGIC or minister with Speaker of the House and then saying that the Speaker shall table a copy in the House after.

The first thing I would argue is that we're talking about a process here. Hopefully, I'd like to think that this will not be the situation where you have less than three appointments. I'm hoping that we have the interest for every position that's advertised publicly. Something that's never been done before.

I'm going to stay away from the Member opposite's commentary at the end of his last speech talking about it's saddening because it's so political. I'm going to stay away from that because I'm going to try to talk about the merit-based process we're working with here, and we're moving to something that they never had the time to do.

In this case, where the PSC doesn't get the three applications for a particular board or agency, so you will go to, whether it's the minister that's appropriate or the LGIC and say, look, we couldn't get the three persons so we need to ensure that it reported.

The amendment that has been put forward is that should now go to the Speaker, but the Speaker has nothing to do in terms of legislation. There's no responsibility for legislation and also is not responsible for appointments. So I fail to see why this amendment would make the legislation any stronger or any better. I certainly disagree with it.

I've sat here and listened to the amendments put forward. In fact, we supported one. Unfortunately, many of them were not approved, but in this case, this is not something that I think strengthens or makes the legislation any better. In fact, I think it is contrary to it.

The fact is we're moving to a process where the PSC – again, they're going to have policies set up similar to other provinces where it's open for applications. Everybody should apply. It's not based on who you know. It's based on if you have interest and go through the website and you see a position you might be interested in, you submit your application. A particular board, commission or agency may not get the prerequisite amount of interest to all for three qualified individuals. If that's the case that will be reported by the minister or the LGIC, whoever is appropriate.

I think that's the best you can do in the situation you have here. Having it reported to the Speaker, who again has no involvement in this, I don't think adds anything to it. Unless there are other comments, that would be our position on that particular amendment.

**CHAIR:** Seeing no further speakers to the amendment, we'll call the question.

All those in favour of the amendment as proposed?

**SOME HON. MEMBERS:** Aye.

**CHAIR:** Those against?

**SOME HON. MEMBERS:** Nay.

**CHAIR:** The amendment is defeated.

On motion, amendment defeated.

**CHAIR:** Shall clause 10 carry?

All those in favour, 'aye.'

**SOME HON. MEMBERS:** Aye.

**CHAIR:** Against?

**SOME HON. MEMBERS:** Nay.

**CHAIR:** Clause 10 is carried.

On motion, clause 10 carried.

**CLERK:** Clause 11.

**CHAIR:** Shall clause 11 carry?

The Chair recognizes the hon. the Member for the District of Mount Pearl North.

**MR. KENT:** I'll rise quickly, Mr. Chair, to make sure I don't miss my opportunity. I want to propose an amendment to clause 11. The issue I want to raise is about explicitly empowering the Public Service Commission to use experts to find candidates. This is another important consideration. I think we can improve upon clause 11 of Bill 1.

Clause 11 is about directing the Public Service Commission to support the commission in its work to find suitable candidates for positions. We believe there should be an explicit statement that the commission can rely on the Public Service Commission to use persons with expertise in finding suitable candidates for positions in particular fields of employment.

This statement reflects our belief that the process should look for the very best candidates to serve the people in the province.

We support the intent that was proposed here. The concept of finding the best people for the job and having a transparent process to appoint them makes good sense, but we don't feel that Bill 1 achieves that at all. Here we think there's an opportunity to make sure that the Public Service Commission and the Independent Appointments Commission does the best it can to get people with expertise to find the right people with the right skills and experience, and draw on the expertise of people in particular fields as necessary.

Subclause 11(1) reads: "The Public Service Commission shall support and advise the commission in the execution of its duties and the conduct of its business." Subclause 11(2) currently reads: "In addition to subsection (1), the Public Service Commission shall do those other things that are requested by the commission, where those things are required by the commission in the exercise of its duties under this Act."

What we want to do, Mr. Chair, is add the following words at the end of subclause 11(2), and I quote: "including using persons with expertise in finding suitable candidates for positions in particular fields of employment."

The amended subclause 11(2) would read: In addition to subsection (1), the Public Service Commission shall do those other things that are requested by the commission, where those things are required by the commission in the exercise of its duties under this act "including using persons with expertise in finding suitable candidates for positions in particular fields of employment."

Mr. Chair, for lots of the appointments, maybe you wouldn't need to go through that additional step of drawing on outside expertise. But when you look at the tier-one level appointments that are outlined in Bill 1, we're talking about some pretty significant positions with incredible levels of responsibility within the public service in our province, both inside government itself, but also within the agencies, the boards and commissions that government is ultimately responsible for.

This is not the most significant amendment we'll present by any means. While it may appear to be a very minor point, I think it's an important one and one that I would hope government can easily agree to, should you rule that the amendment is in fact in order.

Mr. Chair, I will move the following amendment: Subclause 11(2) of the bill is amended by adding immediately after the word "act" the words "including using persons with expertise in finding suitable candidates for positions in particular fields of employment."

**CHAIR:** The Chair had the opportunity to review this proposed amendment earlier and finds this amendment is in order.

The Chair recognizes the hon. the Government House Leader.

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

We've had an opportunity to listen to the Member opposite and review the amendment that was proposed. We see no issue with adding this to the legislation. We'll support this amendment.

**CHAIR:** The Chair recognizes the hon. the Member for St. John's East – Quidi Vidi, who was indeed on her feet first.

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

I'm glad to hear the Government House Leader say that they accept this amendment. I'd like to point out what I see as something really important, actually, in this clause along with the amendment.

"In addition to subsection (1), the Public Service Commission shall do those other things that are requested by the commission, where those things are required by the commission in the exercise of its duties under this Act" including using persons with expertise in finding suitable candidates for positions in particular fields of employment.

If, under its duties under this act, the commission were directed by the legislation to make sure that we have diversity in

appointments, then the commission would have the direction it would need to say to the Public Service Commission we need you to combine hiring by merit along with hiring by diversity. If the commission doesn't do that now and doesn't know how to do it, there are all kinds of people with expertise out there who know how to do that. One of the areas in which they could hire people with expertise to help getting suitable candidates would be people who have expertise in looking at how to hire based on merit but how to do that while also recognizing diversity.

I once again put that out to the minister and to all the Members of government to recognize the many, many places in this piece of legislation where they could make insertions that would bring in the diversity issue, and here it is. It's ripe for it because of the government saying they agree with the amendment. So find the expertise to help them do the right thing in this act.

Thank you, Mr. Chair.

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

**CHAIR:** Seeing no other speakers to the amendment, shall the amendment pass?

All those in favour?

**SOME HON. MEMBERS:** Aye.

**CHAIR:** Shall clause 11 pass?

All those in favour?

**SOME HON. MEMBERS:** Aye.

**CHAIR:** Against?

**SOME HON. MEMBERS:** Nay.

**CHAIR:** It's passed.

On motion, amendment carried.

**CHAIR:** Shall clause 11, as amended, carry?

All those in favour?

**SOME HON. MEMBERS:** Aye.

**CHAIR:** Against?

Clause 11, as amended, has now been carried.

On motion, clause 11, as amended, carried.

**CLERK:** Clause 12.

**CHAIR:** Shall clause 12 carry?

All those in favour?

**SOME HON. MEMBERS:** Aye.

**CHAIR:** Against?

Carried.

On motion, clause 12 carried.

**CLERK:** Clause 13.

**CHAIR:** Shall clause 13 carry?

The hon. the Member for the District of Mount Pearl North.

**MR. KENT:** Thank you, Mr. Chair.

I'd like to advise you that I'll be proposing three different amendments to clause 13. I'll speak to the first one first, which probably makes sense.

The issue is in subclause 13(1). It relates to reporting when Cabinet bypasses the commission in urgent circumstances, which is something we've talked about in second reading. While we were talking about clause 1 earlier today, we had an opportunity to raise that issue as well.

It relates back to paragraph (b) of subclause 9(2). I had hoped to present an amendment at that point in time. You'll recall that the way section 9(2)(b) currently reads, it states that the commission's merit-based process does not apply to "an appointment which, in the opinion of the Lieutenant-Governor in Council or the minister, as appropriate, must be made due to urgent or extenuating circumstances." So I'm glad I now have a chance to raise this issue related to urgent or extenuating circumstances.

That paragraph gives Cabinet the power to bypass the commission whenever the Cabinet determines that there are urgent or extenuating

circumstances. Had we had an opportunity, we would have talked about 9(2)(b) further because there should be a public announcement before such an appointment is made, and the appointment should last for a maximum of six months.

**CHAIR:** Order, please!

The Chair would remind the hon. Member for Mount Pearl North that we cannot reflect on a clause which has already been voted on and passed.

**MR. KENT:** This particular clause relates back to a previous clause, Mr. Chair. This clause 13(1) is specifically about reporting when Cabinet bypasses the commission in urgent circumstances. On subclause 13(1) it says there should also be reporting after, not just annual reporting but immediate reporting. That's the amendment we wish to present at this point in time.

Whenever the commission is bypassed so that an appointment can be made in urgent or extenuating circumstances, which will be simply determined by Cabinet, we believe public notice of that appointment should be issued immediately after to state which person was hired in these circumstances. This is about accountability. We don't believe Cabinet should simply make the decision that it's urgent or extenuating and not then be accountable for reporting on that in a timely fashion.

Subclause 13(1) currently states, "The minister responsible for the administration of this Act shall report annually to the Legislature those appointments exempted from the operation of this Act under the authority of paragraph 9(2)(b)." Our amendment adds at the end of the subclause: and shall give public notice of those appointments immediately after they have been made.

The amended subclause 13(1) would read: The minister responsible for the administration of this act shall report annually to the Legislature those appointments exempted from the operation of this act under the authority of paragraph 9(2)(b) and shall give public notice of those appointments immediately after they have been made.

A relatively minor change we're proposing but we think it does strengthen the legislation and puts a bit more accountability around this notion of urgent and extenuating circumstances that's referenced several times in the bill.

Mr. Chair, on that note, without prolonging the matter, I'll move the following amendment. Clause 13(1) of the bill is amended by adding immediately before the period at the end of the subclause the following: "and shall give public notice of those appointments immediately after they have been made."

**CHAIR:** The Chair has previously reviewed the amendment by the hon. Member and finds that the amendment is in order.

The Chair recognizes the hon. the Minister of Natural Resources.

**MS. COADY:** Thank you very much, Mr. Chair, to have the opportunity to speak to this amendment.

I'm listening all evening to my hon. colleague's debate and discourse around the changes required. He speaks frequently about the need for changes to this bill. He wants to have: "and shall give public notice of those appointments immediately after they have been made."

