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HANSARD

*Speaker: Honourable Tom Osborne, MHA*

Monday

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(Night Sitting)

The House resumed sitting at 7 p.m.

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

The hon. the Government House Leader.

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

**MR. A. PARSONS:** Mr. Speaker, I call Order 3, second reading of Bill 45.

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

**MR. A. PARSONS:** Mr. Speaker, I move, seconded by the Minister of Environment and Climate Change, that Bill 45, An Act To Amend The Independent Appointments Commission Act, be now read the second time.

**MR. SPEAKER:** It is moved and seconded that Bill 45 be now read a second time.

Motion, second reading of a bill, "An Act To Amend The Independent Appointments Commission Act." (Bill 45)

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

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

I'm happy to stand here tonight and speak to Bill 45, An Act To Amend The Independent Appointments Commission Act, which is certainly one of the flagship pieces of legislation that this government has brought in, and was brought in during the first session of the House of Assembly.

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

**MR. A. PARSONS:** At that time, it was – and it has always been known, and I would anticipate we'll see amendments of this nature brought to this House on a regular basis, which in many cases are housekeeping in talking about the addition of new entities, the deletion of entities for various reasons, and that's the kind of thing that we would expect to happen.

Just a few pointers when we talk the Independent Appointments Commission. The

fact is when it comes to ABCs they do make up 43 per cent of total government expenditures and 75 per cent of public sector employment. So to guide their work, what we've said – and this was set up in the lead up to the election. We put it out there and it was voted and supported in this House – is we need a new process put in place. One where we're putting the right people in a position based on merit, based on openness and transparency, based on having an independent commission look through the applications, then put names forward, and from these names you would pick the right individual.

We've had this debate, and I don't want to belabour it or reiterate everything but we talked about the difference between tier one and tier two boards. In fact, they took the time to be here with us in the House of Assembly that day. The Chair is Mr. Clyde Wells, and then I believe on the Committee we also have Ms. Zita Cobb, we have Ms. Shannie Duff. I think there may be Phil Earle, and there's one other gentleman, Derek from Corner Brook – my God, the name is escaping me right now. This only happens when you're stood up on the air obviously. I do fault my fellow colleagues here for not shouting out that name right now. It will come to them and they'll shout it out and then I'll put it on the record.

**AN HON. MEMBER:** Young.

**MR. A. PARSONS:** Young. Derek Young, there it is.

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

**MR. A. PARSONS:** Thank you to the Members opposite for tossing that out.

These people took the time to be here. Do you know what, since that time, and I know throughout the summer and throughout the fall they've had a tremendous amount of work for them as we've had a number of agencies, boards and commissions, some very high profile, some more unknown and obscure, but all of them are important because at the end of the day they are guiding a lot of government policy, a lot of government work and they are guiding how things proceed for the taxpayers of this province.

They've had a tremendous amount of work to go through, processes. In fact, we had one just recently that went through this process, and that would have been the Consumer Advocate position. It went through a process where there was public advertising, an interview process done. At the end of the day in that case, Mr. Dennis Browne, QC, was appointed as Consumer Advocate after going through this process that had never, ever been in place before, having your name selected as one of the possibilities by this Independent Appointments Commission.

We've taken the time – and just as a Member of government and Members of the Opposition, anybody, any time I get a chance I always to say to people, there's a website set up. Make sure you look and see what's there and put your name forward. We need people to put their names forward for these boards and commissions. We need perspectives from all over this province, whether it is rural versus urban, whether it is male versus female. Some people coming from different sectors, from different perspectives, from different employment, from different volunteer backgrounds. We need these perspectives there, but we need these individuals to look and see what's there and what might meet the objectives they have.

In some cases, there's an extensive workload. Some of these are paid positions. Some are volunteer positions, but we're saying to people take the opportunity to look and be a part of this process. It's almost unique in Canada. It's one of the most open processes that exist in this country. We're very happy this was an endeavour and an undertaking of the Premier during the lead up to the election. It was a promise he made, and that was our Bill 1, our flagship bill, and one that so far has led to the fulfilling of a number of positions in our public service and in our agencies, boards and commissions.

As we said, with these amendments that we're discussing now, the IAC is responsible to recruit for 34 tier one entities, while the Public Service Commission are responsible for tier two. There are actually 123 tier two organizations. So that's a tremendous number there. They have to go through an extensive process. There's a lot of work that goes into this.

In fact, when we came in many of these had not been filled. There had been vacancies. In many cases people were sitting on boards when their term had expired. They had been sitting there, they continued to do the work but in many cases people – they put a lot of time and energy into something. They don't want to give up and walk away, but they were ready to finish their term. This Independent Appointments Commission and the Public Service Commission have ensured that these boards have been filled as timely as possible, and we're appreciative of the work they are doing.

In this case here, Mr. Speaker, a very small amendment, really, when you think about it. The Schedule is being amended by (a) adding immediately after the entity reference "Public Service Pension Plan Corporation with respect to government appointees" the entity reference as "Teachers' Pension Plan Corporation with respect to government appointees"; also adding, and subsection 14(1) we're adding "*Regional Health Authorities Act*"; and finally in 1(c) of the amendment that's being proposed here we are basically deleting, in the entity reference "*Legal Aid Act*."

Someone said, well, why are you adding and why are you deleting? The first one I want to talk about is the deletion when it comes to the Legal Aid Commission. The fact is a lot of these boards and agencies, it's not just the department, it's not just the whim of the minister or the Lieutenant Governor in Council to fill these positions. Actually, there are a number of other agencies that have their say.

One of them, for instance, is the Law Society. The Law Society, which is the self-governing regulatory body of lawyers across the province, they have a say in who is submitted. Obviously, we can't force third people to go through this process when they have the say under legislation to apply these people. They get to make the selection and to have those names given consideration and appointed.

In the case of the Teachers' Pension Plan – so we have the Teachers' Pension Plan being added. There are people that are sitting on that. They'll go through this process.

The CEO positions at the four regional health authorities will be added to this. Now that's four big positions. Our health authorities; we all know, it's no surprise to anybody of how important these positions are, how important these health authorities are. They are significantly-sized bodies, especially when you look at Eastern Health. It's a huge entity, thousands of people, millions and millions of dollars of taxpayers' money. We need to ensure these have the best people leading them and that they should go through this process. So we're happy to see that there as well.

Under this legislation, the IAC maintains responsibility of recruiting for the boards of the four regional health authorities. The exclusion of the four chief executive officers, that was inadvertent. This is a case of having an addition. You're always going to see amendments to this brand new piece of legislation to take in groups that may not have been considered, groups that are newly created and, in some cases, to exclude from groups that should not have been there, so we're providing that opportunity to do that now.

As everybody knows, during every session of the House of Assembly there are a number of pieces of legislation brought forward that are referred to as housekeeping pieces of legislation. And this is one in that there's an addition and there's a subtraction.

The Premier's Task Force on Improving Educational Outcomes and the Oil and Gas Development Council are tier two entities which means they are not referenced in the IAC Act and they were added by Cabinet to Schedule C of the PSC Act which doesn't require reference to the House of Assembly. So those are tier two.

Again, there's not much else I can say to this except that we've been very happy with the outcome of that piece of legislation, with the fact that we got such qualified individuals to be a part of this Commission. There's been some commentary about some of the names that have been selected. I would say that we have a committee in place that if there's all of a sudden a move afoot to say we're not going to listen to what they got to say, it ain't going to be long before there's a new committee in place because the ones that are there aren't going to sit around and have their work tossed out the door.

They put a lot of work into this. They are great individuals with very distinguished resumes and certainly they're independent people, of that there is no doubt.

So, Mr. Speaker, on that note, I'm going to take my seat. I look forward to hearing the commentary from my colleagues and again we'll move into the Committee stage and, hopefully, I can answer any questions that may arise.

Thank you.

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

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

Good evening, I hope everybody managed to get some supper during the brief recess. We had a quick supper on this side of the House, thanks to the Member for Cape St. Francis who helped make that happen. Despite what some people say, he's a really good guy, Mr. Speaker. I'm sure there are some Members who would agree.

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

**MR. KENT:** Thank you. No, he's a very nice guy.

**AN HON. MEMBER:** Popular fellow.

**MR. KENT:** Popular in Flatrock and Torbay and Pouch Cove and many other communities.

So I digress. I am pleased to have a chance to get up and speak to this bill this evening. I'll try and follow the tone set by the Government House Leader and the Minister of Justice. He refers to this as a housekeeping bill. I think that's a fair assessment. As he did in his few minutes, it does create an opportunity for us to reflect on our Bill 1 debate from back in the spring and talk about where we are with the so-called Independent Appointments Commission.

So I have an opportunity to give a one-hour speech on all the things that we see wrong with the process, but I think we did have a very significant debate back in the spring. We put forward more than a dozen amendments. We proposed more than a dozen amendments. A couple passed, most failed, a few were ruled out

of order, but we did our best to try and fix the legislation and hopefully create a commission that was truly independent, and one that could make appointments.

During the heat of the debate last week, there was a minister who made some comments about how we were, on this side of the House, questioning the qualifications or the work of the Independent Appointments Commission members, the ones that the minister just listed.

I just want to be on record once again, as I was in the spring, Mr. Speaker, in pointing out that we have no issues whatsoever with the individuals who were appointed. They have very impressive resumes and they've contributed a lot to our province. We have no doubt that those folks will do their best to make good recommendations. But our issue – and I won't belabour the point tonight because we made the point in the spring, and we're on record where we stand on the legislation related to the Independent Appointments Commission.

Our issue is the process, not the people. Our issue is that government made a commitment to do one thing and I'd respectfully suggest that we feel strongly that they've done something quite different than what was promised. This is a process that is not independent and this is a process that's not free from political interference, and it's a process that doesn't result in an independent body making appointments. They will make recommendations to Cabinet and Cabinet, behind closed doors, will make appointments.

Fundamentally, that's our issue with the Independent Appointments Commission process. That said, I won't belabour that point tonight, Mr. Speaker, I'd rather focus on what's contained in this bill and move the debate along.

So the bill is actually quite short. I've marked up my copy, but the entire text of the bill is, that. So we're talking about something that I think can be reasonably categorized as housekeeping as the Government House Leader has suggested.

The Teachers' Pension Plan Corporation is being added because it was created since Bill 1 was introduced back in the spring. So it's a new entity and therefore it needs to be added to the

legislation. I consider that to be a reasonable addition.

The second part related to the *Regional Health Authorities Act* surprised me a little bit. It appears that it was a drafting error with the legislation. Now, I can recall debates in this House when I was sitting on the other side of the House where Opposition Members would have considerable fun at the expense of government when these kinds of mistakes happen, but it really does amount to a mistake. It wasn't caught in the spring; it's been caught since. And I acknowledge that clearly it was the spirit and the intent of the legislation that the CEOs of the regional health authorities would go through this process and not just the volunteer board members.

So what we're doing here, the CEOs weren't included in the original act. The wording that was in the Schedule that was part of bill implied only the boards would be subject to the act and not the CEOs. So we're addressing that error that was made in the spring.

When it comes to legislation, it evolves and sometimes you discover problems after the fact and you have to make changes. So I don't think there's a need to make political hay with that so to speak, it happens and it's being addressed quickly, so that makes sense.

The final piece – and the minister spoke to this as well – the Independent Appointments Commission process doesn't apply to Law Society appointees and that's in reference to the *Legal Aid Act*.

This amendment clarifies that the Law Society is responsible for the nominations to the Legal Aid Commission as outlined in the *Legal Aid Act*. The Law Society nominates five candidates and the traditional process then is that Cabinet picks three from the five candidates that the Law Society puts forward. It makes sense to make that adjustment.

My issue this evening is not with these minor changes that are logical, my issue continues to be with the overall challenges with our Independent Appointments Commission process – again, not the people. Good people who I'm sure are making good recommendations, but let

us not be fooled into thinking that they are somehow able to make appointments because they're not. That was fundamentally our issue with Bill 1.

With that said, I think these changes are logical ones. A little surprised by one of the misses, but overall I do agree with the minister that this is housekeeping stuff. At this point, I'll conclude my remarks in second reading. I look forward to the other stages of the process on this bill.

Thank you.

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

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

I'm happy to stand and speak to this bill today, Bill 45, which is making amendments to the *Independent Appointments Commission Act*. I couldn't help but think when I was listening to my colleague for Mount Pearl that perhaps the name should be the independent nominations commission act, because that is what they do.

I'm not saying that's wrong but, in reality, that's what they do, they come up the nominations, and I believe that part of the process is excellent. So far, we've had some wonderful people whose names have been brought here into this House through this process. The nominations have been very good but, ultimately, the appointments are made by government and government can either accept or reject the nominations. That's a reality.

When it comes to this bill, it is a housekeeping bill, as the minister said. I don't know if it's the fact that it's a night session or what but different, funny thoughts are coming to head; it looks like some balls of dust were missed in putting the bill together.

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

**MS. MICHAEL:** Yes, I am getting mildly crazy.

This housekeeping bill has cleared things up a bit and we have some revelations that have been picked up by the department, which is great, because these are things that should be in here.

What we see added here is basically, in three cases, making clarification about who it is that may be under the *Independent Appointments Commission Act*.

For example, in the Schedule that goes with the act it says that the Public Service Pension Plan Corporation is under the processes that are followed by the Independent Appointments Commission; but, in actual fact, it's only those who are appointed by the provincial government on that corporation who can be covered under the *Independent Appointments Commission Act*.

It's the same way with the Teachers' Pension Plan Corporation. Again, it's only those who are appointed by the government who can be under the act. So it really is a bit of housekeeping but, legally, it's very important that that is correct.

And when we come over to the *Legal Aid Act*, it's the same thing. Legal Aid nominates the people who are covered by this section here. The members chosen by the Law Society to serve on the Legal Aid Commission are exempt from the act. The Law Society chooses five people and Cabinet picks three. So that means that process is not covered by the *Independent Appointments Commission Act* either.

So this is housekeeping. It is making sure that the Schedule is absolutely clear about what it is covering. And it is important that the language always be right and always be clear. That's why sometimes when we're dealing with bills from this side we are trying to get clarity of language because it's so important to make sure that we understand what everything says.

The one area that doesn't have to do with appointments made by provincial government with regard to the change that's being put in here, it has to do with regard to the *Regional Health Authorities Act*. We now have a clarification that ensures that the CEOs are covered, along with the members of the board.

So it is housekeeping. I think it's a sign that when we question the speed with which acts are dealt with, the speed which acts are put together sometimes and the speed with which they are dealt with in this House, it's legitimate to be raising those points. I certainly didn't expect to see this act be back in our hands so soon after it

was put in place. It was put in place in the spring and here we are doing housekeeping changes to it already.

I'm sure that this has alerted the minister and his department with regard to this act to make sure that everything else in it now is covered, and covered correctly and adequately. As I said, it doesn't change anything about the process with regard to the appointments.

The government made a really big deal about this act and was so outright with regard to speaking about how it certainly showed how nonpartisan they were, and that this act was going to ensure that you don't have government putting people in positions, that the positions have been openly advertised and the nominations are coming from the commission. But the government has managed, in other ways and with other positions, to show that they could be as partisan as anybody else, because we've had so many appointments that they've made that have been partisan appointments – people who are publicly known to be big supporters of their party getting positions.

So in other places where they can ignore the *Independent Appointments Commission Act*, they know how to do it. But in the meantime, we're dealing with the act here tonight. We have these housekeeping changes. They have to be made, they're logical and we'll support the bill.

Thank you.

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

The hon. the Member for Mount Pearl – Southlands.

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

It's a pleasure to stand and speak to Bill 45, An Act to Amend the Independent Appointments Commission Act. After careful deliberation and discussion at my caucus meeting earlier today, we decided that we would have a few comments to make.

Mr. Speaker, certainly, as has been said, what we're dealing with here is primarily housekeeping; there is no doubt. I was a little disappointed when we first heard that we would

be having an amendment to this flagship legislation, as it's been called. We were hoping to see some more substantive changes, as were made by the Official Opposition, in terms of some of the recommendations that were made. I was hoping we would see some of those and that we'd be actually able to stand in the House and say that we would be debating an act to take the politics out of taking the politics out of appointments. But instead, we are going to be dealing with some housekeeping matters.

So, as has been said really, we're talking about the health care board CEOs that weren't included originally. That was obviously just an error and an oversight. Obviously, it makes good sense. If we're going to appoint the boards, the health care authorities, then it would make good sense that we would certainly appoint the CEOs who have a tremendous responsibility; there's no doubt. So I certainly support that.

The Teachers' Pension Plan Corporation, that's a new entity, it didn't exist, so it only makes sense that one would be added. And of course, we have the Legal Aid Commission and the only sort of exception to that one is that, I guess, the public members of the Legal Aid Commission – as I understand it, the public representatives would go through the Independent Appointments Commission; however, the Law Society also still retains the right to appoint certain members on behalf of the Law society.

So that's what is being captured there, and it all makes good sense to me. I think that there's no doubt there are positive things in this legislation, certainly in the original legislation, Bill 1. At the very least we're ensuring that people are – well, first of all, we're ensuring there is an opportunity for everyone in the province to apply for these positions, including these new positions. That's obviously a positive thing. I support that 100 per cent.

Of course, once these people apply for these positions, it will go through the commission. There's no doubt that the individuals who sit on that commission, they were all here in the House as has been referenced and they're all very credible individuals. I don't think anybody would argue that.

I do believe the government. When the government says that if the people sitting on this Independent Appointments Commission, if they were making a bunch of recommendations and they all kept getting turned down by ministers, I have no doubt in my mind that these people would resign and tell government exactly what they think about that. So it would be nice to see that gap closed, but I do understand from a practical point of view, I'm sure they wouldn't stand for that if it were to happen.

Based on that, I support the bill. The only point I would raise, Mr. Speaker – and perhaps it would be best to wait until Committee, but I'll mention it here anyway and the minister can make a note and respond if he wishes – is that under the new procurement legislation that we're in Committee of the Whole with that we're still debating, in that, it talks about a chief procurement officer. That chief procurement officer is not on this list.

I would have thought it would have made all good sense to me that while we're making amendments to this particular bill and adding new positions, I don't know why we wouldn't be adding the new chief procurement officer. Given the fact that there's no doubt, with a government majority, the legislation will go through. It will be passed. I don't know if there was a reason why the chief procurement officer was left off this list, if that was an oversight. Or perhaps there's a good reason why that position is not here.

If it was an oversight, I would point out to the minister that probably this would be the opportune time to get it added to the list. Maybe the government could make an amendment to add this position to the list as opposed to having to come back in the next sitting of the House or whatever and do this all over again. Other than that, I do support the legislation.

Thank you, Mr. Speaker.

**MR. SPEAKER:** The hon. the Government House Leader, if he speaks now he shall close debate.

The hon. the Government House Leader.

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

I'll try to be brief in my commentary. First of all, I'd like to thank my colleagues opposite for speaking to this bill and supporting this amendment in general. I realize they've expressed some concerns with IAC but that's not surprising. I would expect that on any given day, but they support what we're trying to do here.

I do want to thank the Member for Mount Pearl – Southlands for his question. His question was, well, you're doing procurement legislation and since you're doing that why would not take the chief procurement officer and add them here now? The first thing I would say is it would be probably putting the cart before the horse to add something that is theoretical in nature.

In fact, the procurement bill, as you know, is only in committee – to add it before it's even created. That was the argument I would use, but I have to give credit to the Member for Mount Pearl North because the Member for Mount Pearl North during the question said the procurement bill actually has a provision that repeals that and adds that already. The procurement bill takes care of what you just suggested. I have to give credit to the Member for Mount Pearl North who brought that point up.

I'm not as familiar with procurement legislation as the minister or parliamentary secretary, or apparently the Member for Mount Pearl North, but the fact is your issue is taken care of by the fact that it's already specifically put into the bill and will take care of that issue. But, do you know what, it is a good point to make and I'm glad we're able to answer it. In the spirit of bipartisan co-operation, I don't mind giving credit where it's due. So I give the Member credit.

Thank you, Mr. Speaker.

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

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

Is the House ready for the question?

**MR. A. PARSONS:** Yes.



**MR. SPEAKER:** The motion is that Bill 45 be now read a second time. Is it the pleasure of the House to adopt the motion?

All those in favour, 'aye.'

**SOME HON. MEMBERS:** Aye.

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

Carried.

**CLERK:** A bill, An Act To Amend The Independent Appointments Commission Act. (Bill 45)

**MR. SPEAKER:** Bill 45 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 Independent Appointments Commission Act," read a second time, ordered referred to a Committee of the Whole House presently, by leave. (Bill 45)

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

**MR. A. PARSONS:** Mr. Speaker, I move, seconded by the Minister of Natural Resources, that the House resolve itself into a Committee of the Whole to consider Bill 45.

**MR. SPEAKER:** The motion is that the House resolve itself into a Committee of the Whole to consider Bill 45.

All those in favour, 'aye.'

**SOME HON. MEMBERS:** Aye.

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

Carried.

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

### Committee of the Whole

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

We are now considering Bill 45, An Act To Amend The Independent Appointments Commission Act.

