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HANSARD

Speaker: Honourable Perry Trimper, MHA

Tuesday

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The House met at 1:30 p.m.

MR. SPEAKER (Trimper): Order, please!

Admit strangers.

Today in the public gallery, I would like to welcome the mayor and council for Port Blandford. We have with us the mayor, Chad Holloway; Wince Peddle; Navanda Harris; and Cyril Bennett.

A very big welcome to you, folks.

SOME HON. MEMBERS: Hear, hear!

Statements by Members

MR. SPEAKER: For Members' statements today we will hear from the Members for the Districts of Topsail - Paradise, Exploits, Torngat Mountains, Stephenville - Port au Port and Baie Verte - Green Bay.

The hon. the Member for Topsail - Paradise.

SOME HON. MEMBERS: Hear, hear!

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

Mr. Speaker, when the Paradise Warriors Peewee B hockey team saw an opportunity to help a fellow warrior, they didn't hesitate to step up. The Paradise Warriors Peewee B hockey team was recently selected as a semi-finalist for the Chevrolet Canada Good Deeds Cup. The Good Deeds Cup is a national initiative that encourages peewee division hockey players to do good deeds in their community and then submit a short video that highlight their endeavours.

This past November, the team became aware of their fellow Paradise Warrior, Charlie Druken, who for three years has been battling a disease which is difficult to diagnose, and had to travel to Toronto Sick Kids Hospital for special medical testing.

The Paradise Peewee B team did not hesitate to step up and to give back to help their fellow Warrior. The team hosted a novice hockey tournament, held a 50/50 draw to raise funds to help offset travel costs. By working together,

they were able to raise just over \$1,600 for the family. But the good news doesn't stop there. As a result of being selected as a semi-finalist, Chevrolet Canada will donate \$2,000 to a charity chosen by the team.

Mr. Speaker, I congratulate the Peewee B Warriors for their compassion towards their teammate and wish Charlie a speedy recovery.

Thank you.

SOME HON. MEMBERS: Hear, hear!

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

MR. DEAN: Thank you, Mr. Speaker.

Mr. Speaker, I rise today to pay tribute to Mr. John Antle, principal of Exploits Valley Intermediate in Grand Falls-Windsor, who is one of 40 educators from across the country being recognized as Canada's Outstanding Principals of 2018.

Mr. Antle has worked in the education system for 20 years, with the last nine being at Exploits Valley Intermediate. John resides in my District of Exploits and EVI is in the neighbouring district of Minister Al Hawkins of Grand Falls-Windsor - Buchans.

Mr. Antle's outstanding leadership has facilitated the implementation of the Positive Behavioural Intervention Strategies, which rewards students on a weekly, monthly and yearly basis. Academic and behavioural achievement is celebrated at school assemblies with positive student behaviour being acknowledged every Friday with 'Gotchas.'

Since the PBIS and also a new web-based behaviour management system, which recognizes student contribution to a safe and care school environment, was put into practice, academic achievement and student well-being has improved significantly. Suspensions at the school have been reduced from 147 per year before the new program, to three in 2016-2017. John also works to maintain the well-being of his students through coaching, breakfast programs and adding additional co-curricular activities.

Of course, Mr. Antle shares credit for this accomplishment with his administrative and teaching team at EVI. He was nominated for the award by the vice-principal, Darren Woolridge.

I would ask all hon. Members to join me in congratulating Mr. John Antle and his staff and students at Exploits Valley Intermediate.

SOME HON. MEMBERS: Hear, hear!

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

MR. EDMUNDS: Mr. Speaker, I rise today to recognize a very special person from my district. Joan Dicker has spent 38 years teaching students kindergarten and Inuktitut at Jens Haven Memorial School in Nain.

In addition to a busy and committed career as a teacher, Joan has played a huge role in volunteering for special and annual events in her home community of Nain.

Preserving the Inuktitut language is important to Joan because she believes language is everything in her community; its people, the culture and the traditions which she helps keep alive by ensuring that Inuktitut continues to be taught.

Joan is featured in advertising for the Newfoundland and Labrador Teachers' Association's "Teachers Change Lives Every Day" campaign. Or, as Joan would say: Ilinniatitsijet Inosinik Asiangu Itsisot!

The campaign video shows the long-lasting impact that Joan has had on people in the community. Her students have gone on to create programs to preserve, promote and protect Inuktitut. They feel the need to give back to the community in the same way that Joan has.

I ask all Members to join me in saying: Vakummek, and congratulating Mrs. Joan Dicker on her illustrious career as a home-grown educator.

SOME HON. MEMBERS: Hear, hear!

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

MR. FINN: Mr. Speaker, this past December I had the great honour of addressing graduates of Piccadilly Central High at their cap and gown ceremony. Multiple awards were presented that evening for top academic marks in various subject matters and a number of scholarships followed as well.

Cole Tallack, the son of Morgan and Nadine Tallack of Cape St. George, stood out amongst the recipients. He received top marks in English, chemistry and world geography and was subsequently named the Top Academic student. This humble young man was also the recipient of the Centenary of Responsible Government Scholarship, the Memorial University scholarship, the Town of Cape St. George scholarship and the Port au Port Economic Development scholarship for a total value of \$3,750.

Cole is currently enrolled at Memorial's Grenfell campus in Corner Brook, and while he is taking general courses this semester, he has told me he has a keen interest in the field of environmental engineering.

I ask all hon. Members to join me in congratulating Cole Tallack on his academic accomplishments and wish him every success as he completes his post-secondary studies.

Thank you.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: The hon. the Member for Baie Verte - Green Bay.

MR. WARR: Mr. Speaker, seven schools participated in the team event at the 2018 School Sports NL Varsity Table Tennis Provincials hosted by Roncalli Central High, Avondale. Teams were from Avondale, Hare Bay, Nain, Lethbridge, English Harbour West, St. Bride's and Pilley's Island. Four schools also joined the weekend to participate in the individual events. Teams were from Sheshatshiu, Bay d'Espoir, Port Rexton and Clarenville.

Mr. Speaker, I want to congratulate the Dorset Collegiate Huskies, from my district, for their outstanding play, winning 20 straight matches and capturing the championship banner. This is

the fourth straight year that this small school from Pilley's Island has won the provincials.

Congratulations to individual event winners. Girls Singles: Brianna Warren, gold; Boys Singles: Ty Winsor, gold; Girls Doubles: Brianna and Sarah Warren, gold; Boys Doubles: Riley Vincent and Devin Roberts, bronze; Mixed Doubles: Ty Winsor and Haley Elliott, gold.

Special accolades to level III student, Brianna Warren, a most decorated table tennis player at the local, regional, provincial and Atlantic levels, as this represented her last opportunity to participate at the high school level.

A special thank you to teacher/coach Mark Warren and assistant coach Brandon Roberts for all your support.

I ask all hon. Members to help me congratulate the Dorset Huskies.

Thank you, Mr. Speaker.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: Statements by Ministers.

Statements by Ministers

MR. SPEAKER: The hon. the Minister of Service NL.

MS. GAMBIN-WALSH: Mr. Speaker, March is Fraud Prevention Month in Newfoundland and Labrador, and this year marks the 14th anniversary in Canada.

The month-long crime prevention initiative is aimed at educating and informing consumers and communities on how to recognize, report and stop fraud. It unites more than 80 law enforcement agencies with public and private sector organizations across the country in efforts to raise awareness and protect Canadians from fraud.

This year's theme is Recognize it. Report it. Stop it. and speaks to the need for all of us to be vigilant when it comes to fraudulent activities and report any activity that does not appear to be legitimate. In 2017, our government

implemented a Fraud Management Policy which provides guidance to employees on reporting of fraud and processes for management to follow when they become aware of fraudulent activity.

During Fraud Prevention Month, and every other month of the year, our government is encouraging consumers to take time to learn about ways to protect themselves from fraud. Anyone wishing to have more information on consumer protection can contact the Consumer Affairs Division in my department, or email consumeraffairs@gov.nl.ca.

Mr. Speaker, the cost of fraud can involve more than financial losses and may also result in the loss of property and personal security for victims. We remain committed to raising awareness about fraud and providing consumers with the tools and information they need to identify and avoid fraudulent activity.

Thank you, Mr. Speaker.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: The hon. the Member for Cape St. Francis.

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

I want to thank the minister for an advance copy of her statement. Mr. Speaker, we also are pleased to recognize March as Fraud Prevention Month. Unfortunately, fraud is the sad reality of society. There are a lot of scams and fraudsters out there looking to take advantage of people, either through stealing their money or even their identities. We have to ensure that people are aware of the potential to be scammed and everyone needs to do their best to make sure we're all protected.

Also, it's very important that any examples of fraud be reported, that everyone becomes aware so that the headache and suffering caused by these activities are reduced. We can all do our part to protect ourselves and raise awareness to others of this important issue.

Thank you very much.

SOME HON. MEMBERS: Hear, hear!

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

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

I, too, thank the minister for the advance copy of her statement. This is an extremely important issue. I join the minister in commending the efforts of the many individuals and organizations involved in fraud prevention initiatives this March and year-round. People's lives are affected by this issue.

In an increasingly online world, it is important to increase fraud prevention literacy so that people feel empowered to recognize whether what they see online is authentic and defend against a growing number of online scams.

Thank you very much, Mr. Speaker.

MR. SPEAKER: Further statements by ministers?

The hon. the Minister of Health and Community Services.

MR. HAGGIE: Thank you, Mr. Speaker.

Our government is seeking input from residents throughout the province to help inform the drafting of new public health legislation.

Current legislation is outdated, with some sections not having been updated in more than 50 years. Mr. Speaker, the goal is to develop a new, more modern piece of legislation that is aligned with recent best practices in public and population health from across the country.

I encourage everyone to take part in the consultation process. The deadline for response is Monday, March 19. People wanting to participate can visit engagenl.ca. Once an account is created, they will be able to participate in any future consultations conducted by the provincial government. Other ways to participate include providing written submissions through regular mail or by obtaining a hard copy of the online questionnaire online by calling 729-0724. Emailed submissions can also be sent to healthinfo@gov.nl.ca.

The provincial government will also hold a targeted stakeholder meeting later this month. Invitations to that meeting will be sent this week.

We have an opportunity to develop a comprehensive piece of very important provincial legislation. I am very interested to hear people's views on public health and what they would like to see as part of the new legislation. I look forward to its introduction in the House of Assembly this spring.

Thank you, Mr. Speaker.

SOME HON. MEMBERS: Hear, hear!

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

MR. BRAZIL: Thank you, Mr. Speaker.

I thank the minister for an advance copy of his statement. It's encouraging to hear that the government says it's open to input from residents of the province. Health care is perhaps the single most important issue in this province that affects every single individual from birth to death, and everyone should be engaged.

With any legislation, it is created with good intentions and is prepared to deal with issues and circumstances relevant to a certain time period. As time passes, legislation needs to be updated and made relevant for the time in which we live. Legislation, in most cases, is a living document which evolves over time.

I encourage citizens to participate; however, I am concerned that the process is rather restrictive with only written submissions and a limited targeted stakeholder meeting. There seems to be a lack of face-to-face opportunity for citizens to be engaged and participate. We need to make certain that the process is as open as possible so we can get input that we seek that will create the legislation we need.

I look forward to the government adopting ideas from the general public and incorporating it into important pieces of legislation that would impact us all.

Thank you, Mr. Speaker.

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

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

I, too, thank the minister for the advance copy of his statement. I'm delighted to see that our public health legislation is being updated with an eye to best practices across the country. In terms of the consultations, I see some limitations. I would suggest an option be available where the questionnaire and the booklet are very accessible to those who don't want to register to form a portal.

I also believe there should be multiple stakeholder meetings, some with a diverse group, others with single groups of professionals and of the public. I think this would ensure better consultation in the end.

Thank you, Mr. Speaker.

MR. SPEAKER: Further statements by ministers?

Oral Questions.

Oral Questions

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

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

Mr. Speaker, a \$400,000 grant awarded to a company owned by the Premier to develop a housing project was awarded in July 2016, eight months after the Premier and the Liberals formed government. The Premier disclosed that he had his hands on the process by suspending all progress until his holding company was established and the blind trust was established.

So I asked the Premier: When was this conflict of interest in awarding \$400,000 to your company raised with you as the Premier?

MR. SPEAKER: The hon. the Premier.

PREMIER BALL: Thank you, Mr. Speaker.

As you know, this is a loan, still exists as a loan, as has been mentioned before. It was a merit-based decision that was made by the former premier of the province, who is now the Leader of the Opposition. It was his government that actually conditionally approved that application on a number of criteria options.

Mr. Speaker, I was not involved in any of the construction, not involved with NLHC or nothing. Everything was proactively disclosed from the shareholder's point of view. When I became Premier of the province, I suspended this so we could put in place, to make sure, put belts and braces in place that there was no conflict at all for me as a shareholder. All of which there was a transition into a blind trust. This was put in place to make sure there was no conflict before any money would have flowed.

SOME HON. MEMBERS: Hear, hear!

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

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

Well, to correct the Premier, it was actually a conditional approval and a conditional process. Conditional meeting the conditions of the contract. It was a forgivable loan. And once a loan is forgiven, then it's a grant. So it's going to be a grant, Mr. Speaker. The Premier suspended the progress for this \$400,000 grant. The concern was flagged and raised with the Premier, and that's why he put things on hold. So the Premier said he saw the conflict of interest opinion from the Commissioner for Legislative Standards.

Premier: Will you table that opinion today?

MR. SPEAKER: The hon. the Premier.

PREMIER BALL: Thank you, Mr. Speaker.

As I said, from start to finish here we've now given this to the Commissioner for Legislative Standards. It was indeed a conditional approval based on certain criteria.

For the Member opposite to suggest that this is forgiven, it is wrong. He knows it's wrong. It

was his government that conditionally approved this.

As a matter of fact, that loan still exists, I would imagine, as I have no visibility; this is currently within a blind trust. But if the loan exists and it's for a certain period of time based on criteria, I could not tell you today where that loan exists because I have no visibility into the blind trust.

The Member opposite knows exactly what he's talking about. This is with the Commissioner for Legislative Standards, Mr. Speaker. I've already said that we'll make that information public once the work is completed.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: The Leader of the Official Opposition.

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

I'm glad the Premier just said it was conditionally approved because that's what happened. The final approval did not happen until he was in office for eight months.

He, as the Premier, and his government were the ones who approved this \$400,000 forgivable loan which is a grant. It becomes a grant. The Premier should know, he received one in 2009. He received a \$400,000 grant back in 2009. That was the same process, same rules that happened on this one, Mr. Speaker.

I ask the Premier: If the conflict of interest opinion was provided from the Commissioner, why won't you just release it?

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

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

I'm a bit surprised that we're stood up here again this week answering these same questions after the Premier answered them on multiple occasions last week.

I think it needs to be pointed out again to the public that this was a loan. There were 60 groups that received loans, all approved by the Member opposite's minister, the Member

opposite's department, the Member's opposite's government and his hand-picked CEO of the Newfoundland and Labrador Housing Corporation.

I would note that the Premier has, again, for the second time, referred this to the Commissioner for Legislative Standards. I think we have to end off with this. The Member said in an interview this weekend that John Ottenheimer had concerns but it's funny, because when you review the file there are none in writing.

Thank you.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: The Leader of the Official Opposition.

MR. P. DAVIS: It doesn't mean he didn't raise them, Mr. Speaker.

Mr. Speaker, the question was very simple. I suppose maybe what I'm hearing here – because the Premier is not answering the question if he will release the opinion; maybe he doesn't have one. If he can correct me, he certainly may.

I ask the Premier: Was the \$400,000 forgivable loan – which becomes a grant once you've met the conditions, the \$400,000 grant – was that actually specifically discussed and reviewed with the Commissioner for Legislative Standards? Was the Commissioner aware of the contract requirements? Not the conflict of interest rules for the House of Assembly, but was the Commissioner aware of the contract clause that prevents an MHA from benefitting from such a grant?

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

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

The Premier has answered multiple questions on this. In fact, before this was all ever in the news, I would point out that the Premier went above and beyond and actually disclosed all this proactively to the Commissioner for Legislative Standards. But just to assuage any public concern that there might be, he's done it again and we await the investigation or review or

whatever that's going on, which I'm sure will turn up nothing.

I would point out that the Member opposite said that his hand-picked CEO John Ottenheimer had concerns about this. Now, a review of the file indicates that Mr. Ottenheimer chose not to disclose anything to anybody in Housing or put anything in writing. So I ask the Member: When did Mr. Ottenheimer tell you this?

SOME HON. MEMBERS: Hear, hear!

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

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

I've never said that Mr. Ottenheimer did tell me this, Mr. Speaker. I never ever said that.

SOME HON. MEMBERS: Oh, oh!

MR. SPEAKER: Order, please!

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

Now, the Premier doesn't want to answer any questions on this here today. He answered one, but now he's putting up someone else, even though it's him who says he had the conversations with the Commissioner for Legislative Standards but he won't answer to it.

The 2016 contract that was entered into with the Premier's company has a stipulation that no provincial MHA shall be admitted to any share or part of any contract, agreement or commission made pursuant to this agreement or to any benefit arising therefrom.

I'll ask the Premier: Will you do the right thing and repay the \$400,000 grant or, if you want to call it, a forgivable loan – will you repay the \$400,000 that was awarded to your company by your government while you were Premier?

MR. SPEAKER: Order, please!

SOME HON. MEMBERS: Hear, hear!

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

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

It appears that the former premier is grasping at straws today. It's funny because it was his government, the same Conservative –

SOME HON. MEMBERS: Oh, oh!

MR. SPEAKER: Order, please!

MR. A. PARSONS: Oh, must of hit a nerve, Mr. Speaker.

It's funny because it was his government and, in fact, him that approved this with the same conditions that I'm assuming would still apply later on when it was finally approved and went through the entire vetting process. He chose not to have any concerns. He never had concerns then. His minister never had concerns. Mr. Ottenheimer never had concerns.

Again, I've got to go back to this because it was very clear on *Issues and Answers* the weekend that the Member opposite said Mr. Ottenheimer had concerns. They're not in writing. He didn't tell anyone in the department. So when did he tell you? Was it at the PC AGM?

Thank you.

SOME HON. MEMBERS: Hear, hear!

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

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

The Premier is an elected –

SOME HON. MEMBERS: Oh, oh!

MR. SPEAKER: Order, please!

Please proceed.

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

The Premier is an elected Member of the House of Assembly. The Premier will benefit from this contract, from taxpayers' money that will flow as a result of this contract signed by his government under his watch as Premier to his company. It's as simple as that, Mr. Speaker.

I ask the Premier once again: Will he repay the \$400,000 of public money given by his government to his company while he was Premier?

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

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

Hopefully, the people of the province will have any concerns they have alleviated by the fact that the Premier now has, on two occasions, brought this to the attention of the Commissioner for Legislative Standards. He did it the first time without being asked. He would have done that after the Member opposite, the former premier, signed this. It was his government that signed it. In fact, put a big press release out about it. He never had any concerns then. It would have been all the same terms and conditions that would have applied.

The Premier has since gone back to the Commissioner and said, look, here it all is, come back and report to this House. As a statutory Officer of this House, report back to the House. The Premier has again gone above and beyond to ensure that nothing wrong was done.

Again, I'm still concerned because I would like to know what the hand-picked PC CEO of the Housing Corporation said to the Member opposite.

Thank you.

MR. SPEAKER: Order, please!

SOME HON. MEMBERS: Hear, hear!

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

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

So the Premier doesn't want to answer of these questions today, even though it was the Premier who said he met with the Commissioner for Legislative Standards.

Last week, the Premier said that there was no benefit to him. He stood in the House of Assembly and he said it's no benefit to him, that

all of this money was going into the pockets of his clients, is what he said.

I ask the Premier: If it's no benefit to you, then if you paid it back, there shouldn't be any loss to you. I ask the Premier again: Will you repay the \$400,000 of public money that was paid to your company by your government while you were Premier?

MR. SPEAKER: The hon. the Premier.

PREMIER BALL: Thank you, Mr. Speaker.

As I said last week, the benefit for affordable housing projects, indeed all 60 that he would have announced that he claimed last week not to know anything about – it seems this week he knows quite a bit about it. The Member opposite would know that the benefit from that particular project, and all the 60 that were announced, it's clearly obvious if you look at the press releases of last year, or whatever year this was, and the years prior to that, it clearly goes to the people that live in those units. They get the option and the ability that would not be afforded to them to live in affordable housing that is reliable.

We deserve this to our seniors. We deserve them and we look forward to working with the private sector to make sure that can happen to some of the most vulnerable in our society.

SOME HON. MEMBERS: Hear, hear!

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

MR. P. DAVIS: Mr. Speaker, I fully agree with the Premier that it's a good program and having more availability of affordable rates for housing is a great thing to have, and it's a good program from that perspective.

However, the money actually flows to the construction company. Right here in the contract dated Friday, July 22, it clearly lays out 25 per cent is advanced when the foundations go in; 25 per cent is advanced when there's substantial or completion of a rough-in and so on; and the remaining 50 per cent is when it's substantially completed. So it's tied directly to the construction of an asset that the Premier owns.

The grant flows as a grant towards the construction cost of an asset the Premier owns.

The benefit is to the Premier's company. Will you pay it back, Premier?

MR. SPEAKER: The hon. the Premier.

PREMIER BALL: Thank you, Mr. Speaker.

We should never let a good story get in the way of the facts. We should never allow that to happen, Mr. Speaker. The Member opposite has a way of just twisting information that he is really not overly concerned about the facts.

What I said is after the election in 2015, putting in place a blind trust, I went to the Commissioner for Legislative Standards before – I said this earlier today but he would not want to repeat something factual. I said this before, before any money would have flowed, I suspended the project, suspended any transfer of money until the blind trust was in place and I had an opinion and advice on the conflict of interest.

I was very open and transparent with the Commissioner for Legislative Standards not to allow any money that would actually transfer.

SOME HON. MEMBERS: Hear, hear!

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

MR. PETTEN: Thank you, Mr. Speaker.

The Federation of Independent Sea Harvesters of Newfoundland and Labrador was formed in 2016.