Mr. Chair, the only thing I can say is in looking at appointments that are made – most often in this environment in which we operate today with modern communications and the way people understand and know things, if an appointment is made, certainly something that is made urgently and with extenuating circumstances, it would normally be in the court of public opinion very quickly. I'm sure my hon. colleagues would hold this government to account very quickly. I'm sure that an order-in-council would be made and therefore would be made public. Is that –?

**AN HON. MEMBER:** Yes.

**MS. COADY:** I understand that would be done immediately, in any event, and that would be a public document. I don't know the merit of adding to an act to say it would be immediately known. An order-in-council would have to be made if this was done under urgent or extenuating circumstances.

Secondly, in today's modern world and modern communications, it would be known very quickly when an appointment is made. I'm sure if something of this nature is made, my hon. colleagues in the Opposition and in the Third Party would hold this government to account very quickly.

I'm not quite sure of the merit of this amendment, especially based on the fact that it would be known almost immediately. I suspect, Mr. Chair, that maybe this is just to ensure that we have lots of amendments to the bill. I don't know if it's meritorious when it already would be known publicly.

Thank you, Mr. Chair.

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

**CHAIR:** The Chair recognizes the hon. the Member for the District of Mount Pearl North.

**MR. KENT:** Mr. Chair, those comments are rather alarming coming from a minister who's supposed to be responsible for open government. What we're talking about is ensuring that in a timely fashion there's disclosure of when these appointments are made, when Cabinet bypasses its own set of rules and doesn't go through this process and simply makes an appointment because they believe it's urgent or there are extenuating circumstances.

Now, I'll acknowledge there will be times where there could be extenuating circumstances or a matter could be urgent. All we're saying is disclose that in a timely fashion. When we say immediately, that definitely has merit, Mr. Chair. In this day and age it's very easy to do that. It could be done online. It could be simply posted on a website. It doesn't require any kind of major public event for that disclosure to occur because if it stands as is, then it could be months before there's disclosure.

For the minister to suggest that it will somehow just be known anyway. Well, no, it won't be. So there's a need for some kind of process for disclosure. That's all we're asking for here.

I'm disappointed that the minister would take such a dismissive approach. We think this would strengthen the legislation. Frankly, I don't think

it's a big deal. This feels like it should be an easy one to address and fix. Let's give public notice of those appointments immediately after they have been made; immediately within reason, obviously.

Maybe they get posted to a website, for instance. We're not suggesting that government needs to take out a big ad in the paper or run ads on the airwaves but there needs to be some kind of process for disclosure.

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

**CHAIR:** Order, please!

**MR. KENT:** In the age of openness and transparency, I just think about how our access to information requests now get handled in short order and the results get posted online. Orders-in-council ultimately now get posted online. There are ways to do this. It's at very little cost and it can be done quickly. It doesn't need to wait months and months to happen.

I'm not sure why there would be such a concern from Cabinet ministers on this point. It feels like an easy one, Mr. Chair. I respectfully ask government Members to reconsider.

**CHAIR:** The Chair recognizes the hon. the Government House Leader.

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

I'm going to concur with the Member opposite when he said this is an easy one, because it is easy. The fact is any decisions made there will be an order-in-council. Those are posted online, easy access, usually done within days. So I don't know what the issue is actually coming from the Member opposite. There's going to be no delay here. This actually is routine business.

I understand the concern is: "and shall give public notice of those appointments immediately after they've been made." So the public component will be taken care of because orders-in-council are public, they are posted online. I don't think we'll be going the route of spending money to do ads anywhere. As long as they're put online I think that's acceptable and, certainly, I don't think there's going to be any



concern there. But if the concern is the public side of it, that is taken care of.

The second part is done after they've been made. Actually, the wording here says immediately, but I think he just said in his commentary that within a reasonable period of time as orders-in-council are done and they're supposed to be done. It is a routine business, so I think the concern expressed by the Member opposite is actually going to be done already with the bill as stated. That's why we will not be supporting the amendment because we think it's redundant.

Thank you.

**CHAIR:** The Chair recognizes the hon. the Member for the District of Mount Pearl North.

**MR. KENT:** Thank you, Mr. Chair.

I appreciate the commentary from the Government House Leader. While we don't agree on the point, I appreciate him taking the time to present a reasoned argument as to why he doesn't. So I respect that.

But 13(1) says that an annual report is needed. What we're saying in this amendment that we're presenting here tonight is that an immediate report is needed. The previous argument presented by the Minister of Natural Resources is that these matters will already be known. Well, why would you even need an annual report at that point?

We're simply saying let's disclose that information in the most timely fashion possible. An annual report isn't timely. Given this information is going to be readily available, finding a way to post it somewhere in short order makes good sense. Using the order-in-council example, the order-in-council won't – I'm not sure the order-in-council would necessarily indicate that the commission was bypassed. So simply referring to the orders-in-council when they get posted online doesn't really address this concern.

The annual report is about exceptions. An annual report isn't good enough, in our view. We think the reporting should be more immediate than that. That's why we're making this recommendation.

I respect the view of the Government House Leader, but I don't agree, and that's why I don't agree. I think there's a bigger issue here. That's why we've put forward this amendment. So once again I'd ask for consideration by government.

Thank you.

**CHAIR:** Seeing no further speakers to the amendment, shall the amendment carry?

All those in favour?

**SOME HON. MEMBERS:** Aye.

**CHAIR:** Against?

**SOME HON. MEMBERS:** Nay.

**CHAIR:** The amendment has been defeated.

On motion, amendment defeated.

**CHAIR:** Shall clause 13 carry?

The hon. the Member for the District of Mount Pearl North.

**MR. KENT:** Thank you, Mr. Chair.

As I said, I do have a couple more amendments to clause 13. Clause 13, much like a couple of other clauses we've discussed this evening, has a number of significant provisions that I think need to be fully debated and discussed in this House.

What we're proposing to do here is add subclauses 13(3) and 13(4). It has to do with reporting when Cabinet ignores the commission recommendations. So very much related to the previous issue raised related to subclause 13(1), but now we're proposing that two additional subclauses be added.

For the benefit of those that may be trying to follow all of this, clause 13 is about when reports are required. We believe there's additional reporting required. That's why we're suggesting two additional subclauses. The first pertains to the Appointments Commission recommendations.

If we go way back to second reading on this bill, I'd just like to remind people that there are two tiers of recommendations and two tiers of appointments here. What we've referred to as tier one are the ones that will actually be made by this Appointments Commission. The second pertains to the Public Service Commission recommendations, tier two.

**CHAIR:** Order, please!

Just for the clarification of the hon. Member, I realize you have two amendments, you're saying. Just so that you're aware, we would do them separately.

**MR. KENT:** Absolutely, yes.

**CHAIR:** So you will have to bring one forward. We'll have to recess, determine if it's in order and then we'll do the second one.

**MR. KENT:** Absolutely, yes. No problem at all, Mr. Chair. Thank you.

This first amendment is related to adding these two subclauses that I'm speaking of, which the first pertains to the commission's recommendations; and, the second pertains to the recommendations that will be made through the Public Service Commission process for those entities and those positions that don't get referred to the Independent Appointments Commission.

I have a separate amendment to clause 13, but I think that because these two subclauses are directly related to one another, it would make sense to propose them together as one amendment. I trust, Mr. Chair, that's okay. Or do you need me to move each subclause separately?

**CHAIR:** I've been advised that for the sake of clarity and so there's no confusion –

**MR. KENT:** We'll do each of them separately.

**CHAIR:** – and to make sure that they're in order and so on, you're better off to make them separately, one at a time. Right now you're proposing three and four. I understand there's going to be a subclause (5). Do all three of them separately, one at a time.

**MR. KENT:** Okay. No problem, Mr. Chair.

I'll speak first to subclause 13(3).

**CHAIR:** Correct.

**MR. KENT:** I won't need to repeat all of my commentary around it because 13(4) is going to be very much related.

These reports that we believe are needed are about all circumstances in which someone was appointed who was not recommended by the commission. So to speak to subclause 13(3) that we're proposing, we're talking about those tier-one appointments that relate to the so-called Independent Appointments Commission. We, again, believe those circumstances should be disclosed quickly and they should also be accounted for.

The first amendment I'll propose, Mr. Chair, then we'll do the second as you've suggested, is subclause (3) related to the tier-one appointments. What we're suggesting is that a subclause (3) be added that says, "The minister shall report immediately after an appointment is made and annually to the House of Assembly those appointments to entities listed in the Schedule that were not an appointment recommended by the commission."

Mr. Chair, I will move the following amendment, clause 13 of the bill is amended by adding immediately after subclause (2) the following: "(3) The minister shall report immediately after an appointment is made and annually to the House of Assembly those appointments to entities listed in the Schedule that were not an appointment recommended by the commission."

**CHAIR:** The Chair shall take a brief recess to consider the amendment and then report back.

The Committee is now in recess.

### Recess

**CHAIR:** Order, please!

The Chair has considered the amendment as proposed by the hon. the Member for the District

of Mount Pearl North and finds the amendment to be in order.

The Chair recognizes the hon. the Member for the District of Mount Pearl North.

**MR. KENT:** Thank you, Mr. Chair.

I appreciate your consideration. Just because I suspect we'll shortly vote on this, I want to remind hon. Members of what we're proposing here.

It's about reporting. By adding subclause 13(3), we're talking about recommendations that are coming from the Appointments Commission. These reports are about circumstances in which someone was appointed who was not recommended by the commission. We believe that should be disclosed immediately and should also be accounted for in the annual reports.

We're simply adding a subclause that says: "The minister shall report immediately after an appointment is made and annually to the House of Assembly those appointments to entities listed in the Schedule that were not an appointment recommended by the commission."

It's fairly straightforward. I won't prolong discussion, Mr. Chair. I've made my points and certainly ask for government's consideration of what I think is a reasonable amendment.

**CHAIR:** Do we have any further speakers to the amendment?

Seeing none, shall the amendment carry?

All those in favour?

**SOME HON. MEMBERS:** Aye.

**CHAIR:** All those against?

**SOME HON. MEMBERS:** Nay.

**CHAIR:** The amendment has been defeated.

On motion, amendment defeated.

**CHAIR:** The hon. the Member for the District of Mount Pearl North.

**MR. KENT:** Thank you, Mr. Chair.

I'm disappointed that amendment was defeated. I'll propose an additional amendment. I had mentioned previously that we were going to propose subclause 13(3) and subclause 13(4). Well, subclause 13(3) just didn't get approved, so I'm going to propose a new 13(3) which was my 13(4). I think you're following me here.