A bill, "An Act To Amend The Independent Appointments Commission Act." (Bill 45)

**CLERK:** Clause 1.

**CHAIR:** Shall clause 1 carry?

All those in favour, 'aye.'

**SOME HON. MEMBERS:** Aye.

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

Carried.

On motion, clause 1 carried.

**CLERK:** Clause 2.

**CHAIR:** Shall clause 2 carry?

All those in favour, 'aye.'

**SOME HON. MEMBERS:** Aye.

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

Carried.

On motion, clause 2 carried.

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

**CHAIR:** Shall the enacting clause carry?

All those in favour, 'aye.'

**SOME HON. MEMBERS:** Aye.

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

Carried.

On motion, enacting clause carried.

**CLERK:** An Act To Amend The Independent Appointments Commission Act.

**CHAIR:** Shall the long title carry?

All those in favour, 'aye.'

**SOME HON. MEMBERS:** Aye.

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

Carried.

On motion, title carried.

**CHAIR:** Shall I report Bill 45 carried without amendment?

All those in favour, 'aye.'

**SOME HON. MEMBERS:** Aye.

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

Carried.

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

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

**MR. A. PARSONS:** I move, Madam Chair, that the Committee rise and report Bill 45.

**CHAIR:** The motion is that the Committee rise and report Bill 45.

Shall the motion carry?

All those in favour, 'aye.'

**SOME HON. MEMBERS:** Aye.

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

Carried.

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

**MR. SPEAKER (Osborne):** The hon. the Deputy Speaker.

**MS. DEMPSTER:** Mr. Speaker, the Committee of the Whole have considered the matters to them referred and have asked me to report Bill 45 carried 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 her to report Bill 45 carried 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:** Mr. Speaker, I call Order 4, second reading of Bill 47.

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

**MR. A. PARSONS:** Mr. Speaker, I move, seconded by the Member for Lab West, parliamentary secretary for Municipal Affairs, that Bill 47, An Act Respecting Relocation Of Certain Communities In The Province, be now read a second time.

**MR. SPEAKER:** It is moved and seconded that Bill 47 be now read a second time.

Motion, second reading of a bill, "An Act Respecting The Relocation Of Certain Communities In The Province." (Bill 47)

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

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

I just want to stand and speak to this very briefly. Again, that says nothing about the bill, but I guess what I'm going to talk about is a bit unorthodox for how we usually do things in the House of Assembly. This was a bill, actually, that we were hoping that – and again, we've made a practice of increasing the authority and the responsibility of people within our caucus.

In fact, during our first session, it was one of the first times where a parliamentary secretary actually fielded questions in the absence of the minister, which happens from time to time. I want to recognize the Member for Terra Nova who stood that day and answered questions.

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

**MR. A. PARSONS:** It's not something we've always seen in the House of Assembly.

In that spirit, this was a piece of legislation – again, it falls under the Department of Municipal Affairs, and certainly the Member for Lab West, the parliamentary secretary for Municipal Affairs, is certainly well versed, has been briefed and, in fact, has been part of this concept from its genesis.

This is a very important bill. It may get some attention. Again, unfortunately due to our Standing Orders, I don't think it's possible for a parliamentary secretary or a non-minister of the Crown to move legislation – which I do think is unfortunate.

I can say on a side note there that I'm very happy to be the Chair of the Standing Orders Committee where we've had a very productive number of months. My colleagues on the other side, my colleagues on this side, we've sat down and we're trying to revamp and revise our Standing Orders which, in many cases, they're important but they do need to be revised to take into account a modern House that we want to fix. In that spirit, I'm moving this legislation on behalf of the Minister of Municipal Affairs and the Member for Lab West.

I can say, as the Member for Burgeo – La Poile, that I have dealt with this issue of evacuated, relocated communities on a personal level, on a professional level. It was only a couple of years ago that there was a change in government's

policy as it related to this. And it's something that affected me because I have a couple of communities that have had these conversations: the communities of Grey River and La Poile.

Whenever this topic comes up, it generates a lot of conversation within these communities. It can be very difficult. And there have been a lot of questions asked by these communities. In fact, I'll leave it to the Member to talk about the most recent experience that government faced when it came to one of these votes. Again, I'm doing more of a procedural duty here.

I can say as someone that prior to being involved in politics and practising law, I actually handled the litigation, the relocation on behalf of the community of Grand Bruit. It was a tremendous learning experience going down to this beautiful community which is actually based in Burgeo – La Poile. It's one of the most beautiful, pristine communities that you'd ever see. Having to go down and talk to all the citizens and talk – this is a sensitive subject; you're leaving your home, your birthplace, the birthplace of your parents, of your family and that community is being relocated.

It's a significant move, and it's happened in the history of this province and it will happen in the future, I'm sure. But having that opportunity to speak to these people, to listen to them, to empathize with them and, in this case, I was retained on behalf of government as part of these situations to work on behalf of the citizens to help them with their transaction, which was basically the conveyance of their property to government and there were deeds done. It was amazing to go through that. It's amazing to see a traditional real estate deal where you have surveys and you go through a lot of procedure.

There's a lot to that and then when you go to these communities where there's no surveys, there's none of this – in fact, the question was, when I talked to somebody, about how much land they owned they said well, this is how much I own. And that's their ownership. This land has been passed down from generation to generation. It was done by families. I want to build a house and I'm going to build it here, and they help you build that. So it was never one of those things well, I own this much, the dimensions and lay out specifically, worrying

about title insurance and worrying if I'm on somebody's land. They never had that issue. So it was certainly an interesting and wonderful experience for me. I think it was interesting also for the government solicitors, who I guess you could say I'm the minister of that department, to go through what they normally deal with to dealing with this and to find out ways to get over these hurdles.

I've had that experience and it's one that has stuck with me. I'm still friends with a number of these people. They've relocated to various other communities and I still get to see them. Many are in Burgeo. They are on the Southwest Coast. Many have moved away. This has brought me tighter with them, and I appreciate the fact that I could be with them during this very trying time. And in fact, many of them have still returned back to that area. There was a come home year planned at one point for Grand Bruit.

On that note again, I'm happy to speak to this. I think it's a necessary piece of legislation, but I'm going to allow the privilege and the honour and I think the benefit of all of us to listen to a Member who has worked very hard on this on the last number of months. He'll get an opportunity to speak and he'll do a much better job than I of explaining the concept of this bill, how it's going to be done and why we are doing this as a government.

Thank you so much, 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 was just listening to the minister talk and it's pretty hard when you go back – all together, there were 279 communities over the years that their homes have been taken from them in some cases. When you look at the pictures of years ago, you see the home travelling across Placentia Bay with the boat in tow. I know there are all kinds of folk songs and everything else made up about it. But you can only imagine how hard it is on those families to tie up their roots.

I know most of us come from small communities in Newfoundland and Labrador and we're very proud of it. I'm sure that those residents were very proud of it also. Sometimes in circumstances beyond anybody's control, I'm sure everyone would want to stay there, stay in their homes and stay where their roots are to is what, I guess, we all call it.

When I went over and did the briefing over at Municipal Affairs, it doesn't include those 279 communities. It basically includes the five communities that we recently relocated. What it is, when the relocation happened in those communities, government came in and basically purchased the properties of the people who owned them. They paid them compensation to move, whether it was an island or wherever it was, just to get them to move, so they could start their lives in another part of Newfoundland and Labrador. So while government went and did that, government basically took ownership of their properties.

I'm going to have a couple of questions for the Member later on when we do go to Committee because there are a couple concerns that I do have with the bill.

What we're basically doing here is making sure that, more or less, the liability of what could happen down the road, if government purchased those and took ownership of those homes and cottages that are out there now, if something happened down the road, government could be sued or whatever. So this is basically issuing a permit for occupancy and also telling the person that while it's part of your family homestead, if anything happens there, they're not responsible because government had ownership of the property.

If you went back and somebody walked up to the front door and the step gave out and they broke a leg or anything at all, basically what they're saying is it's like your own home, there's a liability there to make sure that the place is good and safe.

Like I said, I'm going to have some questions when we get in Committee. When we issue permits, I want to know things like who's priority is it – because back in the day, when you look at here in Newfoundland and Labrador

when a will comes out, sometimes the family has somebody they put in charge, it could be a cottage, it could be a cabin or whatever, and I want to know about the permits and how the permits are going to be issued and stuff like that.

This is basically making sure that there's no liability to government; the government don't hold any responsibility if somebody goes back there and gets hurt. Like I said, this is a hard bill for some of the people in the province because I know there is nobody who wants to leave but sometimes you have to when you have people who need medical attention or sometimes it's just education because you can't provide it in communities where the population is after decreasing. The needs of people are better suited when they move to a certain area when it's not in that certain community.

This bill, like I said, is a good bill. It's making sure that households – that when people go back there there's some kind of protection for them. I understand, and I guess the Member will speak, but I don't think the permits are too expensive or anything like that. I asked a question in the briefing and someone said it could be \$5 or \$10 or something like this for the permit. So that's pretty reasonable.

Anyway, that's about it for what I have to say about this bill and we will support it.

**MR. SPEAKER:** The hon. the Member for Labrador West.

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

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

It's a pleasure for me to stand here tonight to speak on Bill 47, An Act Respecting the Relocation of Certain Communities in the Province.

Just a bit of a background I guess. The amendment is being undertaken so that the *Evacuated Communities Act* that we have in place now can be repealed, and that act goes back to 1974. There were a number of communities that were listed in that act and I'll list some of them later on.

At present, the provincial government has been making seasoned access to the gated communities possible through five-year permits provided to the former owners. We know in a lot of those communities that have been vacated since time immortal had a lot of buildings or whatever, returns or whatever has gone on there, it has gone on without permits and it's something that government has not really policed or managed over the years.

While they're in government, I guess under government authority, it opens government up to a liability that certainly we have to look into, because it introduces a liability to the provincial government with respect to damages, injuries, building removal and environmental issues. So, given that, it's something we have to discontinue.

As the Member for Cape St. Francis alluded to, under that bill in 1974, there are 279 vacated or evacuated or resettled – call it what you like – communities. If you go through the list, they are in all parts of the province, in all parts of Newfoundland and Labrador. When I looked through them first, at first I questioned some of it and one that comes to mind are communities like Battle Harbour.

If we were to relieve our liability of a community like that, would people go in? We all know what Battle Harbour is now. We're trying to rebuild that into a historic site. Fortunately for us, the historic site will control that. Because of the historic site, people will not be allowed to go in there and do what they like because that's a place we're trying to protect and trying to develop into an historic site; and one that has been very successful by the way.

There are 279 communities around the province that really, we have not done a good job of policing. By this act, we are replacing the act that was in place, *The Evacuated Communities Order* of 1974, with Bill 47, An Act Respecting the Relocation of Certain Communities in the Province. It's in this act that we will continue to monitor and continue to require permits for anybody going back to five communities, and they would probably be the five communities that have been resettled or evacuated most recently.

They would include Big Brook, Grand Bruit, Great Harbour Deep, Petites and Round Harbour. If we move forward a bit to the relocation policy and as other communities become vacated, then I would think they would be added to this list as well.

What's going to happen for these five communities is that the minister will have the authority to issue a permit to a person if they want to, for the purpose of erecting or occupying a building in the vacated community. So if they want to go back to any of these five communities and build a summer home, summer cottage, cabin, the minister can provide a permit for them to do that.

We would then be responsible for enforcing that because a person who builds or occupies a building at a vacated community, in any of these five, if they do it without a permit or for a purpose other than that stated in the permit, or if they get a permit and do something else, or in contravention of the terms and conditions of a permit, is guilty of an offence and liable upon summary conviction to a fine not exceeding \$200.

I know the minister mentioned the cost of a permit. I don't think that has been determined at this point, but it would be very reasonable. It would probably be in the \$5 to \$10 range. So it's not astronomical. The main premise of this is to relieve the province of the liability of maintaining and permits in the 279 communities that were evacuated or resettled in earlier years.

We all know that resettlement and moving communities is something the department is considering and reviewing the regulations around that. That's why, during that process, we identified this as an issue. As it stands now of course, should there be more than 90 per cent of the residents of a community agree they wish to relocate from the existing community, the provincial government can offer assistance. We are prepared to do that, provided we have at least 90 per cent of the residents that are there.

We go on to define what a vacated community is. It means a community in which the remaining inhabitants move with financial assistance from the province. We also refer to those communities as being resettled or relocated.

As I said, this act requires a person to obtain a ministerial permit. The Minister of Municipal Affairs has that authority to issue a permit if somebody came forward and wanted to go back to any one of the five communities that are listed in Schedule A, which are the five that I just mentioned. So we still have that authority in place.

*The Evacuated Communities Order* of 1974, as I said, listed hundreds of vacated, 279 to be exact. Seasonal residents, cabin owners, technically require a permit to occupy or build property in these communities.

I would venture to say that very seldom happened, that anybody who went back there – and I'm sure there are people who go back and have some ancestral roots to some of those communities. We hear it every day, but I would venture to guess that not many of them got the permits to go back. As long as we kept them in the act of 1974, then government had a liability if they went back. As the Member for Cape St. Francis alluded to, if something happened, if an accident happened, if an injury happened or something happened to one of the buildings, then government would be liable. We found ourselves that's not manageable this day and age.

During the Community Relocation Policy review, the Department of Municipal Affairs identified that risk. We want to remove it on a go-forward basis. Government no longer requires now people to get permits for those 279 communities listed in the act of 1974. We're going to repeal that act, as I said, and bring in a new act respecting the relocation of certain communities. The latest five communities that were relocated would be the communities that would require a permit from government. So I guess that's about all I need to say on that at this point. When we get to the Committee section and there are questions, I am prepared to answer them and will do the best that I can. If I don't have the answer, I certainly can get that for them.

It's pretty straightforward, as I stated. It's the five communities and the Minister of Municipal Affairs has the authority to issue permits for anybody to go back and to occupy a piece of

land or a building on those particular communities.

So with that, Mr. Speaker, I'll take my seat. Like I said, if there are any issues out there that any Members of the Opposition would have, I am prepared to take the questions at that time.

Thank you.

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

**MR. SPEAKER (Warr):** The hon. the Member for St. John's East – Quidi Vidi.

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

I am pleased to stand and speak tonight to Bill 47. I doubt that there's anybody in this Chamber tonight who doesn't know somebody who came from one of the communities that over the years were vacated. People who went through the relocation in the '60s and '70s and beyond are everywhere in the province. I have a couple of very, very good friends who came from Placentia Bay and still go back and still remember well the day that they moved and still talk about it.

Tonight we're dealing with, though, the properties of the five communities that were vacated after the year 2000. I think all of us can understand how hard it is for people who had to leave their homes. The Member for Cape St. Francis mentioned small communities or rural communities, but even those of us who were born and raised in a city can understand, I think, what it is to be attached to the home that you were raised in.

I was personally raised in two homes in St. John's – one house until I was nine, and then we moved – in the same part of the city. I still see those two houses – I still remember living in the two of them. One of the things that is very sentimental for me is that the lone house left on Harvey Road after the fires is the house that I spent the first nine years of my life in. I can still look at that house and remember living in that house.

So that's just a small example of what it must mean for those who had to get in boats and leave

their homes. I can well understand the desire of people to go back and to build. When they were moved, if they were assisted by government and in these communities they were assisted by government, then they relinquish the ownership of the land as well. I just can't imagine what that ripped out of them when that happened.

The desire to go back and reclaim not for ownership but at least reclaim a piece of land and be able to build on it so they can go back in the summers and visit, I can fully understand. It's something that's deep in our spirits and deep in our psyche.

The interesting thing is and I understand why, this act which is dealing with permits to allow people to go back to the five communities that are listed in the act: Great Harbour Deep, Big Brook, Petites, Grand Bruit and Round Harbour. That the people who will be looking for permits to go there and build may not necessarily be people who lived there originally. There's nothing in the act saying that, so these permits are not just for people who originally lived on those islands. It's going to be interesting to see what may happen around that.

You could have planting family members who maybe didn't know about this and didn't get to apply for a permit ahead of people who were strangers to the isolated community, in the community that they came from. I know that in the briefing our research person asked about this and the officials said these are issues that would probably be resolved by the minister.

I'll be interested in hearing from the minister or the parliamentary secretary what thought is being put into this because I think that you can get people who might have expectations and even think of the place in the community where they want to build because it was belonging to them before they moved, yet they won't have the right to say that. So it could be a bit problematic. I know it's based in sentiment and sentimentality but sentiments and sentimentality are an essential part of who we are as people.

I will be interested in Committee for us to get some more information on the practicalities of how this is going to be worked out with regard to will there be any preference given to people whose families lived in these communities. Will

there be any priorities set up, or will it just be first-come, first serve? I'd be interesting in hearing about that.

The other thing is that I understand is the permits are only for five years. That's not in the act but that is what I understand; the permits will be for five years. So you have a technical question here: What happens if, after five years, government has actually found a use for the property? What happens then if somebody has actually either refurbished a home or built a new structure with a permit, and after five years or even after 10 years because they got a second permit, they find out that government wants that land again? They will have put resources into this, so I'm really questioning that limit on the permit. I can see renewing the permit, but having no absolute assurance that they're going to have a renewal, how is government going to deal with that? Has the minister thought about that?

The permit holders are going to be making an investment in putting up a new structure or refurbishing a structure. Are they going to be told by government that if government wants to reclaim that land, will government be ready to compensate them for the money they put into the new structure that they've put up? These are some of the practical questions that I have based on this.

I think it is a good idea to be doing this. I'm sure some of the people might think, well, nobody from the other 279 communities has had to do this. They've been going back and forth, some of them for 30 years to those communities. Some of them have built again and some have refurbished, and they've done it without permits.

So there's going to be, I would think, some sense of people feeling betrayed by this and I'm sure government will do a good explanation to deal with that. But based on just those two practical questions, I would like to hear how the minister is dealing with the potential for these to become issues. I'm not saying that they would be, but I think the potential is there. So I'll leave those questions and we can get more detail in Committee.

Thank you very much, Mr. Speaker.

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

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

It's a pleasure to rise and speak to Bill 47, An Act Respecting the Relocation of Certain Communities in the province. I'm not going to reiterate everything that was said; although I will say two very good questions by the Member for St. John's East – Quidi Vidi – I think that's the name of the district, or Quidi – Vidi – East, close enough. Two very good questions – I have certainly thought about the first one but I didn't think about the second one, so I look forward to hearing the answers to those questions.

The only other question I have to add to that perhaps or maybe a little better understanding – it my understanding that there was a decision made to include the five most recent vacated communities under the legislation and to repeal the previous legislation that contained the 1974 legislation – I don't see the number now, but anyway there was a lot of communities on the list, beyond these five.

If the reason why we're putting in a permitting system and so on, as I understand it from the briefing, is to deal with liability issues whether that be environmental liabilities, I guess if somebody were to go to one of these vacated properties and not put in the proper sewage system, just as an example, then there would obviously be a liability there – and I think another example that was given at the briefing was that if somebody decides to utilize one of these properties and they're old structures and somebody walks upon the step and the steps collapse and somebody breaks their leg, that was one of the examples given to us, I believe, so there's a liability.

I guess my question is around if there's a liability associated to this and in order to rid ourselves of that liability, we're going to repeal the 1974 legislation and that gets rid of the liability, why wouldn't we just put the other five on the list and repeal all of it and take no liability? If government can escape liability by simply taking communities off the list, why wouldn't you have all communities taken off the list and then there would be no liability?



I don't think that's how it would work. So it would seem to me if there's a liability for these five and, hence, we're putting a permitting system in place to mitigate against that liability, logic would tell me that there's also a liability for all the other ones where yes, we're going to repeal the act, no, we're not going to enforce it, no, we're not going to implement permits, but it would seem to me that there would be a liability nonetheless because we own that as well.

I'm not sure how you get rid of the liability by simply repealing the act and saying we're going to forget all these communities that existed prior to these five, take them off the list and now all of a sudden there's no liability. If there's a liability for these five, common sense would tell me there would be a liability for all of them. If it's as simple as writing legislation to get rid of the liability, then why don't we just write legislation that says we're not responsible for any properties, whether it be the 1974, whether it be these five or whether it be any vacated communities that happen next year, 10 years from now, 20 years from now, we won't take liability for any of it, if it's simple? I'm not a lawyer, but it doesn't seem to add up to me somehow, so maybe some clarification on that point.

Other than that, the fact that we are going to require permits if somebody should decide to go back to any of these areas, it makes sense to me that we're doing that. I certainly support doing it for these five. I certainly support doing it for new ones, if it should occur. If nothing else, it keeps track of who is building cottages and cabins and so on and at least put some kind of restrictions in place, I would assume, to mitigate against certain liabilities and, particularly, environmental liabilities. I support it but, as it said, I'm a little puzzled how we can just get rid of the liability for all the other ones.

I know it's hard to manage. There are so many of them. It hasn't been policed. We don't know who owns cabins where. It would be a monumental task if we had to send government staff on all these islands everywhere, trying to figure out who got cabins, who owns them. I get that. That's why I think it's being eliminated, taken off the list and so on – I think that's the rationale really. But to say that it eliminates a liability, I'm not sure how it does, to be honest.