Can the minister explain why it's taken 14 months in the certification process?

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

MR. BYRNE: Mr. Speaker, the hon. Member may not be aware that the Labour Relations Board is a quasi-judicial body which answers to the legislation and reports to the House.

AN HON. MEMBER: He's asking a FISH-NL question.

MR. BYRNE: If I understand, this is a FISH-NL question that you're asking?

Mr. Speaker, if it's a question of the FISH-NL and the certification of that particular group, that would be done through the Labour Relations Board.

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

MR. PETTEN: Thank you, Mr. Speaker.

The question was for the Minister of Labour. The Labour Relations Board falls under the Minister of Labour, who happens to be not the minister who just stood up that time. So I'll ask it again.

The Federation of Independent Sea Harvesters of Newfoundland and Labrador was formed in 2016.

Can the minister explain why it's taken 14 months in the certification process?

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

MR. HAWKINS: Thank you, Mr. Speaker.

Now that some clarity is given on the question there, it's very, very clear that the Labour Relations Board, as you know, is a quasi-judicial board and any complaints that go to that, as a minister, I have to be very, very clear in the fact that I have independence in that. I do not interfere with the Labour Relations Board. That would go through the process and they will make a decision on that, Mr. Speaker.

SOME HON. MEMBERS: Hear, hear!

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

MR. PETTEN: Thank you, Mr. Speaker.

I ask the minister: Has there been any significant changes since 2015 to the staff at the Labour Relations office?

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

MR. HAWKINS: Thank you, Mr. Speaker.

My understanding is that we do have a new chair in place in the Labour Relations Board.

AN HON. MEMBER: A fantastic chair.

MR. HAWKINS: And a fantastic chair at that.

Mr. Speaker, again, all of these issues that come before the Labour Relations Board are dealt with from a quasi-judicial board that will make an independent decision. They use the regulations within the Labour Relations Board to make those decisions. It's not my position, as minister, to interfere with any of the decisions or to expedite the way in which they do their work.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: The Member for Conception Bay South.

MR. PETTEN: Thank you, Mr. Speaker.

How many active files are being processed by the Labour board?

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

MR. HAWKINS: Most of them that are active, I guess, Mr. Speaker.

To give the exact number, I am not given these numbers on a daily basis but, in fact, I can certainly find out how many are active. I'm assuming that everyone that is active is being dealt with in a timely manner, Mr. Speaker.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: The Member for Conception Bay South.

MR. PETTEN: Thank you, Mr. Speaker.

I'm sure all the fish harvesters in this province are not finding it as funny as the government are, Mr. Speaker.

When can the members of the FFAW and FISH-NL expect a final resolution on this matter?

MR. SPEAKER: The Minister of Advanced Education, Skills and Labour.

MR. HAWKINS: Thank you, Mr. Speaker.

I can assure the Member opposite that both the FFAW and FISH-NL will receive a decision when the decision is made from the Labour Relations Board.

Mr. Speaker, this is a very interesting file. I'm sure they are taking all of the necessary information and going through it to make sure that a decision that they've made – and my understanding is that they are taking the measures that are necessary to make a decision that would be an appropriate decision from the Labour Relations Board. As soon as that decision is made and a final decision, we will certainly know that.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: The Member for Conception Bay South.

MR. PETTEN: Thank you, Mr. Speaker.

Mr. Speaker, I ask the minister: When was the last time he met face to face with D-J Composites employees?

MR. SPEAKER: The Minister of Advanced Education, Skills and Labour.

MR. HAWKINS: Thank you, Mr. Speaker.

Certainly, we fully understand the situation with D-J Composites in Gander and realize that employees have been on the picket line for quite some time. Mr. Speaker, at my department, we have, through the Labour Relations Board, provided services to both sides.

As you know, Mr. Speaker, the best deal or contract is a negotiated contract. We understand there have been some areas of concern through the whole process of this contract. We have provided services that would try to expedite an agreement. Unfortunately, Mr. Speaker, that has not happened, but I can assure the Member

opposite, that we still provide services to both the employers and the employees.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: The Member for Conception Bay South.

MR. PETTEN: Thank you, Mr. Speaker.

As Minister Responsible for Labour Relations, what measures have you personally taken to resolve this situation that's gone on way too long?

MR. SPEAKER: The Minister of Advanced Education, Skills and Labour.

MR. HAWKINS: Thank you, Mr. Speaker.

We have taken several measures. As a matter of fact, Mr. Speaker, back in last September I had a request from the union to put a mediator in place. Then I had a subsequent meeting with the employer and told the employer that I would certainly be putting an independent mediator in place to try and resolve the issues, at which time I did that, Mr. Speaker.

The mediator met with both sides and had significant discussions. One of the interesting parts of the report is when the mediator brought the report back he did not make recommendations, he made observations and it was intended and hoped that both sides would get together. Mr. Speaker, that did not materialize. So, again, we are now working through the process, and our services will be available for both the union and the employees.

MR. SPEAKER: Order, please!

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: The hon. the Member for Cape St. Francis.

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

On February 21, the federal Minister of Fisheries announced his decision to expropriate 25 per cent of Grand Bank surf clam quotas and give it to a Nova Scotia company.

Minister, it's almost two weeks: Have you managed to schedule a meeting with the minister yet?

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

MR. BYRNE: Mr. Speaker, we reached out to the federal minister to seek clarity on his decision because an award has not yet been made on the surf clam EA of 25 per cent of existing quota. We have asked to meet with the minister. We have doubled back with indigenous communities, and as well with the Town of Grand Bank and the entire Burin Peninsula.

In fact, the Member for Burin - Grand Bank has been an outstanding leader in making sure that the federal minister, the federal government is well aware of the circumstance facing Grand Bank; but, also, Mr. Speaker, what's very much troubling and very important is that the spirit of reconciliation which was attempted, which has not been achieved, our indigenous communities have spoken out and said they'd like stronger leadership from the federal minister.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: The Member for Cape St. Francis.

MR. K. PARSONS: Mr. Speaker, two weeks ago this minister said he was trying to get a meeting with his counterpart in Ottawa. So much for your cozy relationship with Ottawa when they won't even meet with you.

Why is there such a delay? Where are the seven MPs on this, and where is the regional minister on this?

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

MR. BYRNE: Now, Mr. Speaker, that's the darkest side of politics.

Yes, Minister LeBlanc is a friend of mine. No, he's not just a friend, he's a close friend, he's a dear friend; and, yes, we often agree but, yes, we also disagree.

As someone who understands that life in politics can be very, very difficult, I would ask the hon. Member to respect one thing. The Minister of Fisheries and Oceans is not well. He does indeed face an illness, and his capacity to meet on an instantaneous basis is not what it was some months ago. So we have reached out to the federal minister and when we can arrange a meeting we will.

I do know this, that we all need to be fair minded and respectful of the needs of all of us around us. This is a difficult job, and do you know something, we're all trying to do it very well.

MR. SPEAKER: Order, please!

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: The Member for Cape St. Francis.

MR. K. PARSONS: That minister need not talk to me about respect. I respect everybody. If the man is sick so be it, but I do respect the people in Grand Bank and the people on the Burin Peninsula.

If you can't get a meeting with the minister, why aren't you calling the Prime Minister's office and have a meeting with the Prime Minister?

SOME HON. MEMBERS: Hear, hear!

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

MR. BYRNE: Mr. Speaker, when we need to meet with federal officials, we do have that access. We don't need to tear down flags. We don't need to cause a fuss, but when we need to stand up for our people, including the people of Grand Bank and the Burin Peninsula, you can rest assured, Mr. Speaker, that this side of the House, we will always do that.

Our MHAs, the representatives of the people who are affected by this decision, including the indigenous communities, are standing tall and standing up for Newfoundland and Labrador. We do not have to resort to personal slurs and slanders, nor do we have to say that we cannot be friends.

I had asked the hon. Member; we don't always agree with each other, do you say that you are not my friend?

MR. SPEAKER: Order, please!

I ask the minister to sit in his place.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: The hon. the Member for Cape St. Francis.

MR. K. PARSONS: Mr. Speaker, stand up and do your act again, Minister, because this is about the people in Grand Bank and it's about the people on the Burin Peninsula. This is about Newfoundlanders and Labradorians that have full-time jobs, that are losing their full-time jobs.

I'm asking you to stand up for those people. I'm asking you to stand up for Newfoundland and Labrador and not let this industry go to another province. That's what I'm asking you to do.

Minister, why – or can the Premier maybe answer this question – aren't you speaking to the Prime Minister of Canada on this issue? It's an important issue to rural Newfoundland and Labrador.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: The hon. the Premier.

PREMIER BALL: Thank you, Mr. Speaker.

I am proud to be able to stand on my feet today and talk about the federal-provincial relationships, because no one on that side of the House could have ever talked about federal-provincial relationships, because there was none. There was none at all.

So what we're talking about – and I tell you, it's not lost on me when he just mentioned about Minister LeBlanc. Well, let me tell you this, since he's been a minister we've had an Oceans Protection Plan that's been in place that Newfoundlanders and Labradorians will take part in. We've had the Atlantic Fisheries Fund that they skated around and couldn't finish to bring benefits to the fisheries in Newfoundland and Labrador. The Marine Rescue Sub-Centre –

remember that, that used to operate in our province? – coming back to this province, Mr. Speaker.

What about LIFO? They skated around the issue and could not get that addressed, Mr. Speaker, and I haven't even talked about the biggest single investment that we will see in the marine environment in Newfoundland and Labrador that will be the Ocean Supercluster. That's how relationships are built on. We do not always have to agree

MR. SPEAKER: Order, please!

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: Order, please!

The hon. the Member for Cape St. Francis for a quick question, please.

MR. K. PARSONS: Mr. Speaker, last year an overflow of surf clam –

MR. SPEAKER: A quick question, Sir.

MR. K. PARSONS: Yes, last year an overflow of surf clams in the Grand Bank, and Clearwater has a new plant in Glace Bay, Nova Scotia.

Has the minister spoken to Clearwater, and will this company remain to do landing and process all its surf clams in Grand Bank?

MR. SPEAKER: The hon. the Minister of Fisheries and Land Resources for a quick response, please.

MR. BYRNE: Mr. Speaker, we have had regular communications with Clearwater with the senior executive, but also with its personnel on the ground in Grand Bank. Clearwater is now evaluating the circumstances they find themselves in. They are determining what exactly is the consequence and impact of this particular decision.

We are working with Grand Bank to ensure we maintain full employment. The key issue here, Mr. Speaker, the key issue is that the federal government must rescind the decision it took to remove the enterprise allocation from

Clearwater because they did not follow their own rules. That's our plan A.

MR. SPEAKER: Order, please!

SOME HON. MEMBERS: Hear, hear!

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

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

Early in February demonstrations were held at Stephenville High school because a male student accused of sexual assault on three female students was being allowed in the school in spite of an outcry from students and parents that the girls who made the accusations felt unsafe, as did others. The school board spokesperson claimed they had no choice in the matter because by law the student has the right to attend classes.

I ask the Minister of Education: Why did the school board not use its powers of suspension under the *Schools Act*, which recognizes the right to an education, in order to ensure immediately a safe and caring learning environment for the students?

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

MR. KIRBY: Mr. Speaker, under the *Schools Act*, I don't speak for the school districts in this province. They have a CEO and they have a board of trustees that's headed by a chairperson who's the official spokesperson for the school districts. If the Member has a question for the school district, that's the appropriate place to address that.

In my opinion, as I've said publicly, we have prided ourselves on trying to abolish bullying in our schools. Sexual harassment and abuse of this sort is the epitome of bullying, in my opinion, that is dehumanizing towards another person. We will be bringing in amendments to the *Schools Act* to make clear to the school districts what our practices and policies should be in this respect.

Thank you.

SOME HON. MEMBERS: Hear, hear!

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

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

I'd like to put a question to the minister with regard to what he just said because he did say publicly that he was going to be making changes to the *Schools Act* to make sure that things were clear.

Can he tell us what he means by that?

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

MR. KIRBY: Mr. Speaker, that means an amendment to the *Schools Act*.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: The Leader of the Third Party.

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

I say to the minister, the situation that occurred at Stephenville High is one that could occur again overnight. Clarity of the language in the *Schools Act* is needed urgently. It was needed before, it is needed now.

I ask the minister: How quickly is he going to act to ensure that the English school board knows it has the power to act in situations similar to that at Stephenville High school?

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

MR. KIRBY: Mr. Speaker, the situation is extremely serious and we don't take it lightly. That's why we're going through the normal, internal process of government to address the issue. The school district is changing its policy with respect to the Safe and Caring Schools protocol, and we are looking at changes to the act which takes time.

The task force report on education was released in July of last year and the Member came in here and demanded that we bring in the changes that were announced in July, in September. I can't just make things happen at the snap of a finger.

We have to have due diligence. This has to have legal attention. Legislative counsel has to be involved. We have to do consultations with stakeholders. Things can't happen immediately and there's a reason for that, because we need to have due process in enacting changes to the act.

MR. SPEAKER: Order, please!

SOME HON. MEMBERS: Hear, hear!

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

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

The *Schools Act* allows for school boards to offer alternative arrangements, such as home schooling or online learning, when they deem it necessary to have students removed from the school for the security and safety of staff and students.

So I ask the minister: Is he talking to the English school board, both about why they didn't do it then and if they would do that now if a situation like this came up immediately? They do it all the time with children on the autism spectrum. Why not in this case?

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

MR. KIRBY: Mr. Speaker, I'd like to know how often this Member has reached out to the school district herself to ask these sorts of questions. We have had a continuous dialogue since the events became known to the Department of Education and Early Childhood Development in January. We've had a continuous dialogue with the school district about these matters. We've had a continuous dialogue with stakeholders who are interested in having changes.

This Friday, I am meeting with staff with the Newfoundland and Labrador Federation of

School Councils to address this, amongst many other issues, Mr. Speaker. I ask the Member how many times she had reached out to the school district to make the sorts of suggestions that she is making here on the floor of the House of Assembly today.

SOME HON. MEMBERS: Hear, hear!

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

Presenting Reports by Standing and Select Committees.

Tabling of Documents.

Notices of Motion.

Answers to Questions for which Notice had been Given.

Petitions.

Petitions

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

MR. BRAZIL: Thank you, Mr. Speaker.

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

WHEREAS Newfoundland and Labrador ought to be the principal beneficiary of the development of our natural resources we own;

WHEREUPON the undersigned, your petitioners, humbly pray and call upon the House of Assembly to urge government to ensure that no natural resource development agreements are approved unless Newfoundland and Labrador is the principal beneficiary.

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

Mr. Speaker, we've had this discussion over the last number of years, particularly as it relates to

our natural resources and there are multitudes in this province of ours. They cover a gamut of regional, generic backgrounds and potential future development when it comes to alternate forms of energy because we have a natural geographic makeup here that we need to take advantage of.

We've known in the past, and it's unfortunately happened with a multitude of administrations, it's happened over various decades that without doing due diligence, there are times that we've either developed agreements or never had the hindsight or the vision to be able to say down the road, we need to be able to understand what the value of this asset is going to be, particularly around a natural resource.

What's being suggested here by the people of Newfoundland and Labrador is saying: We've learned from our mistakes. We've talked about it for the last 50 years, in some cases. We're in debate now over how we develop the next level of our natural resources and we need to ensure that every resident, so we can plan for the future, plan for the present, but particularly learn from the past. As we go through the natural resources that we have if it's in the mining industry, if it's in the oil industry, if it's in hydroelectricity or if it's all the new future industries that are going to come here from our natural resources, we need to have a principal understanding that we're going to be the maximum beneficiaries and we're going to be the primary beneficiaries here. Because the people of Newfoundland and Labrador have struggled for 500 years, have fought to maintain our culture here, have ensured that we are great, productive citizens in this country but also in this world, and we've done it always to engage other societies and be in an open society and being open for business.

But when you're open for business, you must ensure that the people who are foremost the individuals who've gotten the process to where it is, should benefit so they can then have the next future generations to be secure when it comes to education, health care, inclusion, open opportunities and engagement of bringing other cultures to our great province of ours.

So what's being said here is to ensure every piece of discussion or legislation should have on it a lens that looks at any contract that's out

there around our natural resources benefit the people of Newfoundland and Labrador.

Mr. Speaker, I present this on behalf of the people of Newfoundland and Labrador. I look forward to doing it again in the future.

Thank you, Mr. Speaker.

MR. SPEAKER: Further petitions?

The hon. the Member for Cape St. Francis

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

The current federal government policy regulations link harvesting quotas to length of vessels. Many harvesters own fishing vessels of various sizes, but because of federal regulations, harvesters are restricted to using smaller vessels and often putting their crews in danger.

We, the undersigned, call upon the House of Assembly to urge the Government of Newfoundland and Labrador to make representation to the federal government to encourage them to change the policy to ensure the safety of those harvesters in our province.

Mr. Speaker, I bring this petition today and I will continue to bring it in the House of Assembly because it's very important issue. It's a very important issue in my district. I know a lot of people that are harvesting crab and there are different zones of crab. There's outside the 200-mile limit, there's inside and there's the inshore zone. A lot of times you'll see harvesters that have licences in each one of these zones.

Mr. Speaker, because of these regulations they're forced to using vessels that are probably undersized, under the 35-foot length and then under the 45-foot length for different zones. They probably have to have three vessels. My thing with this whole thing, I believe that we as Newfoundlanders and Labradorians should be doing everything to make sure that the harvesters that go on the water are in safe vessels. We have seen in this province, and you will see it every year, and it is sad and it affects communities and it affects our whole province.

(Inaudible due to technical difficulties.)

I think that these regulations can be changed. I'm hoping the minister will do something about it and talk to the federal government because it's our resource, they're our people and we need to protect them.

Thank you very much, Mr. Speaker.

MR. SPEAKER: Further petitions?

Orders of the Day.

Orders of the Day

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

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

I call from the Order Paper, Order 2, third reading of Bill 33.

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

MR. A. PARSONS: Mr. Speaker, I move, seconded by the Minister of Finance and President of Treasury Board, that Bill 33, An Act To Amend The Access To Information And Protection Of Privacy Act, 2015, be now read a third time.

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

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

All those in favour?

SOME HON. MEMBERS: Aye.

MR. SPEAKER: All those against?

This motion is carried.

CLERK (Barnes): A bill, An Act To Amend The Access To Information And Protection Of Privacy Act, 2015. (Bill 33)

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

On motion, a bill, "An Act To Amend The Access To Information And Protection Of Privacy Act, 2015," read a third time, ordered passed and its title be as on the Order Paper. (Bill 33)

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

MR. A. PARSONS: Mr. Speaker, I call from the Order Paper, Order 3, third reading of Bill 34.

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

MR. A. PARSONS: Mr. Speaker, I move, seconded by the Minister of Finance and President of Treasury Board, that Bill 34, An Act To Amend The Legal Aid Act, be now read a third time.

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

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

All those in favour?

SOME HON. MEMBERS: Aye.

MR. SPEAKER: All those against?

AN HON. MEMBER: Division.

MR. SPEAKER: Division has been called.

Please call in the Members.

Division

MR. SPEAKER: (Inaudible) given that we do have an audio problem right now, we are going to recess for 15 minutes.

I propose we convene at 2:45 o'clock.

Thank you.

Recess

MR. SPEAKER: Order, please!

So Division has been called.

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

All those in favour, please rise.

CLERK: Mr. Joyce, Mr. Byrne, Mr. Haggie, Mr. Hawkins, Mr. Crocker, Mr. Osborne, Mr. Kirby, Mr. Mitchelmore, Mr. Warr, Mr. Bernard Davis, Ms. Gambin-Walsh, Mr. Edmunds, Mr. Browne, Ms. Haley, Mr. Derek Bennett, Ms. Cathy Bennett, Mr. Finn, Mr. Reid, Ms. Parsley, Mr. King, Mr. Dean, Ms. Pam Parsons, Mr. Holloway, Mr. Brazil, Ms. Perry, Mr. Kevin Parsons, Mr. Petten, Mr. Lester, Mr. Lane.

MR. SPEAKER: Those against the motion, please rise.

CLERK: Ms. Michael; Ms. Rogers.

Mr. Speaker, the ayes: 29; and the nays: two.

MR. SPEAKER: I declare the motion carried.

On motion, a bill, "An Act To Amend The Legal Aid Act," read a third time, ordered passed and its title be as on the Order Paper. (Bill 34)

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

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

I call from the Order Paper, Order 5, second reading of Bill 35.

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

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

I move, seconded by the Minister of Municipal Affairs, that Bill 35, An Act To Amend The Public Inquiries Act, 2006, be now read a second time.

MR. SPEAKER: It is moved and seconded that Bill 35 entitled, An Act To Amend The Public Inquiries Act, 2006, be now read a second time.

Motion, second reading of a bill, “An Act To Amend The Public Inquiries Act, 2006.” (Bill 35)

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

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

Standing up today to speak to this amendment to the *Public Inquiries Act, 2006* and I guess it’s sort of related to a bill that we discussed here in this House yesterday which was the amendment to ATIPPA.

I’d like to thank the staff within the department. They’ve done a tremendous amount of work, not just in respect to the inquiry but certainly as it relates to these pieces of legislation providing briefings, not just to the Opposition and to government caucus but, today, actually we had a technical briefing provided to the media on this particular bill because it not a simple matter.

It’s not a huge amendment in terms of size but it’s substantial and it’s one that if you just read it, you might have some questions. But I’d like to think that with the very able handling of this matter by our staff, our deputy minister, staff solicitor, as well as one of our ADMs, I think they did a great job, not only into the briefings to the Opposition but to the media today. I thank them for all that they’ve done on this bill and the other bills, three bills in the last two days.

We’re standing here today with this amendment which, as I said, is not huge in the sense that it’s a complete overhaul of a bill. It really is basically an amendment that’s an addition to an existing bill.

What it says here, and I want to read this out because all of this is important. The *Public Inquiries Act, 2006* is amended by adding immediately after section 24 the following: “24.(1) Where the Crown or a person designated under subsection (3) discloses to a commission or inquiry, either voluntarily or in response to a request or summons, any information over which immunity or privilege, including solicitor-client privilege, is asserted, the immunity or privilege is not waived or defeated for any purpose by the disclosure.