So the new subclause (3) I would like to propose relates to the recommendations from the Public Service Commission for the tier-two appointments, for those appointments that won't go through this Liberal Appointments Commission but go through a Public Service Commission process.

The language we're proposing now for subclause (3) is: "The minister shall report immediately after an appointment is made and annually to the House of Assembly those appointments included in Schedule C of the *Public Service Commission Act* that were not an appointment recommended by the Public Service Commission."

This is about accountability and transparency. It's about immediately disclosing those instances where these processes aren't followed. This additional reporting is not a big burden. It doesn't really cost anything. It's just about making the whole process a little bit more legitimate, hopefully, and more transparent.

Mr. Chair, I'm adjusting it based on the failure of the previous amendment.

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

**CHAIR:** Order, please!

**MR. KENT:** I'm moving the following amendment. Clause 13 of the bill is amended by adding immediately after subclause (2) the following: "(3) The minister shall report immediately after an appointment is made and annually to the House of Assembly those appointments included in Schedule C of the *Public Service Commission Act* that were not an appointment recommended by the Public Service Commission."

Thank you.

**CHAIR:** The Chair has previously reviewed the amendment and finds this amendment also to be in order.

Do we have any speakers to the amendment?

The hon. the Member for the District of Mount Pearl North.

**MR. KENT:** Just quickly, Mr. Chair, I'm not interested in prolonging it unnecessarily. For the reasons I previously outlined, this is just about improving reporting.

These reports we're asking for address a circumstance where somebody is appointed who wasn't recommended. Having that disclosed in a timely fashion, if we're actually committed to having a process with accountability and transparency, then it just makes good sense.

I've made my arguments; I won't prolong them. Unfortunately, the previous amendment was voted down. I fear this one will be as well. But I believe it's the right thing to do and I think it improves upon this flawed legislation. I hope government will reconsider, Mr. Chair.

**CHAIR:** Seeing no further speakers to the amendment, shall the amendment carry?

All those in favour?

**SOME HON. MEMBERS:** Aye.

**CHAIR:** Those against?

**SOME HON. MEMBERS:** Nay.

**CHAIR:** The amendment has been defeated.

On motion, amendment defeated.

**CHAIR:** Do we have any further speakers?

The hon. the Member for the District of Mount Pearl North.

**MR. KENT:** Thank you, Mr. Chair.

Originally we were going to add a subclause 13(5). So now we're going to propose subclause 13(3) once again, as our proposed subclauses

13(3) and 13(4) didn't pass. This is about the merit principle.

In light of the previous amendments failing, I may need to make a slight adjustment here to the proposed amendment. Let me walk you through our rationale for proposing an additional subclause and then we'll work through the amendment process.

Clause 13, which we're spending some time on here this evening, is as significant in some ways as clause 3. It's about when reports are required. We believe that yet another report is required here.

The merit principle is at the heart of this legislation. It's actually included in the long title of the legislation. We believe there should be independent annual review of all tier-one appointments to determine if the merit principle was respected.

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

**CHAIR:** Order, please!

**MR. KENT:** Thank you, Mr. Chair.

I believe there will actually be an amendment required to another clause later under clause 19 regarding tier-two appointments. But for now we'll address the tier-one appointments that are handled by the Appointments Commission.

Our amendment adds the following new subclause at the end of clause 13, which would now be subclause 13(3): "The Public Service Commission must conduct an annual review of all appointments to entities and statutory appointments listed in the Schedule to determine if the merit principle was respected and its review shall form a part of the report made under this section."

We want to ensure that this merit principle, which is key to the whole legislation, is upheld. Having the Public Service Commission review that annually and provide some commentary on that helps ensure that.

This relates to some legislation that exists in other provinces that I feel is relevant at this point in time to draw your attention to and draw

Members' attention to, Mr. Chair. Government has repeatedly suggested that this is the first example of an independent, merit-based appointments process in Canada. I don't believe that notion is accurate. In fact, Ontario has had an independent appointments commission for decades. The merit principle does actually factor in here.

Ontario has had a Standing Committee on Government Agencies since 1978. The function initially was to select and review a small number of agencies, boards and commissions each year, but then that standing committee in 1990 was given a fresh mandate that took effect at its meeting, I think, early in 1991. So we're going back 25 years.

The mandate of that committee in Ontario reflected the recommendations of an all-party committee report in 1986. The reason I'm raising that, Mr. Chair, is that the committee now reviews intended appointees to agencies, boards and commissions and of directors to the corporations in which the Crown in right of Ontario is majority shareholder. Intended appointees may be requested to appear before the committee to discuss their qualifications. The committee reports back to the legislature on whether or not it concurs with the intended appointments.

A discussion of qualifications is all about merit. It's about making sure the right people get appointed for the right reasons. There's precedent for what's being proposed here in Bill 1, we just don't feel government is going about it the right way. This additional accountability related to ensuring the merit principle is followed is a really critical change that we hope government will consider.

When Ontario went down that road there were over 5,000 appointments to be considered by the committee. Complementing the work of the standing committee, Ontario actually has a Public Appointments Secretariat. The mission of that secretariat is to ensure the most qualified men and women having the highest personal and professional integrity serve the public on the province's provincial agencies and other entities. Persons selected to serve must reflect the true face of Ontario in terms of diversity and regional representation.

Diversity and regional representation; that ties directly into the provisions related to merit and qualifications as we were reflecting on earlier. The government has committed itself to a more open and transparent system for filling the positions on the province's provincial agencies and other entities. So maybe Bill 1 is not as groundbreaking as some would have you believe, Mr. Chair.

All appointments, order-in-council and ministerial letter are made following a recruitment and review process supported by the Public Appointments Secretariat. Ontario has an *Adjudicative Tribunals Accountability, Governance and Appointments Act* which enforces the competitive, merit-based process. In order to ensure adjudicative tribunals are accountable, transparent and efficient in their operations, while remaining independent in their decision making.

Mr. Chair, while we're discussing this, Ontario is not the only province to appoint based on merit. In British Columbia's *Public Service Act*, Part 2, you'll find a position called the merit commissioner. There's really good precedent across the country for what we're talking about here this evening when it comes to making the merit principle stronger.

In that *Public Service Act* in BC, before you get to Part 2, you'll notice that the act applies "to any board, commission, agency or organization of the government and its members or employees, to which the Lieutenant Governor in Council declares this Act, or a provision of this Act, to apply." The merit commissioner in BC is an officer of the legislature and must faithfully, honestly and impartially exercise the powers and perform the duties of the office.

What we're trying to do here tonight through these amendments, Mr. Chair, is bring that same level of accountability to our process here in Newfoundland and Labrador by involving the Legislature. I know my time is running short.

**MR. KIRBY:** Talk about Alberta.

**MR. KENT:** Talk about Alberta – the Minister of Education would like me to talk about Alberta. I will stand after proposing my

amendment and I'm happy to speak about Alberta as well. That's not a problem.

For right now, I'd like to propose the amendment while time still allows and then we can debate it further. There may be other people who wish to say a few words about this amendment that I'm proposing.

The amendment is as follows, Mr. Chair. I move the following amendment: Clause 13 of the Bill is amended by adding immediately after subclause (2) the following: "(3) The Public Service Commission must conduct an annual review of all appointments to entities and statutory appointments listed in the Schedule to determine if the merit principle was respected and its review shall form a part of the report made under this section."

**CHAIR:** Okay, the Chair had an opportunity to review the proposed amendment prior to the Member reading it here in the House of Assembly and the Chair rules that the amendment is in order.

The Chair recognizes the hon. the Member for the District of Mount Pearl North.

**MR. KENT:** Thank you, Mr. Chair.

**CHAIR:** On the amendment.

**MR. KENT:** I'm speaking to the amendment. I'm glad that it is in order. I was talking about British Columbia. I'd like to finish that thought. Then, at the request of the Minister of Education, I'm happy to talk about some of the things that are going on in Alberta as well.

In BC, like I said, the merit commissioner is an officer of the legislature. The Legislative Assembly must not recommend an individual to be appointed as merit commissioner unless a special committee of the Legislative Assembly has unanimously recommended to the Legislative Assembly that the individual be appointed.

What that means is for that merit commissioner to be put in place in British Columbia, all parties in that legislature have to work together and support the appointment of that person. The changes we're trying to make to uphold that

merit principle are very much in line with what's happening in a couple of other jurisdictions in this country.

The merit commissioner in BC is responsible for monitoring the application of the merit principle under the act by conducting random audits of appointments to and from within the public service to assess whether the recruitment and selection processes were properly applied to result in appointments based on merit; and the individual, when appointed, possessed the required qualifications for the positions to which they were appointed –

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

**CHAIR:** Order, please!

**MR. KENT:** Thank you, Mr. Chair

– and reporting the audit results to the deputy ministers or other persons having overall responsibilities for the ministries, boards, commissions, agencies or organizations, as the case may be, in which the appointments were made.

That's a great example of merit review that's happening in British Columbia. We should learn from it. This legislation isn't groundbreaking, Mr. Chair. We've got clear precedent for this kind of approach in Ontario and in British Columbia as well. What we're talking about through this amendment is strengthening the merit principle and ensuring accountability around the merit principle. So we should learn from what has happened in other jurisdictions.

I think I've outlined the arguments, but I will comment on what's going on in Alberta. According to the Throne Speech that was on March 8 in Alberta, there's a report coming of the all-party special committee on ethics and accountability. The new Alberta government announced its intention to introduce the reform of agencies, boards and commissions act.

In September 2014, the previous premier of Alberta also committed to merit-based appointments. So they haven't progressed as far as British Columbia or Ontario. Clearly, they don't have the same kind of history and experience with this, but other jurisdictions in

Canada are attempting to explore what we're talking about here this evening.

An annual review of the merit principle makes sense. We think this amendment, adding an additional subclause in clause 13 makes good sense. I hope that hon. Members will support subclause 13(3) that we've proposed through this amendment because it's all about respecting and upholding that merit principle that government says is important and that they believe in. So here's an opportunity to put your money where your mouth is, so to speak.

Thank you, Mr. Chair.

**CHAIR:** Seeing no further speakers, we call the question on the amendment.

All those in favour of the amendment?

**SOME HON. MEMBERS:** Aye.

**CHAIR:** Against?

**SOME HON. MEMBERS:** Nay.

**CHAIR:** The amendment has been defeated.

On motion, amendment defeated.

**CHAIR:** Shall clause 13 carry?

All those in favour?