Anyway, other than that, I will be supporting the legislation, Mr. Speaker. Hopefully, we can get some answers to that as well as the questions that the Member for St. John's East – Quidi Vidi raised as well.

Thank you, Mr. Speaker.

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

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

I'll just take a few minutes here to speak to Bill 47, An Act Respecting the Relocation of Certain Communities in the Province. I thought perhaps it only fitting since I have a community – my colleague for Burgeo – La Poile talked about having gone through this with some people in his district in the past and the impacts of that. I'm living that right now.

I have probably one of the most rural districts in the province and a couple communities that live on an island. I may have more is the sad reality, Mr. Speaker. We have aging demographics in the province. We have a shrinking population, 527,000 people that are spread right across the province, lots of rural. I might be a little bit biased, Mr. Speaker, but I think many of our rural communities are absolutely the most beautiful parts of the province. Some of them right in my district.

Right now, we have the community of Williams Harbour, beautiful little island in the middle of the ocean. People that have come from Williams Harbour have gone all over the world and become meaningful, contributing members of society.

The president of NunatuKavut Community Council would proudly tell you that he hails from the little community of Williams Harbour. But the reality is right now we've got about eight, 10 people left on that island, all senior citizens. Do people have a right to live where they want to live, Mr. Speaker? Absolutely, they do. But do people have the right to the same level of service? That's not possible no matter who's in government, I would say.

We're in the middle of helping Williams Harbour through the transition. We have a six-

page relocation policy that's in place. Relocation is still a very dirty word for a lot of people. There's a lot of emotion that comes with that, things happened in the past that may not have been done right. We have a policy right now where the very first sentence says must be community-initiated and community-driven. It's a big decision so it has to be the community's decision.

I think it was the words of Simani in a song that said they left without leaving and never arrived. We're coming into the Christmas season and we talk about all roads lead home at Christmas. Well, there's a little community in my district where the last of the people are voting right now and they may very well have their last winter in that community. They have a cod festival there every summer; we have a fantastic time. The population probably quadruples while we are there celebrating that golden cod from Gilbert Bay.

The time has come, they're older, they don't have access to medical services but what we're talking about here in Bill 47, An Act Respecting the Relocation of Certain Communities. The bill would repeal and replace the *Evacuated Communities Act*. The bill would continue to provide a mechanism for the minister to declare a community to be an evacuated community; however, permits to erect or occupy a building in a vacated community would be required in those communities listed.

Mr. Speaker, it's so, so important – that's exactly what I'm dealing with right now. People are saying I understand, my dear, I have to go. There's nothing left and we don't know about getting off the island and things like that, but will we be able to come back? In my case right now, talking about Williams Harbour, this little island on the ocean, they want to go back, Mr. Speaker, in the summer. They want to pick their berries. They want to be able to get their fish for the winter in that little community. So I'm really, really pleased to be able to stand and support this bill to see that they will be able to get a building permit and go back to the place that they have always been attached to.

All of us here, when you say the word "home" it conjures up different – and there are all kinds of songs in my head. I say to my hon. colleague for

Lab West I'm not going to sing them, but I was thinking about Joe Diffie's, "But more and more I'm thinking, that the only treasures that I'll ever know are long ago and far behind and wrapped up in my memories of home." That's what we're talking about, Mr. Speaker, when we talk about relocated communities. It's difficult; difficult decisions, difficult for the people.

No doubt some of these people will go and they will never settle in that new community where they go, but they're being compensated. I'm pleased, Mr. Speaker, that the compensation of these people that are relocating, what they're getting right now is much, much more generous than they got one time. And so they should. We do a cost-benefit analysis and you can see if there's a savings to government between you know what you're going to pay out and the service that's being provided. These people need to go and they need to build houses and start a new life somewhere else, so it's important that they have the support to do that.

Mr. Speaker, so that's all I just wanted to say. I'm pleased that the process is moving along for my constituents in Williams Harbour, some of the finest people that you'll ever see around; home of the Russells there and the Larkhams. So they're just kind of a little bit in limbo waiting to see if they're going to be there another winter or if they're going to get out.

I'm really pleased that Bill 47 will allow them to return to the home of their childhood and where they were born and raised. A lot of people have already gone, Mr. Speaker, because what happens when you close the school in a community and then people have to go and put their kids in school in neighbouring towns, but always they want to go back to that place they call home. This act would allow them to do that, so I'm very pleased to be able to support this act.

Thank you for the opportunity.

**MR. SPEAKER:** The hon. the Member for Ferryland.

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

I'm glad to rise on Bill 47, An Act Respecting the Relocation of Certain Communities in the Province. As was stated earlier by the

parliamentary secretary, it will continue to provide the legislative authority for the minister to declare a community vacated. It also looks at the requirements for permits for the Minister of Municipal Affairs to build in communities which have been declared vacant. As was mentioned earlier, it specifies five communities and speaks to the original community relocation legislation and the communities that have been relocated.

So the original act, my understanding, is repealed and this would be the act going forward. So I assume any new community relocations under the Relocation Policy that currently exists in Municipal Affairs, the rules in this legislation would apply on a go-forward basis.

A vacated community defined in section 2 is a community in which the majority of inhabitants have moved from the community with financial assistance from the province. It deals with communities that have been declared vacated and it also gives authority for the minister to declare a community vacated.

So we spoke earlier about 284 vacated communities. They have been vacated and recognized under the previous legislation, or when the legislation came into being. I think it was 1974. I think there was a total of 279 – I think it's 284 communities now. This provision makes changes for permits related to five recent vacated communities and looks at the liability. That's reflected in the part to this piece of legislation that's administered by the Department of Municipal Affairs.

Right now – and I know my previous time and the previous speaker just spoke to it in regard to going to a process of relocation for current communities under the current Community Relocation Policy under Municipal Affairs. That threshold now is 90 per cent. The current government had promised a review of that current policy and legislation. I know there are a number of communities – certainly from my time as minister of Municipal Affairs – that have voted, and there are issues that are being worked through. I think the parliamentary secretary did indicate that's a threshold they're reviewing, but he didn't indicate that was one they recognized.

I do note in the actual legislation 2(d) it says, “‘vacated community’ means a community in which the majority of inhabitants have moved from the community with financial assistance from the province.” It will be interesting in Committee and have the parliamentary secretary to the minister speak to it. When they say majority, looking forward with a community that would relocate, would that be 90 per cent or would it be another figure? What would that majority reflect?

So it would be interesting to hear in Committee what it would be as we move forward and ask questions. The government has indicated there was a review that has been done in regard to the Relocation Policy that currently exists and the majority is referenced in the particular legislation. So we'd have to get that defined as we move forward on what would be reflected in that.

The current communities we're talking about, my understanding is that would be families who have historical attachment to that property. They may wish to go back and have a permit to restore a prior residence of the family. My question would be: If you wanted to go back or apply to one of these communities for a piece of property to build a seasonal residence, could you apply if you're outside of a historic family connection to that area?

So that means you wouldn't be applying for a particular property that had a house on it or prior was maintained by somebody who had origin in that community. Could you apply under Crown Lands for a piece of property within that community or region? Much like you can now in another other part of the province. You can go and apply for Crown land. You could lease that Crown land, if you're approved, or under a provision that was brought in when we were in the department was that you could actually purchase it. I think it was three-quarters of an acre and then you get title to that property.

These five communities we're talking about, as we move forward, if we were to relocate other communities, does the provisions of the *Crown Lands Act* apply in these communities in terms of Crown land and the application, or is it just these properties that have some historic connection to people who used to live in the

community? So we'd certainly like some clarity in terms of how that works and the ability to access and get title to property, even though you may have no historic attachment to the community. So as we get to Committee, that's an area we'd want to look at as well.

I know we've also talked about permits for those in the past, those 284. They wouldn't be required, my understanding, to have permits in the future. On a go-forward basis, as I said, as we get to looking forward with this legislation regarding the current Relocation Policy, how that would apply and what some of the changes would be moving forward is something we would have to look at in Committee.

The other question is if someone can come forward and demonstrate that under the *Crown Lands Act* there's a squatters' rights provision that went up from '57 to '77 – and after that, squatters' rights were extinguished. If someone can go into these areas and demonstrate they had some kind of title, in a rare case there could be a Crown grant that was rendered at some point back in history and they could hold that and they could show a continuity of ownership of that property. If they could demonstrate that from 1957-77 would they be entitled to show they have ownership of that property, therefore under the *Crown Lands Act* be identified as having ownership of that property?

These are issues that, as we move forward in Committee, we'd certainly like to have a discussion on and get some feedback on.

The other question is some community in the future that may be approved under the Relocation Policy, there are probably already seasonal residences there as well. People who have invested in those homes and they exist today. What provision is there for them as you move forward in terms of title, or would they have to apply just for a permit under Municipal Affairs and how that would all work?

So we look forward to going to Committee and having some discussion and getting some answers from the parliamentary secretary or the minister and look forward to having that discussion.

Thank you, Mr. Speaker.

**MR. SPEAKER:** If the hon. the Government House Leader speaks now, he will close the debate.

The hon. the Government House Leader.

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

I'm happy to stand here and bring conclusion to the debate on this particular piece of legislation. It's an important amendment to, basically, changing a policy – pretty significant actually, one that my department has had some involvement in on the liability side. Having dealt with that before, seeing if there was a transaction whereby government took over a piece of land.

I know in fact seeing the practical application of that is where I've seen people wanting to go back to these smaller communities, want to have come-home years and things like that. The fact is you're on government property, therefore, if you go back and something were to happen, basically, government assumes the liability. So you have a situation two-fold where you have governments that are on the hook for damages for something that happens in one of these evacuated communities.

The second part is that government is forced, in many cases, to say no to these events when that's really not what anybody wants. People want to go back to their home and go back and visit. Many places they're still going back and they're partaking of the fishery. They are a whole number of things they're doing.

I want to thank my colleagues opposite for speaking to this and having their thoughts again. We will be putting this into Committee now. I also would like to thank and give credit to my colleague, the parliamentary secretary for Municipal Affairs.

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

**MR. A. PARSONS:** He did a wonderful job of being able to speak to this, of understanding the issue, understanding this policy, this legislation, and being able to speak to it so eloquently in the House. I look forward, as a Member of the Standing Orders Committee, someday to hopefully changing it so that parliamentary secretaries can do more because the first word

says it all: parliamentary. We are here in our Parliament, they should be able to do more and I look forward to doing that with the co-operation of my colleagues in this House.

So thank you again and I look forward to the Committee phase of this particular debate.

Thank you.

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

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

The motion is that Bill 47 be now read a second time.

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

All those in favour, 'aye.'

**SOME HON. MEMBERS:** Aye.

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

Carried.

**CLERK:** A bill, An Act Respecting The Relocation Of Certain Communities In The Province. (Bill 47)

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

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

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

**MR. SPEAKER:** Now.

On motion, Bill 47 read a second time, referred to a Committee of the Whole presently, by leave.

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

**MR. A. PARSONS:** I move, seconded by the Minister of Natural Resources, that the House resolve itself into a Committee of the Whole to consider Bill 47.

**MR. SPEAKER:** It is moved and seconded that I do now leave the Chair for the House to resolve itself into 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:** Carried.

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

### Committee of the Whole

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

We are now considering Bill 47, An Act Respecting The Relocation Of Certain Communities In The Province.

A bill, "An Act Respecting The Relocation Of Certain Communities In The Province." (Bill 47)

**CLERK:** Clause 1.

**CHAIR:** Shall clause 1 carry?

The hon. the Member for Cape St. Francis.

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

Just a couple of questions that I've got to ask to the parliamentary secretary about this bill. When we were over in the briefing they said there will be permit issued. Is that on a first-come, first-serve basis? The reason why I'm asking is because some of these homes are owned by families and sometimes, like I said, when I got up and originally talked on this, what will happen is the ownership of the property usually they try to keep it within families, but someone can just come in from outside, not even a family member, and put a permit in. What criteria will be put in place to ensure that families do maintain their homes in places like this?

**CHAIR:** The hon. the Member for Labrador West.

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

Well, once you evacuate a community, the land title then returns to the Crown. So no matter who you are, once you want to go back to the community, you had to apply to the minister for a permit and the minister will certainly take all the conditions around the permit into consideration when issuing that. I would think that if a family member wanted a piece of property that would certainly be given full consideration.

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

**MR. K. PARSONS:** So something similar to squatters' rights, what were given before – is that what you're saying?

This is important. Like I said, most of these homes – if you look in Placentia Bay right now, you'll see a lot of people going back to where their roots are. It's important to people that they be able to – because if it's first-come, first-serve basis or anything at all like that then the person can just come and take a property that was someone's home. We're putting the permits there for \$5 or \$10 or whatever they are, very minimum, so the liability is not there, but it's important that we ensure the families that they can go back to the residence that belonged to their homes.

**CHAIR:** The hon. the Member for Labrador West.

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

As you see in the bill, and like we were discussing in the procurement act, this is the act, the regulations will follow. As stated in the act under section 5, "The minister may make regulations (a) prescribing the form of a permit; (b) prescribing the purposes for which a permit may be issued; (c) prescribing the terms and conditions of the permits; and (d) generally, to give effect to the purpose of this Act."

I would anticipate the questions you're asking and the concerns that you have would be addressed in the regulations.

**CHAIR:** The hon. the Member for Ferryland.

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

The parliamentary secretary just commented on that this is on a go-forward basis, obviously, the original legislation was repealed. So this would apply to any future relocation under the current Relocation Policy in Municipal Affairs?

**CHAIR:** The hon. the Member for Labrador West.

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

Yes, that is the way it would work, but there would have to be an amendment then to the act to allow that community, whatever it may be, whether it's one that's under consideration now, they would have to be added to the Schedule, as the five that are in the act right now.

**CHAIR:** The hon. the Member for Ferryland.

**MR. HUTCHINGS:** Thank you.

Just in regard to that, I know you made a commitment to review the current Community Relocation Policy. Could you just give an update where that is in regard to this amendment here today?

**CHAIR:** The hon. the Member for Labrador West.

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

Actually, this issue was recognized as we were doing the review of the act. It's still not complete. The amendments to the relocation policy are still under consideration. It hasn't been fully completed at this point. This is something that was recognized during this review, that we have this liability on the books of the 279 communities that are there as per the 1974 order.

So we're acting expeditiously to relieve ourselves of that liability, but recognizing there are five communities that were relocated in the

last, whether it is 10, 20 or 15 years that people would still want to return to. We recognized this was manageable. But to answer the Member's question in regard to the review, it is still ongoing and there are several things in that review that are still under consideration.

**CHAIR:** The hon. the Member for Ferryland.

**MR. HUTCHINGS:** Thank you.

I thank the Member for his answer. As well, I mentioned in second reading, in section "2(d) 'vacated community' means a community in which the majority of inhabitants have moved from the community with financial assistance from the province."

In regard to defining majority, are you still applying the 90 per cent that's in the current policy?

**CHAIR:** The hon. the Member for Labrador West.

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

As you know, under the current policy it is 90 per cent, but as I've just stated, that policy is under review. So that number may change or it may not change. As for the purpose of this act today, it's 90 per cent.

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

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

I want to come back to a point I made when I spoke in second reading and hope that the parliamentary secretary can supply some answers because as he's pointed out, there are going to be regulations that will have to do with the terms of the permit.

In the briefing, those at the briefing were told that five years is being considered as the length of time for the permit. Can the parliamentary secretary give us some idea of what this discussion is? Because as I pointed out, what would be the incentive for people to put an investment into either putting up a new building

or refurbishing something that's there if in five years the permit might not be even renewed.

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

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

I apologize, I was into another meeting. We just got out, and I thank the Member for Lab West, the parliamentary assistant. As you see, Members on this side, everybody participates in this.

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

**MR. JOYCE:** When we give out permits for five years, six years or seven years, it's a request that was given, it's the previous – but on a go-forward basis we won't be taking ownership of the property. I think it was five in the past that we already committed that we would give permits. We never ran into an issue or a situation yet where someone needed an extension for a permit. They come in; they outline what their plans are. They go in for the year, the weekend or for the summer, and we supply the permit.

The permits that were in the past were the permits that have been ongoing ever since the relocation started for a number of communities. So we can give five-year permits. It's an evaluation as the permit is applied. There's no set time of five, six or seven years. We can evaluate each one.

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

**MS. MICHAEL:** A follow-up – and I know all of it has not been put together yet, Minister. The actual permit, will the permit be for the actual construction or refurbishing and not deal with the ongoing living? Is that what you're saying? It will be the permit to build or to refurbish. So once they have that permit and they use the building, the permit is not for the use is it, it's for the actual building or refurbishing?

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

**MR. JOYCE:** What happened in the past is once relocation was finished, then the people

who wanted to go back would apply for a permit to the province because of liability issues, that we would give them permission to go back into the area. So once a person gets the permit, they have a permit to go back in. There wasn't a period of time they could get a permit to go back if they wanted to do work with it. But on a go-forward basis, we won't be taking ownership of any area that's deemed vacant and relocated.

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

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

The parliamentary secretary was doing a great job, by the way, answering the questions for the minister.

I have one question and it concerns Crown lands. I just want to know, are these permits interactive? What's going to happen to communities like this, people want to go back to build cabins or whatever. I know that's part of the permit. Would that be true to a Crown lands application?

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

**MR. JOYCE:** Thank you.

The Crown lands application is separate. The permits that were in the past are permits for the property that you purchased – the government purchased. If someone wanted to apply for Crown land somewhere else in the area, that would be a Crown Land issue. The permits are for the structure that was purchased by the government for relocation purposes.

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

**MR. K. PARSONS:** Just to clarify so I understand what you're saying there, it's just for the structure itself. So if that structure is on a piece of property, say, that's got five or six acres of property with it, it will just be for the house itself and, say, half an acre or whatever is around that house and the rest of the property can be put in for Crown land. Is that how it works?

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

**MR. JOYCE:** What it is, if the government in the past bought a structure and the land from a person, it's government ownership. Whatever was in the deed to that land would be the person. That's what you get the permit for. Not just for the house, whatever the property itself was.

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

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

Minister, we sort of had a bit of this discussion before, but because of what you've said now I'd like you to clarify. So even though the permit would be for a defined piece of land that government claimed when people moved off, yet still it's anybody who can go for a permit for that piece of land, not just the people who had lived there. Correct?

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

**MR. JOYCE:** That is correct. Anybody, if there's a piece of property – and it has to come to our attention but they can. If a piece of property that was government purchased in the past and if there's no – so anybody can apply for a permit for that piece of property that was purchased by the government for relocation.

So it's not just the person who the property was purchased from. The permit has to come to Municipal Affairs and it would be assessed.

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

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

Minister, are you having discussions on the difficulties that could arise, say, if people who had lived on that land here, that somebody has applied for a permit and they didn't know about it. If they were to come to you and say, look, we're also interested in it, are you going to have some kind of a mechanism for arbitration or something like that? You could have that kind of thing arise.



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

**MR. JOYCE:** That's a great question and a great comment. I went back after it was brought up in the briefing. There was never an occasion yet that came up where someone owned the property that someone else applied for a permit for. So the department had no discussions on that, but we will look for it. The first thought that we had when we first thought about it is that if you own the property and someone else put a permit, we would notify you and say someone is putting a permit in, are you aware of it, and just to see their views.

It has never happened from my questions. It hasn't happened before. Only the people that usually apply are the people that owned the property before and it has some kind of sentimental value to it or they want to set it up as a summer home or something. It hasn't come up, but it is something that we have to set in place, some kind of format if it do happen.

**CHAIR:** The hon. the Member for Mount Pearl – Southlands.

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

I just have one question. I'm just wondering is there any type of a registry or anything where you would have a list of the properties and the cabins that exist or would someone have to – if I was interested in owning a cabin, for argument's sake, on some island somewhere, would I have to actually go looking around trying to see if I can find a vacant one and ask about it, or would I be able to call the department or whatever and say can you tell me are there any vacant properties that I could go possibly apply for? Is there a list?

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

**MR. JOYCE:** There is a list of all the evacuated communities. There is also a list of properties because it had to go to the Department of Justice. The Department of Justice then when we purchase it, it is government owned so people can get a list of what properties are in what areas. Yes, they can.

We haven't come to the situation, as I told the Member for Signal Hill – Quidi Vidi, whereby anybody else applied. But there is a list because we have to keep a running list. Anybody who comes in who applies for it, we need to know that yes, this is a property and yes, you own the property and the title to it.

**CHAIR:** The hon. the Member for Ferryland.

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

Just a question for the minister in regard to a permit that was exercised to someone that historically owned the property and was given it. Does that mean they have title to the property or could they apply through Crown Lands to get permanent title to it in place of that five-year permit that you would have to hold?

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

**MR. JOYCE:** No, it would remain the government's property because that's a part of it; it is the government's property. Once people relocate and, of course, there would be no services, then they can apply for a permit. Once you apply and allow people to start living back on the island or moving back again or some relocation, the intent is to keep it to government for permits only, not to start giving out Crown lands and people start living there and moving in again. Next thing you know they will want the services also.

From all my discussions, there is absolutely no intent of giving out ownership to the property that's been taking back from relocation; permits only.