“(2) Where a commission or inquiry determines that it is necessary to disclose information over which the Crown or a person designated under subsection (3) asserts immunity or privilege, including solicitor-client privilege, the immunity or privilege is not waived or defeated for any purpose by the disclosure.

“(3) The Lieutenant-Governor in Council may designate persons to whom subsections (1) and (2) apply.”

And then the next one here is: “2. This Act is considered to have come into force on January 1, 2018.” That date is important for reasons that I’ll get into now shortly.

Basically, in layman’s terms what we’re doing here with this amendment, should it pass, is we’re ensuring by statute that solicitor-client privilege will still apply to information which is provided to the Commission of Inquiry into Muskrat Falls, and that it is not waived merely by virtue of being passed over.

What I want to do is try to get into it a little bit more and talk about why we’re here, how we’re here and what this all truly means. As I discussed yesterday, we have the Commission of Inquiry which was set up in November, headed by Justice Richard LeBlanc. They’ve been very busy, since that time, getting the inquiry up and running. I know they have some hearings coming soon, standing hearings, which is to determine who does have standing at this. They have a timeline that’s in place.

Just to put out there for the record – one of the issues that were discussed yesterday – this is a timeline that was certainly not forced upon Justice LeBlanc, it’s one that Justice LeBlanc knew going in and accepted. No justice is going to accept an impossible task. These commissions of inquiry, every one of them is difficult, comprehensive and important. But this one, I think, very well may be the largest in terms of document disclosure and in terms of information.

What happened is in early January the Commission basically sent to government a summons, a request, for any and all information – and I don’t have the actual wording here – related to Muskrat Falls since 2006. Right now,

within the Department of Justice alone, there is 36 gigabytes of data just on that request. That's well over a million pages of information to be sent. It's a tremendous request. It's absolutely humongous.

Here are a couple of things to keep in mind. When the request came in, the request – or I don't know if it was a request or a demand but, either way, it was we want the information within two weeks. That's huge. Just actually getting the data, getting the information over the last 12 years is a significant task, getting it compiled, putting it together and then sending it over to the inquiry.

One thing we've made clear all along is we want to do everything we can to ensure this inquiry proceeds as expeditiously as possible. That's why we were here yesterday making an amendment to ATIPPA and we're here today – again, we want to ensure that gets over.

In putting together the documents, there are a couple of things to keep in mind. The request itself was so broad that, in many cases, the information that falls under the request will not be deemed relevant to the inquiry. I have a pretty good suspicion that once they go through it, they'll say so much information is relevant and some of it is not, but the request is broad and that's fine, that's what we want. We wanted a wide lens, a wide net cast on all that information that may apply.

One of the other problems, though, is that some of the information requested – which, in many cases, is not relevant – has to do with other very sensitive government matters, legal opinions on non-related matters, government policy, solicitor-client issues, just really sensitive, important information that if you lose privilege, could hurt, not just government but the people of the province.

It's basically like allowing the hood up, and let's look underneath and see what's there. In many cases, it could be seen as giving away government information that will harm – and when I say government, it's not about this government. It's about any government. It's about matters that pre-existed this one coming in and could continue on to another government.

It's not about this administration. It's about the administration.

In disclosing the information, a couple things here; one, the amount of information is so vast that looking through it to see what is privilege and what is not, what do we need to have a look at, that would take months – months. By disclosing it you are deemed, in many cases, to have waived solicitor-client privilege. So by giving it over, privilege is gone.

Later on, what that could mean is the information comes back to government, somebody puts a request in for that information and says: It's not privilege anymore, you waived it – therein lies one of the problems.

We had solicitors going through this and instead of going through every page, it was felt that by bringing in this amendment we could protect it, we could get all the information over and some has already gone. That's why you'll note that section 2 says this will be retroactive to January 1. This catches everything that goes over there.

Once it's all over there, they can then go through this, deem what's relevant, what's not relevant, the process that will be followed. That's completely up to the Commission what they need and what they don't need. They'll determine that. That's basically the whole purpose of what we are doing here.

When you talk about amending the Inquiries Act, and whenever we talk about ATIPPA or Muskrat Falls, the mere mention of those terms or names creates heightened awareness amongst the public, in my opinion.

Even here in the House when you hear certain terms – after 2012 with Access to Information or ATTIPA or Bill 29, the mere mention of it, people thought about it. In many cases, the fact that we're bringing this amendment – if you were just to look at it without reading you might think: What's going on?

That's why it's so important that we stand here, not only in the House and have this debate, but we did the technical briefing today with the media. It was a chance for the media to sit down – as the purveyors of information to the general populace, it was a chance for them to sit down

and ask all the questions they wanted on: What does this mean?

I was so happy to – again, I will say, my staff did a 10-times-better job explaining it than I ever could. This is what they're used to. This is what they're good at. So I thank them for doing this.

Now, we talk about the term solicitor-client privilege, and people have a general concept on what it means and what it's about, but I want to put out there exactly how important it is. Just so people would know, and this has been decided at the highest level of court in our country, obviously, the Supreme Court of Canada. Solicitor-client privilege applies to a communication between solicitor and client which entails the seeking or giving of legal advice and which is intended to be confidential by the parties.

The Supreme Court of Canada, I've got a good quote here from one of the latest pieces of legislation to go through the courts on this topic, and that's *Alberta v. University of Calgary*, 2016. In that case, they do a tremendous job of explaining the rationale and the importance of privilege and solicitor-client privilege, and I'm going to quote from the case.

"It is indisputable that solicitor-client privilege is fundamental to the proper functioning of our legal system and a cornerstone of access to justice." That's actually a quote from the case *Blood Tribe*, at paragraph 9. "Lawyers have the unique role of providing advice to clients within a complex legal system. Without the assurance of confidentiality, people cannot be expected to speak honestly and candidly with their lawyers, which compromises the quality of the legal advice they receive. It is therefore in the public interest to protect solicitor-client privilege. For this reason, 'privilege is jealously guarded and should only be set aside in the most unusual circumstances.'"

In fact, the Supreme Court has also said that solicitor-client privilege is a substantive rule that has overtime evolved into a fundamental civil and constitutional right. This is not small stuff and it has been confirmed of its fundamental nature to the justice system and that privilege has to be as absolute as possible. If you start

tearing away at that, you start tearing away at the system.

This is not me; this is the Supreme Court of Canada that has made these decisions on multiple times over the years. The most recent one that I'm aware of is 2016, but it goes right back. Some of the cases I refer to, one of them here is actually from 1980.

I put it to you this way; a client comes in, and it could be on any type of matter. They feel comfortable talking to their solicitor and giving all the information because in doing so it's the only way they're going to get proper advice. If a person comes in and feels that everything they say is going to be told to somebody else, exposed, put out there, in many cases they won't talk. Therein lies the importance of it, and I love – actually, I can quote, there's a great movie here that Tom Cruise is in, *The Firm*, where he talks about solicitor-client privilege.

It's like a ship with cargo that will never reach its destination. A lawyer who has that information, has it there, it can never go anywhere. It cannot go anywhere. I can't understate, or overstate, how important this is. People say, well, what does that matter?

Again, in this case we're not just talking a client going into the lawyer to talk about a family matter, we're talking about – in this case the client is government. The client is government and they're going in, and the release of this information would be detrimental to this entire province in many cases.

Now, let's go back to why we're here, the commission of inquiry. Nobody launches an inquiry without wanting to get to all the information. That's the whole purpose of this. The purpose – as I've said on many, many occasions – of an inquiry is to get down to what happened for that particular situation. Is it for a – in the case of Dunphy where we had the shooting of a civilian? Is it the Cameron inquiry? Is it the Ocean Ranger inquiry? Is it the Hughes inquiry? All substantive, important matters, and the purpose of an inquiry and why it's independent, is we need to get down to it without any interference and find out what's going on.

The second part is what can we do to avoid a situation of this nature from happening again; but, we must keep in mind that certain pieces of information that are not relevant should not have their privilege removed and harmful to government. We can't allow that to happen. That's the whole purpose here.

I would note that if this were not to be placed in here, if we were not to do this amendment, many people may take it upon themselves not to put all the information forward. We want everything forward. We want everything in front of the commissioner to make this decision.

I'm just going to go through – I have some notes here that I'd also like to go out there, just to put everything on the record. I look forward to the comments from my colleagues across the way and then to the Committee stage where I'll certainly try my best to answer questions.

We all know the commissioner has broad powers, and one of those is the fact that they can put summons out there for information. They can request your presence at the inquiry. They can request your testimony at the inquiry, search warrants, all things. This is one of the reasons you do an inquiry is because that commissioner has the ability to do all these things.

We all know how privilege applies in court. It applies in the same way for an inquiry. I've talked about privilege. A commission of inquiry cannot compel disclosure of privileged documents, and the disclosure of this could result in the loss of that privilege.

This is not a case of wanting to hold back the documents, because we want to put it all out there; all we're doing is protecting the privilege that goes with these documents.

These are good points to put out there. The loss of the privilege applies to the entire matter. It's not select parts; it applies to it on a whole. So not just specific documents, it would go to the entire matter. You can imagine how this would be completely and extremely detrimental for various reasons. Once the privilege is lost, that loss is permanent. You can't go back.

The issue here we talked about is that when the documents come back, the privilege is gone. The

Crown can't say: No, no, these are privileged. No, those are going to come out. We're talking not so much about the inquiry itself but about future litigation unrelated to the inquiry. That's one of the things that we're concerned about.

The purpose of this today is to facilitate document disclosure to an inquiry without prejudicing government's ability to maintain privilege and immunity in other contexts. It's not creating any new or existing privileges for government. It allows us to disclose everything without the risk that would apply that I described earlier.

Specifically, this amendment will ensure that any privilege or immunity applicable to government documents is not lost due to disclosure to an inquiry or disclosure by a commission during an inquiry. I think that lays it out there. I don't think I want to belabour this point much more than this.

I had an opportunity to speak to the media on this earlier today and answer questions they might have had. I understand the Opposition was briefed on this last week so they've had an opportunity to review this and to ask questions.

At this point, I'm going to take my seat. I look forward to the debate from my colleagues and to Committee stage of this bill.

Thank you, Mr. Speaker.

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

MR. BRAZIL: Thank you, Mr. Speaker.

It's, indeed, an honour to stand in this House and speak to Bill 35, An Act to Amend the Public Inquiries Act, 2006. As the minister has outlined, his department officials gave a very thorough and professional briefing. This is a very unique piece of legislation from a legal point of view but, also, particularly for its implications as we go through.

It's unique to a certain degree. I know the minister made some references to particular nuances and particular examples, but because we're changing the legislation to reflect something that's going to tie directly in to an

inquiry now that's been called. That's becoming the debatable issue here right now. It's about the importance of this piece of legislation – and not the legislation, but the amendments to it, and the reference that it will have and the impact that it will dictate when it comes to the inquiry.

I just want to make it clear for the people at home, this is about changing a piece of legislation that directly will affect the dissemination, the sharing, the public access to pieces of information that I personally feel, and I think a lot of us on this side of the House feel, are going to be pertinent to the Muskrat Falls inquiry. No doubt, everybody in this House has asked for the inquiry; everybody supports the inquiry.

I know us here in the Official Opposition are 100 per cent approving and supporting that we get the inquiry moving forward, that we have an open process, and that as much information – all information, but as much information that is needed not excluded because it fits within a legal ramification, would be accessible and open to not only be used by the Commission itself, but also for the general public (inaudible) to be able to have a discussion around and an understanding of what's being put forward.

So this is where it becomes the debate around the changes to this piece of legislation in Bill 35, because the issue we're trying to get around and the conversations we're having is particularly around the sharing of information and why in any case or any scenario would there be restrictions. Keeping in mind that the inquiry itself, and the officials who are going to lead that have extensive – and I mean beyond extensive legal backgrounds. So they would know if they're treading into areas which in some way, shape or form is going to have a legal implication to an individual or a company as such.

To have particular pieces of information before it ever gets to them, deemed that it's not important or that they shouldn't have access to – and I know it's a debate about all information will be given to the inquiry. Then the inquiry would say, here's what we want. We want all this. But then coming back, the department or government or Cabinet will decide no, we've looked at that, you can have 80 per cent of it,

because we're going to talk about solicitor-client privilege here.

That becomes a tangly situation. I've talked to some people from legal backgrounds and their issue to me was, the word tangly came up; this is a very tangly situation. But the other word became: Why would they go this route; why is it necessary to do this at the end of the day? Particularly when what we're calling for here is an open, transparent process to get answers, or get direction or clarification to ensure three things: that the project publicly is known how and why we've got to where we are; any impacts it's going to have on future costing, the cost for electricity, the billing in this; but also how we would mitigate any future issues around development similar to this.

And we'd get that from an inquiry. That's how we get it. A set of recommendations come out, we've seen that in recent inquiries that have taken place where you get a full-fledged understanding of how we got to that point, the factors involved, the personalities involved, the outside entities, the intent, how far the intent went to the final outcome and if it changed somewhere along the way, what were the impacting factors that caused that to occur.

So it becomes a bigger umbrella issue here around let's put everything on the table. Let's put everything out so that we have a clear understanding of what it is that the inquiry is going to need, that the legal professionals and the technical professionals are going to need to ensure that they can look at the issue around here is again, was it the most cost-effective project, was it deemed necessary, did we need the power, and the costing acknowledged at a certain rate, why is it now that the overruns are far more than would have been built into a contingency. So there are three key things that need to be addressed here.

There's no doubt the commissioner already putting together – and what I do like, when we had the discussion and the debate in this House, this was going to be all encompassing, it was going to be extremely open and all information would be disclosed. We all supported that process. I know and I can honestly say that I served as a backbencher when this was first being debated. I served in Cabinet in the later

years when the process was about to begin the construction phase. There were questions asked and there were presentations made. There were discussions about where we were and why, instead of the straight line, things that had to curve to the left or the right to address particular issues and needs, and that we were going to run into some particular challenges just by the nature of the scope of the project, and certain unforeseen circumstances that popped up – not that they weren't planned for, but popped up from a different dimension.

That's all understandable. Based on the principle of that type of information, I'd like to know, what was shared with me, was all the information that was available or was I just given enough information to appease my understanding of where the project was, or was that exactly the accurate information that was available at the time and reflected exactly where we were.

We weren't asking to get down into the minute details of the construction phase, the contracting phase, the assessment phase and all those type of things. Because there were a multitude of professionals internally and externally, and outside consultants, who gave advice because they were experts in that field. It would be relevant to exactly why the project would move at the rate it was moving.

As we move forward, hindsight, all kinds of other intuition and all these type of things would say, you know, at the end of the day, a project of this magnitude that we haven't done to this degree in a different type of terrain, in a different type of culture, in a sense of a working culture now when we have with the unions, multitude of unions, when we're bringing outside contractors from other countries who are not even used to the geography here, what factor would that have on the final time frames, the final outcomes and, particularly in this case, the final costing and then what that final costing impact would have on the general population, particularly around one particular thing, and that's ratepayers having to pay what particular rate for electricity once Muskrat Falls totally comes online for Island generation.

They were things that need to be out there. We've heard, particularly in the last two years,

the general public, no doubt, have had some concerns, and there's still a fair bit of support for the project in a general context; but I think everybody has the same concern that we have, that for the last two years the governing party here having been hanging their hat on, that Muskrat Falls wasn't done right, that Muskrat Falls got out of hand, that Muskrat Falls isn't the best project, Muskrat Falls is not something we needed.

Fair enough, if that's your belief and you have evidence to that process and you want to expose that, by all means, do it. As a matter of fact, we, on this side, have jumped up and said we want to know it too. If there's something that needs to be clarified and something that needs to be exposed, do it. Particularly, if there's something that needs to be put here now, the quicker the better so that we can move the project to the next stage because we know the project is not stopping. We know the project is 75 to 80 per cent complete. We know it's going to bring electricity to the Island. We know it's going to bring electricity to Labrador. We know it has the ability for us to be able to go on an international and a national market to be able to sell additional electricity.

We know if it's used right and promoted right, it can help attract other type of industry to Newfoundland and Labrador. We know all that. But if we're going to do this and do it right, we need to be able to address two key issues. As I say, the elephant is in the room. One is how a project that was supposed to be so fluent and all stages were met get offline from a time point of view and get offline from a financial point of view. How do we, after the end of the inquiry, ensure that no matter what project we take on – because Gull Island is only a few years later. At best, a decade later with a number of partners and probably a different approach, but what that approach may be will have to be based on the Commission's recommendations and findings.

To do that, we have to ensure every available piece of information, every commentary that was made, every suggestion, every minute piece of research that was going back 10, 15, 20, 25 years is important because it has an impact on the end result.

I know the minister has outlined – and I understand, if I was in the Commission’s side or if I was in Nalcor, there are a multitude of pieces of information here from all angles. It’s going to mean a very encompassing process; it’s going to mean resources may have to be dedicated.

People have thrown out \$100,000, \$200,000, \$300,000 in additional resources, but in this case – and we’re talking a multi-billion dollar project that can and should be and will set out to be the mainstay of moving Newfoundland and Labrador forward in a number of ways. From a green energy point of view, from guaranteeing that we had available energy levels all through the province, that we could use it as an attraction for industries in Newfoundland and Labrador and could also use it so that we weren’t depending on any other jurisdiction. We would control an entity, an asset and make it revenue generating without any additional costs to the people of Newfoundland and Labrador, once the asset is in play and is doing what it was set up to do, which was provide green energy to the people of Newfoundland and Labrador.

To do that, the first focus, I would have thought – and I’ll go through some notes after – led to believe last fall was around that the government wanted to ensure every piece of information that was available – everything. No matter who was involved with it, it would be shared with the Commission. The Commission, then, would have that right at their fingertips to pull at any given time, which in turn then meant that could be shared with the general public who have the biggest vested interest here.

Don’t forget, this whole inquiry, the whole intent of building Muskrat Falls was to enhance the general public’s ability to have an asset, have access to electricity and do their environmental part for our great province. To do that, we need to ensure all information is shared.

A couple of questions that I brought up, and there were some discussions with some legal people, were about tell me – and this is, again, complex. Unfortunately, not having a pure knowledge of the law, particularly around this component of it, client-solicitor privilege, and you can see it may be different if you’re in a murder case or if you’re in some kind of an insurance case, it might be a little bit different,

things that are said and done and these types of things.

This is a bit different from my perspective. Again, not having a legal background, but I’m seeing it from Joe Public who’s looking from outside saying we’ve had debate for this for the last seven years. I want to know if there’s something here that needs to be addressed, if there’s something here that didn’t go the way it was supposed to.

If it’s something that was done deliberately, why would we not open up the process that ensures all that’s put out in the open so that everybody at the end of this process feels happy that three things were accomplished: transparency and openness was done; that we now have, say, no matter what Crown corporation you are in Newfoundland and Labrador, never forget who you work for. You work for the people of Newfoundland and Labrador and who you’re answerable to, as part of that process. As a third thing, anytime we do something that may not have worked out, how do we ensure we learn from that process, that we don’t repeat it again? We’d probably find better ways of doing things and develop more practices, improved practices as we go through that whole process.

To come in with a change to a piece of legislation that talks about wanting to do something that’s all encompassing, purely engaging and an open and transparent process, but then get to the edge of the door and saying: By the way, not everybody can get through the door. You’re all welcome to come in, but not everybody can get through it. The restrictions on that are going to be based around something that’s in the legal genre of client-solicitor privileges, but having the definition of how that relates directly to this piece of legislation becomes a bit questionable, particularly for people who are not fluent in the law and how this would relate to it, particularly if you talk around contract law.

We’ve all heard it, we see it in some of the other cases that we’ve had in Newfoundland and Labrador and in other places, but as it relates to sharing of information in an open inquiry, that’s not about directly pointing blame. There’s not somebody on that hot seat. It’s about an inquiry of a project that a multitude of agencies, groups,

professionals, departments, corporations had a direct input into helping design and helped move forward.

So the connection is not as simple and it would say in some of the examples that have been used when it comes to client-solicitor privileges. I've had a hard time trying to make that connection and making it valid. Not saying that in law it's not written, that it can fit in any context, but I'm having a problem seeing, in this particular case, knowing what the discussion has been and knowing what the intent of the inquiry was, why in any way, shape or form we would put any restrictions on it. Not only is it a restriction, but it becomes very encompassing. While the minister talked about there's a lot of information, there's going to be more discussion around what is accepted and what isn't.

If what the government is saying is all information is going to go to the Commission, well, that's fine. So all the information is out there already. I'm lost to say there's so much of it, but then at one point you're touting that all the information is going to go to the Commission, but the Commission may not have the ability to use all that information.

That becomes a questionable process there, and the intent of why you would go that route and not show that you're open and transparent, keeping in mind these are – legal minds would say, particularly in the commission, here's the information I need and here's why I need it. For me to hit the objectives of the inquiry, I need A, B, C and D. Don't give me A, B and D, and C not be accessible because it fits under a particular category that now exists that didn't exist before, because you're putting this in the same vein as something else in the legal system, the client-solicitor privileges.

If I was a commissioner sitting on that, I would have some real challenges. Regardless if I had a multitude of backgrounds or knowledge in particular laws relevant to this, I would be saying I want all the information. We saw it in other commissions.

The Cameron commission was extremely open. Information was shared over periods of time. It was explicit to the impact it had on the patients in this case and the process used prior and

during, and even the process around contacting those who had been misdiagnosed or given the wrong information or after surgeries needed to be addressed and looked at. I can't recall seeing a lot of the solicitor-client privileges being invoked there as part of it. We know the witnesses were called from various backgrounds, ministers of various departments, and questions were being asked.

The solicitors there asked very poignant questions around: Why was this done? Who was aware of it? They had all kinds of documentation to say you sent this email at this point, you spoke with this group of individuals, you requested this type of information. Now, can you clarify exactly what your intent was with that? Were there any issues you had with it? Should this have brought you to another point where there would have been a concern about what was happening?

I see the same thing here. I see no difference in what we're doing here in the sense of making sure that the commission and the commissioners have all the information they're going to need to make an informed, or open up first for an informed discussion and then ensuring the report at the end of it is reflective of what particularly the issues are, and to do that you must, first of all, have access to all that type of information.