**SOME HON. MEMBERS:** Aye.

**CHAIR:** Against?

**SOME HON. MEMBERS:** Nay.

**CHAIR:** Carried.

On motion, clause 13 carried.

**CLERK:** Clause 14.

**CHAIR:** Shall clause 14 carry?

All those in favour?

**SOME HON. MEMBERS:** Aye.

**CHAIR:** Against?

**SOME HON. MEMBERS:** Nay.

**CHAIR:** Carried.

On motion, clause 14 carried.

**CLERK:** Clause 15.

**CHAIR:** Shall clause 15 carry?

The hon. the Government House Leader.

**MR. A. PARSONS:** Yes, Mr. Chair, I just wanted to stand for a moment and speak to section 15 of Bill 1. As it stands, section 15, for the interest of those watching: When the House of Assembly is not in session, the Lieutenant Governor in Council may, by order, amend the Schedule, but the order shall not continue in force beyond the end of the next sitting of the House of Assembly.

The good news is that after speaking to this piece of legislation over the last two months – it was brought forward in March – we have had a number of people that have spoken to us. They've contacted us and expressed interest and had suggestions.

At this point what I'd like to do is I actually have an amendment that I would move. It's saying: Clause 15(1) of the Bill is amended by adding immediately after the word "Schedule" the words "by adding to it but not deleting from it." I would move that amendment.

**CHAIR (Dempster):** The hon. the Government House Leader has proposed an amendment. This House will take a brief recess to consider the amendment.

### Recess

**CHAIR:** The Government House Leader proposed an amendment to subclause 15(1). The amendment is ruled in order.

The hon. the Member for Mount Pearl North.

**MR. KENT:** Thank you, Madam Chair.

I want to speak in support of the amendment that's been proposed by the Government House Leader. In fact, one of the amendments that we

mentioned earlier today and circulated copies of is basically the same amendment. This one is worded a little differently, perhaps better. I don't know. But the intent is exactly the same as the amendment that we were going to bring forward to subclause 15(1).

I want to speak to why I believe this amendment is important. Subclause 15(1) of the bill would give Cabinet the power to amend the Schedule of the commission's act when the House is not sitting. As this amendment reflects, that's fine if Cabinet is adding bodies to the Schedule and subjecting more government bodies to this process. But we had a real concern if Cabinet intended to remove a body from the Schedule. Then it wouldn't be fine.

A body that is removed from the Schedule wouldn't be subject to appointments through the Appointments Commission using a merit-based process if this stood without the amendment. That would violate the principle of the *Independent Appointments Commission Act*.

Cabinet shouldn't have the discretionary power to remove a body from the Schedule. I'm pleased to see that government has acknowledged that and brought forward an amendment considered essentially the same as the one we would have proposed.

I have no problem with the wording as it's proposed. It achieves exactly the outcome we were hoping for with our proposed amendment. I'm simply rising to speak in support of the amendment that has been proposed by government.

**CHAIR:** Seeing no further speakers, we'll call the vote on the amendment to subclause 15(1).

All those in favour?

**SOME HON. MEMBERS:** Aye.

**CHAIR:** All those against?

Carried.

On motion, amendment carried.

**CHAIR:** Shall clause 15, as amended, carry?

All those in favour?

**SOME HON. MEMBERS:** Aye

**CHAIR:** All those against?

**SOME HON. MEMBERS:** Nay.

**CHAIR:** Carried.

On motion, clause 15, as amended, carried.

**CLERK:** Clause 16.

**CHAIR:** Shall clause 16 carry?

The hon. the Government House Leader.

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

Moving on to the next section here, section 16 states: "The minister responsible for the administration of this Act shall, every 5 years, perform a review of this Act and consider the areas in which it may be improved and report his or her findings to the Lieutenant-Governor in Council."

We are going to propose an amendment. I will acknowledge the fact that the Member of the Opposition did have an amendment for 16. I believe they are very similar in intent but I think this one may be worded a little more clearly. I will read it. They'll have an opportunity to speak to it, but I believe it has the same intent.

The amendment I would move is that clause 16 of the bill is amended by renumbering it as clause 16(1) and by adding immediately after that clause the following: "(2) Within 3 days of the submission of the report under subsection (1) the minister shall (a) table the report in the House of Assembly; or (b) where the House of Assembly is not then sitting, table the report as if it were a report of an officer of the House of Assembly under section 19.1 of the *House of Assembly Act*."

I believe this accomplishes the goal that's set out in the clause 16 amendment. I think it's the same intent but I do think it may be worded – having the benefit of having some staff that are able to look at it, so I think it does carry the same intent.



But I look forward to comments by the Member opposite.

**CHAIR:** The Chair has had an opportunity to review the amendment proposed by the Government House Leader for clause 16. We will give the Opposition and Third Party a moment to review the amendment proposed by the Government House Leader.

**AN HON. MEMBER:** (Inaudible) rule if it's in order.

**CHAIR:** I'm about to make a ruling.

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

**CHAIR:** Okay, we'll try again. It's getting late.

The Government House Leader proposed an amendment to clause 16. The Chair has had a chance to review and has ruled the amendment in order.

The hon. the Member for Mount Pearl North.

**MR. KENT:** Thank you, Madam Chair.

I'm just making sure my light is on.

I appreciate the Government House Leader's comments. I really do appreciate the fact that government has considered these couple of amendments and brought back wording that is acceptable to government in the proper form, and still addresses the concerns that we've raised.

As we just did with clause 15, an amendment that we had suggested was brought forward by government in a form that was suitable to government. I believe that's exactly what's happening here as well. I gather from the Government House Leader's comments that he feels the wording as now proposed in their amendment is very similar, and the intent is the same as what was in our proposed amendment to clause 16. So I accept that and I appreciate the fact that government is considering these suggestions that we've brought forward.

This amendment to clause 16 requires the report of the review of the act to be tabled within three days of its submission. In our amendment we

had approached it slightly differently, but I think the intent is much the same. We basically wanted to ensure the five-year review went to the House of Assembly for release as quickly as possible.

I'll just speak to it very briefly without spending too much time on it, because I think we are in agreement. Clause 16 of the bill requires a review of the act every five years. The problem we saw was that this review would go to Cabinet. We felt it should instead be given to the people of the province through the Speaker of the House. This bill is supposed to be about independence, so let the people see the review to determine whether government's performance measures up.

I know certainly in the media, and perhaps in the House as well, the Government House Leader has said we'll be accountable by our actions. The more reporting and the more transparency, the more public disclosure, the better people will be able to determine whether government's performance measures up.

So I think these changes make sense, and for that reason I'm prepared to support the government's proposed amendment, which is basically the same as our amendment, just differently worded. I appreciate the co-operation from government and from the Government House Leader.

**CHAIR:** Seeing no further speakers, we'll call the vote on clause 16, the amendment.

All those in favour?

**SOME HON. MEMBERS:** Aye.

**CHAIR:** All those against?

Carried with amendment.

On motion, amendment carried.

**CHAIR:** Shall clause 16, as amended, carry?

All those in favour?

**SOME HON. MEMBERS:** Aye.

**CHAIR:** All those against?

Carried.

On motion, clause 16, as amended, carried.

**CLERK:** Clause 17.

**CHAIR:** Shall clause 17 carry?

All those in favour?

**SOME HON. MEMBERS:** Aye.

**CHAIR:** Those against?

Carried.

On motion, clause 17 carried.

**CLERK:** Clause 18.

**CHAIR:** Shall clause 18 carry?

All those in favour?

**SOME HON. MEMBERS:** Aye.

**CHAIR:** All those against?

Carried.

On motion, clause 18 carried.

**CLERK:** Clause 19.

**CHAIR:** The hon. the Member for Mount Pearl North.

**MR. KENT:** Thank you, Madam Chair.

We're getting near the end of Bill 1. I probably shouldn't say that prematurely, but we are. There are only so many clauses. There are several amendments that I'd like the House to consider related to clause 19. Beyond that, we will discuss the Schedule and the long title, but we have made our way through most of the bill in the past number of hours here in the House of Assembly.

Getting right down to business again, we're going to be proposing an amendment to subclause 19(4). I want to highlight for the House that it relates to the *Public Service Commission Act* subsection 21(3). It's about

bypassing the commission in urgent circumstances, which is an issue that has come up several times during this debate.

The amendment that we're going to propose here is parallel to an amendment we wish to propose to subclause 9(2)(b). It's about what happens when Cabinet declares the circumstances to be urgent or extenuating in order to bypass the merit-based process.

An amendment we were hoping to address previously related to tier-one appointments. This one, in subclause 19(4), relates to Public Service Commission tier-two appointments. So if Cabinet can bypass the process at will, then where is the independence? It goes back to that problem that's really at the heart of all of this from our perspective. It makes a mockery of the principle of the bill when the Cabinet has so much discretionary power to bypass its own legislation and appoint at will.

This amendment to 19(4) affects subsection 21(3) of the *Public Service Commission Act*. Here's how subsection 21(3) in the *Public Service Commission Act* reads: "Where an appointment is made further to urgent or extenuating circumstances as referred to in paragraph (2)(b), the circumstances of that appointment shall be included in the report required under section 17."

Our amendment adds immediately after the words "in paragraph (2)(b)" the following words: "and provided that the minister has first made a public announcement of the proposed appointment and that appointment is not more than 6 months unless the appointment has been confirmed through a merit-based process."

The amended subsection 21(3) would read: Where an appointment is made further to urgent or extenuating circumstances as referred to in paragraph (2)(b), and provided that the minister has first made a public announcement of the proposed amendment and that amendment is not more than six months unless the appointment has been confirmed through a merit-based process, the circumstances of that appointment shall be included in the report required under section 17.

In other words, Madam Chair, before Cabinet can make a tier-two appointment that bypasses the Public Service Commission in what Cabinet would call urgent or extenuating circumstances, there must first be a public announcement that the process will be bypassed because of urgent or extenuating circumstances. Also, the appointment should not be for more than six months unless the appointment is subject to an actual merit-based process.

We proposed a related amendment to subclause 13(1) that wasn't successful to require reports on these exceptions immediately after they're made and annually. That's what we're trying to – we're trying to put some more rigor around those instances where the commission is bypassed in urgent circumstances, and ensure more transparency and accountability around that.

I hope that's clear. It's one of the wordier amendments, I guess, that we'll be presenting. If Cabinet plans to make appointments that bypass the commission in those urgent and extenuating circumstances that has to be revealed publicly. The appointments should only be for a specific period of time if there hasn't been some kind of merit-based process.