**CHAIR:** The hon. the Member for Ferryland.

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

I thank the minister for his answer. So in that particular case you described there was Crown land or property adjacent to where the permit was to, no one else could apply for that land because again you're encouraging people to relocate to that area.

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

**MR. JOYCE:** They can apply, but they won't get approved. What it is, is to keep the permits to ensure that people don't start moving back again. People may apply but we have no intent of changing the permit rule to keep it as a departmental –

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

**MR. JOYCE:** No, it's not in legislation. It is part of regulations that it is permit only. So permit only I'm assuming once you say permit only, it means you can apply for it, you can't get ownership. It is permit only in the regulations.

**CHAIR:** Shall clause 1 carry?

All those in favour, 'aye.'

**SOME HON. MEMBERS:** Aye.

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

Carried.

On motion, clause 1 carried.

**CLERK:** Clauses 2 through 9 inclusive.

**CHAIR:** Shall clauses 2 through 9 inclusive carry?

All those in favour, 'aye.'

**SOME HON. MEMBERS:** Aye.

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

Carried.

On motion, clauses 2 through 9 carried.

**CLERK:** The Schedule.

**CHAIR:** Shall the Schedule carry?

All those in favour, 'aye.'

**SOME HON. MEMBERS:** Aye.

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

Carried.

On motion, Schedule carried.

**CLERK:** Be it enacted by the Lieutenant Governor and House of Assembly in Legislative session convened, as follows:

**CHAIR:** Shall the enacting clause carry?

All those in favour, 'aye.'

**SOME HON. MEMBERS:** Aye.

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

Carried.

On motion, enacting clause carried.

**CLERK:** An Act Respecting The Relocation Of Certain Communities In The Province.

**CHAIR:** Shall the title carry?

All those in favour, 'aye.'

**SOME HON. MEMBERS:** Aye.

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

Carried.

On motion, title carried.

**CHAIR:** Shall I report Bill 47 without amendment?

All those in favour, 'aye.'

**SOME HON. MEMBERS:** Aye.

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

Carried.

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

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

**MR. A. PARSONS:** I move, Madam Chair, that the Committee rise and report Bill 47.

**CHAIR:** The motion is that the Committee rise and report Bill 47.

Shall the motion carry?

All those in favour, 'aye.'

**SOME HON. MEMBERS:** Aye.

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

Carried.

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

**MR. SPEAKER (Osborne):** The hon. Deputy Speaker.

**MS. DEMPSTER:** Mr. Speaker, the Committee of the Whole have considered the matters to them referred and have asked me to report Bill 47 carried 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 her to report Bill 47 carried 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:** Mr. Speaker, I call Order 6, second reading of Bill 49.

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

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

I'm happy to stand in the House tonight and speak to –

**MR. A. PARSONS:** (Inaudible.)

**MS. C. BENNETT:** Sorry, apologizes to the House, Mr. Speaker. The Leader is giving me some further direction here.

Mr. Speaker, I move, seconded by the Minister of Justice that Bill 49, An Act To Amend The Income Tax, 2000 No. 6, be now read a second time.

**MR. SPEAKER:** It is moved and seconded that the Bill 49 be now read a second time.

Motion, second reading of a bill, "An Act To Amend The Income Tax Act, 2000 No. 6." (Bill 49)

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

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

I wanted to explain the bill that we're going to be debating now for the next little while here in the House. As Members in this House who've been here for several sessions would know, periodically there are revisions made to the *Income Tax Act, 2000*. This particular bill that we're going to debate tonight is an implementation of various technical amendments to the act, which really clarifies the legislative intent or it makes the provincial legislation more consistent with the federal legislation.

These amendments would also reflect more clearly the practices of the Canadian Revenue Agency, or CRA, and the administrators of the province's income tax and a capital tax pursuant to the federal/provincial tax collection agreement.

So as, I think, was discussed in the briefing with the Members opposite earlier, I think last week, the amendments we're making are about things that would have been needed to change to ensure the income tax collection process was consistent from a technical nature. While I'm sure the

Members of this House will be thrilled to listen to the historical examples I'm going to use, I'd asked their indulgence while I speak very briefly to the items that will be addressed as part of the amendment that we're talking about tonight.

Some of the things include the requirement "that the adoption expenses tax credit, child care tax credit and volunteer firefighters' tax credit be fully utilized before determining the amount to be carried forward under those sections ... include a reference to the provincial child care tax credit in the part-time residents, tax payable by non-residents and credits in year of bankruptcy sections of the Act; clarify that the small business income tax rate of 4% only applies to taxation years beginning on or after April 1, 2010 and before July 1, 2014 and prorate the reduction in the small business corporate income tax rate for taxation years that include July 1, 2014."

Mr. Speaker, if I could just pause there for a moment as the Members of the House here tonight would certainly – those new Members who are sitting in the House for the first time listening to this particular debate and for those people listening at home, the technical amendments we're making to the act are actually based on retroactive policies that were implemented by former governments. As part of the process of aligning those decisions with the act, these amendments are required to be made; hence, the dates that I just read out in that amendment.

Continuing on with some of the explanation of the things that are seen in this particular bill, one of the amendments would "deem, for the purpose of the foreign tax deduction, interest income received by a taxpayer from a non-resident of Canada as income from a source in that other country." Also, there's an amendment to reference the eligible amount rather than the amount in the political contribution deduction section of the act.

There's also an amendment that "allow the imposition of a penalty in cases where a person knowingly provides false statements or documents to obtain provincial benefits he or she may not be eligible or entitled to receive." Also included is an amendment by reference of

new provisions in section 164 of the federal act respecting refunds or instalment payments.

Mr. Speaker, for the benefit, again, of those who are watching at home, this bill we're speaking about tonight is of a technical nature, making amendments to the *Income Tax Act, 2000*. These are technical amendments that ensure the tax collection process that was used in the past is aligned with the practice that was in place, but also reflected in legislation as per agreements between the Canada Revenue Agency, as our administrators and collectors of the provincial income tax, and the Province of Newfoundland and Labrador.

With that said, Mr. Speaker, I'll sit down. This is a process that Members of this House are certainly familiar with. I look forward to answering questions as we work through.

Thank you.

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

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

I'm certainly pleased tonight to rise to speak to Bill 49, An Act to Amend the Income Tax Act. As the minister has gone over and given an overview of Bill 49 and referenced, this is to amend the *Income Tax Act, 2000* to bring it in line with the federal tax act. Some of those changes will be represented in what we're doing here tonight in regard to the amendment.

It deals with the administration of the provincial tax system by the Canadian Revenue Agency, CRA. It is somewhat of a technical nature. It is addressing, as the minister said, some of the policies that have already been identified and retroactively is going to adjust the legislation to reflect that.

As a result, all of the things have been identified in the bill. If you look at the content of the bill, in the first few pages of it, it outlines what the amendments are. There are probably seven or eight amendments and that's specific to what the changes are. As I said, many of these have been implemented already.

All the changes were recommended to the Department of Finance by CRA to ensure that the practices and administration is in line with the provincial tax laws. So that's what we're doing, we're aligning it up with the provincial tax law. It's not going to change how taxpayers are impacted. They've already, as I said, been implemented. The legislation is just a means here of what we're doing with this amendment to catching up to what has already been implemented.

As we know, the Province of Newfoundland and Labrador has a tax collection agreement with the Government of Canada. Through this agreement and the amendments and the changes that are coming, CRA collects taxes on our behalf. CRA now requires our Legislature to introduce amendments – which we see here tonight – into our provincial Legislature to bring the provincial *Income Tax Act* in line with the federal act and in line with the processes that CRA uses in regard to the actual tax collection.

This is not something unusual. It happens from time to time in terms of aligning the federal taxation policy to the provincial taxation policy. There are periodically reviews done and amendments recommended that come here to the floor of the House of Assembly reflective of a bill like this, Bill 49.

In the briefing, it was noted by officials with the Department of Finance that every amendment we see here in Bill 49 contained in it was recommended by CRA.

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

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

**MR. HUTCHINGS:** Mr. Speaker, when looking at the bill, it was noticed that the commencement dates, as I said, have passed and this is a catch-up piece of legislation. Most of the changes authorizing this evening would be retroactive. As we said earlier, these decisions were made in previous years. Some of the changes were in our administration, the previous government, and then implemented by CRA and our tax legislation never caught up. So that's a process we're going through now in regard to Bill 49 and the amendments.

It often takes a little while before CRA notifies our province of an update and what that update is and what is required of it. Then, when they do notify the province, certainly the amendments are packaged together in the type of bill we have here in Bill 49, specifics in regard to what amendments and how many amendments need to be made to the legislation.

The Department of Finance holds the amendments usually, even until we get enough – we make those amendments, they're significant in number enough to proceed to make these changes. As I said, it often happens periodically that we align the provincial taxation policy with the federal taxation policy, and that's what we're doing here now through Bill 49.

As I said, all of these changes have been implemented and are now in working order. CRA will continue their function, obviously, as being the tax collector for the province. We will certainly support this bill as we move forward.

Thank you, Mr. Speaker.

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

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

I'm happy to stand and speak to Bill 49 which is a housekeeping bill, federal housekeeping bill – I mean a financial housekeeping bill but a housekeeping bill.

As both the Minister of Finance and the Member for Ferryland have pointed out, it's something that happens fairly regularly. Not every year, but every so often the Canada Revenue Agency will look through the provincial taxation legislation, all of the provinces of course, and will occasionally come up with anomalies between the province's legislation and the federal income tax legislation.

What this bill is about is recognizing anomalies that have been identified. I don't need to go through them. As the minister has said, it's quite technical, but in no way does it change what's happening for taxpayers. It's just language in legislation basically.

But there is one issue that I do want to speak to and raise a question with the minister. It has to do with one of the clauses in the bill that recognizes a tax credit for volunteer firefighters, which is great. The federal government introduced a volunteer firefighter's tax credit and then introduced a parallel volunteer search and rescue credit.

Unfortunately, while this anomaly has been pointed out to the province, our province is choosing not to recognize the volunteers in search and rescue for a tax credit. We're the only province in Canada which doesn't do this, so I'm rather confused about why the province would not have – along with the other anomalies that were named by CRA – brought this in line with the federal tax credit.

There is absolutely no doubt that the work done by those who volunteer in search and rescue is an essential work in our province. How often do we hear when somebody has gone astray, they've gotten lost out on the barrens somewhere or out on the ice, whatever. While we have our official search and rescue, Canadian Coast Guard, recognize that a person has been found, or not found unfortunately sometimes, they'll always thank the volunteers who have worked.

Those volunteers are quite organized. We don't need to name the different groups; we know them. The work they do – the search and rescue volunteers – is every bit as essential to the finding of a lost person as our Coast Guard people. It's every bit as important as the volunteer work that's done by firefighters.

I was very disturbed when this was brought to my attention. I just don't see how government can make this distinction between one group of volunteers and another group of volunteers who are involved in emergency measures really. It's very disturbing.

There are between 150 and 175 search and rescue incidents a year and you have quite a large number of search and rescue volunteers involved – hundreds actually, in a year – in one or more of these search and rescues. I mean, it's a terrible situation. I'd like the minister to speak to it. I was really upset when I heard it. I think we need to show the same deference and the

same respect for the search and rescue personnel in our province, the volunteers, as we do for the volunteer firefighters and do what the federal government does and what every other province is doing.

This is my main point, Mr. Speaker. I won't go on. It's disturbing to me. I'd like to hear what the minister has to say.

Thank you very much.

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

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

It's a pleasure to rise once again this evening and speak to this bill, An Act to Amend the Income Tax Act. I'm not going to drag this out very long. I think pretty much everybody has said what needs to be said. It's very much a housekeeping piece of legislation to bring us in line – I guess there are two things.

First of all, it's bringing us in line with the federal taxation regulations. The second part in it is basically to take practices which already exist – there are a couple of instances here in the technical briefing of practices which already exist that were not actually captured in the legislation. So we're basically changing the legislation to catch up with what we're already doing in one instance, or a couple of instances, and in many of the instances we're bringing ourselves, provincially, in line with the federal *Income Tax Act*. I support that.

It's interesting that the Member for St. John's East – Quidi Vidi once again has raised an issue. I actually had here in my notes, when I went to the briefing, I had housekeeping written down and then I had one star, one circle here, search and rescue written because that was something that occurred with to me as well. I'm going to agree with her on this one. If you look at the Explanatory Notes, the second point, it says "exclude search and rescue volunteer service hours from the 200 hours of service required to be eligible to claim the volunteer firefighters' tax credit ...."

So as has been said, basically the federal government recognizes the service of search and

rescue volunteers in the same manner in which they recognize volunteer firefighters, if they have that 200 hours of service. I didn't realize, until the Member just said it, that all the other provinces also recognize it, provincially. I wasn't aware of that. I thank her for that information.

So now it seems the federal government are recognizing search and rescue volunteers, the provinces are recognizing search and rescue volunteers and we are the only province, according to the Member for St. John's East – Quidi Vidi, that is not recognizing search and rescue volunteers.

And in many cases the volunteer firemen and women, fire persons I guess they're called –

**AN HON. MEMBER:** Firefighters.

**MR. LANE:** Firefighters, sorry, there you go; that's the right term: firefighters.

In many cases, the firefighters are performing search and rescue duties. We see that happen all the time. Certainly when it comes to professional firefighters here in St. John's Regional, as an example, they do the search and rescue. They do a lot of search and rescue work or high-angle rescue and all that kind of stuff, but in addition to that we do have people here like the Rovers Search and Rescue.

We know that every year, if it's not that group, there are other groups throughout the Island that are involved in search and rescue activities. It is an emergency service. They are saving lives in many cases and everybody has recognized it except, apparently, the Province of Newfoundland and Labrador.

This is about bringing consistency. It's interesting that in all the legislation that's here we're bringing ourselves consistent with the federal government except for this issue where we are reaffirming the fact that we're inconsistent. Now, to be clear, and for the record, it's not like we were covering search and rescue and now we've decided we're not doing that. That's not what's happening. The fact is we never were covering them and now we're going to ensure the legislation reflects the fact that we're not covering them.

So I don't know what that means in terms of dollars and cents because I'm sure it's only a nominal amount in terms of the budget and so on; but if nothing else, yes, it might mean a couple of dollars in the pockets in terms of a tax break but more so than anything else, it's symbolic and recognizing the important work that people in search and rescue do.

I would like to see search and rescue covered. I'm disappointed to find out that we're the only province that's not doing it. But, with that said, everything else that's here is certainly housekeeping. There's nothing I would vote against. It's not like we're removing search and rescue. They're not there now anyway, so I wouldn't be voting against it, but it would be nice to see that included.

Thank you, Mr. Speaker.

**MR. SPEAKER:** If the hon. Minister of Finance and President of Treasury Board speaks now, she'll close debate.

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

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

I just want to take a moment before I get into some comments in response to the Members opposite to take a quick moment to thank the officials who work in the Department of Finance, particularly in tax admin. We have some extremely committed and diligent individuals that work in that division, as we have throughout the entire government. Certainly for those of us that have the pleasure of working with them, whether we are on the government side of the House or we're in Opposition participating in briefings, I think we can all agree as Members of this House that we certainly appreciate the time officials put into the briefings. I would pass that on, on behalf of the Members opposite, to the team in tax admin who provided a briefing on these amendments.

I would also like to thank the three Members that did speak: the Member for Ferryland, the Member for St. John's East – Quidi Vidi, as well the Member for Mount Pearl – Southlands. As all three speakers acknowledged, this is financial housekeeping legislation, a series of

amendments. I certainly appreciated the support of both the Member for Ferryland, as well as the Member for St. John's East – Quidi Vidi, who specifically mentioned and reminded those people who are listening at home that the things that we're talking about tonight have no impact – they're not changes. These are things that have been going on for a number of years, and certainly appreciate that both Members mentioned that.

As was mentioned, these amendments are to align the policy implementation between the federal agency, the CRA, and the provincial policies to make sure things are aligned. As was mentioned as well, all these amendments were recommended by CRA.

I do want to speak specifically to the item that was raised by Members opposite as part of the discussion tonight. I would certainly want to echo Member opposite's comments about search and rescue volunteers. Mr. Speaker, as a somebody who has the experienced first-hand the importance of the work that search and rescue volunteers do in my own family, we had a young member of our family actually, ironically in the Member for Ferryland's district, who went missing many, many years ago – actually two members of our family that went missing. As a result of the heroic efforts of the search and rescue teams, those family members of mine were recovered, thankfully, safely.

So I can certainly attest to the comments made by the Member opposite of the significant contribution that search and rescue volunteers make in our province, not just from my position as a Member of this House of Assembly, like so many other Members in this House of Assembly, but I can certainly attest to it based on experiences that our family went through.

With relation to the tax credit that was referenced that has not been extended, the federal government made those changes in their tax law in 2014. As was mentioned I think by the Member for Mount Pearl – Southlands, these amendments are historic and the decision to include or not include the search and rescue volunteers at the time that the federal government made their change was made in 2014.

As part of going through this process and understanding the recommendations that CRA made, we have identified this issue with regard to the search and rescue volunteers as something that we intend to look at as part of the tax review, as we've talked about in this House of Assembly. The federal government is currently doing a review of the suite of tax credits that are available to people throughout Canada. That tax review is expected to be concluded in the new year in 2017 and immediately following the federal government's review, we will be doing our review.

And it is certainly my intention as the Minister of Finance for our province to make sure that this particular issue when it comes to providing fairness to search and rescue volunteers to be treated the same as volunteer firefighters, our intention is to pursue that and we look forward to pursuing those amendments as part of that tax review.

The piece of work that we're doing tonight, I'll just remind those people that are watching at home, is about ratifying the recommendations of CRA on policies that came into effect in the past. These rules, policy changes, particularly the one on search and rescue was implemented in 2014 when the former administration – and I can't explain the reason why – chose not to extend that tax credit to search and rescue volunteers.

But I'm certainly pleased as part of this effort to review and align the policies of the federal agency as well as our own policies on tax admin that we've identified this and certainly we'll take a look at it as part of the tax review that we will be doing next year.

So, Mr. Speaker, in conclusion, I'd certainly like to again thank the Members opposite for their time in the briefing and for their comments tonight. I look forward to discussions as we continue to move through these amendments.

Thank you.

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

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



Before I put the question, the Chair would like to acknowledge the presence of Deputy Mayor Ron Ellsworth in our public gallery.

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

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

The motion is that Bill 49 be now read a second time.

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

All those in favour?

**SOME HON. MEMBERS:** Aye.

**MR. SPEAKER:** Those against?

Carried.

**CLERK:** A bill, An Act To Amend The Income Tax Act, 2000 No. 6. (Bill 49)

**MR. SPEAKER:** Bill 49 has now been read a second time.

When shall the said 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 Income Tax Act, 2000 No. 6,” read a second time, ordered referred to a Committee of the Whole House presently, by leave. (Bill 49)

**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 the House resolve itself into a Committee of the Whole to consider Bill 49.

**MR. SPEAKER:** The motion is that the House resolve itself into a Committee of the Whole to consider Bill 49.

All those in favour?

**SOME HON. MEMBERS:** Aye.

**MR. SPEAKER:** Those against?

Carried.

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

### Committee of the Whole

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

We are now considering Bill 49, An Act To Amend The Income Tax Act, 2000 No. 6.

A bill, “An Act To Amend The Income Tax Act, 2000 No. 6.” (Bill 49)

**CLERK:** Clause 1.

**CHAIR:** Shall clause 1 carry?

The hon. the Member for St. John’s East – Quidi Vidi.

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

I want to recognize what the Minister of Finance said about the tax review and the fact that the tax credit for search and rescue volunteers is certainly going to be considered. I would hope that means put in place. I’m really pleased about that. I’m sure all those volunteers out there will be as well.

I’m glad that she, too, recognized the service that they provide and the respect that they should get from us. This is a very small way of doing that.

I’m just wondering if the minister can give us an idea of the timeline for the tax review. Maybe the minister did say it and I missed it, but the timeline for that tax review.

Thank you.

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

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

The federal government is currently undertaking a tax review. We anticipate that tax review would be completed sometime in 2017. I suspect that when I have the opportunity to attend the federal-provincial-territorial meetings for Finance ministers later on in December, I'll have a more finite time as to when their tax review would be completed.

Our priority is to immediately, on the heels of the information that we have from the federal tax review, that we implement our review so that we can make sure that any changes we want to implement are implemented as quickly as possible.

Thank you.

**CHAIR:** All those in favour, 'aye.'

**SOME HON. MEMBERS:** Aye.

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

Carried.

On motion, clause 1 carried.

**CLERK:** Clauses 2 through 14 inclusive.

**CHAIR:** Shall clauses 2 through 14 inclusive carry?

All those in favour, 'aye.'

**SOME HON. MEMBERS:** Aye.

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

Carried.

On motion, clauses 2 through 14 carried.

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

**CHAIR:** Shall the enacting clause carry?

All those in favour, 'aye.'

**SOME HON. MEMBERS:** Aye.

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

Carried.

On motion, enacting clause carried.

**CLERK:** An Act To Amend The Income Tax Act, 2000 No. 6.

**CHAIR:** Shall the title carry?

All those in favour, 'aye.'

**SOME HON. MEMBERS:** Aye.

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

Carried.

On motion, title carried.