Again, to go break that down – there's no doubt, when we get in Committee I'll ask the minister for some extreme examples of how this would work in other jurisdictions. I've gone through – we know there are only two other provinces that even have a similar one here, Ontario and BC, but there are particular nuances. I don't think their legislation was changed to when an inquiry was put in place.

I could see going the opposite. I could see if this legislation already existed and now we're bringing in an inquiry, we have to come and say we have to change the legislation and open it up so that the inquiry does have access to everything and people can't just flippantly say solicitor privileges here or solicitor-client privileges in any way, shape or form. But when we're putting something in that doesn't exist in other forms, particularly when it came to inquiries and that, then I have to challenge. I have to question: What's the intent?

I don't know if it's just because it fits well with the legal process. I don't know if it's something that people inadvertently are saying: Well, no, people could still get the information. But our research is saying: No, no, if under that it's challenged as the client-solicitor privilege, and while the information may be given to the inquiry and the inquiry says, yeah, I want all of this, but then the department or the government – and I still need some clarification on exactly who, in this case, would make those decisions, because it becomes like a conflict of interest.

If you're calling for an inquiry but after you said it's going to be a whole open process, you're also restricting the debate and you're restricting the debate because you're restricting the type of information that can be put out there, so that the debate can centre around whatever that piece of evidence or that piece of information is relevant to. I have a major problem with that also.

So that makes you start to think, what's the intent here? What's the driving force? I have no inkling of saying there's any suspicious malice here. What I'm asking is somewhere along the way we're going to need some real clear clarification because, obviously, the bill itself – and I'll just read quickly here the Explanatory Note: “The Bill would amend the *Public Inquiries Act, 2006* to confirm that immunity or privilege is not waived when the Crown or a person designated by the Lieutenant-Governor in Council discloses information to a commission or inquiry.”

The bill itself is not much longer than the Explanatory Note, and the minister noted that. Meaning this is not a big encompassing piece of legislation, but the one change makes it as if this was a massive act, because the understanding there and the impact it has on everything else in the act is very important, and extremely important here.

I just go back to a couple of the clauses here. The first clause of the bill would add a new section, 24.1, to the *Public Inquiries Act, 2016*.

MR. SPEAKER: Order, please!

I remind the Member to try to stick with the principle of the bill, not delve into the clauses.

Thank you.

MR. BRAZIL: Fair enough, Mr. Speaker.

I do that, but I need to outline this so that people would understand the changes being made here are particularly around the clauses. The principle around what's being entitled that you're going to hold back stuff is relevant to the clause, because the clause itself is being changed to ensure that, in this case, all the information can't be shared. Because you can invoke a particular clause here and it talks about “... designated under subsection (3) disclosures to a commission to inquiry ...”

This is all about the information that's going to be distributed to the commission. The clauses here – the principles, to me, are directly connected to the clause because the clause is being changed to alter the principle of the piece of policy and legislation we're doing. The argument we're having here is we don't agree with the principle of the changing of this piece of legislation, and the clauses reflect that.

What it says here basically in the clauses, where the commission determines that a piece of information is important and relevant, they must then ask for clarification of whether or not there's going to be a challenge under the client-solicitor privilege. If indeed that's done, then a decision is made that that piece of information is not going to be relevant for them to be able to use in the commission.

There's a real problem with that, as I see it, a real problem. Because in my interpretation, you're being judge and jury because it's the government who called for this commission. It's the government who are now bringing in this piece of legislation. It's the government, at the end of the day, who will make the decision on what piece of information or what fits under the client-solicitor privilege.

There are three nuances there that I have a real problem with. What I would have thought was going to happen and what I think we were led to believe: Commission, we're open. We're going to give you everything we have. Everything you want to use, you can take it and use it. I say that because – I'm not making that up. We were told when the commission was coming that this

would be an open process and it would get to the root of everything that's gone on with that, and it would get to the root because the government who were proposing this were outlining and supporting exactly what would be there.

We were told, to the bill, there will be a new provision. Actually, it promotes disclosure, and it's a good thing. We were told that in this House, that's a quote. I was so happy to hear that and said, well, this is great. Let's get it out there, but that's unclear at this point. I can't see how it does that when it puts in a restriction that didn't exist. It didn't exist in this process. It didn't exist in a number of the other inquiries. It doesn't exist in 75 per cent, 80 per cent of the other jurisdictions.

Of the ones that have something similar, it's all left to interpretation, because they haven't gone to this level on a particular open inquiry that's not connected to a direct individual or group. It's connected to a project that has a multitude of facets, and they all have to be studied. They all have to be researched. They all have to be disclosed. They all have to be discussed. They all have to be evaluated and then a set of recommendations come or a finding from the commissioner.

The thing here, and here's the key thing, here's our key understanding here: the government currently has the right to refuse to disclose information if it is protected by solicitor-client privileges. The courts usually respect this, so the information request could be denied. That's in the normal judicial system that it's considered, that would be part of it.

We're saying that this inquiry was a bit different and that wouldn't be included in this. You'd follow the legal processes, but you would not be imposing a restriction that would be used normally – they're normally used in the protection of a witness in a lot of cases and in protection of somebody disclosing pertinent information that may have a physical impact on somebody or a safety impact on people. That's not what we understood would happen in this inquiry. This was about, purely, getting all the information so a commissioner and a group of commissioners could make a decision on exactly what was what and how it was going to work.

I looked at some things. If the government was worried that there was something in a file that shouldn't be released and that released part of the file was compromising to the secrecy to all the file, including the sensitive information, then in the public interest, the government would refuse to disclose any of it and protect the secrecy of the sensitive information that would deny the inquiry the information they seek and need.

So one of the challenges here about that is they can pick and choose. So all of a sudden, if there are five or six pieces of information that gets sent over and they say this reflects the negative part of the project, we're going to share that; we're not going to challenge that. But here's something that supports the project moving forward. Well, we're going to use the client-solicitor privileges there.

We're not saying that's what they would do, but we're saying this opens up the door for that piece of interpretation and challenging, which again is still going to be an encompassing and a costly process. So if we use cost as one of our factors as to why we're not going to share all the information, we have to be realistic and we have to be honest with people. We have to be upfront and say, at the end of the day, if it's cost prohibitive, say that.

If we're do that on a \$12.5 billion project or a couple hundred thousand dollars, tell that to the people. Don't say it in one sentence and then in the other sentence say by the way, we're going to challenge 25 per cent of information we're going to put forward, that there is going to be cost related to it, that there are going to be solicitors involved, particularly, as part of that.

Obviously, I would think it would be at a higher level of cost than it would be if we're asking somebody from OCIO or somebody else to photocopy information or to download information to be shared or somebody to put it on a screen for the commissioners to look at. I'm just looking at where the cost relevance would be here.

So when we talk about there are going to be legal challenges about pieces of information or interpretation, I don't suspect it's going to be one of the truck drivers for Muskrat Falls is

going to interpret whether or not the solicitor-client privilege should be invoked in this particular challenge.

At the end of the day, we have to be realistic, what we're talking about here. We've got to be realistic about where the costs are going to be relevant. If the costs are going to be relevant, the first way to take the cost out of it, if it's going to be cost neutral on both of these challenges, then let's stick to the intent of the Commission and the inquiry, and that was about getting to the root of any of the challenges for this project and getting all the information out there that was relevant.

That's what we're talking about. We need to examine all other interpretations of what the client-solicitor privilege is when it relates to this type of project. We're Opposition and that's what we do as Opposition. Ours is to challenge and question if what you're saying is your belief, or what you're saying is your understanding, that's fine and we respect that, but I want to know and look at is there another belief, is there another understanding, is there another approach to this. Is one factual and one not factual? Or is there a middle ground that needs to be looked at here as part of that?

That's all we're saying here as we have this debate and we'll have it for the next period of time around two key things: what it is we want to achieve, and how we're going to achieve it. I thought what we wanted to achieve was already set back in November and December when we had some discussions here about opening up and getting confidence back in the public, that we have a project here that we're going to move forward. All entities agreed it's going to have to move forward. It is at a level now that it's in its final completion stage. How do we maximize the return for the people in Newfoundland and Labrador? How do we minimize the impact on them? And particularly, how do we ensure things like this that may have gotten out of hand because there wasn't proper planning, or there were issues there that were a challenge, how do we ensure it doesn't happen in the future?

They were similarly key components that I thought we would get out of this. We seem to be taking a different route here because we're going to be putting in restrictions on how we're going

to achieve those goals. From the people I talked to in the general public, they're all in favour of the inquiry because they want to know what it is went on to get this to where it is, and what impact it's going to have on them from a financial point of view.

The financial point of view may not necessarily always be in the negative. What is it that's part of that project in its infancy stage, in its development stage, and in its future benefits that would benefit them and the next generations? So they want to know these types of things. That's simple. And that's what we were all led to believe the inquiry would do, and I still think the inquiry can do.

I would think that side of the House over there, the government side, would want that also. I would think their Members go back in their respective districts and talk to people about Muskrat Falls, and talk to people about the upcoming inquiry. No doubt, they're saying the same thing to the MHAs in those respective communities as they're saying to me.

We want to know where it is, we want to know how we can get the best return and the best benefit on it, and we want to ensure that it minimizes the impact on people and, at the end of the day, it doesn't happen again. If we under budget it, if we misinterpreted the numbers, if numbers led to believe something that didn't exist, if people were incompetent – these are things that need to be identified as part of it. That's what a Commission does. You see it in any Commission that's happened over the past number of years. You can look cause and effect, and that's what most Commissions come out to. The cause of getting to it while you called the Commission to have an inquiry, and then the effects it's going to have on people, and the set of recommendations to mitigate those impacts.

So that's where we are with this. I just want to go back and talk a little bit. I've seen some of the Members over there shaking their head when I'm talking about what the intent of the inquiry was. I thought it was simple, that's how I understood it, unless I totally missed it in the House here and missed everybody from the media and everybody outside talking about what they wanted to achieve from it. It was a simple understanding.

I just want to go back to some of the things relevant to the discussion that we had. I just want to recount the statements of the Premier and the Minister of Justice made in the House about their intent to disclose information to the inquiry – because that’s what this is about. This whole debate now, it’s secondary about the inquiry; primary, this piece of legislation is about what information can be disclosed and under what grounds it can be challenged not to be disclosed. This is simple. And we know under what grounds that it’s being proposed here and changing a piece of legislation, and it’s about the client-solicitor privileges.

So I just want to bring back about some of the things to tie all this together when we talked about what was the intent here, and as I saw some people shake their heads in disbelief that my understanding of what it was. But I’m going to read it out, and tell me, was that not your understanding. I can particularly talk about the Premier and the Minister of Justice.

October 16, 2017, it’s only last fall, a few months ago we had these discussions. The Premier said: “We will put in a terms of reference that is all encompassing.” Great; nodded, I went along with it; everybody on this side said perfect, that’s what we need. We need to know exactly where we’re going with this, what it is, what it needs to come out with an end result that benefits the people of Newfoundland and Labrador.

“Mr. Speaker, we look forward to having a very intense, detailed, deep dive into how we got into this situation.” My first statement when I stood up was about we need to know where this got off the rails. That simple. And that statement speaks volumes for that too. Agreed with the Premier today; agree with him still. I hope he still agrees with the statement he made on October 16, 2017.

“That will include everything from a forensic audit.” And there was a whole debate about a forensic audit and what impact that would have and what benefit. And finally, people were convinced; let’s go that route. That makes sense. The more information you have, the more lens on it, the more angles, the more you can disclose exactly what lines up with what, what doesn’t

and what information then is needed to make an informed decision on your go-forward process.

“The commissioner and those people, they will have a broad width and they will use whatever resources they need to get the real answers that were hidden from the people of this province.” I agree.

If there was something hidden from the people of this province, you know who they were hidden from? David Brazil, the Member for Conception Bay East - Bell Island, because I sat over there, I asked questions, probably nobody more than me – maybe the Minister of Natural Resources debated Muskrat Falls on *On Point* radio, *On Point* television, spoke to it, spoke to the merits of it, the need for it, the benefits it would have, the generational improvements it would make in our society.

I want to know, if for some reason I was led down the garden path, if for some reason somebody was incompetent, who made decisions at the time. If it’s for some reason that we have to take into account with our terrain, geography, all the challenges we have here that things got out of hand, then we need to be prepared. Because this won’t be the only thing we do over the next 50 years in Newfoundland and Labrador that are at a large scale, because we can’t be afraid to do megaprojects either. Now, can we do them better? Sure. We’re hoping we’ll learn how we do them better from this process.

“Our intention is to expose all of that and let the inquiry do the work.” This is from the Premier, this is not me. Thank God, I can nod and go along and say: yeah, you know what, good point, I agree 100 per cent. But you can’t say that in one light and then have a debate on legislation that restricts some of the things that you can do. You can’t have it both ways. It doesn’t work that way. That’s not how legislation works.

For every action there’s a reaction. If your action here is you want this to work because you want to have access to all the information and then bring in legislation that restricts that, I have a challenge. I have to challenge them. I have to challenge whether or not you want to achieve the objective you had. So that becomes a

challenge. I have a real problem with that and I'll continue to debate that part of it.

If you come back and say: no, no we're going to find ways that every piece of information gets shared. That the client-solicitor challenge, we're changing that because it really won't have any impact here. I need someone to explain that to me because I can't get the legal minds outside to explain it to me, who are outside looking in.

I know the department officials, no doubt, have intent of what's trying to be achieved here. In layman's terms, my interpretation of what's trying to be achieved, certain pieces of information that somebody doesn't want to be shared will have an ability not to be shared. I can only put it in those terms because other than that, I can't rationalize it in my own mind. That might be because I don't have a clean understanding of the client-solicitor privileges, but I definitely don't have a clean understanding of how that relates to this particular inquiry. That becomes a challenge for me and we'll have a great debate over it.

Whatever measures are needed, they will have the resources to do it. The Premier goes back to talking about the resources. Well, one of the arguments I've heard is that this would cost money. It will take time. There's so much information, it's going to be a very encompassing process.

We've all agreed. When we voted for that, nobody over here disagreed or said: No, but we're going to put a caveat there that you can't spend X numbers of dollars or you have to be able to pull something back a little bit different. Or, no, no, if it's only 10 boxes that were allowed in and we have 12, somebody has to keep the other two out. That wasn't what the intent was. Nobody ever said that over here, I guarantee you that.

I know the Premier didn't say it over there. I'll touch on some of the Minister of Justice stuff. He didn't say it over there either. We were on the right track until where we are right now, where it got off the rails again. Something went askew. For some reason there are pieces of information that either people don't want shared or afraid once they look at it – because there's

no doubt, nobody would know everything that's there now until this inquiry. F

I doubt, with so many entities involved here, anybody would know exactly everything, other than maybe the people who were at the beginning. But a lot of who were at the beginning are not there now. There will be information that's gone on the last number of years, also, that needs to be disclosed and shared with the Commission to get an understanding of where this project is and where it needs to go.

“We are going to get the answers that are required.” Perfect. I can tell you there are 520,000 people in Newfoundland and Labrador who want to get the answers too. They want to know where our future lies when it comes to the largest project that we've undertaken, want to know what impact it's going to have on people. That's welcome. It's perfect.

Let's talk about November 20, 2017, a month later. So we're in debate now, it's all public that this is going to happen. It's already announced who's going to lead the inquiry. Perfect, everything is in play. A respectable commissioner who's going to lead it, a legal background second to none, understands the whole process. Great, no dispute, no debate, no wish around that.

The Premier again says: “We will get the answers” He's following up, so we're in the right trend here. The right trend is here. We're all confident we're going to get the answers because we deserve them. That's what it's about.

“I have nothing to hide, that I can guarantee you.” Perfect. Because I guarantee you, we, on this side, have nothing to hide. We want all the information to come out, whatever it is. I guarantee you, if there's something that somebody shows – and I'll look at that. If they say you were at this meeting or something, I'll have to dispute. Or I'll say, yes, I was there and believe that piece of information or, yes, that's accurate information.

Is it something that was detrimental? Unless my memory is totally gone astray, the conversations I was engaged in and the information that was shared to me and the things I researched and looked at all fell within the scope of what was

being proposed and what was being moved forward.

“I for one will be glad to sit in front of the commissioner and speak about my experience on the Muskrat Falls Project prior to becoming Premier and while being Premier. So let’s make that very clear.” Perfect. I respect that. That’s from the Premier. That’s in late November. So that’s ideal.

If he’s willing to sit there, I know David Brazil is willing to sit there, and I know the people on this side of the room are willing to sit there, but why don’t we also, while we’re sitting around the room, have all the information that is relevant to what we’re debating here. I think that’s an easy set.

So far, the continuum here is everybody supports the process. Everybody supports the commissioner having carte blanche, total control, total access to everything possible, up to this point. Now we’re up to November. The Commission is set, ready to go. The nuances are being worked out like anything to get in play, don’t forget, for January 1. Everything is to be in play for January 1, because the legislation here talks about retroactive to January 1. It’s all in play. We’re weeks away from this happening.

“I will comply. I will be more than willing to sit in front of the Commissioner and discuss my experience from the beginning to the end of this project. That you can guarantee.” He’s reiterating what he had already said three times earlier. He’s willing to do that. Perfect. Great for you, Premier. I greatly respect that. I can’t wait to see it and so many other people that may be called as witnesses to the Commission.

Well, to do that and in light be supporting that we’re going to put restrictions in what information gets shared. Is that information that verbally I can share? Is it information that’s on a document? There are some challenges here about what that really means.

Now I’m going to talk about some of the things the Justice Minister of the day had talked about, when he talks about in reference to the inquiry. He’s asked, “Certainly, what we have here I think is a very broad terms of reference.”

We all agreed to it, and that was what was debated. We’ve had a number of people who’ve been challenging the Muskrat Falls Project for years. The 2041 group and all of them have outlined their concerns for a number of periods of time. One of the big things some members of that had outlined was the terms of reference were too narrow and that we needed a broader scope on it.

The Minister of Justice had supported that, thought it was a good move forward and worked towards expanding that. I compliment him for that. I think it was a good move. I think it fits in well with everybody’s intention of what was trying to be achieved here; but, as he does that, now we’re having a debate on a piece of legislation he’s putting forward that would find ways to restrict how broad those terms of reference are, particularly when it comes to what pieces of information can be shared with the Commission. So, again, that’s where I have a challenge on saying you’re going to do something and then later on thinking and saying maybe we should hold back on some stuff. If there’s a rational reason that benefits the people of Newfoundland and Labrador, fair enough. Share it with us. Give us the intent to how that works. I have no problem with that. I’ll be the first one to nod and applaud that.

“When it comes to an inquiry, we want the facts. What happened? The second part we want is to ensure that the recommendations throughout will help avoid a situation like this happening again in the future. That’s what happens in an absolute inquiry.” I have to agree. I think I said that about eight times. At the risk of repeating myself, Mr. Speaker, I probably have said that eight times.

Again, do you know who I’m happy with? The Minister of Justice. It’s a very valid point that he made back in November also – very valid. He echoed again what we were thinking. Now I’m happy to be able to say I’ve echoed it for the last 35 minutes or so, or 45 minutes now, about where we are with this. So we’re on the same page. Right now, we’re not off kilter with each other. We may when we get into some debate on the vote on this piece of legislation, but we’ll see where that takes us over the next number of days.

“The second part is that I can guarantee you, everybody on this side would be ready to appear if compelled and put any evidence there”

Thank you, perfect. He took the lead on that, exactly what the people of Newfoundland and Labrador wanted to hear. Do you know what? It’s what this side of the House wanted to hear also. Put it all out there. You have nothing to hide. We have nothing to hide.

If there’s an entity that has something to hide, there are people that’s out beyond the scope of this House of Assembly, let that evidence be shown to the commissioner and to the general public and get it to be used in the best interest of moving the project to the next stages and ensuring that people are protected. I thought it was great.

“At the end of the day, the *Public Inquiries Act* allows for the justice of his independent inquiry to compel everybody – everybody – to appear, to give testimony, for the release of documents so that, at the end of the day, all the facts of this matter will be known. This will be an independent inquiry that’s quite broad so that the people of this province get the full disclosure on what happened.”

Perfect; it is singing to the choir, without a doubt. It is exactly what the intent of those people outside who have their own blogs, who are on *Open Line*, have asked for and want it disclosed. It was what the Members in the government had been saying for a number of years, that they wanted done. It was what we said when it was being proposed that we would welcome and would totally support, not even an issue. To this day, still support it. I’m glad these are the words of the Justice Minister because I can echo those and support them.

What I would point out, though, is that under the terms of reference it talks about the fact that everything will come out, including reliable estimates of the cost at the conclusion of the project to the conclusion of the project itself. We’re talking about the beginning right to the end; everything needs to come out into the light of day. Good, I couldn’t have said it better myself. Very articulate, very compliant to what was being set out and outlines exactly what it is we would want to achieve and how we can achieve it. If all of the information comes out, it

will work, day in and day out, make it that much easier.

It might mean the Commission goes a little bit longer. It might mean there’s an investment that wasn’t budgeted for that may have to be done. It might mean that there’s a different approach taken by the commissioners that you access to all this information. That’s fine, that’s what we’re trying to do here, get at the root of what has gone on with the project and how we ensure that we gain from the inquiry itself.

Again, let me make this extremely clear to the Members of the opposite side – that’s us over here who are nodding at the notion that there would be an inquiry, we were supportive of it – as well as to all the people of the province. These are the people who we serve, these are the people who are going to benefit from this project, and these are the people who need to know the answers. They need to know from a future point of view what impacts this is going to have.

This inquiry and its terms of reference, which will be led independently by Justice LeBlanc will have the power to compel anybody and everybody, to compel all of the evidence. We want absolutely every shred of information from the time that this was set up until the time it’s completed to come into the light of day under the watch of Justice Richard LeBlanc.

We have a perfect individual who is going to lead this inquiry, who understands the process and, no doubt, is very knowledgeable about this project because it’s not something that was hidden from the general public. No doubt, everybody has a view and an understanding, and I suspect he’s done his own research over a period of time. Now he’ll get an opportunity to see all the evidence, or we would hope so.