I'll move the following amendment, Madam Chair: Subclause 19(4) of the bill is amended at the proposed paragraph 21(3) to the *Public Service Commission Act* by adding immediately after the words "in paragraph (2)(b)" the following words "and provided that the minister has first made a public announcement of the proposed appointment and that appointment is not more than 6 months unless the appointment has been confirmed through a merit-based process."

**CHAIR:** The hon. Member for Mount Pearl North has made a motion to propose an amendment to subclause 19(4). The House will now recess briefly to consider the amendment.

### Recess

**CHAIR:** Order, please!

The Member for Mount Pearl North proposed an amendment to subclause 19(4). The Chair has ruled the amendment in order.

The hon. the Member for Mount Pearl North.

**MR. KENT:** Thank you, Madam Chair.

I'm glad the amendment is in order. I won't speak further to it. I've made the arguments as to why I think this is a sensible amendment and I'm hoping government will see fit to support this amendment.

Thank you.

**CHAIR:** Seeing no further speakers, shall the amendment carry?

All those in favour?

**SOME HON. MEMBERS:** Aye.

**CHAIR:** All those against?

**SOME HON. MEMBERS:** Nay.

On motion, amendment defeated.

**CHAIR:** Shall clause 19 carry?

The hon. the Member for Conception Bay South.

**MR. PETTEN:** Thank you, Madam Chair.

It's good to get up and speak on this section 19. My colleague for Mount Pearl North has been carrying today on this, and doing a great job I might add.

As we've just seen, this amendment is in order. The bill is amended at the proposed – to the *Public Service Commission Act* by adding immediately after the words: "and provided that the minister has first made a public announcement of the proposed appointment and that appointment is not more than 6 months unless the appointment has been confirmed through a merit-based process."

We're glad to see that amendment has been found to be in order. I pass it back over to my colleague to carry on with his next amendment.

**CHAIR:** The hon. the Member for Mount Pearl North.

**MR. KENT:** Madam Chair, the amendment that was found in order was defeated. So we're now back to debating clause 19, is that correct?

**CHAIR:** Yes, correct.

**MR. KENT:** Okay, thank you.

Just to make sure we're in the same place. Thank you.

On that note, I'd now like to propose an additional amendment to clause 19. It's to add subsection 21(4) to the *Public Service Commission Act*. But I now believe that would be 21(3) because if the previous amendment failed, then this one would actually be 21(3).

Does that make sense, Madam Chair? I'm pausing just to make sure we're in the same place here.

**CHAIR:** No, I think we have a discrepancy here, I say to the hon. Member.

We'll just have a look at the amendment you have there.

**MR. KENT:** Okay.

**CHAIR:** Just pause for a moment.

The hon. Member for Mount Pearl North.

**MR. KENT:** Madam Chair, I think now we're on the same page. We just want to make sure we get it right. It's a little more complicated in this instance because we're proposing a series of amendments to clause 19. Because government just voted down our first proposed amendment, we now need to make some adjustments to the next amendment.

That's where we are right now. I think we've got that sorted out. We're going to propose a new subsection 21(3) to the *Public Service Commission Act*. We're proposing an amendment to subclause 19(4) of Bill 1.

This amendment is parallel to an earlier amendment we proposed this evening. It's about the annual review of the merit principle. It's purpose is to require an annual review to ensure the merit principle was respected in tier-two

appointments that should go through the Public Service Commission's merit-based appointments process.

It's about what happens when Cabinet declares the circumstances to be urgent or extenuating in order to bypass the merit-based process. So very similar to some other amendments that we've proposed.

What we want to do now, in light of the previous amendment failing, is amend subclause 19(4) to add subsection 21(3) to the *Public Service Commission Act*. Here's how the new subsection 21(3) would read –

**AN HON. MEMBER:** Subsection 21(4).

**MR. KENT:** It is subsection 21(4). Okay, I apologize. We're just having a little bit of confusion with the numbering here, Madam Chair, just because of the multiple amendments to the same section.

I'm sorry; it's subsection 21(4) that we're proposing to add. Subsection 21(4) would read as follows: "(4) The Public Service Commission must conduct an annual review of all appointments to entities and statutory appointments listed in Schedule C to determine if the merit principle was respected and its review shall form a part of the report made under section 17."

So let me just tell you what section 17 in the *Public Service Commission Act* says: "The chairperson shall, following the end of each financial year of the government, make a report to the minister of the transactions and affairs of the commission during the immediately preceding financial year, and the minister shall lay the report before the Legislature within 15 days after it is submitted to him or her if the Legislature is then sitting, and, if it is not sitting then within 15 days after the beginning of the next session."

If we are aligned here, the original amendment that I was going to propose, the numbering will still work as it was originally proposed. I'm going to move the following amendment, Madam Chair. Subclause 19(4) of the bill is amended at the proposed section 21 to the *Public Service Commission Act* by adding after

subsection (3) the following: “(4) The Public Service Commission must conduct an annual review of all appointments to entities and statutory appointments listed in Schedule C to determine if the merit principle was respected and its review shall form a part of the report made under section 17.”

**CHAIR:** The Chair has had a chance to review the amendment and has ruled it in order.

The hon. the Government House Leader.

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

I’m hoping that I have this right. There was a little bit of confusion here with this one. I think the amendment as entered by the Deputy Opposition House Leader was to change clause 19(4) and the amendment would now say: “The Public Service Commission must conduct an annual review of all appointments to entities and statutory appointments listed in Schedule C to determine if the merit principle was respected and its review shall form part of the report made under section 17.”

Looking at this piece of legislation, in case people were wondering, the Schedule C that is referred to is towards the back; Schedule C lists a number of entities which we would refer to as tier-two entities. There is tier one and there’s tier two. Again just so people understand how tier two works, tier two will still go through the Public Service Commission. People will have the opportunity to apply, to put their name forward and it is screened. The Public Service Commission puts forward names to – in this case, though, it doesn’t go to the Independent Appointments Commission; it goes to the minister that would make the decision.

Currently, as it stands, under the process that’s currently in place, there’s nothing whatsoever. A minister can appoint who they want regardless. There’s nothing in place. In many cases, there’s often no notice given; it’s just you fill the position based on what’s available. I can say that a number of them are available.

I guess the issue I have here is that basically the Public Service Commission is being asked to do an annual audit on themselves. They’re saying they must conduct an annual review of all

appointments. In this case, any appointments made to this have to come through the Public Service Commission.

So the Public Service Commission is the one that’s putting them forward. It’s up to a minister to take these names and apply. It’s not about going outside of this. If there is an exception made to this, it goes back to the other sections here where there’s notice having to be provided and tabled in the House.

I certainly don’t think the PSC needs oversight of themselves. I don’t think that this subsection is necessary. I understand where the Member was trying to get with it, but don’t think it’s necessary.

Thank you.

**CHAIR:** The hon. Member for Mount Pearl North.

**MR. KENT:** Thank you, Madam Chair.

I appreciate the Government House Leader’s comments. This is another one where we’ll probably have to agree to disagree. Even if the Public Service Commission is reviewing appointments that it’s been involved in, an annual review to confirm that the merit principle has been upheld, even if it’s an internal review, we still think has value.

Making sure that the merit-based appointments process is maintained makes a lot of sense. What we’re talking about here, particularly times when Cabinet declares the circumstances to be urgent or extenuating in order to bypass that merit-based process.

I respectfully disagree with the Government House Leader’s view on this one. We do feel this additional step to ensure the merit principle is upheld has merit. I won’t prolong it. I’ve made my arguments. We think this is a good amendment.

Unfortunately, we see this differently. But an internal review by the Public Service Commission to ensure that the merit principle is being upheld is something that we feel is valuable and would improve this legislation.

Thank you.

**CHAIR:** Seeing no further speakers, shall the amendment carry?

All those in favour?

**SOME HON. MEMBERS:** Aye.

**CHAIR:** All those against?

**SOME HON. MEMBERS:** Nay.

**CHAIR:** The amendment is defeated.

On motion, amendment defeated.

**CHAIR:** Shall clause 19 carry?

The hon. Member for Mount Pearl North.

**MR. KENT:** Thank you, Madam Chair.

I thank the Minister of Business, Tourism, Culture and Rural Development for his enthusiastic support one moment ago. He should note as well that I always get the name of his department right. I guess I should as his critic, but it's a complicated department name that many mishandle but even at this hour we've got it right.

I do have one more amendment to propose to clause 19, which we're now debating. It's unfortunate that our previous two amendments have failed. So we'll move on to a different issue now. Previously, we were talking about urgent or extenuating circumstances and an annual review of the merit principle, but now we want to talk about expanding the commission's Schedule.

We were just talking about the Public Service Commission and its role in all of this. Our belief is that more public bodies should be subject to the new commission and the merit-based process. Even though a number of our significant concerns with the commission process haven't been addressed, if there's going to be a commission then we feel more bodies should actually be subject to the commission and its process.

The Independent Appointments Commission tier-one bodies are listed in the Schedule at the end of this bill. They include a couple of entities and dozens of statutory appointments. The Public Service Commission tier-two bodies are listed in subclause 19(5) which proposes to add a Schedule C to the *Public Service Commission Act*. It includes 30 entities and dozens of statutory appointments.

What we're proposing here, Madam Chair, is quite simple. We want to take the entities from the Public Service Commission Schedule and add them to the Independent Appointments Commission Schedule, and in order to do that we need two amendments; one to remove them from one place and another to add them to another place.

This first amendment I'm introducing is removing entities from the *Public Service Commission Act*, Schedule C. The amendment will read: Subclause 19(5) of the bill is amended at the proposed Schedule C by deleting the heading "Entities" and the items under that heading.

This is one amendment, and I will be proposing a further amendment to the Schedule that will add those entities back in under the Schedule for the Appointments Commission. What we're doing here is simply taking out the list from under the Public Service Commission and putting it under the Independent Appointments Commission but that will require a second amendment that I can't do in the same amendment – just to be clear on what we're doing here.

There's a long list of those entities that we're talking about. I could read them all, Madam Chair, but in the interest of time –

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

**MR. KENT:** I'm having a little trouble hearing myself, Madam Chair.

**CHAIR:** Order, please!

I ask members for their co-operation (inaudible).

Thank you.

**MR. KENT:** Thank you.

I won't read the full list but just give you a few examples of those entities we're talking about moving: Agreement on Internal Trade Dispute Screener; Agreement on Internal Trade Roster of Panellists; Atlantic Lotto Corporation with respect to provincial representatives; Dental Monitoring Committee; Municipal Assessment Agency with respect to taxpayer representatives; Premier's Youth Advisory Committee; Provincial Advisory Council on Aging and Seniors; Provincial Wellness Advisory Council. Just to give you a few examples.