**CHAIR:** Shall I report Bill 49 carried without amendment?

All those in favour, 'aye.'

**SOME HON. MEMBERS:** Aye.

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

Carried.

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

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

**MR. A. PARSONS:** I move, Madam Chair, that the Committee rise and report Bill 49.

**CHAIR:** The motion is that the Committee rise and report Bill 49.

Shall the motion carry?

All those in favour, 'aye.'

**SOME HON. MEMBERS:** Aye.

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

Carried.

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

**MR. SPEAKER (Osborne):** The hon. the Deputy Speaker.

**MS. DEMPSTER:** The Committee of the Whole have considered the matters to them referred and have asked me to report Bill 49 carried 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 her to report Bill 49 carried 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:** Mr. Speaker, I move, seconded by the Minister of Service NL, that the House resolve itself into a Committee of the Whole to consider Bill 46.

**MR. SPEAKER:** The motion is that the House resolve itself into a Committee of the Whole to consider Bill 46.

All those in favour, 'aye.'

**SOME HON. MEMBERS:** Aye.

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

Carried.

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

### Committee of the Whole

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

We are now considering Bill 46, An Act Respecting Procurement By Public Bodies.

A bill, "An Act Respecting Procurement By Public Bodies," (Bill 46)

**CLERK:** Clause 2.

**CHAIR:** Shall clause 2 carry?

The hon. the Member for Ferryland.

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

When we last left debate I think there was a discussion on section (q)(ii) with regard to public body. It was with reference to "a corporation in which not less than 90% of the issued common shares are owned by the Crown ...." And the example given was CF(L)Co.

As we know, CF(L)Co is 65-35 in regard to shares. In the common shares the Crown obviously would be less than 90 per cent. So when you look at an entity like that and the amount of procurement that could occur, certainly it would be tens of millions of dollars in maintenance and different activities that would be ongoing with a Crown corporation of that size and scope.

So if it's not included here under a public body, what would the oversight be or what would the rules be for an entity like CF(L)Co in terms of procurement? Because the amount of procurement there, as I said, tens of millions and maybe even more at any particular time.

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

**MS. COADY:** Thank you for the question, Madam Chair.

A very important point I think the Member opposite is making. As it is a subsidiary and

under the 90 per cent, CF(L)Co has never been involved in the procurement process. They maintain the rules that are required of them. But under this legislation, it would remain as it has been in the past. Because the Province of Newfoundland and Labrador is in a joint venture and only own 66 per cent, it would not be included in this legislation.

**CHAIR:** The hon. the Member for Ferryland.

**MR. HUTCHINGS:** (Inaudible) what arrangement, or what rules or what procurement of framework would be governed by CF(L)Co?

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

**MS. COADY:** As CF(L)Co is not a public body, it's not included in this as well. It would be governed under the *Corporations Act*.

**CHAIR:** Shall clause 2 carry?

All those in favour?

**SOME HON. MEMBERS:** Aye.

**CHAIR:** All those against?

Carried.

On motion, clause 2 carried.

**CLERK:** Clause 3.

**CHAIR:** Shall clause 3 carry?

The hon. the Member for Mount Pearl North.

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

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

Good evening. I only have one comment on clause 3 and this is the purpose section. So it's obviously important in any bill, but particularly in this one.

The question I have for the minister relates to section 3(2)(f) which is about "value diversity in procurement." I'm hoping the minister can explain what exactly that means because the word "diversity" is not defined in the act. We

were talking about definitions before the supper hour.

I want to get some sense of how that is going to be applied in practice because it could imply a bias of some sort. Obviously, that's not the intention, but I'd like to understand what "value diversity in procurement" means.

Does this mean spreading the work to as many companies as possible, diversifying the procurement base? Does it mean promoting the diversification of the province's economy or driving local industry growth? Does it mean favouring bidders who represent under-represented minorities such as women-led companies, companies based in Aboriginal communities, companies that hire people from minority groups or persons with disabilities?

Because the word "diversity" is not defined, it's just not clear what we're talking about here, whether it's any or all of those things that I just mentioned. I was just hoping the minister could offer a little bit of insight on that.

Thank you.

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

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

Diversity – what we mean by that is uphold the value in procurement. We put it through the Women's Policy lens; we put it through the disability lens.

So what we're doing in diversity is when we take this bill and we put it out there for a procurement, we put it through all the lenses possible in government to diversify and make sure everybody – for example, in Women's Policy, if they have a concern or some way to help diversify in that way. Disability lens – so diversity means spread it around to ensure that everybody has a say. Then, we can try to help all groups and ensure that all groups have a say in it and if there's some minority group there also, Madam Chair.

That's the idea of diversify. It's to ensure that it's put through a number of lenses, which we all

do on this side for all pieces of legislation that we put through.

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

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

I'd like to ask the minister if in fact there was a report from the Women's Policy Office, if they did a gender lens, if there was a report and what were the findings of that report?

**CHAIR:** The hon. the Minister Responsible for the Status of Women.

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

As the Member opposite had – I think she had a conversation with the deputy minister on Friday around that question from the Women's Policy Office. In fact, there was a gender analysis done on the procurement act.

There was feedback provided to the department. Specifically, the language in the act that refers to diversity was something that the department had advocated for. In addition to that, there are a number of recommendations and considerations that will be looked at as part of the regulations. Certainly, we'll continue to look forward to working with the minister's department on making sure that the regulations are reflective of the analysis that was completed.

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

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

I would like to ask the minister: What were those recommendations? How will they be implemented? How will they be evaluated? What specifically will be done to ensure there is not only just a gender lens, but that there will actually be some concrete action to ensure we have more representation of women, particularly in some of the non-traditional jobs that might be procured through this bill. What specifically will be done to ensure that the recommendations, whatever those recommendations might be – it would be good to see that report tabled here in

this House. What were those recommendations specifically?

**CHAIR:** The hon. the Minister Responsible for the Status of Women.

**MS. C. BENNETT:** Madam Chair, as part of the procurement act, as has been referenced in this House, there's a significant portion of government spending, almost 50 per cent of it, that's spent procuring all kinds of different services throughout the province for government. As part of that process it is important that the procurement act allow us to leverage government spending to provide opportunities not only for Newfoundland and Labrador businesses, but more specifically for organizations that are owned by female operators, that have significant benefit to the female community.

As recently as a couple of weeks ago – I think Members opposite would be very familiar – NLOWE launched, as an example, a series of round-table discussions throughout the province on how, for example in the oil and gas sector, more procurement can be done via female-owned businesses and female-managed businesses.

For the Member opposite, I'm not going to prejudice the regulations. As the minister has clearly said in this House several times, the regulations will be drafted after the legislation is passed. My understanding is the actual implementation of the regulations could take up to a year. Certainly, making sure that the advice from the Women's Policy Office is reflected in the regulations and that we have a meaningful way to ensure that women, as part of our procurement process, are recognized, in addition to all of the other things the minister has already spoken to, are going to be reflected in the regulations.

When the regulations are prepared, I'm sure the Member opposite will be providing some opinions on those. I can assure her that the officials in the Women's Policy Office will be providing advice to the minister and his department on an ongoing basis as they have been all year.

Thank you.

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

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

I would ask the minister: Will she table that report done by the Women's Policy Office with the recommendations they've made here in the House?

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

**MS. C. BENNETT:** Madam Chair, if the Member opposite would like to have a meeting and discuss the recommendations, I'd be happy to provide her that time.

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

**MS. ROGERS:** Well, Madam Chair, I don't understand why the minister wouldn't table that report, specifically, if that report will guide the regulations. Throughout the debate on this particular bill, the problem that we have identified again and again and again is the fact that the regulations do not come to the House here. This bill is wide open.

I would like to know, particularly if the minister says they value diversity in the procurement, what exactly does that mean? We know that in private enterprise, particularly in the oil and gas industry and larger companies, they will go to potential bidders and ask for their equity policies to ensure they have equity policies and that part of those equity policies will have a value in assessing and scoring a proposal. So we don't know. Other than this vague statement of we value diversity in procurement and wouldn't it be nice if women's businesses might get a crack at this, that's all that we have.

So much of what happens around the area of equality for women are based on wouldn't it be nice and we know that doesn't work. All we have to do is look around this House right now and see how many women are here. Wouldn't it be nice? Well it's not nice. It sure is not nice.

I ask again for the minister: Will she table the report and the recommendations of the Women's Policy Office on this bill. Particularly because

this bill is so incredibly vague and it has absolutely no teeth around the issues of equality for women and how that will be actually executed in any of the regulations around procurement because we're certainly not going to see it in policy and in the bill.

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

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

I don't know which part to answer because I take exception where she said that we're not concerned and we don't put it to Women's Policy to seek advice and counsel. I just take exception. I don't know where you come up with that statement.

You name one women's group that tried to meet with me in my office over anything that I'm dealing with in Municipal Affairs through Service NL. So just don't make a vague statement saying that over here all of a sudden we don't – and just for an example, NLOWE is coming up to meet with us Monday on this. NLOWE is coming to meet with us Monday.

NLOWE represents women in the province, business and entrepreneurs in this province. They asked to come up and have a meeting. Guess what? They're meeting with us Monday. We're having a meeting with them Monday. We reached out.

Madam Chair, I don't mean to be kind of harsh on this, but I take exception when I look across this room here and I see female ministers, I see female MHAs here and give the impression that they don't stand up for women's rights on this side.

Every policy in this government – you can laugh as much as you like. You tell NLOWE, when they come up Monday, that their views aren't going to be respected or they shouldn't come up because we just have vague statements.

Every issue in this bill, every part of this bill and every regulation in this bill will go to the Women's Policy commission. We will strive for it. We will strive to help out minorities. We will strive to help out whenever we can. By the way, not only women's issues, there are Aboriginal

issues that we're concerned with also. There is small and medium business that we're concerned with. That's why we upped the ceiling so local people – some are women, some are native, some are small- and medium-sized businesses can help out.

So, Madam Chair, we will have it in the regulations. We will consult in the regulations. We have consulted in the bill. And if you don't feel that NLOWE is representing women's issues concerning business, small business and everything, you can take it up with NLOWE. But I can tell you one thing, I have confidence in NLOWE. When they come up, they want to meet – and they're after meeting with Members of this government on many occasions. So when you say that we're not having any consultations and we're not concerned about it, I take exception to that.

I can assure you women's issues and women's policies are being brought forward. It is through the women's commissions, through NLOWE and other groups. You should ask for a meeting with NLOWE after our meeting and see how they feel, instead of standing up here and making accusations that none of us over here are concerned about women's issues.

I just want to defend my female colleagues over here because I know how much –

**MS. COADY:** Both are award winners from NLOWE.

**MR. JOYCE:** Did you hear that? Both are award winners from NLOWE and all of a sudden, now they're not concerned about women's issues concerning a bill on procurement. Somewhere along the line we have to attack the issues. Stop plaguing the female people over here, MHAs and ministers who you feel that aren't representing women because I can tell you, they are.

And if I as a minister, and I'm speaking on my behalf and I'm sure all of the other ones here – if we ever tried to take a bill and not run it through the Women's Policy Office I can tell you, we would hear it, and we should hear it. I can guarantee you we have orders from the Premier, anything we do is sent out to every department, including the Women's Policy Office. That's

why the lens that is put on it, that you asked for, you asked for that lens, we committed to that lens, we're doing that lens – we're even doing it in the disability department; we should be.

So I can tell you when we meet with them – everybody has an input into the regulations and we will take everybody's input. I can guarantee you when the regulations are set up, they're going to be set up for the benefit of people of Newfoundland and Labrador. That's why we increased the ceilings so local people, including women in business, could apply for it. That's why we did it.

So when you take one word and say we're not looking after the issues, read the whole bill and act. Look at the people that we consulted – if you look at the people we consulted here, I think you would retract your statements.

Thank you, Madam Chair.

**CHAIR:** Order, please!

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

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

And I'd like to say that I do believe that the minister doth protest too much. All the words that he has put in my mouth certainly weren't there. I never once accused the government of not caring about women. I do believe that there are a number of people, Members on the opposite side and on this side, that really care about gender analysis, that really care about equity. So I do believe that the minister in fact doth protest too much.

Now the interesting thing is that after this – he is hoping that this bill is going to pass really soon. So then he is going to meet with NLOWE. Well, that's kind of a bit of a backwards way to do it. I would say that consultation should happen before a bill is even written, let alone after a bill has passed.

Madam Chair, I do believe that the minister has it a little bit backwards. As for the issue of people with physical disabilities and Aboriginal communities, I am going to get –

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

**CHAIR:** Order, please!

**MS. ROGERS:** – to that because I have specific questions about that as well.

Again, Madam Chair, the issue that I am raising is that I know, as a woman, that there have been all kinds of vague promises made to women about inclusion, about pay equity, about child care, about a number of things. Yet, we do not see them come to fruition.

That's what I'm talking about, not that there is any malice on the other side of the House, not that there is any ignorance on the other side of the House about the issue of women's equality; but unless we see it enshrined, unless we see it concrete, it simply doesn't exist.

It's like fairy tales. That's what it's like. It's just like fairy tales. We need concrete legislation. We don't see it in this bill. Will we ever see it in this bill? I don't know. We've asked for it. I'm very glad that the Women's Policy Office – and he said have we ever done anything that hasn't gone through the Women's Policy Office. Well yes, they certainly did. That great big ole budget, the 2016-17 budget, their first budget did not pass by the Women's Policy Office. There was no gender lens applied to that budget because if there was that budget –

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

**MS. C. BENNETT:** That is not true.

**CHAIR:** Order, please!

**MS. ROGERS:** Well, I would be so happy – the Minister for Finance is telling me that's not true. I have asked repeatedly, Madam Chair –

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

**CHAIR:** Order, please!

I know it's getting late, it's 9:40 p.m. and we've all had a long day, but the Chair is having difficulty hearing the speaker and I ask Members for their co-operation.

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

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

I actually did an ATIPP request about a report or anything – anything – any conversation, any written email about a gender analysis applied to the budget and there was nothing. I got a report from the ATIPP request but there was nothing. There was no evidence that anything was done.

If I'm wrong I would be so happy. I think the only way to prove me wrong – and I would be happy to be proven wrong because I think it's really important. I'm sure the Minister of Finance believes it's important. I believe that a number of Members on the other side of the House believe it's important. Where's the report? Let's see the report. That's what I would like to do, table the report.

I ask the Minister of Finance and the Minister Responsible for the Status of Women again, or I ask the minister responsible for this bill: Would he table the report provided by the Women's Policy Office to show exactly the recommendations they made to ensure that they really do value diversity in procurement and show how women are going to be included.

In private industry in the larger companies, when they go out for proposals, when they ask for proposals they ask companies they deal with to demonstrate their policies on quality assurance guidelines. That makes sense. You want to make sure that a company you're doing business with has quality assurance guidelines.

They ask companies to show what their policies are on the environment. That's really important. You want to make sure that whoever you're dealing with, whoever you're doing business with; they have policies on the environment.

They also ask – and this is great, and it has taken women's groups and progressive governments to work so hard to get to this point – for the policies on diversity. Those diversities might include gender, people with physical disabilities, Aboriginal people, people who are racialized. So they will ask specifically what those policies are with businesses that they might do business with.



Not only do they ask them for those policies, then what they do is they will score that company's bid on how good their policies are.

**MR. JOYCE:** A point of order.

**CHAIR:** Order, please!

The Minister of Municipal Affairs.

**MR. JOYCE:** Section 49 – I'll just let the minister know, when you make statements in the House you assume they're correct when you say I should meet with NLOWE, not before, then after. Wait until after.

**CHAIR:** Order, please!

There is no –

**MR. JOYCE:** On June 2, 2016, we met with NLOWE's Paula Sheppard and Debbie Youden. At least she should check the facts.

**CHAIR:** Order, please!

There is no point of order.

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

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

I was only going by what the minister told me. He said he's going to meet with them either tomorrow or next week. I'm just going by what he told me. If he has met with them beforehand, that's great.

Again, I would like to see what their recommendations are. I don't understand why the Minister of Finance, who is also the Minister for the Status of Women, will not table the report of recommendations that the Women's Policy Office has made. Where is that report? What have been their recommendations? What I'm doing right here is talking about and showing what other companies have done.

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

**CHAIR:** Order, please!

**MS. ROGERS:** They're very, very concrete steps; very concrete actions that actually result in something. It's not a fairy tale. They actually result in something.

I ask the minister, what specifically – since there has been a gender lens applied, since he's met with NLOWE, since he cares about gender equality, because he said he cares about it, I believe him.

So since he cares about it, since he has met with NLOWE, since he's got that gender lens report from the Women's Police Office, I now ask the minister, can he please tell me what he's going to do concretely to ensure he values diversity as it relates to women? Minister, can you answer that question?

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

**CHAIR:** All those in favour, 'aye.'

**SOME HON. MEMBERS:** Aye.

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

Carried.

On motion, clause 3 carried.

**CLERK:** Clause 4.

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

**CHAIR:** Order, please!

The Chair didn't see anyone stand so we will move to the next clause and recognize the next speaker.

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

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

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

Hopefully, we can get things settled down a little bit. I was appreciating some of the answers I was getting. I have a couple related to clause 4.

This section says that the *Labrador Inuit Land Claims Agreement Act* will have precedence

over this act where there is a conflict. So, presumably, that will show respect for the self-governance rights of the Labrador Inuit, which makes sense, of course.

I would like to begin by asking the minister: Can you tell us, on the record, why this provision is included? Is it out to show respect for the Labrador Inuit, as I've suggested, or is there something more to it that might be of interest to Members in the House?

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

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

Yes, this is in all acts as to the agreements and the treaties that take precedence in courts. It's a courtesy and a right for the Aboriginal people, for all treaties to take precedence over any act in the Province of Newfoundland and Labrador.

So it's in all acts that these treaties do take precedence over any legislation in the province. That's why we always put them in, because they do have rights, they do have precedence over any agreement. It just shows respect to ensure that there's no conflict whatsoever. This is in agreement with the Labrador Aboriginal groups.

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

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

Will the Nunatsiavut Government be pursuing similar procurement legislation? Is there a belief that is in the works? I'm just curious.

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

**MR. JOYCE:** I've had no discussions with the Nunatsiavut Government on that matter. They're a government on their own; they have the ability to make their own rules and regulations. I had no discussions, nor should I have any intentions of having discussions with the Nunatsiavut Government, Madam Chair, as they're self-governing. They're a government, they can make their own rules and they're very capable of making their own rules.

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

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

Just a couple of more follow-up questions and I appreciate the minister's answers. This section says that the *Labrador Inuit Land Claims Agreement Act* will have precedence over this act when there is a conflict.

My next question is: Any guesses on the types of conflict or the areas of conflict that could arise? Have there been any actual or potential conflicts that have been pointed out to government by your officials?

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

**MR. JOYCE:** No. To my knowledge this section is put into the legislation that's going to pertain to any of the Aboriginal, Madam Chair, because we understand their rights, we understand the self-governance. For my knowledge, though, any time that we – I know in this government, we have a consultation and have an open dialogue with them.

I can't foresee any problems because we understand their rights and we understand, if and when we're going to make a decision, that we will be in consultation with the Nunatsiavut Government before we do that and we have those details before we go ahead with anything that may be in a conflict.

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

**MR. KENT:** I appreciate that explanation as well.

My final question related to that: Are there any conflicts anticipated with respect to any other Aboriginal groups in the province related to this legislation?

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

**MR. JOYCE:** No. As we said, any group with treaties and with self-government we don't anticipate any conflict whatsoever. Once again,

as I said earlier, before we put out legislation we send it to different groups.

From my understanding, they may come in and make a presentation on some issues with it, but I can't foresee any problem. Before we make any regulations that may affect them we would send it out to Labrador and Aboriginal Affairs in consultation to ensure there is no conflict.

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

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

I'm very happy to see this particular clause in this bill. It is absolutely appropriate.

I ask the minister: For other Aboriginal groups outside of the Nunatsiavut land claims, what is he doing specifically to ensure they are included in his value for diversity? How will he implement to ensure that they, too, have access and benefits from this procurement bill? How will he evaluate that? How will it affect the overall score of any proposal or bid that comes before government?

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

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

As I said in this House on several occasions, and I'll say it again, with the increase that we put in, a lot of local companies – which would be Aboriginal, which women will own, which will be small-based companies – will have the opportunity to bid on a lot more services and goods in the Province of Newfoundland and Labrador.

The Department of Labrador and Aboriginal Affairs in this government has been in consultation with many Aboriginal groups with this legislation. We're open to any discussion that they feel they'd like to see in part of the regulations. We have met with many groups – many, many groups, Madam Chair.

Can I say today that we're going to give out a million-dollar contract so one group can get it? Of course not, the spirit and the intent of public

procurement are out the window. But we are making it easier for smaller groups, we're making it easier for local groups, we are making it easy for Aboriginal groups, we are making it easier for small-business people, we're making it for anybody who owns a business in Newfoundland and Labrador. A lot of red tape is going to be eliminated. The ceiling goes up so people can bid more on Newfoundland and Labrador goods and services.