That’s what this debate is all about, that all the evidence that should be out there is accessible by him. What he wants to use should be his decision. What he wants to share with the public, fair enough, but even the public should have an understanding. We’re into an inquiry stage. Unless it has a direct impact, and I mean a serious, serious impact on somebody the information should be shared around all the decision-making processes here, those who were

engaged in those, and the impacts they have. These are simple processes here.

I'll quote a couple of more from him, and I'm doing this because I want to explain to him that we, over here, were brought into it. There was no opposition from us going through this process here up until where we are right now, no serious opposition. We had a couple of inquiries, a couple of questions, no doubt about it, as we would if you're going to have any inquiry at the end of the day. The process for selecting who the commissioner would be, the time frames, all these things – and we've had some challenges about the time it's coming out later than we would have hoped, these types of things. I'm saying this because until we got here today we were quite supportive of this approach and saw the benefits to the people of Newfoundland and Labrador.

We still see the benefits of the inquiry, don't get me wrong. We see that people from Newfoundland and Labrador can, no doubt, benefit from the end result, the open discussion, the recommendations and how we move things forward, but we want to make sure that reflects every piece of information that should be there.

We don't want something left behind that Commissioner LeBlanc could have put into a set of recommendations or could have outlined so we'd be cognizant of future directions, or entities that we're dealing with that may not be doing work in the best interests of Newfoundlanders and Labradorians, whatever it may be. But to do that, to make that decision or to make that assumption or that recommendation, he needs to have all the information that's pertinent to this inquiry.

As the Minister of Justice outlined, anything from start to finish is pertinent to this inquiry. So why would we restrict anything, any piece of information there? That becomes a challenge for us on this side when we're endorsing, supporting and complimenting the government for putting a process in place that will be all encompassing and the terms of references, as they say – and I quote them – would be so broad that there will be no information that wouldn't be shared. Thank you for doing the right thing. That was the thing, without a doubt.

I just want to note a couple of other things here: "I'm certainly happy to have someone of the calibre of Justice LeBlanc handling this because anybody that knows him knows of his thoroughness, knows how he is going to want all the information out there." I keep just quoting things because this is being said by the government, and supported by us, that the inquiry should have all the information. We have a competent individual who can disseminate that information, put it into the process that would be beneficial to everybody.

I ask the question if we're saying all these things, we mean them and we say it out of sincerity, to me, I read this – I can't dispute the Minister of Justice not saying it sincerely coming from a legal background, having respect for that man and knowing that he would go out of his way to ensure that this report would be beneficial to the people of Newfoundland and Labrador. Why would he even think about restricting him being able to do his job to the ultimate, ultimate level that would be beneficial to the people here?

That's when I started – I definitely got to have some clarification when we get to Committee on the thought process, the benefits, how this would benefit, how this indeed enhances the inquiry versus from a layman's point of view – and I'll plead ignorance on that. As a layman's point of view, I'm taking the point that I don't see how this in any way, shape or form helps the inquiry.

My interpretation, unless it can be explained to me differently – and I listened to the minister as he spoke at the beginning and nobody has read it more than me and it's not a very big piece of legislation, particularly the changes, and I can't get my head around it. I've asked people outside to give me a pure rationale of why this would be done in this situation.

I am not saying that a piece of legislation that would include – which we have it, it exists now – client-solicitor privileges is not important. Of course it is, very much so. It's used every day for a particular reason and that's to the integrity of the justice system. But in this case, again, it becomes questionable as to why we would implement something that would take away, potentially take away, or give jurisdictions or interpretation to some other entity, if it's the

department, if it's the Department of Justice, is it Cabinet, is it an outside entity to say this fits within client-solicitor privileges. And, as a result, may keep away pertinent information that would have improved the outcome of the inquiry and let the commissioner, Justice LeBlanc, do his job, do what he was hired to do because he's a very competent individual, particularly after we all had agreed this would be the right approach.

It was never mentioned. I don't know, maybe I missed it, but three months ago when we had this discussion, I can't ever remember saying oh, and by the way when we get there, client-solicitor privileges, we're going to have to come back and change that legislation because we don't think all the information should be shared. There should be a challenge by whoever, some entity, some part of it. I don't know, again, I can't get my head around exactly how they're going to carve off what fits under that category and what doesn't. And is it all of something that fits under client-solicitor privilege or is a part that is negative towards the former government? I don't know, and that's probably the politician in me; I'm getting suspicious as to the intent here. What's the end result?

I'm just asking questions because I really can't figure it out and can't get anybody else to figure out for me. Hopefully, the other speakers here, they can clarify and maybe I'll get a better understanding. Maybe that will change the questions I ask. Maybe that will change how I vote at the end of the day, because I'm always open to getting the information. This side of the House, we're always open to that.

We're not entrenched in our view because it's anti or opposing government; the opposite, we're entrenched in a view if somebody can't explain why our vision of what's happening is detrimental to the people of Newfoundland and Labrador when we're challenging it, we're thinking something here doesn't fit in the best interests of what we're trying to achieve, that's a simple process I would think here, and we've talked about what it is that we're really trying to achieve here.

I'm just going to not a couple more of the other ones. These are the particular ones that I like, because there were some challenges, and that's

why I questioned here from the legal perspective, or the interpretation of legal, because I don't have a legal background so I wouldn't know the particular ramifications of it, but I do know certain other things that could be questionable, whether or not they could be exempt from it.

"We are certainly happy to release Cabinet confidence as it relates to this process to ensure that this administration's decisions are put out there in the clear." There's always been a challenge around Cabinet disclosure and what's protected under that. If we're saying that we're going to put all of that out there, we welcome it. I think that's a good move.

There was some very in-depth discussions in Cabinet, no doubt, by ministers of the day and those who were responsible for the entity that was developing Muskrat Falls around how the project was going, what the intent was, what other partners should be involved, what challenges were there.

Because one of the things that I'm looking forward to in the inquiry is does this tell us about the challenges that people didn't foresee, or challenges that people didn't see as being important, or as important as some of the other (inaudible) went there. Yet we've found since these challenges had a mega impact on the costing, the timelines, the working environment, a number of things like this that for some reason never got discussed or never got disclosed because maybe they weren't seen to be important – or didn't get disclosed to me anyway, I know that, and to the general public, because I would have heard that back from people that I talk to on a daily basis.

Information like that, having Cabinet disclosure I welcome; we welcome. It makes sense. It's an important part, yet there are legal nuances around disclosure from Cabinet. So if the government are saying we're going to disclose it all, and that even sort of challenges some of the legal set-ups of Cabinet privileges, we support it.

So we're saying if we're gone to that depth, we're gone to that depth that everything is coming out, perfect. That means the people of Newfoundland and Labrador can steadfastly feel confident that at the end of this, when this report

is done, when Justice LeBlanc sits down and meets with the media and makes his report to government and to the people of Newfoundland and Labrador, they can feel secure that everything that was conceivably exposed was exposed. Every piece of information that was pertinent was asked for, that everything that could be discussed was discussed, because it was all transparent and open. And there weren't challenges around what needs to be kept secret or what part of a report we can divulge, or the client-solicitor privileges here is going to be invoked because we're dealing with an entity outside of Canada or outside of Newfoundland and Labrador.

These are questions and challenges that not only do I have, and we have over here in the House of Assembly, but I guarantee you, the people of Newfoundland and Labrador, people are who are more apt to understand what goes on in this, people who want to know the impact it's going to have in the future, and people who want to know, if we're going to have an inquiry, let's have a full inquiry, and a full inquiry means full access to information that is pertinent.

Now, if it's something that's not pertinent, if somebody bought a tin of Coke on their way to Goose Bay to look at something, I don't think that's pertinent. Don't need to be in there. I don't know if that's going to fall under the client-solicitor privilege, because I don't know, I can't get my head around where that fits. But I'm looking forward to those explanations as part of it.

Why in any way, shape or form, after they did a good thing, they stood up, stood up for something they wanted, represented the people of Newfoundland and Labrador, wanted answers to know where we are, but particularly where we're going to go with this and how we're going to address it; did it in the right manner and then even came back and said all encompassing, terms of reference are going to be massive, like nothing we've ever seen before; get set up – no doubt Justice LeBlanc must be thinking, okay, he's sitting down carving out exactly how he's going to approach this, what this would work.

I know some of the proponents who were against this project were positive and they had challenged it over a period of time, but now all

of a sudden there's a wrench thrown in it, and here's the wrench, there's a caveat. The caveat is we're going to change the legislation, we're going to come in the House and we're going to change the legislation that says somebody could challenge it under solicitor-client privilege to ensure certain pieces of information, and then we, we being the government, can make the decisions of what gets shared with the commissioner.

So, Mr. Speaker, I'll take my seat now, but I'll have a chance in Committee, no doubt, to have some more discussion around a very important piece of legislation.

Thank you, Mr. Speaker.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: Order, please!

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

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

I am very happy to stand and speak to Bill 35, An Act to Amend the Public Inquiries Act, 2006.

SOME HON. MEMBERS: Oh, oh!

MR. SPEAKER: Order, please!

MS. ROGERS: In the Explanatory Notes in the amendment that is being proposed here: "This Bill would amend the *Public Inquiries Act, 2006* to confirm that immunity or privilege is not waived where the Crown or a person designated by the Lieutenant-Governor in Council discloses information to a commission or inquiry."

SOME HON. MEMBERS: Oh, oh!

MR. SPEAKER: Order, please!

MS. ROGERS: Thank you, Mr. Speaker.

Mr. Speaker, this inquiry is highly, highly anticipated by members of the province, by the people of the province, all over the province, in Labrador and on the Island portion. It's highly anticipated, and I suspect it will be closely

watched because the people of Newfoundland and Labrador want answers.

What has happened throughout this Muskrat Falls Project, this damn dam, is that the confidence of the people in successive government has been shaken.

Mr. Speaker, this Commission of Inquiry will be the unveiling of the story of Muskrat Falls, and that's really important. The people of the province want to know, what is the real story of Muskrat Falls? They want to know the beginning, the middle, and what might come close to the end. The people of the province have a right to know that. So this inquiry is so very, very important.

Again, with much anticipated, and probably will be well watched, and I suspect people will be around their water coolers talking about what they heard on the news the night before about the inquiry itself. People will be talking about it at their places of work. They'll be talking about it at their dining room table. They'll be talking about it within their activist groups. There may be some surprises that will be unveiled, there may not be.

I would like to thank the commissioner, Justice Richard LeBlanc, for taking on this huge project. Knowingly, we all have confidence in Justice LeBlanc. I'd also like to thank in advance his team as well. Also, those folks here in Confederation Building who have helped set the scene for this and the necessary legislation, and the Minister of Justice.

We've seen a number of pieces of legislation that have come to the House to help prepare to enable this inquiry to do the best that it can on behalf of the people of Newfoundland and Labrador; again, because there is so much invested in this inquiry. It is about re-establishing and shoring up people's confidence in our democratic process, people's confidence in successive governments or future governments which is so incredibly important, Mr. Speaker.

I also want to thank the Minister of Justice for very clearly and succinctly explaining to the House here, and to the people who are watching, really what this bill is about and putting it in

accessible terms, because in some ways it's very, very complex, but in other ways it's very simple as well in terms of its intention.

I'd like to thank the Minister of Justice for explaining that so clearly today. I'd also like to thank the good folks in the Department of Justice and Public Safety who took the time to give us a very clear briefing and have made themselves accessible to us should we have any questions around the bill.

I have some questions which I'm looking forward to Committee to ask for some clarification. I must say that this is so important. The Muskrat Falls Project has been so hard on the people of Newfoundland and Labrador. Some people are continuing to be very worried about the outcome, what it will mean for their electricity bills.

What it has done in really shaking trust, confidence in our democratic process because of the way this project unravelled, the way this project removed itself, where the previous government allowed this project to go through by removing some of our democratic tools like a joint panel, like removing it from under oversight of the PUB. All those are cumulative effects on the people's confidence in their government. So this is well anticipated and will be well watched.

A lot of speculation going on around what power rates people will have to pay. People are concerned about whether or not businesses will be able to continue on in this province. If the power rates soar, what does that mean when you have refrigeration in your corner store? How will that affect the price of milk? How will that affect the price of when you go for a piece of cheese or a piece of bologna in your corner store? Really, what will the price be?

What will be the trickle-down effect of exorbitant electricity prices on the people of the province and on business? On our own institutions in terms of how much will it cost to power our building here and our hospitals and our schools? They're very real concerns that the people have.

They want to make sure that this inquiry will answer: Were the people of Newfoundland and

Labrador at the centre of every single decision that was made before Muskrat Falls was sanctioned? A lot of people feel, no, that the people of the province, that the working people of Newfoundland and Labrador, the seniors, the senior people living in Newfoundland and Labrador – a lot of people feel they were not at the centre of the decisions that were made in the sanctioning of Muskrat Falls. Those are concerns that people have.

There are stories that abound around bad management, about poor decision making. Some of them based in fact, some of them in urban or rural legend. Some of the stories that have come back from workers on the site may have been exaggerated or may not have been exaggerated. We've all heard the stories. So this inquiry is so important to all of us and much anticipated. It will be interesting to see it roll out.

Indigenous communities, indigenous governments, the issue of methylmercury, the issue of the North Spur, where communities downstream from the North Spur still feel vulnerable. They're still not convinced they are safe and everything that was possibly done around that issue has been taken care of. Mud Lake residents are still very concerned; the issue of the cost of electricity and the basic cost of the project.

I can remember in 2012, just shortly after I had been elected, CBC, David Cochrane, had a radio program called *On Point*. It was a half-hour radio program. Three of us rookie MHAs were invited, one from each party. I was representing our party in that particular show. We got onto Muskrat Falls, and I said: David, I've got my dancing shoes right here in the studio with me and I am ready to go dancing in the street if it can be proven that Muskrat Falls is economically viable, environmentally sustainable and good for the people.

At that time, the budget for Muskrat Falls was estimated at \$6.5 billion or \$6.8 billion. I also said: Furthermore, David, I believe it's going to be at least \$12 billion. That was in 2012, Mr. Speaker. Do you know what they did? They all looked at me, they rolled their eyes and they laughed.

So, Mr. Speaker, this inquiry is so very important to the people of the province. People are looking forward to answers, and I believe that we will get the answers.

As the Minister of Justice had pointed out to us today, in order for Justice LeBlanc and his dedicated team to do the work they need to do, the amount of documentation that will be coming forth he said will be over a million pages. Mr. Speaker, I don't know if you piled all that paper up, if that would be as big as the dam itself, for goodness sake, but who knows.

I want to again thank all the people who are going to have to wade through that material. In order for this to work, in order for this inquiry to work, we have to make sure that the people of Newfoundland and Labrador have confidence in the process and that they have confidence in Justice Richard LeBlanc and his team. Because again, what we're talking about is restoring confidence and restoring confidence in our democratic process and how we do business in this province.

When the Minister of Justice was speaking about what is this bill about, we're doing two things; we're ensuring that we get as much co-operation as possible from the Crown, from Nalcor, so that the team at the Commission of Inquiry can do the best work that they have been commissioned to do; and then we also have another issue that we have to protect here and what we have to protect is the whole issue of the statute of solicitor-client privilege, that must be upheld. That is, as the Minister of Justice told us, a foundational piece of our justice system and that has to be upheld.

There's also a belief that the amendment here will make it more possible for the Crown and for Nalcor to release information, to release documentation to the Commission so that it will ensure that the Commission has, again, as much information as possible. The mountains of information will be arriving at the commissioner's office. The inquiry has asked for all of the documentation around Muskrat Falls since 2006, 12 years. That's 12 years of information.

Just as a little aside, Mr. Speaker, we all thought that with the introduction of computers, we

would have less paperwork to deal with. As a matter of fact, I know in my own life that I have more, not less. It's amazing what you can generate from your little box on top of your desk.

The minister also told us that there are 38 gigabits of information and that's over one million pages of information. That is a lot, Mr. Speaker, and somebody is going to have to go through that. So one of the questions I will have is: How will the whole issue of relevance on some of the information be dealt with? I'm sure we'll be able to ask those kinds of questions in Committee.

The minister also said that the request for information from the Commission was so broad that there will be information that will be submitted that isn't particularly relevant to the inquiry in and of itself. What this amendment is doing, it will facilitate disclosure. It will facilitate disclosure by saying that if the Crown asserts privilege over its documents, the commissioner can report on or publish the relevant parts, but no one else can access the other parts for another purpose. We're not waiving that very important principle of solicitor-client privilege.

The amendments protect information that you may have one document that has particular relevance to the Commission of Inquiry, but also information that has no relevance to the Commission of Inquiry. What it does then is that it protects that information so that no one can come through the back door and try and get access to that information because that information has been given to the Commission of Inquiry for the purpose of the inquiry on Muskrat Falls. This is a safeguard that has been set up to ensure further disclosure of information so that the inquiry can do the best work that it probably can.

We know that there is sensitive solicitor-client information but we're also in this time in our history in the province where there is a growing mistrust, a growing mistrust in government because of the abuse of our democratic processes, because of the abuse of our democratic safeguards, and that's the zeitgeist in which this inquiry is happening. The inquiry is happening because of that as well.

Mr. Speaker, it only makes sense that people will be highly suspicious and that people will have questions. One of the great philosophers, St. John of the Cross, said: Endeavor to be inclined to be suspicious. I believe that's the zeitgeist that we're living in here right now in our province, again, because of the way we've seen Muskrat Falls rammed through beyond the joint panel and taken out from under the Public Utilities Board. We are working in the reality of an attitude that mistrusts government who has abused our democratic processes and protections. That suspicion will be there, and rightfully so. I think that's healthy. But we have to make sure, then, that this amendment, in and of itself, does not create any further mistrust or suspicion.

I look forward to asking some questions in Committee to ensure that we are doing this in the best way possible, to ensure openness and transparency so that the Commission can do the best work that they can do and that they are resourced properly, whether it be financial resources or legislative resources that support them in the work they have to do.

Mr. Speaker, I have not much more to say. The inquiry, let's make sure they have what they have to get down to business to do the important work that they're doing. Again, I have some questions that I will ask during Committee. Questions like how is that deemed whether something is relevant or not. Certain pieces of information that is not relevant should not have their privileges removed, but pieces that are relevant, is the solicitor-client privilege removed from those? I'm not sure, so I'm sure the minister will be able to answer that for me.

We know that our Commission has broad powers and that's really important. We have to be sure that we do not mess around with that very fundamental piece to our justice system, which is the protection of solicitor-client privilege.

We owe this to the people of Newfoundland and Labrador. We owe it to the workers at Nalcor. We owe it to the Land Protectors and the Grand Riverkeepers. We owe it to our indigenous communities and indigenous governments. We owe it to the people who have gone to prison

who have protested this project. We owe it to them.

We owe it to the activists. We owe it to the towns in Labrador and Happy Valley-Goose Bay who saw the downside of the megaprojects in their towns, seeing rising housing costs, seeing shortage of housing, seeing some of the negative sides that happen with megaprojects.

We owe it because this is about the people's money, the people's money that was spent in Muskrat Falls, the people's money that is being spent on this inquiry. It's not going to be a little bill, but it's important work. We owe it to the people to help restore their confidence in their government and in their democratic process.

Thank you very much, Mr. Speaker. I look forward to asking questions in Committee.

Thank you.

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

SOME HON. MEMBERS: Hear, hear!

MR. LANE: Thank you, Mr. Speaker.

I'm pleased to rise in the House and speak to this bill.

Mr. Speaker, I guess what this bill is all about is something that's very important to the province and is certainly something that's very important to me personally. It's something I have a lot of concern about.

Mr. Speaker, I can remember at the time when we sanctioned this project and I distinctly remember leaving the caucus room, going out to the lobby there when we had the sanctioning party or ceremony, whatever you want to call it. I can remember saying to the Premier of the day, this was a really proud moment. This was a time we were making history. We would forever be in the history books associated to this, and I really believed it. I really believed it and I was really proud.

There's a picture I've seen in the media, CBC, some of the news stories from time to time when they go back with some of the memories of

Muskrat Falls. There's a picture of that sanctioning event, and the Premier is there. Right to the right of her, I'm stood there in the background clapping, smiling. Because I honestly believed, based on the information I was provided, that it was the right thing to do, that it was a good project. I believe all my colleagues at the time, I believe they also believed that.

I knew no more than anybody else in the general public knew. I can't speak to what everybody in the Cabinet or the, I'll call it the inner Cabinet may have known. I have no idea. I just know what I knew as a Member of caucus. I believed at the time we were doing the right thing, and I was proud of what we were doing. As I had said to the Premier at that time, this is such a proud moment. We will be forever in the history books on this project.

Little did I know, and I mentioned that for a reason, Mr. Speaker, because as we fast forward now and I look at this project, one thing that hasn't changed is the fact that my name will always be associated to voting for this project. That hasn't changed. Where we've gone with this project has changed, but the fact that I will forever be associated to voting for this will never change.

That's why this is so important to me personally, as well as to the people of Newfoundland and Labrador, because I want to get to the bottom of what happened. I want the information, as do the people of Newfoundland and Labrador; how we got from \$6.2 billion at the time, the DG3 numbers, which at the time included the fact that the North Spur issue was taken care of.

I've said in the House of Assembly before, I can remember prior to sanction going to Nalcor's AGM at the Holiday Inn and a member of the public stood up and asked the CEO of the day about the North Spur. He deferred it to the project manager who stood up and said: Yes, the North Spur, we've been aware of, definitely have all the information. This is nothing new. We have a solution and that solution is included in the DG3 numbers which, at the time, was \$6.2 billion, not \$12.7 billion and climbing. That's what it was.

The issues about methylmercury, they came out, it was brought up and they said: Yeah, methylmercury is definitely a concern that can happen with these kinds of projects, but we are confident that we have a solution to the methylmercury issue. Again, all this at the time was included in the DG3 numbers, or as some people have said to me before the g.d. DG3 numbers.

I absolutely want to get to the bottom of what went wrong, who knew what when. At the very worst, activities have taken place throughout the course of this project that are criminal in nature, possibly civil litigation issues as well. At the very best, I would suggest absolute total mismanagement on somebody's behalf or a group of individuals or a combination of it.