It is a long list, and I can read it if the minister would like me to do so.

**MR. A. PARSONS:** (Inaudible.)

**MR. KENT:** Okay. I'm going to respect the opinion of the Government House Leader. He doesn't feel I need to read them all into the record, so I accept that. They're there in the bill clearly outlined.

We believe even for these bodies, which are categorized here as tier-two bodies, that the Independent Appointments Commission should be responsible for those appointments as well. If we're going to do this, let's do it. We still believe there are some major problems with the commission as its proposed making it very difficult for us to support this bill as it presently stands, but if it's going to proceed then we believe all of these entities should be subject to the commission and a merit-based process. That's what this amendment is about.

Madam Chair, on that basis I move the following amendment: Subclause 19(5) of the bill is amended at the proposed Schedule C by deleting the heading "Entities" and the items under that heading.

**CHAIR:** The Chair has had a chance to review the amendment and is ruling the amendment out of order because it is really beyond the scope and intent of this bill.

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

**CHAIR:** Order, please!

Shall clause 19 carry?

All those in favour?

**SOME HON. MEMBERS:** Aye.

**CHAIR:** All those against?

**SOME HON. MEMBERS:** Nay.

**CHAIR:** Carried.

On motion, clause 19 carried.

**CLERK:** Clauses 20 through 24 inclusive.

**CHAIR:** Shall clauses 20 to 24 inclusive carry?

All those in favour?

**SOME HON. MEMBERS:** Aye.

**CHAIR:** All those against?

**SOME HON. MEMBERS:** Nay.

**CHAIR:** Carried.

On motion, clauses 20 through 24 carried.

**CLERK:** The Schedule.

**CHAIR:** Shall the Schedule carry?

**MR. KENT:** I'm up, so I'll speak briefly and then give him the floor.

**CHAIR:** The hon. Member for Mount Pearl North.

**MR. KENT:** Madam Chair, we do have another amendment that relates to the amendment that was previously ruled out of order. I still think it's important to make the point of what we were trying to do. The amendment is to take entities from the *Public Service Commission Act*, Schedule C, and place them in the Independent Appointments Commission Schedule.

I am going to move the amendment. I'll respect whatever ruling you make. Perhaps government will have additional amendments to the Schedule. They would be welcome, Madam

Chair, especially if our amendment is ruled out of order.

I'll only read the amendment once, given the length of it. I now will have to read that long list I was referring to moments ago.

I move the following amendment to the Schedule: The Schedule to the bill is amended by adding immediately under the heading "Entities" the following items: Agreement on Internal Trade Dispute Screener; Agreement on Internal Trade Roster of Panellists; Atlantic Lotto Corporation with respect to provincial representatives; C. A. Pippy Park Golf Course Limited with respect to ministerial appointments; Dental Monitoring Committee; Interprovincial Lottery Corporation Board of Directors with respect to provincial nominees; Municipal Assessment Agency with respect to taxpayer representatives; Newfoundland and Labrador Film Development Corporation; Newfoundland and Labrador Historic Commemorations Board; Newfoundland and Labrador Sports Centre Incorporated with respect to six members and a chairperson appointed by Lieutenant Governor in Council; Newfoundland and Labrador Tourism Board with respect to a ministerial appointment of a chairperson; Premier's Youth Advisory Committee; Provincial Advisory Council on Aging and Seniors; Provincial Advisory Council on Mental Health and Addictions; Provincial Advisory Council on the Inclusion of Persons with Disabilities; Provincial Cancer Control Advisory Committee; Provincial Council of the Rural Secretariat; Provincial Wellness Advisory Council; Regional Regional Council of the Rural Secretariat, Avalon Peninsula; Regional Council of the Rural Secretariat, Burin Peninsula; Regional Council of the Rural Secretariat, Clarenville – Bonavista; Regional Council of the Rural Secretariat, Corner Brook – Rocky Harbour; Regional Council of the Rural Secretariat, Gander – New-Wes-Valley; Regional Council of the Rural Secretariat, Grand Falls-Windsor – Baie Verte – Harbour Breton; Regional Council of the Rural Secretariat, Labrador Region; Regional Council of the Rural Secretariat, St. Anthony – Port Au Choix Region; Regional Council of the Rural Secretariat, Stephenville – Port aux Basques Region; Torngat Joint Fisheries Board with respect to the members appointed by the

provincial minister; Torngat Wildlife and Plants Co-Management Board with respect to the members appointed by the provincial minister; and URock Volunteer Award Selection Board.

**CHAIR:** Thank you.

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

**CHAIR:** Order, please!

The Chair has had a chance to review the amendment. Again, it is beyond the scope and intent of the bill and for that reason has been ruled out of order.

The hon. the Government House Leader.

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

Speaking to the Schedule, I do have an amendment that I would move. This one is number one: The Schedule to the bill is amended by deleting the reference "*Access to Information and Protection of Privacy Act, 2015*, section 85." There was a briefing today on a piece of legislation about statutory offices and this is something that, actually, I will discuss again after we move this, if it's accepted and approved.

**CHAIR:** The Chair has reviewed the amendment put forth by the Government House Leader and has ruled that the amendment is in order.

The hon. the Government House Leader.

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

I believe as we move forward here, we are coming towards the end. We're dealing with the Schedule of the bill. As the Member opposite referenced, there are a number of different entities here. Again, depending on whether they're tier one or tier two, in fact, the level of importance defers. I would suggest that tier one obviously carries a different level of importance as opposed to tier two.

As you're going through tier one in the Schedule there are a number of agencies and groups there. One of them actually is under the Statutory Appointments. It's the *Access to Information*



*and Protection of Privacy Act, 2015*, section 85. And that's as it relates to the Information and Privacy Commissioner. All statutory offices normally, as they stand right now, would be a selection by Cabinet, a resolution put forward to the House and then voted on in this House of Assembly.

In our proposal that we're putting forward, this would still go through the PSC. It will go the IAC. Three names will be put forward to Cabinet, a selection made, the same thing, a resolution put forward. As we know, it was just last year that ATIPP was revised and we discussed, debated and voted on it here in this House. The procedure voted on and I think agreed unanimously by all Members in this House was to have a different procedure put in place to select that. I think it's actually a double-majority vote that's to be used.

The position that we're putting forward here now is that given we haven't had an opportunity to test this particular piece of legislation, and the fact that it also has to be reviewed down the order as a statutory review, we felt it best given that this was put forward in this House – actually, was brought forward by the previous government, was supported. We feel that it's best to continue on with that, to test it and allow that to continue as per normal.

So that's why the amendment as suggested is put forward. But I would look forward to any comments or questions the Members opposite would have.

**CHAIR:** The hon. the Member for Mount Pearl North.

**MR. KENT:** Thank you, Madam Chair.

I accept the rationale that's been put forward by the Government House Leader. It sounds like it's a logical amendment. I have nothing further to add and am prepared to support the amendment.

**CHAIR:** The hon. the Member for Conception Bay South.

**MR. PETTEN:** I do support the amendment with my colleague for Mount Pearl North. He'll finish it off here now.

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

**CHAIR:** The hon. the Member for Mount Pearl North.

**MR. KENT:** Madam Chair, I appreciate how concise and to the point the Member for Conception Bay South is when he speaks in this House. I hope his constituents are watching tonight. Just so focused and to the point, I appreciate that.

The final point I wanted to make, Madam Chair –

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

**CHAIR:** Order, please!

**MR. KENT:** – because I realize we'll vote on the amendment, but then we'll quickly vote on the Schedule as well. I just want to reiterate again that we believe all of these appointments should be subject to the Appointments Commission process. That's the spirit and intent of the amendments we were introducing last going off under clause 19, and now under the Schedule as well.

I just wanted to highlight that point one more time that we believe if we're going to do this, then all entities should be subject to the merit-based process through the Appointments Commission. But again, I don't have any problem with this amendment that's somewhat related, but doesn't address our main concern with this Schedule.

Thank you.

**CHAIR:** Seeing no further speakers, shall the amendment carry?

All those in favour?

**SOME HON. MEMBERS:** Aye.

**CHAIR:** All those against?

Carried.

On motion, amendment carried.

**CHAIR:** Shall the Schedule, as amended, carry?

All those in favour?

**SOME HON. MEMBERS:** Aye.

**CHAIR:** All those against?

**SOME HON. MEMBERS:** Nay.

**CHAIR:** Carried.

On motion, Schedule, as amended, 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?

**SOME HON. MEMBERS:** Aye.

**CHAIR:** All those against?

The hon. the Member for Mount Pearl North.

**MR. KENT:** Thank you, Madam Chair.

I do wish to propose an amendment to the long title. I believe this would be the appropriate time to do that. Is that correct?

**CHAIR:** We haven't called it yet.

**MR. KENT:** Okay. I just don't want to miss the opportunity, Madam Chair. I appreciate your patience.

That will be called next?

**CHAIR:** Yes.

**MR. KENT:** Okay, thank you.

**CHAIR:** I appreciate your enthusiasm, given the hour of the day.

**MR. KENT:** I appreciate you being reasonable and understanding.

Thank you.

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

**CHAIR:** Order, please!

Shall the enacting clause carry?

All those in favour?

**SOME HON. MEMBERS:** Aye.

**CHAIR:** All those against?

**SOME HON. MEMBERS:** Nay.

**CHAIR:** Carried.

On motion, enacting clause carried.

**CLERK:** An Act To Establish An Independent Appointments Commission And To Require A Merit-Based Process For Various Appointments.

**CHAIR:** Shall the long title carry?

The hon. the Member for Mount Pearl North.

**MR. KENT:** Thank you, Madam Chair.

I believe this will be the final amendment that I will propose here – I was going to say this evening, but it's now morning. I guess in House of Assembly world, though, it's still Monday. That's the remarkable thing about how days work in this House of Assembly. It's still Monday here, regardless of what the clock says. But I don't think Monday will continue too much longer.

I want to propose an amendment to the long title because some of the significant amendments we proposed earlier this evening, particularly those related to clauses 6 and 7, failed. They either failed or were ruled not in order. The ones in clause 6, I believe, were ruled out of order. The challenge is that was an opportunity to make the processes more independent.

So now we have a process that's not independent. Because we don't have a process that's independent, it feels like the long title of the act is inaccurate. I won't talk about this at length; I'll simply make the point that, in the interest of accuracy, the long title should be amended to truly reflect the legislation because it currently doesn't. So I'd like to propose the

following amendment, Madam Chair, to the long title.