We've said it; we're going to do it for all groups, Mr. Chair. We're going to stand by that because I can tell you the amount of people that are supporting this bill is widespread. We heard a lot of people across the Province of Newfoundland and Labrador that, yes, this is going to be good for rural Newfoundland and Labrador. It's going to be good for Labrador.

How can I say that there's going to be one part of this carved out for a certain group, another part for another group. It just can't be done. But we are making it easier, we're making it more widespread, we're increasing the ceiling. So we feel, and most people that I've contacted and contacted this government on it feel confident that this bill is in the right direction for smaller groups in rural Newfoundland and Labrador.

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

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

I'm really happy to hear that the minister and his department have met with all kinds of groups and that he's passed this by the Aboriginal Affairs office, the Office of Persons with Disabilities and the office of the Status of Women. But then he said he's also met with a number of groups and they really support this.

I'm not quite sure what they're supporting because we can't see it. We can't really see what specifically they're supporting because there are no teeth in this legislation. There's nothing in this legislation that says how they are going to score anything. Aside from the vague words of valuing diversity, there's nothing here to show exactly how they are going to execute that. What are the specific policies and approaches to ensure that happens?

All we have is a great big old framework that really doesn't tell us much about that. So if he, in fact, has done all this consultation – and I have no reason to believe he hasn't – I would think that would result in something concrete to assure different Aboriginal groups, to assure women, to assure the diverse groups of our province, small businesses, et cetera, that this will be favourable to them.

I don't know what they're reacting to except the fact that there's a new procurement bill and government is going to spend a lot of money.

Mr. Chair, I guess it's on a wing and a prayer because if it's all regulations – and then the Minister of Finance said that we'll have some input in that – the regulations don't come before the House. So I'm not quite sure how that's going to happen.

I'd like to ask the minister: Exactly how will that happen? How is he going to execute this? How is he going to make concrete his supposed philosophical values?

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

**MR. JOYCE:** I'll stand here and answer any question possible if the Member wants to stand up and make statements and ask us. I'll just say one thing, Mr. Chair. I'm not going to stand up and the Member go on with all these what if, what if.

I can tell you one thing; do you know where I was in October? Three days down to Municipalities Newfoundland and Labrador sitting in on all sessions about what we're going to bring in, how we're going to raise the ceiling of it, how we're going to bring up stuff for small buildings, how public works is going to go from \$20,000 to \$100,000, the services go from \$10,000 up to \$50,000.

If that Member had to take five minutes of your time and worry about rural Newfoundland and Labrador and stop – she's over there laughing, Mr. Chair. Do you know why? Because you wouldn't give Municipalities Newfoundland and Labrador the courtesy of showing up at the meetings, never gave it the courtesy. To stand here and say what groups. Go out and ask

municipalities in Labrador what they think of it. Just go up.

So don't stand there and pontificate as if none of us around here had any consultations. I spent three full days down there, Mr. Chair, because I'm concerned about rural Newfoundland and Labrador. I listened to them.

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

**MR. JOYCE:** I can tell you I'm not letting the Member for St. John's Centre – she's over there laughing now. She's over there laughing her head off. They have real concerns. Instead of standing up pontificating, I went down and I spent three days with that group, Mr. Chair.

I want to hear their concerns. Their concerns are what they passed on to us. If you're going to dig a ditch in there instead of \$10,000, spend three, four months and get a public tender out. They wanted it up so they can go do their work, get three quotes so the money will stay in rural Newfoundland and Labrador, get local companies.

So if you want to know answers, rural Newfoundland and Labrador, go down to Municipalities Newfoundland and Labrador, look at the 200-and-some-odd communities that agreed with this here. If you want to ask me, meet with any one of those councils, they'll tell you why this is such a good bill.

Think about rural Newfoundland and Labrador; spend a bit of time with municipalities. Spend a bit of time in rural Newfoundland and Labrador and come back and tell me they don't want this bill.

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

**CHAIR:** Shall clause 4 carry?

All those in favour?

**SOME HON. MEMBERS:** Aye.

**CHAIR:** Against?

**SOME HON. MEMBERS:** Nay.

**CHAIR:** Carried.

On motion, clause 4 carried.

**CLERK:** Clause 5.

**CHAIR:** Clause 5.

The hon. the Member for Mount Pearl North.

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

Good evening; a couple of questions on clause 5 and I think it's actually only a couple of questions this time. Section 5 describes how broadly the act will be applied. There's a phrase in the first part of section 5 that I have a question about. The phrase is, "... except as provided in those Acts."

I was wondering if the minister can tell us what does the phrase "except as provided in those Acts" mean in the first part of clause 5 and would you be able to provide a current list of those exceptions?

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

**MR. JOYCE:** I just think if you go into section 33, "... the *Research & Development Council Act* is repealed and the following is substituted ...." When you look at that section, research and development and Nalcor were always exempt. They were always exempt from the act.

What we got into now is the daily operations of things but we mentioned, today, some of the exemptions in that act. That is the exemptions in this act. It's the stuff that we could go out as a group and could ensure the best values for the money. But, as we mentioned today, in that act the research and development and Nalcor, if you go to 33, those are the exemptions.

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

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

I appreciate the minister's explanation but the way it reads – and I'm reading section 33 of the bill, clause 33, as the minister has drawn my attention to, but it still suggests, to me, in part one of clause 5 that basically the exceptions that are provided right now in the *Energy*

*Corporation Act* and the *Research and Development Council Act* will continue to apply because it says the act applies to procurement by public bodies, and with respect to the corporation established under the *Energy Corporation Act*, which is Nalcor, and to the council established under the *Research and Development Council Act*, which is RDC, the act applies to that corporation and that council except as provided in those acts.

So that suggests to me that whatever exceptions that are currently outlined in the act pertaining to Nalcor or the exceptions that are currently outlined in the act pertaining to RDC would still apply.

Could you give us some examples of what those exceptions are? Given the ministers responsible for these two pieces of legislation would be the Minister of BTCRD and the Minister of Natural Resources, if you could help us out, we would certainly appreciate it.

Thank you.

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

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

Thank you for the question. As we indicated this afternoon in earlier debate around this very issue, Nalcor, the *Energy Corporation Act* does exempt – sorry, Nalcor was exempted under the *Public Procurement Act*. Under the former administration, they exempted Nalcor completely.

We are now putting Nalcor in the legislation requiring them to follow the *Public Procurement Act*, except in three specific instances that are outlined; one being the sale of energy and energy products. That is not unusual for it to be exempted. It's when Nalcor Energy marketing is actually selling export power, they actually would – it can't go through the *Public Procurement Act* just because of the nature of the way it's done.

Secondly, we said "where the corporation or a subsidiary is acting in a strategic partnership, joint venture, or equity investment ...." I'll just

give you a couple of examples, I think I pretty much used them today, but the offshore geoscientific surveying program that we joint venture on.

I'm sure the Member opposite is familiar with the seismic programs that we do because of the nature of the way we do them, because of the way that they are joint ventures, but among many different partners in that project. It's not subject to the procurement act.

The other one would be instances when we are minority shareholders or minority involvement. I'll use today, for example, the Hebron Project. We have a small stake in the Hebron Project; therefore, we wouldn't require the commercial entities that are involved in the Hebron Project to require them to adhere to the *Public Procurement Act*.

Finally, I will say as well, for the purpose of meeting the requirements of benefits arrangements. So oftentimes, in projects we would have a separate benefits agreement to ensure that benefits are for the Province of Newfoundland and Labrador. Those would be exempt, but everything else from Nalcor – and this is new, Mr. Chair – would be in the procurement act.

We're very pleased with that. I thought it was unfortunate they were exempt in previous times but because of the great work from my colleague, the Minister Responsible for Municipal Affairs as well as Service NL – because of the great work under the procurement act I think there's great benefit for the province.

Thank you very much.

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

**CHAIR:** The hon. the Member for Mount Pearl – Southlands.

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

Under section 5 of where we are now I have one comment to make and a question, so I'll just go to the question first. I'm just looking under 5(2). It says: "Where the province enters into a joint purchasing agreement, the province may, notwithstanding this Act, acquire commodities

under the agreement and the provisions of the agreement with respect to the acquisition of commodities shall apply to the acquisition instead of the provisions of this Act." Basically what we're saying here is that if we're doing a joint purchasing agreement, then they don't have to follow this particular act.

So just for clarification – I think I know the answer but I just want it clarified – the joint purchasing agreement; that would be if two provinces got together and said it would be cheaper for us to go together as two provinces. Or maybe all the Atlantic provinces got together and said we'd get a better deal if we bought something as Atlantic provinces as opposed to just Newfoundland and Labrador. That's what you're referring to in that?

**CHAIR:** The hon. the Minister of Service NL.

**MR. JOYCE:** Mr. Chair, yes, that's exactly it. If it's two provinces, maybe three or four, maybe the Government of Canada and Newfoundland and Labrador, if two provinces or the Government of Canada and Newfoundland – you're correct on that. It would mean that would take over this act and be allowed to do it with that procurement because of the interprovincial agreements in mind.

**MR. LANE:** I thank the minister for that (inaudible).

**CHAIR:** Order, please!

The hon. the Member for Mount Pearl – Southlands.

**MR. LANE:** I thank the minister for that clarification. I think I'll save my commentary on 5(1) for when we get down to the exemptions piece as opposed to talking about it now. That's fine for now.

Thank you.

**CHAIR:** The hon. the Minister of Business, Tourism, Culture and Rural Development.

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

I'd just like to answer the question to the colleague opposite when he raised questions about the Research & Development Corporation. Previously, the Research & Development Corporation, under the previous administration, was fully exempt from procurement whether it was pens, pencils, furnishings. Any type of daily operations at the Research & Development Corporation under the past legislation, which the former administration created, was fully exempt.

Now, under this procurement act, all of the operational costs will be subject to the procurement act. The only thing that would be exempt – the limitation would be around the research and development activities, which is quite normal because of the proprietary nature and what will be taking place when it comes to the Research & Development Corporation. So this broadly includes more procurement from this entity.

Thank you.

**CHAIR:** The hon. the Member for Ferryland.

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

In regard to section 5(2), it references joint purchasing agreements. They'll have their own rules once this act is in place. Are there any current joint purchasing agreements that would have their own rules after this act is in place in reference to section 5(2)?

**CHAIR:** The hon. the Minister of Service NL.

**MR. JOYCE:** To the best of my knowledge no. There may be some agreements in the future. There may be some interprovincial agreements that are coming with Ottawa and the other provinces. Right now, to my knowledge, there are none that would be exempt from this section 5(2).

**CHAIR:** Shall clause 5 carry?

All those in favour?

**SOME HON. MEMBERS:** Aye.

**CHAIR:** Against?

Carried.

On motion, clause 5 carried.

**CLERK:** Clause 6.

**CHAIR:** Clause 6.

Shall clause 6 carry?

All those in favour?

**SOME HON. MEMBERS:** Aye.

**CHAIR:** Opposed?

Carried.

On motion, clause 6 carried.

**CLERK:** Clause 7.

**CHAIR:** Clause 7.

The hon. the Member for Mount Pearl North.

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

I've got a few things to say about clause 7. I'll try and do it in a couple of questions. Just some comments first and I'll get to my questions as quickly as I can.

In section 7, the way I read it, it's the notwithstanding clause. It defines the Cabinet's broad discretionary power to exempt procurement from the requirements of this act where it is deemed by Cabinet to be in "the best interest of the economic development of the province."

So that does raise some concerns. I know during the very brief period where I was the acting minister responsible for the Government Purchasing Agency, and was working on legislation that is very similar to what we're debating here in the House, this was one of the areas I know I was personally struggling with.

Mr. Chair, "... in the best interest of the economic development of the province" is a sensible provision, but it's very open ended. It's certainly admirable to aspire to protect the best interests of the people of the province. One might argue that an open and fair procurement process is the means of doing just that. But in

the name of protecting a best interest, the Cabinet could justify excluding any of a wide range of procurement activities and argue that it is doing so because the Cabinet believes it's in the best interest of the province.

So I guess one of the first questions I have – and I'll ask for the minister's comments which hopefully will help – shouldn't the Cabinet have to justify each decision to exempt procurement on that basis? Shouldn't Cabinet have to disclose and justify – I know there is a requirement to disclose exceptions. But if Cabinet is going to make a decision to exempt procurement on the basis of something being in the best interests of the province, it feels like there should be fairly rapid disclosure and specific disclosure of that to avoid doing something that's not really consistent with the spirit and intent of the act.

I have a couple of related questions but I'll invite the minister to comment on that.

**CHAIR:** The hon. the Minister of Service NL.

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

This was very similar to what was in before where you can say it's for economic development. It is very similar to what's in the *Public Tender Act* now.

What we have in place now is that the onus is on government to make a stronger economic case for it. So you just can't say it's in the best interests for some reason, you have to make a strong economic case. Once you make the strong economic case for it and it's very obvious then that – once you make the case, you're going to have exemption, people will know what the reasons were and the strong economic case.

What this does, in actual fact, when you say it's in the best interests and then follow the trade agreements of course, you're strengthening. You're very much strengthening this act by saying the government – okay, instead of saying it's an economic development for one area, you have to come out now and show that it's in the best interests with a very strong economic case for that exemption.

I feel very confident – and this was an issue we discussed – that you have to justify it now. Of

course there are other agreements, like CETA. When CETA comes in, there are other agreements we have to live by under CETA also. So once we have to live by the agreements of CETA, that also puts restrictions on you also. You know the restrictions on CETA or I can explain them, but there are restrictions there with CETA that limits what you can do.

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

**MR. KENT:** I thank the minister once again for his answer. I guess the concern for me still remains that if you have to make that case to justify it's for the good of the province, for economic development purposes or whatever, that discussion is only an internal one at the Cabinet table.

So I guess what I'm curious about is whether there should be some kind of mechanism to ensure that it's publicly disclosed, not just to protect taxpayers but, frankly, to protect those involved in making such a decision. So hypothetically, a Cabinet could cite the clause to award a contract to somebody in certain circumstances. Perhaps it could be somebody who's got some kind of relationship with somebody who has a connection to the Cabinet.

Hypothetically, if that were to happen that would fly in the face of the purpose and the principle of the act, so therein lies my concern around disclosure. But I was pleased to hear the minister speak to trade agreements because I think that is a very important point.

Does the Cabinet have any kind of legal or professional or independent analysis to indicate whether this clause that we're debating would withstand the challenge under trade agreements, such as CETA and NAFTA and other agreements? Are there clauses like this in effect in other jurisdictions that have been tested, so to speak, and have been proven to withstand challenges?

**CHAIR:** The hon. the Minister of Service NL.

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

This clause is for broader, bigger economic development in the province. For example, in



CETA, just one example, we would have to follow all the trade agreements in CETA, and it's consistent across Canada also. For example, we can ask for exemptions I think 10 times a year. It has to be under a million dollars, Mr. Chair.

I'll just give you an example of what that would take away, Mr. Chair. I was in the Legislature – I'm not sure who else was in the Legislature. I'm not sure if the Member for Ferryland was here. Can you remember the fibre deal that was put across the province? That would be exempt from this now. We wouldn't be able to just walk in and do that now because it can't show a great economic base, an economic reason for it.

That's the kinds of things that would eliminate. That you could walk in and because you had a fire, let's go out with a tender. Let's get the \$17 million or \$71 million, I can't remember exactly, to put a fibre across. I don't know if we've ever used it.

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

**MR. JOYCE:** Pardon me? It is underutilized, I know. That's the reason for that. Under CETA, which we have to follow, they only make 10 exemptions a year. It has to be under a million dollars and we have to show the economic case for any other exemptions we have.

**CHAIR:** The hon. the Member for Ferryland.

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

Just to follow up with the minister on that. He mentions in regard to the economic activity. There's a greater threshold now or a greater test and you have to prove that test. How is that done? Who is that test made to and how is it elevated to a higher threshold?

**CHAIR:** The hon. the Minister of Service NL.

**MR. JOYCE:** What was there before was for economic development. Now you have to prove for a stronger economic development case. You just can't walk in and say – like the fibre optics, a prime example. You can't walk in one day and two days later have \$17 million or \$70 million worth of cable put across the province because it

didn't pass the test. Is it best for economic development?

That is the test we're putting in there now. We're actually strengthening this here now to ensure that if we're going to make exemptions, it has to be for the best economic development for the Province of Newfoundland and Labrador.

It's a stronger test. It's for the bigger projects, Mr. Chair. It is a stronger test we're putting in place. We're actually strengthening the former *Public Tender Act* procurement to ensure the test for economic development is there.

**CHAIR:** The hon. the Member for Ferryland.

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

Just to clarify, so the test will be in regulation or regulatory framework. How will it be –

**MR. KENT:** Where will the test be?

**MR. HUTCHINGS:** Where will it be?

**CHAIR:** The hon. the Minister of Service NL.

**MR. JOYCE:** It's in the act now and it will be brought forward in the regulations also. It is there now. The idea is to prove that.

We have all intentions of ensuring that it's spelled out in the regulations because I remember the fibre optic. I was sitting over there. I remember the fibre optic deal. I walked in one day and the next day, boom. There was no evaluation, no test done. We're taking that out. We're taking that ability for this government to take that out. I think the people in the province will be pleased with that.

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

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

I want to push that a bit further with the minister. This is a clear example of something which I think should be in the act itself. "Notwithstanding section 6, the Lieutenant-Governor in Council may exempt procurement from the requirements of this Act where it is in the best

interest of the economic development of the province.”

There is nothing to stop this bill from stating the Lieutenant Governor in Council’s decision is something they have to be accountable to the public for. So in other words, if the Lieutenant Governor in Council exempts procurement for economic development, they are responsible to be accountable to the province for the fact that they made this decision.

To me, having a requirement for public accountability for their decisions and their actions should be part of the act. That’s not a rule. That’s not a regulation. That’s a policy. So that’s the kind of thing that should be in here. There is absolutely nothing in this section 7 to require a government to be accountable to anybody for a decision they make in secret. It’s at the table of Cabinet. We can’t get documents from that meeting to even show how they made their decision. If we’re really going to hold a government, any government accountable, it has to be in the act and this is where it should be.

So I don’t understand, Minister, how you can say what you’re saying – I’m sorry; it just doesn’t work. That is a policy and that should be in the act.

**CHAIR:** The hon. the Member for Mount Pearl – Southlands.

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

Just for the record, on section 7 I think pretty much what I was going to say has been said to a great degree, but I did hear the minister say to, I think, the Member for Ferryland about how this more stringent, this test, if you will, is in the act now. I think that’s what he said. I don’t want to put words in his mouth, but I think that’s what he said.

If it’s in the act now, that’s the existing procurement act. My understanding here is that we’re getting rid of the existing procurement act and we’re replacing it with this act. So whatever is in the old act has nothing to do with what’s in this act unless it’s written on one of these pages – unless I’m missing something here.

So I guess then to tie into what the Member for St. John’s East – Quidi Vidi just said, I think it’s great that there’s going to be a more stringent test put in place. I think they should have to justify why you’re going to exempt yourself from the act. I know the minister said it’s for big projects, and he gave an example of one, but there’s nothing here in section 7 that says big projects. It doesn’t give any dollar amount. It doesn’t say this applies to projects that are over a certain amount. It just says that it applies to basically anything in the best interest of economic development. So that doesn’t give a dollar amount or say what type of thing it is, it just says if it’s in the interest of economic development.

If we’re going to make an exception – and I agree with the fact that we’re talking about making a strong economic case, as the minister said; that’s a good thing. I’m glad about that. But in section 7 it should answer the questions as to where will these decisions be made, by who, how will the public be made aware of those decisions, when will the public be made aware of those decisions.

So there’s nothing there that talks about the accountability piece and the transparency piece to the public as to being able to provide publicly within a timely manner to say Cabinet decided to not abide by the *Public Procurement Act* for this particular project or for this particular purchase because of economic development and this is the justification as to why. And then it goes somehow public or it’s posted on a website or something so that people know that this exception was made, why it was made and the amounts involved and all that kind of stuff.

In the absence of having that written here, then as other Members have said, we’re sort of just taking it for granted that’s going to happen. I don’t really see where there’s anything here saying that has to happen. That’s the concern I have, the same as other Members.

**CHAIR:** Shall clause 7 carry?

All those in favour?

**SOME HON. MEMBERS:** Aye.

**CHAIR:** Opposed?

Carried.

On motion, clause 7 carried.

**CLERK:** Clause 8.

**CHAIR:** Clause 8.

The hon. the Member for Mount Pearl North.

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

In subsection (1) of clause 8 I'm wondering why the word "may" is used instead of "shall." Doesn't subsection 8(2) imply that the policy in subsection (1) shall be put in place?

How could these bodies apply a policy if it doesn't exist? I'm wondering if, first of all, the minister could speak to that.

**CHAIR:** The hon. the Minister of Service NL.

**MR. JOYCE:** Mr. Chair, in section 8(1): "The Treasury Board may establish a policy for the procurement of professional services by public bodies." What we said there is the "may" part is concerning the legal and the financial obligations of financial institutions that we find ourselves in. They're already exempt. I think the Minister of Justice stood up today and explained the legal part.

If you go to subsection (2): "Where professional services are required by a public body, the public body shall ensure that procurement is conducted and the professional services are acquired in accordance with the policy referred to in subsection (1)." What that is, Mr. Chair, when professional services are required, they must go back.