Something has gone terribly wrong, Mr. Speaker, and we all need to know what that is. We all need to know what went wrong. That's why it's important, it's critical that every possible shred of evidence, every possible shred of information that can come forward, does come forward so that we know exactly what happened.

I'm prepared – as I've done in the past, I'll stand up in the House of Assembly and say: I have a responsibility, I voted for it. I didn't do so in malice, but I voted for it. Why would I do so in malice? Because I have to pay the electric bills like everyone else. I've got a grandchild on the way. At some point in time he's going to have to pay for it. So I would have no reason to support anything if I didn't think it was going to be in all of our best interests, but something happened and we need to find out what that was.

Even more importantly, somebody has to be held accountable for it. That's another concern I have that's not related to this bill. I don't want to digress too much, but accountability must come part and parcel with this whole process.

If anything that has gone on has been fraudulent or criminal in nature, I have an expectation that charges will be laid. If anything has gone on that requires civil litigation or makes some of these contracts that were signed up for null and void, then I have an expectation that there will be a process in place to hold people accountable.

If it's been determined that there's been gross negligence or mismanagement, then I have an expectation that pink slips will be handed out at some point in time, if they haven't been already and probably should have been. But there must be accountability in this whole process.

Getting back to this particular bill – if I ever got to that bill, maybe starting with this bill and I appreciate the latitude, Mr. Speaker. What's being asked for here, basically, is the commissioner will be going to various entities and has gone to various entities of government and Nalcor and so on requesting information. Of course, we have this thing called client-solicitor privilege which could preclude any parties from disclosing information, whether that be private third parties, whether it be government departments, whether it be Nalcor.

I do understand what government is doing. In an attempt to make it easier – if I can put it that way – for disclosure to occur, we're putting in this amendment. Basically what's being said is that – and this has been, I think, alluded to already – because the requests that the commissioner may have made to different departments and divisions are broad, what the department is saying is we'll hand over the file. But if there are portions of this – and you can pick through this file and you can pick out all the relevant things that are relevant to the inquiry.

If there are other things that are contained within this file that are not relevant to the inquiry, then that information stays protected. Because without that amendment, once the file is handed over, then it could all be released publicly and so on, and there could be things in the file that have nothing to do with the inquiry but they could be detrimental to us as a province and so on if it got out.

For example – and I'll just use this as a random example – maybe in the file there are some legal opinions from the Department of Justice around Newfoundland and Labrador's relationship and legal relationship with Quebec, perhaps, maybe around the Upper Churchill, something that really has nothing to do with the inquiry but is all thrown in the one big legal file on Muskrat Falls, the Upper Churchill and so on.

There could be something that would be negative that if Quebec Hydro could get their hands on it, they could use that against us in future negotiations on the Upper Churchill; or if they were to challenge something in court related to the Upper Churchill or so on, they could use that information against us because we have legal opinions from our own government giving an opinion which is deferential to our cause. I'm not saying that's what's there. I have no idea what's there, but that was just an example.

I do understand the rationale for trying to make it easier for government departments, Nalcor and so on, to provide as much information as possible while, at the same time, having some assurances that when they hand over the file, if there are things in that file that are not related to the inquiry that could do harm to the province as a whole, then that information is protected. And that makes good sense to me. I can't see why we would not want to support it.

I guess the question or the concern I would have, as has already been alluded to by some of my colleagues here I think, is who is going to pick and choose what information is relevant and what information is not relevant. I guess the commissioner will but if there's a file and there's a lot of broad information here, will there be things that perhaps should be included that don't get included and so on. That's the concern people have because people are, I guess, not necessarily trusting the process.

Not that it's a bad process, I think it's a good process overall, I really do; but, since the onset, every time people hear anything about Muskrat Falls, anything about Nalcor, people look at it with a jaundiced eye. I have no doubt that from the departmental point of view they're going to hand over as much as possible. I understand that the Cabinet papers, Cabinet documents are all going to be there for the commissioner, which is good. I want to know what the Cabinet of the day knew, what the premier of the day knew, what the minister of the day knew, especially if it's anything I didn't know. That needs to come out and I think that's a good thing.

I am concerned, to some degree, around Nalcor can still claim attorney-client privilege with what they turn over to the commissioner. I'm not

sure what instructions, if I can use that for lack of a better term, what discussions have happened between the Minister of Natural Resources, the Minister of Justice with the CEO of Nalcor. I would hope that in the spirit of putting everything out there that the CEO of Nalcor is not going to try to claim client-attorney privilege on everything.

I think that's a concern that people would have that Nalcor would potentially try to bury information that's detrimental to what went on and try to hide behind client-attorney privilege. I think that's a legitimate concern that people would have.

Albeit, we have a new CEO and we have a new board. So, hopefully, given the fact that we have a new CEO and a new board, I would hope they would put out as much information as possible and not try to hide anything. But I suppose that question will always be out there because there are a lot of people that have their minds made up already that there's definitely a smoking gun or two or three or 10, that they're there. People believe that everything will be done to try to hide that information.

I don't know, I can't say if there are any smoking guns. I honestly don't know. Anyone who has asked me about it, I've said to them: I don't know. Do I have concerns? Yes. Do I believe that there's a lot of stuff that went on that we all don't know about? Yes. Do I believe this has been mismanaged? Yes. Do I believe anything criminal took place? Maybe, I don't know. Do I think anything happened that would involve civil litigation issues? Maybe, I don't know. I honestly don't know if it did or if it didn't. I don't know, and I'm not accusing anybody of anything because I don't know, but I want to know. And the public want to know and the public deserve to know.

Again, it ties back to the fact that anything we can do to get every shred of evidence and information to that inquiry, we need to do it – everything we can do. While I understand the rationale for this, as I've already talked about and others have talked about, I do have some concerns in the fact that I'm hoping that there's no way that this is going to somehow add to this whole idea that information can be hidden. I don't think they can because attorney-client

privilege could be claimed at any time. As a matter of fact, Nalcor could say attorney-client privilege we're not giving you the file, period. I guess the government could do the same. At least now, this is making it easier to put out more information, which is the idea.

I think it's a good thing but, unfortunately, the problem we have is people will never be confident that every single thing that could have come out came out. People will always wonder were things hidden, and I guess there's not much we can do about that. We can only go through this process. We have an independent inquiry, we have a commissioner who's a judge, he's an independent person, well qualified and we can only hope that this is done properly, fairly and that everything comes out.

There's no doubt that when this process is over and whatever comes out and whatever conclusions are reached, there's no doubt there will always be some people who will not believe certain things and say stuff was hidden; we can't control that. We have no way of controlling that, but we can certainly make sure that a proper process is put in place and that as much information as possible is put out there for the public to view.

And of course, the other piece I talked about earlier, we have to hope that there's going to be a mechanism in place to ensure accountability. Because under the terms of reference for the inquiry, the commissioner has no authority to recommend charges or civil litigation or anything. It's spelled out; he can't do it.

That, by the way, is not different from any inquiry. Apparently all inquiries are the same. I spoke to Mr. Learmonth about it and he told me all inquiries are the same. I have no reason to disbelieve that, but I hope – and I say it for the benefit of the Minister of Justice and I've written to him about this before.

I hope there will be some sort of external process, if I can call it that, running parallel to this inquiry that will involve somebody in law enforcement, somebody from a legal litigation point of view and somebody from an HR point of view monitoring everything that's going on at this inquiry, all the information that's coming forward and is prepared if – and that's a big if –

if the need arise and if the evidence shows is prepared to do what needs to be done in terms of holding people accountable, whether that be criminally, civilly or whether it be handing out pink slips, if that's what's necessary.

Accountability is key. If we don't have accountability, it's just as well – we're wasting our time. It's good to know what happened. It's good to say, what can we do on a go-forward basis? Obviously, that's critical, where to from here, but there also has to be accountability. We have to make sure that if something happened that shouldn't have happened, then the people responsible are held accountable for the actions or decisions they made. I cannot emphasize that point enough.

With that said, while I do have some similar questions as other Members do, which I'm sure will come up in Committee about who decides what information is in and out and that process. On principle, I do agree and I will be voting for the bill.

Thank you.

MR. SPEAKER: The hon. the Member for Topsail - Paradise.

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

I appreciate the opportunity to get up this afternoon and speak to this bill, Bill 35, which is going to amend the *Public Inquiries Act*.

I'm not going to repeat everything that's been said by Members earlier, but maybe just pick up on a comment that my colleague for Mount Pearl - Southlands just commented on. He was speaking to one of the co-counsel who said all inquiries are the same. It's interesting to note that this is coming now.

I understand the inquiry that's underway right now is likely different from any inquiry and will be a different volume of information, and I understand all of that. Then it will be a different volume of information as has been seen in inquiries in the past, even though there have been some very, very serious and very complex inquiries held in this province in the past.

My concerns – and I’m not going to belabour them too long here this afternoon. I tend to ask for some clarification when we get to the Committee stage. I’ll ask for clarification from the minister, but I just want to go on the record first and foremost to articulate and repeat comments I’ve made in the past, that we supported the inquiry.

We were very early to ask the government to hold the inquiry. We’ve asked for that. We support the inquiry. I clearly articulated my belief and need for openness and transparency on the inquiry as well. I’ve quite clearly said I have nothing to hide. I want a full, fair and frank inquiry to take place and to be conducted.

When this bill came forward I looked at it, and I’ve probably read it 50 times. It’s very brief. It’s very, in some ways, simplistic in how it’s written.

The Explanatory Notes, I think, are about 34 words in total, which is not a lot. Sometimes we see Explanatory Notes that are very lengthy and some that are very brief, and this one is very brief. It refers to, the “Bill would amend the *Public Inquires Act, 2006* to confirm that immunity or privilege is not waived where the Crown or a person designated by the Lieutenant-Governor in Council discloses information to a commission or inquiry.”

It also says besides that, and listening to – the minister did a briefing with the media today. While it was a media briefing, it wasn’t a briefing for us today but I did watch some of the commentary and follow along, and there seemed to a little bit of difference of opinions from the media as to what this was about and what was happening.

One of the comments from the media was that: Well, all the information is going to go to the commissioner, go to the commissioner of the inquiry. The commissioner will review it, and then the commissioner can say: Well, I want to release this particular document, or a document or documents, and will go back to the government and say essentially – when I say government, I mean globally government, from Nalcor and government – go back and say we want to release this. Are you going to waive privilege? Then the government could have the

decision power to say if they’re going to waive privilege or not.

Mr. Speaker, we want an inquiry that’s going to function properly and efficiently and effectively, but the reality is we live in a world here – we live in this House of Assembly where we sit on two different sides of the House, and there’s a reason for that.

Members on the government side, and, in particular, Cabinet ministers, having elected the most Members, the party on that side of the House gets to form a government and other parties get to form the Opposition or become part of the Opposition. In this case, we have two Opposition parties and an independent. All are entitled to their own views and to enter into debates and so on, but there’s still a partisan aspect of the process that we have. The government is partisan by its very nature and also has control over how a government operates.

I referred to the bill as simplistic. Even more so, I believe its simplicity may be dangerous and we should exercise and show caution on it.

I want to be clear, Mr. Speaker, I’m not speaking about any particular Member of the government in my comments today. My reference is to what power comes from this particular bill.

We have a new ATIPP, access to information, that everybody in this Legislature is very familiar with and most people in the province are very familiar with. Members opposite like to reiterate during debate and heckling and so on and remind us of access to information.

When Justice Wells reviewed the access to information legislation, or the process. When he wrote his report he made some very interesting comments. One of the points that exists as a result from Justice Wells report – just a moment, Mr. Speaker.

In his conclusions, he references how process and privilege – he talks about privilege and solicitor-client privilege. He talks about as well: the committee concluded that in addition to retaining the current section 31(1), the act should also contain a new section to provide that

where a public body can refuse to disclose information to an applicant under one of the exceptions listed below – and there are a number of exceptions there including legal advice, confidential evaluations, local public body confidences, disclosure harmful to financial or economic interests and so on. Then he also refers to: that it would not apply where it's clearly demonstrated that the public interests and disclosure outweighs the reason for exception. That was in the comments that Justice Wells made.

Mr. Speaker, the process under access to information, if someone is to file an access to information request with the government, they file the request under very clear guidelines of the current legislation that was developed by Justice Wells, then the government or government agency, board or commission, or the agency that receives funding from government then has a period of time and a period of steps they have to follow under the legislation to respond to that access to information.

If under one of those sections that I just read on disclosure and exemptions to disclosure, and if a government department, for example, said: No, that's Cabinet confidence, we can't release that; or that's a legal opinion, solicitor-client privilege, we can't release that; or if one of those circumstances existed, disclosure harmful to intergovernmental relations, harmful to financial economic interest of a public body, and so on. If any of that happens and the person requesting the information for ATIPP goes well, I'm not satisfied with that answer from the government, then they can appeal it.

They appeal it to the commissioner. The commissioner, who is an independent Officer of this House, has the right to say to government, let me look at the document, let me look at your response, let me see what they've asked for and can say yes, I support the decision of government, that they shouldn't release that because of this exemption; or I don't support the government and I think they should release the information, or part of it, or they haven't done their due diligence or whatever the case may be. It goes back to an independent person, being the Privacy Commissioner in the province, to have that ultimate authority to decide what gets released and what doesn't get released.

What I understand from reading some information from the media today – and I've attending a briefing, by the way; we actually had two briefings with officials. I appreciate and thanked them for it. I attended one of those briefings and still had difficulty in trying to fully understand the purpose, intent and reasoning for this bill. If I'm the only person in the world who is challenged by that, then I apologize but I really can't. I'm really trying to understand exactly what this is about.

But what we have here, by watching and following what I've been able to capture on the intent of the bill, is that the commissioner can say okay, here's a piece of privileged information, if it's Cabinet privilege or solicitor-client privilege, whatever the case may be, we need this released to be part of the inquiry. Then it can go back to the government, whoever that happens to be, whoever in the government makes that decision – we don't know that – and say we're going to allow it to be released or we're going to maintain the privilege and, therefore, it can't be released.

Here comes the problem, Mr. Speaker, a number of problems; we don't know what the process is going to be. We don't know how that's going to take place. Who makes those decisions? How are those decisions made? In a briefing with officials, we asked could they cherry-pick. The response was well, no, they're not going to do that; they shouldn't do that. But when we really asked about it, could they really pick out part of a decision or fragment decisions or something before election 2015 versus after election 2015, how do we know if they're treated the same and so on, yes, that could happen, but we don't think that's going to happen.

So my comment in simplicity is dangerous, is because I have concerns about it. We don't know who is going to make the decisions. We don't know what the process is going to be. Our understanding is – and the minister when we get into Committee or in closing debate might want to comment on it, who actually is going to make the decisions of what's given, what's relieved and what's not. We have a number of those concerns.

As legislators, we all have a responsibility to vote for a bill and we just shouldn't sit idly by.

As a group, a caucus in the Opposition, we've had great discussions about this particular bill in trying to understand why is the government doing it and is there something here we don't know about. Is there something here that there's intent here or something that we don't know about? We've had different views on it and different discussions about it, and that's what should happen. But each Member here and on the government side can vote for it, can vote against it or can ask for amendments. That's what our responsibility is. Either we support the bill, we're satisfied with the information we know about it, its intention, what the impact and effect of it's coming into power will be, or we don't. And if we don't and we're not satisfied with it, we can vote against it, or we can also bring forward suggestions for changing the bill.

Mr. Speaker, I really don't want to get in any way confrontational on this because this is a very serious matter. We want to see a full, fair, frank, open and transparent process and one that's effective and works for the inquiry as well, but we also don't want to see a case where somebody in a position of being able to make a decision takes an action in protecting of information from public disclosure. We don't want that to happen either, and we don't know how that process is going to take place.

We have some concerns, I have some concerns and, hopefully, the minister, in closing maybe can address some of those concerns and maybe he can respond to some of those concerns in his comments.

Mr. Speaker, I look forward in Committee, I have a few questions. I'm going to ask to see if we can get some explanation and maybe we can get some that will satisfy some of the inquires and questions that we have, and maybe it won't; we'll see when it gets to Committee. At this point in time, I think there are a lot of unanswered questions. Again, the simplicity of the bill, to me, is a problem. Every time, as I saw with the media today, that we have someone who listens to information, they interpret it different – and I saw it in the media today, two different interpretations of what the media heard in the briefing, and that's a problem.

Thank you, Mr. Speaker.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: If the hon. the Minister of Justice and Public Safety speaks now, he will close debate.

The hon. the Minister of Justice and Public Safety.

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

Certainly I plan on speaking to the closing of this, but prior to doing so there's some housekeeping to take care of. So at this time, I would move to adjourn debate on Bill 35.

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

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

At this time I would move, pursuant to Standing Order 11(1), that the House not adjourn at 5:30 p.m. today, Tuesday, March 6.

MR. SPEAKER: All those in favour, 'aye.'

SOME HON. MEMBERS: Aye.

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

The motion is carried.

The hon. the Government House Leader.

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

At this time, I would call from the Order Paper, Order 5, second reading of Bill 35.

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

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

I'm going to take some time now fairly quickly to go through the comments I heard from my colleagues across the way. I appreciate their commentary, and I appreciate the fact they spoke to this bill. Some spoke certainly at length to this amendment to the bill. There are a couple of things I find interesting. Here's what I find interesting.

The independent Member supports what we're doing. The Third Party, the NDP, have indicated that while they have questions, and certainly questions is a part of it, they are supportive in principle, my understanding, of this bill, although they have questions. They understand the merit or the logic behind it. But it's interesting that it's the Official Opposition, the PCs that took an ample amount of time to stand up and say why they don't agree with this bill. And that's interesting; that's very interesting.

Just speaking in general, I reference – and again, just for people who are watching, this is not an adversarial process. The fact is we stand, we speak, we disagree. When I look at the Member for Conception Bay East - Bell Island, I consider him a good person. So what I'm going to say is certainly not personal, it's business.

I can't use the exact quote, but it reminds me of that movie *Billy Madison*. And there's a part in *Billy Madison* where he stands up and does a debate, and everybody's cheering, and at the end of the debate the moderator says – and I'm paraphrasing here – what you said makes absolutely no sense whatsoever. And unfortunately the Member for Conception Bay East - Bell Island is the Billy Madison in this equation, because what he said makes no sense whatsoever. It's no sense.

And again, what he's saying – he took an hour and I didn't say anything while he spoke – but what he's saying is, in many cases, inaccurate. It's not right. It's not factually supported. It is incorrect. It is contrary to what the bill is saying.

I don't know who attended the briefing for the Official Opposition because we offered briefings, but what was said by the PCs was not the same as what was done in the briefing. It's two different things altogether.

What I'm going to do, I'm just going to reference just a few things here. I look forward to the Committee stage and, certainly, I'll try my best to answer questions and just a few points here. I've taken the time to go through this so I apologize for the jumble that is in there.

The inquiry is going to get all of the information that they want with or without this amendment. This amendment has nothing to do with that.

This amendment is about solicitor-client privilege. The inquiry doesn't decide who has solicitor-client privilege. As we've clearly explained, they want a tremendous amount of information in a short period of time so the inquiry can happen as quickly as possible and with smaller expense. Again, we already know the cost of the project; the inquiry is not going to be a small cost either. What we're suggesting is to protect government's interests; it's to protect their interests. It's to protect the people's interests.

There's not a clear understanding of how this works by the Official Opposition on this. The amendment has nothing to do with preventing the Commission from getting information – nothing like that. They've asked for a tremendous amount of information. That's going to be provided but if you just give it over without protecting solicitor-client privilege, that privilege is lost forever. Why would you do that? That's ridiculous. It's absolutely ridiculous.

The other thing the Member forgets is that with or without this amendment government has, is and will in the future be able to protect privileged documents. This doesn't change that. It doesn't change solicitor-client privilege in no way, shape or form. This legislation also does not in any way, shape or form create new powers or new grounds to withhold information. To suggest otherwise is misleading. It's inaccurate. It's wrong. I can't say that clearly enough. To suggest that this has anything to do with withholding information is not factually correct.

No new grounds to refuse to disclose, not at all. This is about getting it all over there as soon as possible. So that's just one of the things that I want to talk about. Another one of the points that was brought up – I've marked notes down all over – was there seems to be a thinking that without this amendment there's no solicitor-client privilege.

Solicitor-client privilege exists with or without the amendment. It's still there. It exists. Again, it doesn't expand it, it doesn't change it, it doesn't dilute it, it doesn't create any new privileges, it doesn't create any new immunities – none. To

say otherwise, shows a clear misunderstanding of the legislation.

When we talk about putting information out there – because I think the Member opposite, the first speaker, the Member for Conception Bay East - Bell Island, said something about the Liberal government. The briefing that was done on this was done by civil servants. They weren't hired by the Liberals. They were there before we ever got in. It's not political. This is not even close to political. These are long serving public servants whose job is to work in the best interests of the government and Newfoundlanders and Labradorians. That's their job.

These same people all worked for them when they were in government. So what I'm doing here is I'm upholding the requirement to protect the long-term interests of our government. I have to uphold solicitor-client privilege so that we avoid a future disaster. That's what we're doing. That's what is going on here. If we just give it over without protecting it, there is a tremendous amount of sensitive information that has nothing to do with Muskrat Falls that the Opposition is suggesting hand it over, why would you protect that. We're protecting us from litigation in the future. That's what we're doing.

Again, well, you put out the inquiry and now you're – yes, we want it all out there; I can guarantee you there's nobody here that has anything to hide – nothing. I didn't sanction it. I didn't vote for it; I know that I didn't do that. I want it all out there just like everybody else does, including Members on the other side. I know there are Members on the other side, the NDP spoke about it, the Member for Mount Pearl - Southlands spoke about it, they want it out there. We all want the information out there.

This is not about refusing information. To suggest that it is, is just not correct. This is for the best interests of the province as it relates to our future interests in other litigation issues that privilege is required for, that have nothing to do with this in many cases.

Just so we know, solicitor-client privilege would have operated in every other context, for any other summons, for information in any other

inquiry. It hasn't changed. To suggest otherwise, is simply incorrect.