The long title to the bill is amended by deleting the words “Independent Appointments Commission” and substituting the words “Appointments Recommendation Commission.”

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

**CHAIR:** Order, please!

According to O’Brien and Bosc, page 770, under The Title, “Amendment to the long title is sometimes possible once consideration of the bill is concluded. The title may be amended only if the bill has been so altered as to necessitate such an amendment.” That is not the case with the bill here this evening, so the Chair rules the amendment out of order.

We’ll call the vote on the long title.

All those in favour, ‘aye.’

**SOME HON. MEMBERS:** Aye.

**CHAIR:** All those against, ‘nay.’

**SOME HON. MEMBERS:** Nay.

**CHAIR:** Carried.

On motion, title carried.

**CHAIR:** Shall I report Bill 1, An Act To Establish An Independent Appointments Commission And To Require A Merit-Based Process For Various Appointments, with a number of amendments, carried?

All those in favour, ‘aye.’

**SOME HON. MEMBERS:** Aye.

**CHAIR:** All those against, ‘nay.’

**SOME HON. MEMBERS:** Nay.

**CHAIR:** Carried.

The hon. the Government House Leader.

**MR. A. PARSONS:** I move, Madam Chair, that the Committee rise and report Bill 1.

**CHAIR:** Shall I report Bill 1 carried with amendments?

All those in favour, ‘aye.’

**SOME HON. MEMBERS:** Aye.

**CHAIR:** All those against, ‘nay.’

**SOME HON. MEMBERS:** Nay.

**CHAIR:** Carried.

**AN HON. MEMBER:** Division.

**CHAIR:** Division has been called.

### Division

**CHAIR:** Order, please!

Are the Whips ready?

**AN HON. MEMBER:** Yes.

**CHAIR:** The Whips are ready. Okay.

All those in favour, please stand.

**CLERK:** Mr. Andrew Parsons, Ms. Coady, Mr. Joyce, Mr. Byrne, Mr. Haggie, Mr. Hawkins, Ms. Cathy Bennett, Mr. Kirby, Mr. Trimper, Mr. Lane, Mr. Browne, Ms. Gambin-Walsh, Mr. Mitchelmore, Mr. Letto, Mr. Bernard Davis, Mr. Derek Bennett, Mr. Holloway, Mr. Bragg, Ms. Pam Parsons, Mr. Warr, Mr. Finn, Mr. Reid, Mr. Dean, Mr. King.

**CHAIR:** All those against, please stand.

**CLERK:** Mr. Hutchings, Mr. Kent, Mr. Brazil, Ms. Perry, Mr. Kevin Parsons, Mr. Petten, Ms. Michael, Ms. Rogers.

Madam Chair, the ayes: 24; the nays: 8.

**CHAIR:** The motion is carried.

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

**CHAIR:** Order, please!

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

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

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

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

The hon. the Deputy Speaker.

**MS. DEMPSTER:** Mr. Speaker, the Committee of the Whole have considered the matters to them referred and have carried Bill 1 with amendments.

**MR. SPEAKER:** The Chair of the Committee of the Whole reports the Committee have considered the matters to them referred and have carried Bill 1, An Act To Establish An Independent Appointments Commission And To Require A Merit-Based Process For Various Appointments, carried with amendments.

When shall the bill be read a third time?

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

**MR. SPEAKER:** Now.

On motion, report received and adopted. Bill ordered read a third time presently, by leave.

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

**MR. A. PARSONS:** I move, Mr. Speaker, Order 4, third reading of Bill 1.

**MR. SPEAKER:** It is moved and seconded that Bill 1 be now read a third time.

Order, please!

The hon. the Member for Mount Pearl North.

**MR. KENT:** I won't take my 20 minutes in third reading, but I just want to –

**MR. SPEAKER:** We're not at third reading yet.

**MR. KENT:** We're not?

**MR. SPEAKER:** No.

**MR. KENT:** Oh, I'm sorry. Okay, I thought we were. I apologize.

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

**MR. A. PARSONS:** Mr. Speaker, I move, seconded by the Minister of Natural Resources, that the amendments be now read the first time.

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

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

All those in favour?

**SOME HON. MEMBERS:** Aye.

**MR. SPEAKER:** Against?

**SOME HON. MEMBERS:** Nay.

**MR. SPEAKER:** Carried.

**CLERK:** First reading of the amendments.

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

**MR. A. PARSONS:** Mr. Speaker, I move, seconded by the Minister of Natural Resources, that the amendments be now read the second time.

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

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

All those in favour?

**SOME HON. MEMBERS:** Aye.

**MR. SPEAKER:** Those against?

**SOME HON. MEMBERS:** Nay.

**MR. SPEAKER:** Carried.

**CLERK:** Second reading of the amendments.

On motion, amendments read a first and second time.

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

**MR. A. PARSONS:** Mr. Speaker, I call Order 4, third reading of Bill 1.

**MR. SPEAKER:** It has been moved and seconded that Bill 1 be now read a third time.

The hon. the Member for Mount Pearl North.

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

I guess I'm a little overeager this evening – this morning – whatever time it is. I won't speak at length here in third reading because we've had ample time earlier today, this evening and now this morning to raise concerns about Bill 1.

Unfortunately, because some very significant amendments were not ruled in order and were not ultimately approved by the House, our major concerns with Bill 1 remain. We had an opportunity here to have strong legislation that would put an Independent Appointments Commission in place which we would be prepared to support. But now we still have a process that allows the government to appoint anyone they want and pretend that the process was somehow independent. That's not acceptable to us. There were a number of good amendments proposed that we feel would have strengthened the legislation.

There was an effort made to ensure that even the initial appointments to the commission were, in fact, independent and free from political influence. But instead now we have a veil of legitimacy attempted to be placed around a process that won't be any different at all. Appointments will still be made behind closed doors by Cabinet.

So it's disappointing that we couldn't arrive at a point where we could support this bill. We were hopeful that through the process we'd make amendments that would get us to a place where the bill would be better. But even after several amendments passing, it's still a piece of

legislation that's very flawed and doesn't result in a commission that's independent. We don't have a commission that can make appointments.

Those flaws are fatal ones. We did make an effort to make this commission truly independent and to make the process more accountable, but unfortunately government was not prepared to do so. So it's with much regret that I can't support the passing of this bill.

I do thank Members for the opportunity to have a good debate about it. We did have a good discussion in the past number of hours about the bill. But it's still not one that we can support, even with the few amendments that have been made, because the major concerns around making this thing non-political and making this thing independent – those concerns have not been addressed at all.

It's disappointing, Mr. Speaker, but I've made my arguments as best I can, as have other Members of both Opposition parties. I'll now take my seat.

Thank you.

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

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

I, too, am somewhat disappointed this evening in that the amendments we had put forth were done within the spirit of the bill and in good faith. It was great to have the debate here this evening.

It's disappointing, in terms of our first amendment, where we talked about using all the tools at our disposal in order to be able to improve the functioning of the Independent Appointments Commission. I also wonder, Mr. Speaker, if we had used all the tools at our disposal that are available to us in this Legislature – and if we'd had an all-party standing committee where this legislation would have gone to that standing committee and some of the bugs could have been worked out – what kind of shape would it have been when it came to this House?

I think again, Mr. Speaker, that I would raise that issue. We should be using all the tools at our disposal to be able to make this House more efficient, to be able to bring legislation into the House once it's ready to be brought into the House because it would have gone through that level of consultation and collaboration before reaching the House. I'm somewhat disappointed that is not the process that's being used. It's a valuable tool, a useful tool that enriches and assists us as we look at legislation, and look to make legislation that is in the best interests of the people and in a way that best uses the resources of this House.

Thank you very much, Mr. Speaker.

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

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

I'm very happy to actually stand here and speak to the passage, the third reading of Bill 1, the flagship piece of legislation for this new government. It was one of the biggest promises made by our Premier. We're very happy to stand here and see passage of Bill 1.

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

**MR. A. PARSONS:** Once you get past some of the commentary otherwise, what we're seeing here is a change, a dramatic change in how business is going to be done. We're going to be going away from the days of persons being put in positions based on who they know, rather than what they know.

I'm very proud to stand here – we've seen this over the course of a couple of months now where this process unfolded. We're seeing a process where the Public Service Commission will be involved. There will be a vetting of applicants. There will be different lenses applied to ensure that diversity and regional representation – I find it funny that I'm standing here speaking to this and the Member for St. John's East – Quidi Vidi has to heckle me. I guess she prefers the political patronage approach that's been used in the past. I sat and listened to her commentary during the debate tonight. Do you know what? I think it was an important debate that we had here in this House.

I just made a few points here based on some of the commentary I heard opposite. I said all along standing here, having been on the other side, I understand how Opposition works. I'll never say the job of Opposition is to just oppose. I'll never say that, but there is some of that in there in that you do have to oppose. In this case, I get that the job of an Opposition is to raise awareness and to hold government accountable, but to say this is no different at all is absolutely false.

Right now, until the passage of this bill, we have a process that is no process at all. An individual can be placed in a position, such as the head of Newfoundland and Labrador Housing. They could be put on any number of boards. They could be put as the head of development corporations like Bull Arm. The fact is it was not based on any process whatsoever. Now that's not talking about the person's capabilities. Do you know what? The fact is there were many cases where people who qualified were appointed, but there was no process ever. In this case we do have a process.

This process is not over. We've gone through third reading, hopefully soon, and the fact is a resolution will be put on the floor of this House of Assembly outlining who the members of this Independent Appointments Commission will be, and that will also be debated by Members of the House of Assembly. They'll have an opportunity to speak to the individuals who are placed on this board. They'll have an opportunity to question whether they should be there or not there, or have the ability to make the best decisions to put people in the public service.

Right now, I don't know if it's a case that the Opposition would prefer to continue the politicization of the public service that's gone on. What we want is a public service that works for the public, and that means we have the best people there, people that go through a proper level of scrutiny by an independent commission. I'm very happy to see that here.

I appreciate the fact there were amendments put forward, but I would disagree with what the Member opposite said – well, we put the amendments forward. It's not the fault of government if those amendments are out of order. We deal with the amendments that are put forward. In this case we did agree on some of

these amendments, but a large number of them weren't acceptable. They couldn't pass muster. You couldn't even vote on them because they didn't get approved.

I heard commentary from the Member for St. John's Centre talking about the select committees and the standing committees. What I would say is we're going to get there. We've been here five months; we're going to get there. But I would note that contrary to what has been done in my short period of time – I reached out to Members opposite on March 23 and said: What are the amendments you would like to see?