If you go back and read subsection (1) – I don't mean to go back with all the bill. One second now, Mr. Speaker. When you go back to subsection (2): "Where professional services are required by a public body, the public body shall ensure that procurement is conducted and the professional services are acquired in accordance with the policy referred to in subsection (1)." That includes the exemptions and the ones which aren't exempt.

The legal and financial are exempt and that is why we set it up. They can set it up. Sometimes they may not set it up but they may set it up. But in the professional services side where a lot are exempt, we shall set out the regulations for it. What we're going to include now was excluded before.

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

**MR. KENT:** I appreciate that explanation. Just a quick follow-up related to that. Assuming Treasury Board therefore chooses to establish some policies to purchase these services, I'm just wondering what such a policy could state. It's something that the act doesn't define so Members are being asked to vote on this without really knowing what that might entail.

I respect that. I understand what we're talking about is giving Treasury Board the ability to establish policies that would govern the procurement of professional services, but it's left to the discretion of Treasury Board.

I guess my question is for the minister: Is there a working draft or an outline of what kind of policy Treasury Board may establish? That's really what I'm wondering.

**CHAIR:** The hon. the Minister of Service NL.

**MR. JOYCE:** As we said today, the two exemptions will be legal and financial reasons with the bank. The ones that we're taking out of the professional services would be engineers and architects. They were the ones that were in before. We're taking them out.

The ones that we're keeping in are the financial and legal. The minister just explained today why it may be for a very quick reason that we may need a decision turned around as quickly as possible. The engineering and architects were part of the discussion and I'm sure the Members opposite are aware of that.

What we're saying now is we're increasing the limits for the services of engineers, but for the major project – and I have a good example. A good example is Gander. There's a \$30 million project for Gander. Should myself or anybody

else have the authority to go out and say, okay, I know you, I'm going to appoint you to that?

Because the fees for the engineers are over \$100,000, what we're saying is you have to go to an RFP for those services. We feel very confident that it will save the province money. That's why we're excluding it.

We're increasing the limit and the reason why we're increasing the limit, looking at up to \$100,000 – and I look at some people across, even on this side, in rural Newfoundland and smaller communities, who have an engineer like this. Because they do help out, they run down and do things for municipalities sometimes. If you look at the cost, 8 and 9 per cent, it would be a very substantial project for them to be exempt beyond that.

Most municipalities want their local engineers. So if you keep the limit only up a certain amount they can keep them, but once you get into a project – 30 or 35. I'll use another example: if there's any major project out here, \$100 million, \$50 million, if we go to RFPs for those services I feel very confident that we would save money for the province. That's why engineering and architects are brought back into it and the two that I mentioned earlier are exempt.

**CHAIR:** The hon. the Member for Mount Pearl – Southlands.

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

On section 8 I just want to say, first of all, that I'm very glad to see that we're taking the professional services and we're separating them from the other services – I forget the definition of what the other ones are called, but anyway – the engineers, the architects, the insurance. That's a good thing, that's a positive thing. I'm glad we're doing it.

The way I read section 8 here, basically we're saying that – because we're talking about the professional services only. So the professional services are the legal and – I just want to make sure I'm clear on this – the financial only, according to the definition. What we're basically saying is that Treasury Board may set a policy.

Even though legal and financial are exempted from the policy, unlike the engineering and architecture and all that stuff which are included now, which is good – even though they're exempted it's saying that Treasury Board may set a policy to say even though legal and financial are exempted, we're still going to have a policy and a guideline for departments when they're hiring legal and when they're hiring financial. That's how I would read that.

If Treasury Board decides to put a policy in place, then all the departments would follow that policy or it says they are required, they shall follow the policy. So the only thing that's up in the air, I suppose, is why it would say Treasury Board may write a policy as opposed to why we wouldn't just say that Treasury Board will put a policy in place that all departments would follow – as opposed to they might do it.

They don't have to do it, they may do it. If they do it, everyone has got to follow it. If they don't do it, well then, there is no policy. That just seems a little bit open-ended there. I don't know why we wouldn't just say that Finance would just put a policy in place.

**CHAIR:** Shall clause 8 carry?

All those in favour?

**SOME HON. MEMBERS:** Aye.

**CHAIR:** Opposed?

Carried.

On motion, clause 8 carried.

**CLERK:** Clause 9.

**CHAIR:** Clause 9.

The hon. the Member for Mount Pearl North.

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

There are two instances of the word "may" in section 9. Let me explain why I'm concerned about that. One is in subsection (1) the Chief Procurement Officer may require coordinated or joint purchasing where that would be in the best interest of efficiency. If something is more

efficient why would the Chief Procurement Officer not be required to choose that course?

I'm just wondering in that first instance why is this first "may" not a "shall." I'd appreciate if the minister could comment on that first of all.

**CHAIR:** The hon. the Minister of Service NL.

**MR. JOYCE:** Mr. Chair, what that is, it's giving the Chief Procurement Officer the flexibility to go into anybody, any group, to walk in and say okay, hold it, there are four or five of you groups here, you guys can get together and get a better price. What it is, it's the flexibility for the Chief Procurement Officer to go in and do it.

The reason why this is put in and I'll just read it, "The chief procurement officer may require that public bodies coordinate the group purchasing of commodities or jointly purchase commodities where, in the opinion of the chief procurement officer, it is in the best interest of efficiency to do so." What we did here is we gave the flexibility to the Chief Procurement Officer to go in, if there are a certain number of departments that he feels or she feels that if they coordinate the buying power, they can get a better price for government.

I understand the difference between "may" and "shall." What we're saying is it's giving the flexibility to the Chief Procurement Officer to actually do that. So he or she can go in at any time. If he feels there are efficiencies he can do, he can go in and investigate. Once he goes in and investigates, if he feels – and he has authority to do that. So we're giving him the authority to go in and look at the different groups that are buying or selling to ensure that he's getting the best value for the province.

Thank you.

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

**MR. KENT:** The second instance of "may" is in subsection (2) of clause 9. It says the minister may exempt a public body from such a requirement. If the government appoints a Chief Procurement Officer to use their expertise to require an action, why should the minister retain

the power to overrule the CPO's decision, given that this needs to be an independent, objective, impartial office? I just worry, that sort of makes a mockery of the entire process and the legislation and its purpose of imposing transparency and accountability.

Why not require the public body to appeal to the CPO directly or require the minister to provide an account and a rationale for any such decision to overrule the Chief Procurement Officer and provide an exemption?

Finally, could the minister define a scenario where this discretionary power might actually be used and warranted?

**CHAIR:** The hon. the Minister of Service NL.

**MR. JOYCE:** I understand the concern, but you need to give every public body a chance to explain. If they feel very confident that they're put in a situation that there may be some efficiencies that they say is not an efficiency – I'll give you a good example. On the West Coast, if the Chief Procurement Officer says okay, you should buy five vehicles. You buy the five vehicles and you get a better deal, but one of the departments says hold it now, here's the type of vehicles we need. It's something specific for what they need. They can make an application to the minister and say we want to be exempt because our needs, our specifications are different from what the other four departments need.

That's just a very simplistic example but that is an example that was brought to my attention that can happen.

I just want to make it very clear, any exemption has to be posted online. This exemption won't be done with a stroke of the pen and it's ended. If the minister makes an exemption or, for example, Cabinet makes a decision on economic development, it has to be posted within 30 days.

If for some reason someone may say we want to have an appeal with this here, if it ever is done, and I'm not sure it will be but it's just an option, it has to be made public on the website, the decision made and the reasoning why.

That was something that was brought up. There should be an appeal mechanism. Will it be used?

I'm not sure but some bodies feel they should have that appeal mechanism just in case somewhere down the line they're put in a classification that maybe safety or life matters, they feel they should be exempt.

Thank you.

**CHAIR:** Shall clause 9 carry?

All those in favour, 'aye.'

**SOME HON. MEMBERS:** Aye.

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

Carried.

On motion, clause 9 carried.

**CLERK:** Clause 10.

**CHAIR:** Clause 10.

The hon. the Member for Mount Pearl North.

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

A bit of commentary and perhaps a couple of questions, and it relates to subsection (1) of clause 10, (f) and (g) refer to unwritten regulations. I don't want to make a big deal about the typical process we follow when new legislation is brought in. The minister has quite rightly pointed out that it's common practice for legislation to come in at some point after a bill is adopted. But in this particular case, there are some specific, broad concerns that we have about the bill and the answers will only lie in the regulations.

I suspect in some cases tonight, the minister will probably be able to give us some insight into what he expects will be contained in the regulations that might provide us with some comfort, but let me speak specifically to clause 10. In (f) the regulations may require that an annual procurement plan be filed. Just to give you an example of the kinds of questions we have: Which bodies might be required to submit such plans? Which might be exempted? What might these plans contain? We don't know at this point because we haven't seen the regulations.

So I'm just wondering if the minister has draft regulations that perhaps he could comment on. Based on the work during my brief stint in the office, I know we were working on draft regulations. In light of this piece of legislation I don't know where we are with that process, where government is with that process.

I'm just curious, let's start with the annual procurement plan. What bodies might be required to submit the plans? What might be exempted? What would we expect to see in these annual procurement plans?

**CHAIR:** The hon. the Minister of Service NL.

**MR. JOYCE:** Thank you.

I'm sorry for coughing a bit, but I just have a bit of a sore throat there is all.

Mr. Chair, what this gives the Chief Procurement Officer – and I'm not sure it ever happened in the Government of Newfoundland and Labrador. It gives him the authority to go in and look at departments, the body heads, look at their procurement plan and ask what it is.

For example if there is a body or an agency that's going to go buy 20 cars, he may go in and say what's your plan for this year for those vehicles. So he has the ability and he has a lot of authority here that he can go into a body or an agency who he knows, or he can find out what their purchasing plan is for that year and ask them to file a report to them, to him or her, about what their purchasing plan is for the year.

So he has that authority to ask anybody to submit a plan to him so he can review their plan on procurement for that coming year. Once they have the purchasing for an RFP, they have to file that with him. Then it will be put online.

In actual fact, when you see here the annual procurement plan is filed with the agency when required by the regulations, we're going to set up the regulations to have the Chief Procurement Officer with the authority to ask for a procurement plan by any agency, any department that is under his regulations. So this is strengthening this act a lot. Instead of just each department, each agency saying they're off on their own, this person has the authority to ask

for a procurement plan or if there's a group, he can go in, he has that authority.

So I feel confident that this will again bring savings to the people of Newfoundland and Labrador, because it strengthens this act again and strengthens the position of this person who has the authority to ask bodies how they're going to spend their money in the coming year.

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

**MR. KENT:** I appreciate that explanation and, to some extent, I agree with some of the sentiments the minister has expressed. Because we haven't seen the regulations that will apply to public bodies for annual reporting requirements, we don't know how much or how little they'll be required to report. For that reason, it would be helpful to see the draft regulations and better understand what is going to be expected.

In part two of clause 10 there's a requirement to comply with the policy put in place by Treasury Board in section 8. But again, we haven't seen a draft of the policy, and section 8 implies the Treasury Board may – not shall – establish such a policy.

So how could a public body be required to comply with a policy that may not exist? That's sort of a rhetorical question, I'd say to the minister, but it illustrates our concern with the legislation.

I know it might be hard for the minister to follow some of my questions with the Minister of Education jibber-jabbering over there all night, but I appreciate the ministers' attention and respect for the process. The disrespect the Minister of Education continues to show is something I wish –

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

**CHAIR:** Order, please!

**MR. KENT:** – more people could see, Mr. Chair.

**CHAIR:** The hon. the Member for Mount Pearl – Southlands.

**MR. LANE:** Mr. Chair, just for the record, I just want to say I do share the concerns that the Member for Mount Pearl North just outlined, particularly the second point he raised here around section 8 and the fact that when you go back to section 8 it says “may”, not “shall.” So we're basically saying that they're going to have to follow a policy established by Treasury Board and then that policy may not even exist –

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

**CHAIR:** Order, please!

**MR. LANE:** So that is a valid point and I just, for the record, wanted to share that concern as well.

Thank you.

**CHAIR:** The hon. the Member for Ferryland.

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

I'm just wondering in terms of section 10 that deals with the management of procurement, section (c) talks about the appropriate action is taken where there is failure to comply with the framework. Is that something that the Chief Procurement Officer would provide?

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

**MR. HUTCHINGS:** Section 10(e): “appropriate action is taken where there is a failure to comply with the framework ....”

I'm just wondering is that something the Chief Procurement Officer would oversee or would that be left to the public bodies or would there be consistent protocol to deal with such occurrences.

**CHAIR:** The hon. the Minister of Service NL.

**MR. JOYCE:** Once again, appropriate action is taken where there is a failure to comply with the framework. That's the duties of the Chief Procurement Officer, so he will have the authority to ask for the reports. If he doesn't get them, he has the authority to go seek the reports, so that would be his duties. He's getting a lot of power. He or she is getting a lot of power to ensure that all the public bodies are conforming

with the regulations and are living up – he has the authority to go in to ask for any report that comes in or ask for any RFP that went out. So he does have that authority, yes.

**CHAIR:** The hon. the Member for Ferryland.

**MR. HUTCHINGS:** Yes, thank you.

Just a quick follow-up: So he has the oversight and also he'd determine the appropriate action and what that would be.

**CHAIR:** The hon. the Minister of Service NL.

**MR. JOYCE:** Yes, he does. If he can't seek the action, he has the authority to report it then to the Lieutenant Governor in Council.

**CHAIR:** Shall clause 10 carry?

All those in favour, 'aye.'

**SOME HON. MEMBERS:** Aye.

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

Carried.

On motion, clause 10 carried.

**CLERK:** Clause 11.

**CHAIR:** Clause 11.

The hon. the Member for Mount Pearl North.

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

Subsection (1) in clause 11 is somewhat vague. Perhaps it's very vague. It says: "A public body shall establish clearly the requirements for fulfilling the terms of a contract ...." A couple of questions related to this that I'd like to pose to the minister. Will there be general terms established for all or most contracts, or will they be contract-specific? So rather than give you the list of questions, I'll start there. Will there be general terms established for all or most contracts or will they be contract-specific?

**CHAIR:** The hon. the Minister of Service NL.

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

As we said earlier today, I said on several occasions there will be education programs under the RFPs. Under these contracts there will be a variety of contracts, multiple contracts for multiple agencies, multiple departments. Municipalities also will be under this here.

It's up to whoever is the sponsor of the contract. It could be a municipality; it could be a department in government. It's up to them to oversee it, but the Chief Procurement Officer – when they report to the Chief Procurement Officer – they want the information and they will post it online. If they feel there's something wrong with the tender, with the process, the awarding or the work is not carried properly, they have the authority to go in and to seek more answers, more clarity.

If there is a contract given to one entity, it's up to that entity to follow through on the contract to ensure the requirements of the contract. But the Chief Procurement Officer has the authority to oversee or ask for a copy of it so they can go in, or it has to be sent to them to be posted online on the awarding.

They have the authority to ask for it. For example, they can go in and say we're going to do 10 or 15 this year; we're going to just go in and do an evaluation on the contract. They do have the authority, but it's the body itself that will have the control and to ensure the monitoring and efficiency of the contract.

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

**MR. KENT:** That's helpful. I just have a couple of quick follow-up points on that particular issue.

Are there draft requirements that might be applied broadly and generally that public bodies would use as a guideline. I'm wondering whether different public bodies would set different requirements from one another or will government attempt to ensure consistency?

**CHAIR:** The hon. the Minister of Service NL.

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



As I said today on several occasions, the government will try to set up a template to help all bodies who want to use the procurement act, to use the public procurement now for tendering RFPs. They would have a template and they would help with any municipality who needs any education. They will have education sessions across the province, not only the people who are going to use it, but also for the contractors, the suppliers, for anybody who will be using this act whatsoever in Newfoundland and Labrador.

The Member made a good point. There will be a template to follow. To the best of the ability, they will be asked to follow that template to ensure there's consistency. Of course, there are times when people have to ask for exemptions. They are times when, for example, health care won't be the same as municipal affairs, a prime example. I say to the Member, yes, there will be a template that hopefully we can set up to help guide anybody who wants to ensure they partake in this.

We will try to keep it as consistent as possible. We'll set up the template. We will have education for the users and the buyers and the sellers and for anybody else who wants any knowledge, who may partake in this because it's going to be a big thing when it comes to municipalities in Newfoundland and Labrador. It would be an issue for a lot of towns that would partake in this.

So there will be consistency, to the best of our ability, and there will be a template for RFPs in place to help.

**CHAIR:** The hon. the Member for Ferryland.

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

Minister, when you spoke in introducing, I think it was second reading you spoke about the ability to monitor specifications and whether they're met and what implications might be if the obligations of a contract weren't met. There could be implications for that. I think that's positive.

Is this the section that would actually deal with that?

**CHAIR:** The hon. the Minister of Service NL.

**MR. JOYCE:** No, under the current *Public Tender Act* it's very, very difficult. If someone is a bad contractor, he or she is a bad contractor it's very difficult because under the current tendering process, you have to accept the lowest bid. Under this procedure, I'll just use a town council for example, if a town council has a person or a company that is not following the requirements of the RFP they put in place, if you document the information and make the case to the Chief Procurement Officer then they can make the exemption on behalf of the town.

So you just can't walk in and say, no, we don't want you anymore. You have to make that case. You have to make the exemption to the Chief Procurement Officer who then would do an investigation. They can ask for an exemption from a company to be able to bid on a certain thing because of past practice.

**CHAIR:** The hon. the Member for Mount Pearl – Southlands.

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

I guess along the same lines as the Member for Ferryland. I think the minister answered the question, but I'm just going to put this out here anyway, just to make sure. Obviously, as has been said, this is talking about performance and so on by a contractor. Just to use an example, I think I might have used it when we were doing second reading or whatever on the bill.

We had a circumstance when I was on Mount Pearl City Council where we had a contractor who was doing the paving work and the work was, we felt, substandard. We made a complaint and there's no doubt that it was proven to be substandard and then even though the work was substandard and we had problems with that particular contractor on a couple of occasions, we were still forced – when it came next year to do bids, we wanted to say let's disqualify this particular contractor because he does bad work and we're going to exempt him from bidding anymore because he's not worth the headache, but we weren't permitted to do it. He was still able to bid, he got the low bid and we had to take him again.

So does that get dealt with under this piece?

**CHAIR:** Order, please!

The hon. the Minister of Service NL.

**MR. JOYCE:** It's not under this section, but under the act there is a provision in the act that if you justify the case to the Chief Procurement Officer, they can excuse people from putting in RFPs or tenders. In the past, you couldn't do it. Your lowest bid, you had to accept it. Right now, under this act if you can prove the case – and this is why documentation is very important and the education process is very important – if you can show the case where a successful bidder is not carrying out their duties as prescribed in the tender document, you can make application to the Chief Procurement Officer and they can give you an exemption of not including that person.

I understand the case that the Member is talking about because there are many cases across the province where a lot of council's hands are tied but, in this case, here they are not and they can get the best value and don't have to accept the lowest price.

**CHAIR (Dempster):** All those in favour, 'aye.'

**SOME HON. MEMBERS:** Aye.

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

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

**CHAIR:** There was a delay when there was nobody on the floor and the Speaker has called it, so we're going to move to the next and the Member will have another opportunity.

The Chair recognizes the hon. Member for Mount Pearl – North.

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

I appreciate your co-operation. I appreciate the minister's co-operation as well.

So just a couple of questions on this clause and then hopefully we can move on. I'm wondering what "monitor the performance of the contractor" means for a public body. Isn't that

the role of the Chief Procurement Officer under subsection 16(1)(f)(i)?

I'm just wondering will that create a duplication of work. Will the CPO have the authority to direct the public body in terms of the scope and quality of its monitoring activity? If the minister could comment on "monitor the performance of the contractor" I would appreciate that.

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

**MR. JOYCE:** I'm presuming section 11(1)?

**MR. KENT:** Yes.

**MR. JOYCE:** What that is – and this is what we were speaking about earlier – it's the responsibility for releasing the government funds or the tender or the RFP in process. The Chief Procurement Officer is saying you must keep all records – for example, cost that was used – if there are any issues with it, the type of work, the scope of work to ensure the work is the standard that the RFP or the tender was put out.

The reason why is that the Chief Procurement Officer has the ability to come back and look at any tender, any RFP, anything to do with government funding, government bodies. So they do have that authority. Under this act what they're saying to the bodies here is that if you're accepting government money, you have to keep the records properly so that we can come in and we can monitor it and make sure that it was spent properly. One part of it is to ensure proper bookkeeping, make sure all the regulations so they can come in. They do have the ability to come in and audit any tender, any process they want. They do have that ability.

The other note that I mentioned a couple of times, Madam Chair, the other note I made is that once a tender is awarded, it has to be sent to the Chief Procurement Officer and it has to be put online. So that's the part, it has to be put out and it will be put online. What the Chief Procurement Officer – if you're going to take these funds, if you're going to use these funds, you have to ensure that you monitor the work to ensure that it's done up to the standards and the

money is spent properly and is the best value for the money.