Now, I'm going to continue on. One of the comments by the Leader of the Opposition was that the word simplistic was used and that scares him. Again, I apologize. I don't think I used that term. I don't believe I used the term simplistic. Whenever I speak to a bill, I talk about the size of it.

If anything, if I thought it was simplistic, there are many pieces of legislation in this House that we never do a technical briefing. They just don't require it. In this case, we wanted everybody, we wanted to media to see this and understand it, to be able to ask questions and not just rely on debate that they hear here in the House. We wanted to put it out there.

It wasn't me giving the information. I answered questions after. It was done by civil servants in the department. So we want it out there and to suggest the power that this bill gives government, that's ridiculous. This bill doesn't give any power to government. This bill protects government-solicitor-client privilege, something that existed before us, now and will continue long after we're here. That's what it does. That's the purpose of it.

Don't get me wrong, Mr. Speaker, we have no problem answering questions and asking questions. I've sat on that side. I know what it's about, asking questions. That's what you have to do, but to stand up and make comments that are completely inaccurate shows a lack of understanding about the purpose of the bill. To put that out there as gospel is not right. It's not fair. So you can ask the questions and we'll provide the answers.

You can say that you disagree with it. That is fine. There are lots of things that government does that people disagree with, Opposition, whoever; that's how this works. Government puts policy in, but I would remind people, this is about protecting government information, a lot of it which was in the hands of government before we were ever here. This is in the hands of government now and in the hands of governments in the future.

I have a really good description here I'm going to go through because, as the Members opposite have said, this is certainly not simplistic. It is complex; that's why we have to take the time to discuss it. We had a lot of conversations within the department about explaining this so that people would understand what it is we're trying to do.

Government, we, are calling this inquiry and we want to give to the inquiry all the information we can to fulfill the mandate, the terms of reference and determine how we got there. I've said that on multiple occasions. We want the inquiry. We want it to have everything. We got nothing to hide. Let's put it all out there. But consistent with this inquiry is the fact that, like others before, there is a huge demand for documents. This is the highest. I have no doubt this is higher than Cameron or higher than any other.

The demand catches privileged documents. The demand is huge. It spans well over a decade; a huge number of areas. It covers a lot of ground. These documents are solicitor-client privilege, something that existed before. This is not something new we're creating.

Such privileges, as I've discussed – and I gave, I thought, a pretty decent Supreme Court analysis of how important and fundamental solicitor-client privilege is. It's fundamental to the legal system. It's fundamental to us. They protect information from having to be disclosed in legal processes or they limit the situations where they do have to be disclosed.

It's not solicitor-client, there's other information that's protected under ATIPPA. Whether that's Cabinet confidence, basically, police files when it comes to personal information, when it comes to health information. There's a lot of information that's protected.

Solicitor-client is the most common, and it protects legal advice being given to government from having to be disclosed. I think one can easily imagine why that might be detrimental to government, for government to give up all its legal advice to people outside that aren't government.

The problem with the privileged documents is that when you give them over, it's not a partial waiver or a waiver for a period of time, it's permanent. It's complete. It's forever. Disclosure to anyone – anyone – waives the disclosure for everyone.

I think I've made that clear. Giving this over without this protection that this bill, this small amendment here – which is not huge in size – that's what we're doing here. It's either are they privileged or are they not. That's a determination that has to be made.

You don't waive privilege on one thing and not on another. It's comprehensive. Waiving the privilege over some documents on a certain matter or a certain issue will waive everything associated with that matter. For example, if we disclose to one person of a legal opinion on an issue, that can be used to argue that government has waived its privilege against the world. We've waived it to all, and all documents and all materials. That's the argument that would come against government.

So in the context of this inquiry on some of the documents, government finds itself in sort of a Catch-22 type situation. We want to disclose the information. As I've said, I didn't vote for this. I have nothing to hide – nothing. I want it all out there, but we want to give the inquiry everything they want. Of course we do. We want them to have it, but some of what they've asked for isn't relevant to the terms of reference which I have a copy of here. It's not relevant to it. As I've said, that's very clear; but, just because it's not relevant doesn't mean we want to sit there and make that discretionary case. We want to give it all over. Here Commission, here Justice LeBlanc, you make the decision.

We want to respect the summons they've given us. We want to respect the order they've given to us, saying give us all this information. We want to deliver that. They will make the determination.

Let's keep in mind that this is a project that's not finished. This is an issue that's still a live issue. This is not something that's over and done, case closed, matter closed. This is still ongoing. This is still happening as we speak.

Some of the other issues, other than Muskrat, are broad and have ongoing issues that are quite significant. They're going to have a very long lifespans, legally speaking.

Disclosing the documents may waive privilege and it puts us in a position where government will lose and will suffer damages. Mr. Speaker, I think we've already suffered enough damages with this project right now.

SOME HON. MEMBERS: Hear, hear!

MR. A. PARSONS: This is a project, the Member has referenced, \$6 million, \$6.4 when it started. It's gone past that.

The intention of this amendment right here that we've put forward is to remove the Catch-22. It will permit us to disclose anything and everything, whatever the inquiry wants, and we don't have to worry about the implications of doing so. We don't have to worry, what did we give up, what did we give away. We still retain the ability to assert privilege on these documents. It allows us to fully engage rather than sit there and go through everything and not disclose certain things and disclose other things. That's not what we want. We want it all over there.

Mr. Speaker, I'll get an opportunity I'm sure during Committee to answer the questions that come forward. As I always do, I will try to the best of my ability to explain or give answers. I will try my best.

The Members opposite referenced about the best interest of Newfoundland and Labrador. Well, I can guarantee you, that's what we have in mind with this inquiry.

On that note, I will sit, take my seat. I appreciate the opportunity to speak to this, and I look forward to this bill going to Committee.

Thank you.

SOME HON. MEMBERS: Hear, hear!

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

The motion is that Bill 35 be read a second time.

All those in favour of the motion, please signify.

SOME HON. MEMBERS: Aye.

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

This motion is carried.

CLERK: A bill, An Act To Amend The Public Inquiries Act, 2006. (Bill 35)

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

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

MR. A. PARSONS: Now.

MR. SPEAKER: Now.

On motion, a bill, "An Act To Amend The Public Inquiries Act, 2006," read a second time, ordered referred to a Committee of the Whole House presently, by leave. (Bill 35)

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

MR. A. PARSONS: Mr. Speaker, I move, seconded by the Minister of Health and Community Services, that the House resolve itself into a Committee of the Whole to consider Bill 35.

Thank you.

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

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

All those in favour, 'aye.'

SOME HON. MEMBERS: Aye.

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

The motion is carried.

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

Committee of the Whole

CHAIR (Warr): Order, please!

We are now considering Bill 35, An Act To Amend The Public Inquiries Act, 2006.

A bill, "An Act To Amend The Public Inquiries Act, 2006." (Bill 35)

CLERK: Clause 1.

CHAIR: Shall clause 1 carry?

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

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

As referenced in second reading by myself and the minister, I have a few questions and hopefully we can clarify some of this information.

First of all, Minister, can you tell me, in preparation of this bill, who have you consulted with?

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

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

Certainly, there would have been a significant amount of work done within the Department of Justice and Public Safety. I think, in fact, they may have reached out to the Information and Privacy Commissioner. I'm not positive, but this would have been something done by the staff solicitors within the department, as is usually the case.

Thank you.

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

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

Minister, are you able to confirm through your officials if you did reach out to the Privacy Commissioner. I'd be interested to know what his response was to this, as the *Access to Information and Protection of Privacy Act* actually requires the minister to consult with the commissioner.

So, Minister, I would like to know if consultation took place and what the response was from the Privacy Commissioner.

I can stand for another minute if you – you're good? Okay.

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

MR. A. PARSONS: Okay, I will certainly check and see if there was a consultation. But what I would say is that there is no requirement to consult when it regards a privilege issue. That's something you need to go to the Privacy Commissioner about. That's a determination that's made by the solicitor, by the client. So we wouldn't have any requirement, even though there's ATIPPA.

You'll notice in the last page of ATIPPA there are always exemptions and things that come ahead of ATIPPA. The other thing is that, again, I have spoken to him on a number of occasions. When we have to, we do, and when we're not required to, we don't. But again, I don't think we've done anything wrong here. I think we've done our due diligence on this.

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

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

I don't agree with the minister. The access to information act, section 112 reads: "(1) A minister shall consult with the commissioner on a proposed Bill that could have implications for access to information or protection of privacy, as soon as possible before, and not later than, the date on which notice to introduce the Bill in the House of Assembly is given. (2) The commissioner shall advise the minister as to whether the proposed Bill has implications for access to information or protection of privacy. (3) The commissioner may comment publicly on

a draft Bill any time after that draft Bill has been made public.”

I haven't heard the commissioner comment on it publicly, but section (2) outlines that: “The commissioner shall advise the minister as to whether the proposed Bill has implications for access to information or protection of privacy.” It doesn't say the minister will decide; it says the commissioner will decide, once he's been consulted with.

So, Minister, if you could check with your officials or if you can reply to that, I think it's very clear that in a case like this we're talking about release of documents, we're talking about privilege, we're talking about, even in the Explanatory Notes “confirm that immunity or privilege is not waived where the Crown or a person designated by the Lieutenant-Governor in Council discloses” it. It talks about solicitor-client privilege, immunity and privilege, and so on is what the bill is about. All of those exemptions are included in the Access to Information and Protection of Privacy Act. So I think it's very clear that the minister has a responsibility to consult and I'd be quite interested to know if he did.

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

MR. A. PARSONS: Thank you.

I appreciate the opinion of the Member opposite, but I take the legal advice of the department's solicitors. And what they're saying is that this does not fall under section 112. This does not have privacy issues or information issues; this is a privilege matter.

So again, the Member opposite may disagree, but that's where it is. I will take the advice of the multiple solicitors within the department who've made this determination. In fact, the last time we had this issue we discussed it at the Management Commission. When we said a certain thing, the Opposition disagreed, and then the Privacy commissioner came out and sided with us.

Again, I take my advice from the solicitors. They're saying this is not a section 112 issue, and that the Member opposite's interpretation of the legislation is incorrect.

Thank you.

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

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

Minister, other than the officials in your department, is there anyone else outside you consulted with? Any legal associations, the Canadian Bar Association, the Newfoundland and Labrador bar association – anybody outside of your department, outside of government that you consulted with on this matter?

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

MR. A. PARSONS: I don't think the Member opposite understands. We don't consult with anybody outside to discuss government solicitor-client privilege; it's a pretty simple process. We wouldn't ask the CBA or the Law Society to say whether this is privileged or not. That's a determination that we make.

So, no, we didn't consult with anybody. There's absolutely no duty to do that. I don't suggest it was ever – well, we haven't done it. I can guarantee that it wasn't done in the past either.

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

MR. P. DAVIS: Thank you.

He wasn't certain earlier if he actually consulted the Privacy Commissioner, but he can guarantee that we didn't do it. So if that's where the minister wants to go, that's fine.

Mr. Chair, I'd ask the minister if he could outline a process. Let's use the example if a solicitor-client privilege document is sent over to the commissioner and the commissioner is looking to waive privilege, what's the process that would happen in order for that to take place?

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

MR. A. PARSONS: Again, I don't know if that's the debate for now but I'll certainly try my best to speak to it.

Usually what happens is somebody makes a request for information from any number of public bodies that fall under ATIPP. You would review to see does it comply with the act, should it go out or not go out? If you make the choice that it falls under solicitor-client privilege, the person has a right to appeal that. That would go to the Information and Privacy Commissioner and they would make that decision is my understanding of how it works. I think that's been the same for a while now.

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

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

I did have a briefing with officials. I expressed my appreciation to the minister and the department officials earlier for that briefing. I also followed some commentary. I'm sure I haven't seen all of it, but some commentary from the technical briefing that was done with the media today.

There were discussions about if the commissioner wants to release information, then one outlet suggested there would be a negotiation. Another media outlet said words to the effect that the government would decide where privilege would be waived or would not.

Minister, can you elaborate on it and give us some indication of how that process would happen?

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

MR. A. PARSONS: Thank you.

As the Member knows, I can't decide what the media wants to say or not say. What I can say is they were all privy to the same briefing and the same information that we gave, which would have been the same that were done in other briefings. What's going to happen here is yes, there will be a process where we work with the Commission as it relates to documents that they decide are relevant and that there's privilege

shared. The government, as has always happened and will always be the case, makes the decision on whether they should waive privilege or not. It's the client, not the solicitor, it's the client that decides whether privilege should be waived or not.

Again, this is something that we worked out, but I would note that the primary purpose of this, as always, is to get the information over there. We want this inquiry to keep going. One thing I would point out, just keep in mind here when we brought out this inquiry in the first place, the Opposition complained that it wasn't going to be done quick enough. Everything they're doing right now, their suggestions on how this should be done would only delay the inquiry, so I get confused.

CHAIR: The hon. the Member for Topsail - Paradise

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

It's unfortunate the minister is confused and I certainly don't intend to confuse him. We're in the House in a debate, we're not going to rush through it just to pass a bill.

My words earlier, which he referenced, on simplicity, they were my words; my comment was the simplicity of the bill is dangerous. I agree that he can't say what the media is going to say, but my point is that you have two different interpretations of the information provided by the minister from the media who sat in the same room. You have one outlet that's putting one lens or commentary on it; you have another outlet who seemed to have taken something different from it. So that's why instead of us rushing this through, it's important that we understand what the process is.

My commentary earlier about simplicity is that we don't know what the process is, and the minister just commented - I think his words were he can't answer to the exact process, and I could be wrong on that. I'm not trying to put words in his mouth and I certainly don't want to do that. I'll ask the minister again if he can give us some indication of what happens. He said earlier anything and everything is going to be shared. That's two different things, everything and anything. But if every solicitor-client

privileged document, every Cabinet document, anything that would not normally be released because of a privilege of one sort or another, is all sent over to the commissioner, who decides what's going to be waived and what's not going to be waived?

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

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

Certainly I'll try my best to answer, but I have to go back to a point the Member made when he said about rushing this through. I can guarantee you there's no attempt by us to rush this through. I sat on that side when you invoked closure on Bill 29 and things like Muskrat Falls, so don't tell me about rushing bills. You're the one that wouldn't allow the full debate on the House. Don't tell me about Muskrat Falls and rushing debate. This is nothing compared to what you did – nothing compared to what you did.

If he wants to talk about rushing debate, and the Members over there – he's over there saying: Do you want to go there? I would love to. Let's talk about the debate on Muskrat Falls. Let's go back.

He talks about what the media reported or not. I can't control what the media reports. All I can control is that the information they received was exactly the same. We had the deputy minister, the assistant deputy minister and a solicitor all sat at the table. Multiple media entities were there. They asked questions, they got answers. I came in after, we talked a bit. I can't decide what the media reports or not. How is that even relevant to this?

What's important is what's in the bill; what we discussed here. They've had plenty of opportunity in briefings to ask these questions. I don't know if they did or did not. I'll certainly try my best.

The Rules of Procedure for the inquiry are on the website. It's there. It's released. The Commission decides the Rules of Procedure.

What we're doing here is we are protecting solicitor-client privilege of all the information

that goes over, the multiple reams of paper, of information that is going over there. We're protecting government's interest. They go over there – again, it will be figured out later what goes or not, because if it's a privileged document, something that ATIPPA even says that solicitor-client privilege documents are not covered here.

I don't know where he's going with this, but I'll try my best to keep answering questions.

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

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

It's not a complicated question I'm asking, Mr. Speaker. I didn't mean to upset the minister just now. My question is very simple, and I appreciate the fact that you have no control over what the media says, but my comment is two different media outlets have taken away two different messages from the same presentation. That's one of the problems here. There's a high level of uncertainty as to what this is really about and what the process will be.

My question is: Can the minister tell us what the process will be when deciding what's waived privilege and what's not waived?

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

MR. A. PARSONS: Thank you.

Again, we come back to the media part. As I've said, I can't help what the media report or don't report, whether it's accurate or not accurate. We try our best. All I can say is the information they all got was the same, and the information we gave was accurate.

What's going to happen, it's all going to go over there. The Rules of Procedure, right here, there's a long – the Commission of Inquiry Respecting the Muskrat Falls Project has published Rules of Procedure. There's a website there and a link.

What I can say is this amendment doesn't replace the rules that the Commission has there. It doesn't change that. I think that's very clear. All we're saying here with this process, with this

amendment is the information that goes over that is solicitor-client privilege will not be waived. There will be a determination later on what to waive or not waive. You're not going to waive privilege on something that's not related to it. Again, I would assume it would be a case-by-case basis.

What I would say though, unequivocally, is that the Members opposite need have no fear. We're going to put everything there that we can without hurting government so that the people get all the information. We are certainly going to do our best to make sure that happens.

SOME HON. MEMBERS: Hear, hear!

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

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

I'll try to make this simple. The minister just said there will be a determination later as to what's waived and what's not waived. Who makes that determination?

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

MR. A. PARSONS: He does have me confused. Can he repeat the question?

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

MR. P. DAVIS: During your explanation you talked about the Rules of Procedure and so on. You said there will be a determination later on what will be waived and what will not be waived. Who determines that?

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

MR. A. PARSONS: The owner of the privilege determines that. That would be government. Government holds the privilege. The same as if you went into a lawyer and had a conversation, there's a solicitor-client privilege there. It's not the lawyer that decides it; it's you that decides it.

It's the same thing; government would make that decision on what to waive or not to waive. The

power is always with government, always has to be. This bill does not change that.

Let me see what else I can say here. The big thing to keep in mind here, without this amendment, there's going to be a delay in the information that goes over there. There might even be less information that goes over there because departments would have to make the determination on what to release and not to release.

What we're saying is we're going to send it all. We're sending it all over there. We want it all to be there, we just don't want to lose the privilege.

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

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

I get that. You're going to send it all over. Government is going to decide what you will waive and what you will not waive.

My question is: What process will be used to determine what will be waived and what will not be waived?

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

MR. A. PARSONS: I can't give an answer to that, what process will be put in place. I would imagine it will be a common-sense process where we want absolutely everything that can go over that doesn't hurt government's long-term interests as it relates to things that are unrelated. I'm assuming that's the process.

Again, I would state that there's a guiding principle here. We commissioned an inquiry into Muskrat Falls. We want all the information that's out there because this government – this government – has absolutely nothing to hide.

SOME HON. MEMBERS: Hear, hear!

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

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

I want to pick up on something the minister has said. I really would like a practical example in layperson's language. You may think it's really simple but there are laypeople, myself included, who need it.

When you talk about wanting to give over everything and what you're concerned about is giving over everything but still being able to assert privilege regarding documents.

Can you give a practical example of what that looks like to assert the privilege over a document?

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

MR. A. PARSONS: I appreciate the Member opposite talking about the layperson. I'm going to try my best, because I'm certainly no expert in this, and this is why I do rely on the staff who are certainly well versed in this.

What's going to happen is – we know the solicitor-client privilege basically applies to just about everything. There's that conversation, legal opinions. We know that applies. The bill will then cover that and it all goes over again, we make that determination.

It's hard to tell right now what would be covered or not. To me – like, the request literally came in and I think it went to every department basically for any information that had the word Muskrat in it. That's, I think, how basic it was.

There might be something on a litigation file within the Department of Justice or any number of other departments that Justice does the legal work for, that gets caught under that because the word is there. It will depend on the scope, how will – the Member for St. John's Centre said it's a scoop. It really was. It was a grand scoop of, basically, a data dump of information.

What we're doing is we want to send it all over. How do we apply it? I do think it's a case-by-case basis. This is the reason we're doing it like this, because if we did it now it would take forever, and the inquiry is sitting there waiting; whereas we're saying let's put it all over there. Because they will likely go through –

AN HON. MEMBER: (Inaudible.)

MR. A. PARSONS: Yes.

The second part of your question is: How do we apply it? I would imagine it would be a case-by-case basis looking at what's relevant, not relevant. There are certain things that would be injurious.

In my opinion, the overlying principle that has to be applied is, is it necessary to the inquiry? Is it going to hurt government's interests, and is there any other reason we cannot release it? It is not set in stone but the general principle I have is that if we can get it there at all, we have to get it there.

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

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

The asserting privilege is involved in your decision with what's going over or is it after the fact? That's what I'm trying to get at.

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

MR. A. PARSONS: I think I got it. I know it was a good question. I hope I'm going to get it right.

You're saying, are we going to assert the privilege before or after? It's going to be before.

What happens is this bill goes back to January 1, that way – because if you send it over and this is not clarified, then the privilege is gone. So we're going to assert the privilege now on everything. It goes over, they go through what they want and then they have everything – absolutely everything. Really, if anything –

AN HON. MEMBER: (Inaudible.)

MR. A. PARSONS: We don't make that determination. We're going to send everything over and this bill is a catch-all for everything. Everything that goes over, if there is a solicitor-client privilege implication, it's covered. If it's not there, it's not there. Not everything is

solicitor-client privileged, but what is will not lose that protection.

The reason we're doing this now and making it retro to January 1 is we have to send it all over because, in some cases, if it's not there, if you send it over without being certain that you've covered it off, you may make the decision not to send it.

I think on the flip side, if government gets in a position where we're making that determination here should we send it, should we not send it, we're thinking we should send everything. Just get it all over there and have that protection.

Coming back to the way you look at it, it's similar to courts. You have to weigh – the prejudice that it causes, is it injurious to the province? What is higher? It really is, in some cases, a balance of probability. Maybe I'm getting that wrong, but there are competing interests here. Each matter is unique, I think, in that case.

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

MS. ROGERS: Thank you, Mr. Chair.

Here's what I understand: The inquiry has asked for all kinds of information. So the option is for government to go through everything, which would take a whole lot of time, and then if you release something, if you disclose something, then the solicitor-client privilege has been waived, so you're no longer protected.

So this is an amendment that says: Okay, let's try it this way, folks. We're going to send you everything, but we're going to pass legislation so we still have our solicitor-client privilege so we're not giving that away when we do this data dump.