One of the reasons I suggested that was you could put them forward and we could discuss them to see do we like them, do we not like them, what are our issues with them. Also, we could talk about the wording of some of these resolutions. In some cases, I'm sure if we took the time to actually have them scrutinized by Legislative Counsel they would have been approved, but they weren't.

We had the NDP put theirs forward some time ago. In fact, I asked for them and they put them forward the next day in a press release. That's fine; there was still an opportunity to put them forward. I put forward an opportunity to work together and the NDP didn't want to work together. They did not want to. So it's one thing, they asked for it, but then when you offer that chance, they don't want it.

I put it forward to the Members opposite. They put them forward today. So what I would say is it's one thing to complain, but it's another thing when you have an opportunity to try to do something different, sometimes you have to take that opportunity. In this case, they didn't.

I'm not going to let any of that get in the way. I think this is a moment that certainly we here on the government side are very proud of. This was a commitment that was made well before an election campaign. This is something our Premier talked about in this House of Assembly, talked about it out there in the streets and said we need to take the politics out of appointments. Right now, we have followed through on that and made that happen. So I think the Premier

certainly deserves commending for making that happen.

I look forward to commentary from the Members opposite. I look forward to the resolution being put forward. More importantly, I look forward to the Independent Appointments Commission getting the opportunity to do the work so that the boards, commissions and agencies that right now, in many cases, are sitting vacant can have qualified individuals put forward to allow proper governance for the best interests of the people of this province.

Thank you, Mr. Speaker.

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

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

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

I wasn't going to get up. I thought I'd said everything I wanted to say, but I think in reply to some of the points made by the Government House Leader I do want to stand up. What we put out here tonight, and especially in one of our recommendations put out by the Member for St. John's Centre, are a belief in an open process and a belief in an all-party process that is open and transparent. What I want to see in this House is not things happening by chance or privately, or behind doors and not openly, because we discuss bills openly.

So an offer by the Government House Leader to sit down and look at resolutions or amendments ahead of time before the bill is even discussed on the floor of the House is not the way to do business. At some point, in the last nine hours, I talked about our Standing Orders and talked about what our Standing Orders say with regard to committees, standing and select committees.

If we operated the way that they do, for example in the House of Commons or the way they do in a lot of the provincial legislatures, after second reading, with an identification of issues that were of concern, you then openly in the all-party committee discuss those issues. If you want to have people with expertise in an area – that may not have been the case for this bill today, but if

you want to have people involved in that discussion, you openly invite them into the committee and have those discussions and you iron out together in an open all-party session – sessions; I'm sure it takes more than one. I know that.

You iron out together those things, not in the way that was suggested to us by the Government House Leader. So we were open to that, but we don't have that process in place and that's what we need to have. We have it in place on paper. Our Standing Orders allow that to happen that the House of Assembly can refer to any standing committee pieces of legislation to deal with. That's how it operates in other legislatures, but not in this one.

So our only option, the way you do it, is in committee. And, for us, that is not in committee outside of the Legislature; it's always Committee of the Whole. This is the only way we have to do it. But if government brings in a bill and expects that we're going to make the changes based on this dynamic, it's not going to happen. And being a majority government, they have the power to vote down anything that we say.

The amendments we brought forward were substantive amendments dealing with two very serious issues. This government has shown itself that it wants to keep control of the process, number one – that's why they voted against our first amendments – and they are not open to putting in legislation the need for diversity in this process.

So I don't see changes from what we have right now. They've put in place an extra layer of bureaucracy, they've given it a name, they've created legislation that they've passed; but the bottom line is they put the commission in place, they say yes or no to recommendations that are made to them, and it's all in their hands. I'm tired of the game playing and saying that a resolution is coming to the floor and we can debate it. Well, we saw what happened here in the last nine hours of debate on this act, and that's all that's going to happen when the resolution comes to the floor as well.

Thank you, Mr. Speaker.

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

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

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

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

I'm really pleased to have to an opportunity this evening to say a few words in third reading of this bill. I didn't really speak up much when the Members spent the three or five hours or whatever it was today going over clause 1. I just want to reflect on some of the things that they said and respond.

One of the first things the Member for Mount Pearl North came out with on this bill was that somebody had said the legislation was flawed. He said: This is your signature piece of legislation and it is flawed and you admit that it's flawed. Because Bill 1 is always meant to be that shining bill – he didn't use that language, but your signature legislation.

So what was the signature legislation of their administration after they took office in October 2011? What was their Bill 1? Do they remember? Their Bill 1 was a piece of legislation – their signature piece of legislation wasn't an independent commission for appointments. It was making changes to public procurement.

Now, Bill 1 received first reading in the House of Assembly, went on the Order Paper. The text of the bill was never made public, it never went to second reading, it never went to Committee, it never went to third reading, and it died on the Order Paper. Now that was their signature piece of legislation. To stand here and say that this one, which we've now come to third reading on this evening, is flawed – this is passed almost. Their bill never saw the light of day. They didn't even have the courage to release the text to the public, their signature piece of legislation. So don't sit there and criticize that.

I'm proud that we all accepted amendments to this legislation – we did. When I sat in the last Assembly, I don't even remember one time that government allowed one single amendment. I can't remember a single instance all the times



we begged and pleaded for amendments over Bill 29. We begged and pleaded for amendments over Muskrat Falls. We begged and we pleaded and we pleaded and we begged and they ignored the Opposition. Don't care. They said we have a majority; we'll do as we like. Run roughshod over the place. No amendments accepted; don't even bother to stand up.

That's how the Opposition was treated in the previous Assembly. Here tonight I'm proud to say we all worked together to achieve a good piece of amended legislation, together.

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

**MR. KIRBY:** I don't want to go on too long, but I just want to make a couple of points. I know the Members of the Third Party got up. They talked about the need for diversity and I couldn't agree more.

Here's a political party now, that's thrown full-day kindergarten under a bus. All those single moms out there who could have kids going to kindergarten, could have decent early learning and care programs, where's your concern for diversity there? Where's your concern for diversity there when all of these people, all of these single moms who could actually have an advantage for once – no, no, not concerned with diversity on that policy, but on this policy it's A1, number one priority. Hypocritical, I say.

I won't go on too much longer, but I just want to say, Mr. Speaker, there are a lot of good things about this piece of legislation. I just want to review a couple of them briefly.

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

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

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

I just want to review some of the clauses of the legislation because I think it's incredibly important that we acknowledge what exactly we've done. Now there's going to be an Independent Appointments Commission established. That is going to be a commission made up of five members.

That commission is going to be involved with the vetting of individuals for the purposes of appointment to public bodies based on a merit process, so not based on the political process that the previous administration adhered to for 12 years with very few exceptions – with very few exceptions.

It was interesting tonight because I know the Member for Mount Pearl North's favourite mode of communication is Twitter, and I noticed that Wallace MacLean had tweeted a number of very insightful news stories about the previous administration's record when it came to patronage appointments. It was something they did quite frequently.

Well, I don't want to get into details but they talked about everything from the Bull Arm Corporation to the Chief Electoral office to practically – I'll go back to the C-NLOPB. You can practically go back and look at all of these particular boards, these different public bodies. A good number of them turn up throughout there, but we're not going to have that anymore because we're going to have a merit-based process.

Now, the Opposition does not want that. The Official Opposition does not want to have that process. They want to have the old process. Why do they want to have the old process? Why do you think they want the old process? Because they figure when they get a chance to get back over here again the only way they're going to be able to revert to their 12 years of practice of appointing people to head public agencies based on the colour of their political affiliation is they have to amend this bill again to go back to the old way of doing things, to go back to the system of patronage that has served us poorly since Confederation and beyond and before – well before. An ancient system of patronage that they adhered to for their whole time. They never

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

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

**MR. KIRBY:** They did not at any point in time show any willingness to proceed in this direction at all. At no point in time, and continue to defend. I hear the Member for Fortune Bay –

Cape La Hune over there continuing to defend this past practice which has not served the province well.

The Government House Leader said, yes, some of these people are qualified. That's not the point. That is not the point. These public bodies, these public agencies are our public agencies. They are not our public agencies, they are the agencies that are owned, that are established, that are funded by Newfoundlanders and Labradorians and all of those people should have an opportunity to submit themselves to a merit-based process whereby they can at least get some consideration.

It shouldn't be, as one of the Members suggested opposite, that you get the name from somebody and you hand it along and you hope or whatever, and you try to – it shouldn't be that way. It should be transparent. You should be able to see as much as is reasonable to see in the process. That is what's going to happen here now, because these positions will be publicly advertised. They will be publicly advertised.

People will be able to provide their résumés, show what their credentials are, show what their years of experience are, show what their education is, show what volunteer experience they have, and the fullness of their ability will be assessed. Then they will be shortlisted, the same as in any job competition. Those people will be put on a short list – three of them – and they will go to Cabinet for final consideration.

That is a far better process than what we have had in place in this province to date. And you'll say, well, it's not perfect. Well, maybe it isn't perfect, but what is perfect? I would prefer to have something that is imperfect than to have a system that just rewards politics, sheer, raw politics and absolutely nothing else. Even despite the fact that people might have qualifications that is irrelevant in a lot of these considerations.

When you see someone walk off the convention floor down at a PC Party leadership convention and within a few months walk into a five-year appointment with a public agency with no competition, and for somebody to stand there and say, well, this has nothing to do with political affiliation. People in this province are

not that dumb. In fact, people in this province are very smart, and to a person they see through that kind of raw political patronage. That's why during the last general election people liked the idea of an Independent Appointments Commission. This was a commitment that we made and a commitment that we kept.

Thank you.

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

**MR. SPEAKER:** 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.'

**SOME HON. MEMBERS:** Nay.

**MR. SPEAKER:** Carried.

**CLERK:** A bill, An Act To Establish An Independent Appointments Commission And To Require A Merit-Based Process For Various Appointments. (Bill 1)

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

A bill, "An Act To Establish An Independent Appointments Commission And To Require A Merit-Based Process For Various Appointments," read a third time, ordered passed and its title be as on the Order Paper. (Bill 1)

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

**MR. A. PARSONS:** Given the hour of the day, Mr. Speaker, I move, seconded by the Minister of Education, that this House do now adjourn.

**MR. SPEAKER:** It's been moved and seconded that the House do now adjourn.

All those in favour, 'aye.'

**SOME HON. MEMBERS:** Aye.

**MR. SPEAKER:** Against?

Carried.

This House stands adjourned until tomorrow at 1:30 in the afternoon.

On motion, the House at its rising adjourned until tomorrow, Tuesday, at 1:30 p.m.