However, here's my question, Mr. Minister: The inquiry will look at and they'll see okay, that's not relevant. That's not relevant. Thank you for giving us all this; however, this is relevant and this is relevant and this is relevant and it does have solicitor-client privilege.

Can the inquiry then go to government and say: This is relevant? We would like to be able to use

this. Will you waive solicitor-client on this particular piece of information? Is that possible?

Then an addendum to that is: How did other inquiries deal with this?

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

MR. A. PARSONS: The first part, dead on, you've got that covered, and that's how the process works. The second part really is, it's a conversation, it's a process that really will be case by case. It all comes back to, as it has always been the case and will not be changed by this act, is that determination is made by the privilege holder, which would be government, which would be basically a balancing act that's done on what's in the best interests of getting this done versus how would it be injurious to the province in certain ways.

So that's what's going to happen, and it has to be done on every single document. But it's better to do it that way than for government to do that internally before they send it and do it themselves. I like the approach you've laid out, and that's how we're doing it.

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

MS. ROGERS: Okay, so now we have the scenario that the inquiry has gone through and has identified relevant information that might have solicitor-client privilege. Which again, we agree is so very important and one of the foundational pieces of our justice system. And the commissioner says, this is very relevant and I need to be able to use this and release this publicly. So they go to government and government says, no, sorry, we're not going to accept a waiver. Then what?

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

MR. A. PARSONS: Again, I don't think it's a simple yes or no answer. We have to remember here that we've commissioned this inquiry at significant cost, time and expense. So I don't think it's just a no. What I would suggest is, in some cases, I think there have been conversations with the commissioner as to is

there a way that it can be used without disclosing it in an injurious way to outside parties. These are conversations that can happen too. I could be completely wrong here, but I'm suggesting it may be a case of limited waiver.

So that's where I am on that. I wouldn't want to think – because some people get the idea, well, government is just going to say, no, we're not giving this over. But you've got to understand where we're coming from. This is not a simple process. This is expensive and it's time consuming. It's costing a lot of money and taking a lot of time, taking a lot of resources. So if we're going to do it, we want to do it right, but at the same time maintain certain rights that have to stay there.

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

MS. ROGERS: Mr. Chair, I just have one last question, but before I get to that I just want to just raise the issue. I remember the filibuster around Bill 29 and how often we talked about just the fact that a lawyer is in a room, whether that lawyer is in the room in the capacity of a lawyer. I can remember when the current government was Opposition and we were here and we were raising those issues as well and those concerns. That's just a little bit of a sidebar.

But so my question is – what was my question?

SOME HON. MEMBERS: Oh, oh!

MS. ROGERS: I had a very relevant question.

MR. A. PARSONS: I can stand up and answer the previous question if you wanted to have a second (inaudible).

MS. ROGERS: Yes, sure, because I know it will come back and it was a very good question.

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

MR. A. PARSONS: I appreciate where the Member is coming from; it happens to me all the time.

Going back to what you asked previously about this conversation, if government chose not to refuse any information, it will be noted by the Commission so the public would know that something was refused.

I think that's important to know there. There's a big pressure on us to release everything that we can. Again, there's going to be cases where I'm sure it doesn't happen, but I think that's important to know.

CHAIR: The hon. the Member for Mount Pearl-Southlands.

MR. LANE: Thank you, Mr. Chair.

Minister, before I get to the question I was going to ask now in relation to the question that you just answered actually, which is an important point, if government decides they're not going to release something, like you said it will be made public that they were asked for something and didn't release it, will it just simply be that government, on X number of occasions, they were asked for stuff, they didn't provide it or will there be some detail government was specifically asked for and then we'll know exactly what it was or generally what it was you refused to release.

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

MR. A. PARSONS: It's a good question and I'm not positive of the answer. I would assume that that would fall under the Commission's rules of process on how they would answer that. I don't think it would be us that determine what's said or not. So that might be a better question for the Commission. I don't have the answer.

I'll endeavour to get it but while I'm up here, one thing I wanted to point out when we're talking about this bill – and I don't know if I've mentioned this yet today and I don't know if it's been mentioned at all, just so everybody knows, this is not unique to Newfoundland and Labrador, this amendment. It's actually already in place in Ontario and British Columbia. So it's something that other provinces have seen fit to put in there. Ontario went through the Walkerton inquiry, which was a big one. In fact, I think the

one in British Columbia was the Pickton inquiry where that became an important issue.

Again, I apologize for not having it. I would assume it would not be in a way that even the answer to which would disclose something that would be in breach of solicitor-client privilege, but I'll certainly endeavour to find out.

CHAIR: The hon. the Member for Mount Pearl-Southlands.

MR. LANE: Thank you, Minister, I appreciate it. I would like to know that answer, if I could get it.

Minister, I'm wondering can a document – and that's when you talk about partial disclosure, I think you said, or partial privilege or whatever; I'm not really familiar with all these legal terms. Let's say there was a document, for argument's sake, that part of it was privileged. So there's a very relevant piece of information, maybe it's three pages long and in that there's one paragraph that could be injurious to the province. Could some arrangement be made with the commissioner to say everything except this paragraph will be redacted, but everything else will stay there because it is relevant? Could that happen?

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

MR. A. PARSONS: Generally, the privilege applies to the whole thing. Normally, yes, if you just release the one little part you would release the privilege for everything.

I guess I'm, in some cases, speculating because at the end of the day our goal is to put out everything that we can. This is something that maybe there are lawyers in the department that are going to be very upset with saying this. I don't know for certain that doing a small or limited waiver on one thing would affect it or not. To me, if that was the case, then, obviously, there's an easy answer. You can't hurt yourself by trying to be accommodating, but I think government as a whole is going to try to be accommodating in getting it all out there.

It's similar to what I said, I don't know if there's a way that we can do that or if there's a way that

the Commission is going to be able to avail of the documentation and to use it in their inquiry in such a way that doesn't harm. These are conversations that will happen.

There are a lot that I'm sure we don't know at this point, but these are things that are constantly being worked on and will be done between the commissioner, their counsel and department solicitors.

CHAIR: The hon. the Member for Mount Pearl - Southlands.

MR. LANE: Thank you, Mr. Chair.

Minister, if, for argument's sake, you can't get an agreement with the commissioner. The commissioner wants a particular document and he feels it's very relevant. The department says: Wish we could give it to you, but client-solicitor privilege because there's something injurious in here, whatever.

If there's a disagreement between the commissioner and the department as to whether that's a valid argument – and I'm not necessarily saying your department, maybe Nalcor is a better example. Nalcor says we can't give you this because, and the commissioner looks at it and says there's really nothing in here that's injurious, I don't buy that argument.

Is there any court proceeding or whatever, that there was something really valuable that the commissioner can say: I don't buy this client-solicitor privilege on this document. It's really important; therefore, we're going to initiate a court action to get it from you anyway. Could that happen?

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

MR. A. PARSONS: To be quite honest – and what I'm going to endeavour to do here, because I'm not positive of the answer and I don't want to put out something that's not accurate. What I would suggest is I don't think the question you're asking and the answer will prejudice how you decide to vote on this or not.

What I will do is that when we do third reading on this, I will stand up in this House and give

you the answer to that question, but I want to make sure it's right. I'm not sure which legislation supersedes here, if the commissioner's authority supersedes ATIPPA in this particular case. Maybe that's because it's been a long day.

What I will do is make sure I get an answer to that. Similar to anything else that you ask here now, if I don't have the proper answer – I can give my opinion on some things, I can say what I think, but I think in this case you want to go away knowing, satisfied that you have the proper answers. So if it's not here now, I guarantee that I will have it for third reading.

CHAIR: The hon. the Member for Mount Pearl - Southlands.

MR. LANE: I thank the minister for that. It's, I guess, three questions now. I understand why you wouldn't have the answers. So, again, I would appreciate it. I'm sure you have staff that are monitoring what's going on here. Perhaps we could get some answers to three of those questions, if we could.

The last question I have, Minister, is that I understand you are committed; you've indicated you're committed. You have nothing to hide and so on. You weren't the government that sanctioned this project or voted for it. I get all that. Therefore, you're saying we're going to dump over all the information we can. We want to release everything we can.

How does that apply to Nalcor? In the sense, have Nalcor been given that same instruction? Who's going to oversee to make sure Nalcor shares the same view that you do, that we have nothing to hide and we're going to throw everything we have there? What assurances do we have that Nalcor is going to approach it the exact same way as you are? Given the fact that a lot of the players involved in the project are still there, I would imagine.

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

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

The Member is certainly full of very good questions. I understand where he's going with

that. There will be a process through the Commission's Rules of Procedure that will govern that. Solicitor-client privilege applies to Nalcor the same way it applies to government, the same way it applies to any single one of us as citizens.

There's a process there where there's going to be all the information sent over. I think this, in fact – because the *Public Inquiries Act* will govern them as well, in the sense that they will choose what to provide. They know the solicitor-client privilege will exist and then they'll have to make a decision on whether that is waived or not as the privilege holder.

I don't understand if there's any way that you can actually challenge that. As I've said, I'm going to be able to get some answers hopefully soon.

That's where I am. It's hard when you get into the hypotheticals, but I understand where the Member is going with the question.

CHAIR: The hon. the Member for Mount Pearl - Southlands.

MR. LANE: Thank you, Mr. Chair.

Minister, I appreciate that. That was my last question, but my final comment on it is that I would hope there would be – maybe through the Minister of Natural Resources or meetings with the new board of directors who, certainly, wouldn't have had anything to do with the sanctioning of the Muskrat Falls Project. In theory, they'd be in the same boat you're in; they would have nothing to hide.

I would hope there would be some conversations that would take place with them to give direction to ensure that every shred of evidence and information that could possibly be given out by Nalcor is provided and not trying to hide behind solicitor-client privilege. I make that more as a comment than I do as a question because you've already answered to the best of your ability.

Thank you.

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

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

I remember my question. My question is: The issue of solicitor-client privilege, how does it relate to, for instance, when the Leader of the Opposition was premier? Does that stay with him, if there are any documents and any legal advice that was given to him? Where does that go with previous government?

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

MR. A. PARSONS: I think I have the answer to that, and I don't think it applies to the individuals. I think it applies to the client. The client would be government as a whole, not just the individual.

The same as a department, it just doesn't go to the – what I would say is, this covers right from conception. I think it goes back to 2006 up to date. This is not a case of treating any time period differently. The departments are the departments and are full of individuals who've been there through this, through administrations and government.

The privilege rests with the client. In this case the client would be government, or that particular department.

CHAIR: The hon. the Member for Topsail – Paradise.

MR. P. DAVIS: The Member for St. John's Centre raises a point that I had noted here when I had a chance to speak again, because that's one of the issues we have with the bill.

AN HON. MEMBER: (Inaudible.)

MR. P. DAVIS: Yes, absolutely, because we have – I say to the Member, that's why I was asking questions about what the process is and who's going to decide? Because the reality is we are in a partisan world here. We're in a political and partisan world.

We have the government who holds – and I did some checking earlier. I asked some other people: who holds the privilege, who owns it? The minister said the client owns the privilege,

but when government changes hands the current government controls, acts as the client, is still the client and holds that privilege, that decision on privilege.

Interesting to point out, that under Cabinet rules the current government is not supposed to go in and look at Cabinet documents from a previous government, but under this process they can look at it and then decide what – I should be careful, because they do ultimately hold the decision power authority over what is may be released or may not be, what's waived.

Recognizing and the process of everything being sent to the commissioner – which I fully agree with, I absolutely fully agree with everything being sent to the commissioner. The commissioner then indicates to government this is relevant, this is relevant, this is relevant, I'd like for you to waive privilege on item 1, 2, 3, 4 and 5. So the government – and that's why I was asking the questions on process – then, as the client, gets to decide if they're going to waive on those documents or not.

I respect the fact and I'm glad the minister and I acknowledge the minister commented that the commissioner will report if something is not waived, but you still won't know what's in it.

One of the concerns I have is treating documents before November 30, 2015 versus documents after November 30, 2015 because the government, prior to November 2015, has no say in waiving that privilege, it falls completely with the current government.

MS. ROGERS: Are you glad I asked my question?

MR. P. DAVIS: Yes, I am because you actually set it up quite well for me.

Under access to information, I talked about this in second reading, when a person applies for information and if it's denied because of privilege or one reason or another, the applicant can go to an independent third party, being the commissioner, and ask the commissioner to waive privilege.

So what we have here in this case is the commissioner comes to the government, they

give everything to the commissioner, the commissioner says I'd like for you to waive privilege on this item, this item, this item, and this item, the government can say yes, yes, no, yes, and on the item where they say no the only default is he reports that it wasn't released.

What I believe should happen is that in a case like that there should be an independent process. Now, the minister said oh, you can go to court – I think he said in second reading, he referenced. Or maybe I'm wrong. Maybe I heard it through today or in the briefing, I'm sorry I can't – but I heard along the way that the person could go to court, or the commissioner could go to court, or the client could go to court, there could be court processes to determine if it should be released or not.

If the commissioner held that ability, I would be very satisfied with it, or if someone like Donovan Molloy, the Privacy Commissioner held that ability. Not being critical of the government, but the reality is we live in a political world and a partisan world, a difference from the current government versus the past government and an independent Member as well.

I've asked the minister to explain the process, what process, and he said I can't say what process will be followed. I asked him what will happen when the commissioner sends it all back. He said there will be a determination later on what would be waived and what not would be waived. But by concern on this is we don't know what process we followed and how do we get by a perception of a political bias.

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

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

Again, there's a bunch of different thought processes along this. One could look at the *Management of Information Act*, I think it's section 5.4, that says Cabinet documents will be governed in a manner set out by Cabinet Secretariat. That's what that section says.

There's also the question asked about government. One could look at government as being immortal and so it always rests with

government throughout the changes. There's some thought that some of the Cabinet confidences may rest with previous Cabinets, so maybe this comes down to a question asked of the previous Cabinet. Maybe there's a privilege that goes with that or not. These are very good questions that will go throughout this. We may not have the answers now; this is why this goes through this process.

What I would say, the Member mentions about bringing in a new process. We're not changing exactly how everything is done to get around this; this is a pretty simple request. We're talking about the protection of solicitor-client privilege that's in the best interests of government. That's all this is about.

When we talk about the privilege itself, if we're making the argument is it privileged or not privileged, then you go to court. That's how that works; that's a standard process.

If the agreement is that it is privileged but whether it should be waived or not waived, that rests with the client. That rests with the privilege holder who always makes that decision. That cannot be challenged.

The other thing, too, is that going by if there's a refusal to submit it or to waive it or to disclose the information, it's noted. But it will also be noted, from my understanding according to Commission rules – and, again, I'm trying my best here because I didn't set the Commission Rules of Procedure, that's the Commission. I don't want to say anything that's contrary to what Justice LeBlanc has set out. My understanding is that if the refusal to do so negatively affects the conclusions of the inquiry, that's put out there as well. I think that's important.

Like I say, I'm certainly free to stand here and answer questions and continue answering. I think we've outlined why we are here on this bill and what it accomplishes.

CHAIR: The hon. the Member for Mount Pearl - Southlands.

MR. LANE: Thank you, Mr. Chair.

Mr. Chair, as I've indicated I believe the intent of what's in this bill. I think I understand what's trying to be achieved and I agree with it to a great degree. Given the fact that we do have some outstanding questions that the minister – in fairness, he's tried his best to answer, but some that he couldn't answer for me and there are concerns there.

I just throw it out there to the minister: Is there a possibility – I don't know if there's a major hurry to get this done now – that we could adjourn this debate and have an opportunity to have somebody like Mr. Learmonth or somebody and someone from Justice again to just answer – I mean this is a very serious matter. The minister has indicated himself this is a very serious matter relating to this, and we want to make sure we get it right.

I'm not trying to stall the process. I want to get the process moving, but I'm just asking. The minister says no, the government has the right to say no and we're going to vote for it. I'll probably support the bill anyway. But given the fact there are some, what I think, good questions, important questions that we haven't got answers to, I'm wondering is that a possibility.

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

MR. A. PARSONS: I'm just going to make a point here, and I appreciate the Member's comments. But I would say to this is it's extremely hard to answer any possible hypothetical that can come up. A lot of what's being asked is hypothetical and speculative in nature.

What I would suggest is that there have been briefings provided, and there would also be a briefing granted if the request was made. The Commission of Inquiry, I understand, is always readily available. We have a bill here that needs to be put in for the protection of government. I'm going to continue on with that. I think I've answered the questions that have come forward that deal with this bill itself. Even after it's done, there may be questions that arise, but it's hard for me to stand and to answer some of the hypotheticals that come up.

So at this point we're going to continue on. I think the government as a whole has done its due diligence and due process in the sense that we've provided all the information, all the briefings. There's been no rush on any of this. In fact, we were having discussion yesterday on having this debate yesterday and we've put it off until today to have it. Again, the third reading is not going to happen tomorrow, or even the day after, so the Member is free to contact the department, free to contact the Commission to ask any questions that they have. But at the end of the day it's our position as a government that this is necessary and this is a good amendment and will allow this inquiry to go ahead as expeditiously as possible.

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

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

Mr. Chair, the minister, in the briefing we had discussion about I think Ontario and BC have done a similar kind of thing. Can the minister give us some information as to what's similar or what was done different from Ontario, or is this – we've seen bills in the past where we've essentially done what's identical, but can the minister give me some insight as to where the differences may be and what Ontario and BC have done? Or similarities.

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

MR. A. PARSONS: I don't have that information readily accessible. All I can say is that Ontario and BC – again, we provided a briefing on this.

AN HON. MEMBER: (Inaudible) referenced the inquiries.

MR. A. PARSONS: I referenced that they had the two inquiries. I referenced that their acts have similar provisions. That's about all that I'm prepared to say to that right now. In fact, if you don't get the answers in the briefing that you want, you can send an email. I don't have that here.

I've never put across in any way, shape or form that I have all the answers to every single

question that could ever be asked; certainly I'm far from it. The department will always endeavour to provide answers to questions that come up.

At the end of the day, when it comes to the pith and substance of this particular bill and this piece of legislation, I think we've covered it off quite well. There are always going to be questions in terms of waiver or not waiving, whatever, but that actually has nothing to do with the reality of what this bill and this amendment is trying to do.

At that point, that's the best I can say for that.

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

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

Actually, we did raise it in the briefing. After we left the briefing it dawned on me, we didn't get a clear answer from it. I know we can't do third reading today, maybe between now and third reading the minister could try and obtain that information for me.

Minister, the access to information process that's now in our current legislation, as an example it has a level of checks and balances that exists within the legislation. As I alluded to earlier, there's an impartial commissioner, separate from government or the applicant, who can give decisions independent from those who are seeking information or who's deciding what information can be provided. That process gives confidence to the process and it gives the public confidence of a fair and unbiased process.

In the process you're going to follow here, what checks and balances will be in place to ensure public confidence in what's released? Is there any step in the process here where we know that the partisanship is removed from that decision process?

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

MR. A. PARSONS: Mr. Chair, I'm a little bit concerned about the line of questioning. The Member opposite seems to think there's some kind of insidious partisan nature to the staff, the

bureaucrats and the courts that are going on here.

I mean we take the advice of the individuals that are there, many individuals that were actually there well before we were there. Talking about confidence of process, the confidence would be given by the fact that we're doing an inquiry. The inquiry is following legislation that was created long before we ever got here. The inquiry has an independent justice of the Supreme Court of Newfoundland and Labrador. That's where the confidence comes from.

This has nothing to do with that. We want all the information out there. I don't know any other way to say it when we talk. I have confidence in the process. I haven't spoken to a single person that says we're not sure about how this is going to work. The only ones that seem to have an issue are the Official Opposition.

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

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

I have no more questions this afternoon. I just want to thank the minister for his input.

We did have a briefing. I thank them again. I've thanked them a couple of times, I'll thank them again.

Hopefully between now and third reading, if he's able to provide that information, we'd greatly appreciate it. I thank the minister.

CHAIR: Shall the motion carry?

All those in favour?

SOME HON. MEMBERS: Aye.

CHAIR: Those against?

Carried.

On motion, clause 1 carried.

CLERK: Clause 2.

CHAIR: Clause 2.

Shall the motion carry?

All those in favour?

SOME HON. MEMBERS: Aye.

CHAIR: Those against?

SOME HON. MEMBERS: Nay.

CHAIR: Carried.

On motion, clause 2 carried.

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

CHAIR: Shall the enacting clause carry?

All those in favour?

SOME HON. MEMBERS: Aye.

CHAIR: Those against?

Carried.

On motion, enacting clause carried.

CLERK: An Act To Amend The Public Inquiries Act, 2006.

CHAIR: Shall the title carry?

All those in favour?

SOME HON. MEMBERS: Aye.

CHAIR: Those against?

Carried.

On motion, title carried.

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

CHAIR: The hon. the Government House Leader.

MR. A. PARSONS: I move, Mr. Chair, that the Committee rise and report Bill 35.

CHAIR: The motion is that the Committee rise and report Bill 35.

Shall the motion carry?

All those in favour?

SOME HON. MEMBERS: Aye.

CHAIR: Those against?

Carried.

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

MR. SPEAKER (Trimper): The hon. the Member for Baie Verte - Green Bay, Chair of the Committee of the Whole.

MR. WARR: Mr. Speaker, the Committee of the Whole have considered the matters to them referred and have directed me to report Bill 35 without amendment.

MR. SPEAKER: The Chair of the Committee of the Whole reports that the Committee have considered the matters to them referred and have directed him to report Bill 35 without amendment.

When shall the report be received?

MR. A. PARSONS: Now.

MR. SPEAKER: Now.

When shall the said bill be read a third time?

MR. A. PARSONS: Tomorrow.

MR. SPEAKER: Tomorrow.

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

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

MR. A. PARSONS: Yes, Mr. Speaker, given the hour of the day I move, seconded by the Member for Lewisporte - Twillingate, that the House do now adjourn.

MR. SPEAKER: It has been moved and seconded that this House do now adjourn.

All those in favour of the motion?

SOME HON. MEMBERS: Aye.

MR. SPEAKER: All those against?

This House stands adjourned until tomorrow at 10 o'clock in the morning.

On motion, the House at its rising adjourned until tomorrow, Wednesday, at 10 a.m.