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

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

I just want to raise a quick concern about subsection (2) of clause 11 and then that will conclude my comments on clause 11. There's a requirement to abide by regulations that we haven't seen. I know it's customary that regulations come after the fact, but we think some of these issues are significant enough that we need to raise it.

I don't know if the minister wishes to comment. I understand if doesn't. I don't know if the minister wishes to comment on what the regulations may say about the manner in which complete records for all phases of the procurement process shall be maintained. I suspect there are draft regulations but I'm just wondering if the minister has a view on what he thinks that might look like.

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

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

There is a process. I can envision the process because, of course, I have seen it out my way. I mentioned it a couple of times today, a few RPFs.

Before you even put an RFP in you have to have the criteria that you're looking for to ensure that you have the matrix system, to ensure that when you evaluate the RFPs that come back in, it's consistent and there's a way that the performances and the bids that came in are evaluated in a very fair manner. That's just the first part.

The second part is once it's awarded, then also you have to ensure the work is done in the manner as prescribed. I know both have been – the Minister of Municipal Affairs. There's a prescription of how the funds have to be spent. There's a prescription there of the time that the funds have to be spent. If there is any change

you have to write back and ask for permission if you want to relocate some of the funds.

What they're saying in this act is that once the bid is in, once it's evaluated and the matrix system – once it's awarded, that's the first part. The second part then is to ensure the money is spent in the way that was prescribed in the RFP. That's the second part. The third part, then, is once that's completed you have to take it and supply the Chief Procurement Officer with all the information or ensure that he can come back and do an audit at any time.

Those are the regulations that I can envision. Those will be the regulations that I'll be ensuring is a part of it. It's one part of the process to make sure the RFP is sent out properly; the second part is to ensure that it's evaluated properly. The third part is that the work gets carried out so that to anybody, it's open and transparent to ensure we're getting the best value for the money.

Thank you.

**CHAIR:** The hon. the Member for Ferryland.

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

Just to the minister, if I could, just in regard to post-award requirements and other requirements on municipalities, especially smaller municipalities. I know you talked before about education and smaller municipalities, and things they'll have to do in terms of requirements to follow contracts.

Is there any special attention to the Chief Procurement office to provide extra assistance for those smaller municipalities? There are challenges in terms of their capacity and administration?

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

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

That is an issue, of course, in rural Newfoundland and Labrador with the smaller municipalities, I agree with the Member. That is why I say to the Member most municipalities that put in for water and sewer have a

consultant. Usually the consultant will help out with the RFPs.

With the education program that's going to be put out by the Chief Procurement Officer and his office – there will be an education program. There will be assistance also by the Chief Procurement Officer to help.

But as I mentioned just a few minutes ago, mostly all small towns have consultants. They are the ones who will help out, even now, for putting in their five-year plan. That is why we are proposing to raise the limits for the consultants, the engineering firms, up to a level so that a lot of smaller towns won't lose their consultants in the area. That is why we raised the limits, to ensure that somebody can't walk in and just take right over.

We raised the limits to ensure they can keep their local consultants with the tenders up to – we're looking at up to \$100,000 for engineering services. That's not the project, that's engineering services, which would be an \$800,000 or \$900,000 project, maybe a \$1 million project, it's all according.

So that would take care of that. Just then when we had Matthew – I know an engineering firm went down in the Member's district. They stayed there for a week down in the Bay d'Espoir area. The local consultants stayed for a week down there.

If you don't raise the limit up, I can see that local touch leaving the area. That would happen to a lot of smaller towns whereby they wouldn't have the ability, but when you raise the limit to that level, that will alleviate that problem there.

A lot of smaller municipalities are pleased with that. That was one of the things they wanted, to ensure that the limit is raised so they don't lose that personal touch. A great question, but that is in the act – that will be in the regulations to ensure that's taken care of.

**CHAIR:** The hon. the Member for Mount Pearl – Southlands.

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

I was actually going to ask that same question that was just asked. I thank the minister for the answer.

I guess tying in to that though – and it goes back to a section we already talked about. I know we can't really go back in time, but it is all, I suppose, related to this and related to small towns.

I'm assuming in the same token, we talked about an earlier section there that talked about the fact that the procurement officer could go to different public bodies and say you purchase things – he can say you purchase things together to get a better deal. I would assume in that same vein for small towns, even for these issues, that he could possibly go and say, you know what, rather than everybody having a bunch of consultants, put it all together and do all your projects together and save money, make it more efficient and it would make the paperwork easier. I would assume the procurement officer would be working towards improving those things for small towns as well.

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

**MR. JOYCE:** I agree that he will be working with small towns to help with group buying if it comes to any public funds. The idea of raising the limit for the engineering services is to ensure the smaller towns do have that flexibility to hire sometimes, in many cases, local companies who may be in certain parts of the province where there are not a lot of engineering services.

That is the idea of that, is to put it in the regulations so the small towns can have their local engineers close by without having to worry. If every cent for engineering has to go to RFPs, then they're not sure who they're going to get. It may change every time they get any public funds, like any capital works it may change. So the reason why we're going to put that regulation in is to safeguard for a lot of smaller towns in the Province of Newfoundland and Labrador to ensure these engineers are helping out the small towns and to ensure the small towns feel comfortable with their engineers.

Plus, Madam Chair, when you look at the larger projects – like I said earlier again, they're over

\$30 million – that's where you'll save the money if they go out for an RFP on those services. The smaller one, there are always times when you have to make a compromise. This is one compromise we will be making and the request came from Municipalities Newfoundland and Labrador. They understand that, so we're going to follow through with that to help out and to ensure that municipalities will be taken care of by their local consultants now.

Thank you.

**CHAIR:** All those in favour?

**SOME HON. MEMBERS:** Aye.

**CHAIR:** All those against?

Carried.

On motion, clause 11 carried.

**CLERK:** Clause 12.

**CHAIR:** Shall clause 12 carry?

The hon. Member for Mount Pearl North.

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

This is the debriefing and complaint clause. I think it's a concept that's progressive. Is the intent to smooth out the ruffled feathers of failed bidders and avoid lawsuits? I suspect it is. I wonder who in the public bodies would participate in these meetings with failed bidders. It could be a time-consuming process.

I guess my first question of the minister is: Does government anticipate requiring additional personnel to handle such meetings? Did government consider having a central body conduct these meetings to avoid a duplication of effort?

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

**MR. JOYCE:** Thank you.

The lawsuit part never came into – when we were discussing this, actually the lawsuit wasn't the issue we had because anybody has a right to

put in a lawsuit if they feel they've been wronged.

What this is, it is to have an open process. For example, most contractors in Newfoundland and Labrador are going to bid on more than one contract. They are going to bid on multiple contracts around Newfoundland and Labrador. The idea of this part, if someone says, well, I thought I should have had a better shot. They can go into the body and they can ask. They have to be debriefed on where they missed out on this project. The reason why that's a good policy is they can prepare for the next RFP they're going to have.

The lawsuit part, I never thought about it because if someone lost it, they are not going to be too concerned why they lost it. If they think they were wronged they can take it to court at any time.

The idea of this is the education process. When I mentioned earlier, Madam Chair, about the education process is that we would go out and educate the buyers. We would go out and educate people who are going to be using it. We'd educate all the public on this, and educate departments also on this here.

Right now, if you lose a tender, you lose a tender. If you looked it up and the tender is gone, okay, you're the lowest bidder, see you later, have a nice day. But under this here, this is part of the education process where someone can come in and say, okay, where did I go wrong on this? Where did I fall down on this? How is this evaluated, so they could know for the next project?

That's the intent of this section of the act, Madam Chair. It is to give people the opportunity to educate themselves, find out where they can improve themselves and become better knowledgeable of the procurement act and the RFP process.

So this is more of an educational tool. This is a way that people can come in and say, yeah, at least we have an open bid. At least they'll know it was an open bid and they can be debriefed by the public body itself. It's going to be in the legislation, Madam Chair, that they can request

it and they have to be debriefed on a RFP or a tender they lost.

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

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

I appreciate that explanation. Just a follow-up question or comment related to the complaints process. Because the regulations aren't yet available, I'm just wondering, in terms of the complaint process that's envisioned, are there any best practices that government has learned from? Are there any analysis documents that perhaps the minister could share that show how this might work to avoid landing the government in court or before a tribunal?

I'm just wondering; what does the government expect to happen following a complaint? Would there be an independent investigation? Will the complaint process cover those instances where the government has exempted procurement from the act, for example, if that means taking away a contract from someone who has it in order to give it to someone else.

What if there's a complaint that the bid should have been tendered differently, split into component parts for example. Will the complaint process cover such scenarios? That's a lot, but I think the minister has a sense of what I'm trying to get at. What's this process really going to look like in terms of complaints and how do we avoid some of those pitfalls that I've mentioned?

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

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

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

Once again, we did learn. We did go across – a jurisdictional scan across Canada to look at it. What we learned, and the information that we gathered from all across Canada, is the more information you can put in your RFP, the better chance you have of having a successful bid without a lawsuit at the end. That's what we learned mainly.

What we will do – and I'll say to the Member and this is why it's going to take a while in 2017 – we're going to have the education process. We're going to have the education process on how to administer it, what should be in the RFP, how to evaluate it, the matrix system involved and then also the complaint system.

There's one thing about the complaint system, anybody has the right to take it to court later if they feel. If they come in and follow the act – and if the Chief Procurement Officer, for any reason, feels there's wrong doing, he has the authority to step in. The Chief Procurement Officer will have the authority to step in if he feels there is wrong doing in that. He or she will have a lot of authority in this act.

On the hypothetical, what if he loses a contract? I really can't stand here and say. It's all according to what degree of the oversight or the mistake was on it, Madam Chair. The other thing I will say is that every RFP will be put online. So if they're put online, Madam Chair, everybody can see them. If anybody wants to come in, they can. If someone really feels they've been wronged or they really felt the system was stacked against them and it was not an honest mistake, that it was malicious, they do have the right to take it to court, and the Chief Procurement Officer does have the right to evaluate any RFP that's lodged with him – once it is done, they have to pass it on to the Chief Procurement Officer and he has the ability to audit any RFP in the Province of Newfoundland and Labrador that's given out.

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

**MR. KENT:** Actually, it was a reflex; I don't have any further questions on this clause.

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

**CHAIR:** All those in favour, 'aye.'

**SOME HON. MEMBERS:** Aye.

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

Carried.

On motion, clause 12 carried.

**CLERK:** Clause 13.

**CHAIR:** Shall clause 13 carry?

The hon. the Member for Mount Pearl North.

**MR. KENT:** (Inaudible) just working hard to keep up with you, Madam Chair. So I appreciate the opportunity to speak to clause 13.

A quick comment on this one: This feels a little general and perhaps a bit vague. The term performance will presumably be defined by public bodies under clause 11(1) and by the CPO under clause 16(1)(f). But the point I wanted to raise with the minister, it's important for suppliers to know how their performance will be judged in order to ensure that it's fair.

So what happens if they fail to perform? What happens if a supplier fails to perform? Will they be told early enough that they can adapt, and what happens if they believe they've been judged unfairly?

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

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

Once again, this is part of the education process. If you look under section 17(1), "The chief procurement officer shall review the practices of public bodies for acquiring commodities and make recommendations where the chief procurement officer considers it appropriate."

So if he feels that there's a supplier, he can step in to a public body and explain it to the public body or to the supplier. And the other thing that is very important – and I know I'm repeating myself, but it's very important. There will be an education process for the suppliers also.

If the suppliers need to go to the Chief Procurement office to say what are my duties and what are my responsibilities, they can go and seek advice, assistance. That is part of the process. That's where the public awareness comes in. It's going to be a process. Absolutely, it's going to take a while. That's why, Madam Chair, we said this won't be complete until 2017, and that's why, because we need the education process put in place.

If a supplier at any time feels that he has questions, they're open to help. If a supplier, unknowingly, don't follow the regulations, he can go in and sit down – and if it's an unwilling act and it was just an honest mistake, I'm sure that he won't be suspended.

I have to say, you just can't walk in – because under the act, you have to have documentation that this person had bad products, this person gave bad service and this person has to be documented. They just can't walk in a say, I don't like your supplies. So it has to be documented. Then it has to be brought to the Chief Procurement Officer, his office or her office, to say this person and here's the reason why. It has to be the documentation.

If it's caught early enough I'm very, very sure, just human nature, would want to lend out any information or any education to help because most suppliers in Newfoundland and Labrador, I find that I've been dealing with over my number of years in government, want to ensure what their rights are so when they make a bid, when they come in and they want to supply a service, they know what the rules and regulations are. I'm pretty confident they'll be sitting in on a lot of these sessions to ensure what rights and regulations they would have to follow also.

I said earlier, Madam Chair, the education process for suppliers are going to be very intense also. It's going to be public so anybody who feels they'll be doing any work with government will avail of this.

**CHAIR:** The hon. the Member for Mount Pearl – Southlands.

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

I just noticed something here now that I hadn't noticed originally, but under section 13 we're talking about supplier performance. I know we technically can't go back but if we were to go back to 12, it would say supplier debriefing and complaints and all that stuff, but it saying supplier. That's the point I want to make.

If you go to the definitions in the bill, the definition of supplier, "supplier" means an individual, partnership, corporation, joint venture or other form of business organization

engaged in the lawful supply of commodities.”  
That’s a supplier.

Prior to that, we talked about we talked about services: “services’ means (i) all services incidental to the supply of goods including the provision of transportation of all kinds, (ii) printing and reproduction services, (iii) accounting, land surveying and voice telephone services, (iv) engineering services, (v) architectural services, (vi) banking services not captured by subparagraph (p)(ii), (vii) insurance services ....”

So I’m assuming, Minister, maybe it was an oversight, maybe not, but when we’re taking about supplier performance and supplier complaints and all that, I’m guessing that intent is that it is supplier and service provider complaints and supplier and service provider performance. But it doesn’t say it; it just says supplier and you’re leaving out the service providers. Even though that might be the intent, I think that might be an oversight, perhaps.

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

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

A supplier could be a supplier of goods or services. A supplier in the definition is a supplier in good or services. You may be a supplier in some goods that you may sell, or you may be a supplier in some services that you’re providing. In both cases, a supplier must live up to their obligations and also if a supplier in any one of those incidents feel like they’ve been wronged, they have a right to make a complaint to the Chief Procurement Officer and then that would be looked into.

The supplier is goods or services that are being provided.

**CHAIR:** The hon. the Member for Mount Pearl – Southlands.

**MR. LANE:** Madam Chair, I thank the minister for that but again just to go to the definition, the definition doesn’t say that. Supplier, in the definitions in this act, is talking about the provider of commodities, and services are separate. So to make it accurate, either the

definition should be changed for supplier to say that supplier means commodities or provision of services in the definition. Or if you’re not going to change the definition, then in those sections, you should say supplier and service provider.

I know that’s the intent that the minister is saying and I’m sure that is the intent and I agree, but that’s not the way it is written in the legislation.

Again for the record, I want to point out that the legislation is not reflecting that the way it’s written.

**CHAIR:** All those in favour?

**SOME HON. MEMBERS:** Aye.

**CHAIR:** All those against, ‘nay.’

Carried.

On motion, clause 13 carried.

**CHAIR:** Now we’re moving on to Part II of the act and I’m going to call 14 to 21 inclusive, but you’ll be able to ask your questions on anything from 14 to 21 inclusive.

**CLERK:** Clauses 14 to 21 inclusive.

**CHAIR:** Shall clauses 14 to 21 inclusive carry?

The hon. the Member for Mount Pearl North.

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

I’ll do them in order and I don’t have questions on all of them, but I do have questions on most of them.

Clause 14, this is the Government Purchasing Agency transforming into the new procurement body. I guess I’m wondering what changes are anticipated to the Government Purchasing Agency.

From my own recollection, having worked with the agency for two or three months, I suspect there will be some impact because the act will change how procurement is done in government.



How will employees be impacted? The minister has commented tonight on the need for managing change and educating in 2017, but in terms of the employees specifically, what will the impact be? Have they been engaged in preparing for the change? Are people being trained for new duties or do we envision new personnel coming in? Will the government maximize continuity and minimize disruption for as seamless a transition as possible. Also, I'm just wondering how quickly that transition could occur in 2017.

Yeah, that's really the extent of it. My concern is for the employees that are going to be impacted and what the plan will be to manage that in 2017.

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

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

As you know, now it's under the government procurement officer and the government procurement agency. There will be changes, absolutely. I envision more staff in the office when you look at the duties that are going to be put in place, when you look at the oversight that's going to be put in place.

As you know, we're in constant contact with the people in the office now who helped out a lot with this. We envision that there will be more staff because it is a big process. We're looking in the long run that this will be a savings to the government and savings to municipalities.

Can I say how many more it's going to be? We're going to leave that up to the Chief Procurement Officer and the staff that he would need. We have some idea but I envision there will be more people in that agency. I think there are about three or four now. They're doing tremendous work. I can envision having more, like you say, for the education to evaluate RFPs, for assistance. I can see more staff there.

I can't put a number on it, but I can assure you there will be an increase in staff because there will be an increase in responsibility, increase in duties. There will be much more assistance to all

the public bodies and all the town councils and agencies that would use this.

I look forward to it. I know the staff over there are very excited. I know the staff have been working very diligently to get this through. I feel confident they're going to do a great job. I can see an increase in staff in the office itself.

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

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

I take some comfort in the minister's comments. There have been people at the Government Purchasing Agency that have been working on this for years. They appreciate, more than most, how complicated this is, how procurement practices are evolving and why it's taken us so long to get to this point. So I appreciate his acknowledgement of the effort of the staff. I want to join him in acknowledging the staff of the Government Purchasing Agency who have contributed to this effort for the last number of years.

I won't say too much about 15. It relates to the Independent Appointments Commission and how the Chief Procurement Officer will be selected. It will go through that IAC process that we talked about earlier today, a list will be generated and then Cabinet will make a decision. Members in this House know my views on that process so I won't prolong debate by commenting further on that at this point in time.

I will go to clause 16. Under (1)(c) and (h) the Chief Procurement Officer will develop policies and procedures. The same comment I've been making throughout the debate, we don't really know what that will look like so if the minister can shed any light, great. If he can't at this point, I respect that as well.

More specifically, under (2) of clause 16 it reads: "The chief procurement officer shall, in the development of the general policies respecting the procurement of commodities, apply those social, economic and environmental priorities that the Lieutenant-Governor in Council may direct."

So, again, the Cabinet may develop priorities that may be social, economic and environmental in scope. That's very open ended so I don't know if that's much different than what we talked about earlier with similar language in another clause. I'm just curious about what it might mean. Cabinet will have the authority to create built-in biases that will determine how best value is judged. I don't mean bias in a really negative sense, it's just that there will be subjective decisions made on how best value will be judged and these could change at Cabinet's discretion.

Will the public and bidders know fully and clearly what Cabinet's direction is when it comes to these priorities? How quickly could they change? Could they change mid-process or after the fact? So we are concerned about Cabinet's discretion here. Will bidders feel they're playing on a level playing field with consistent rules? So that's some commentary.

I have a question that's similar to one I asked earlier around trade agreements. Is there any analysis to indicate whether this provision we're talking about here could withstand a challenge under trade agreements and in the courts? Any chance that the minister could tell us more about those priorities that are referenced in this section? Should Cabinet be obligated to define any priorities or changes in priorities publicly and thoroughly so that all bidders know the lay of the land before they spend money on their bids?

Thank you.

**CHAIR:** The hon. the Minister of Service NL.

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

As we stated here earlier and we will state again, government will follow all trade agreements. That was a bit of a discussion earlier about the lenses that this act is going to be put through. As we said earlier, it is going to be put through the Women's Policy and it is going to be put through disability. It's going to be put through all different lenses to help out the people in Newfoundland and Labrador in all walks of life.

When you hear the social, economic and environmental priorities that the Lieutenant

Governor in Council may direct, we're directing all to be put through every lens in the department in this Province of Newfoundland and Labrador. This is a primary example of what we're going to be – and we already directed all the agencies that any bill that comes through, any act comes through, any regulations we're going to set up has to go through all those lenses, Madam Chair.

Just on another note when you mentioned section 6, that is why we have a Chief Procurement Officer set up – as we said earlier, he is going to set up the general policies. This is part of the education process that when he sets it up, he'll establish them and then the education process will go out.

All the existing agreements that we had, we will live by them. We will work within the existing agreements. Most of the exemptions that I mentioned here today that we are looking at raising are all within the Atlantic Procurement Agreement. We looked across Atlantic Canada and we looked at the ceilings and we followed most. We are looking at all the provinces and we also looked mainly at Atlantic Canada for some of the ceilings that they have put in place.

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

**MR. KENT:** Thank you.

I appreciate the minister's comments. The House will be pleased to know that I don't have anything to say about clause 17, and I only have a quick comment on clause 18. I just want to reiterate our concern around the "may" versus "shall" in terms of the Treasury Board setting policies. We question why that's "may." But the minister did address that to some extent earlier, so I don't really want to pursue that point any further at this point.

I'll move to clause 19. Should the Chief Procurement Officer's reports to the minister be published virtually immediately as a matter of course – and I recognize that immediately is probably not the right choice of words because it will take a reasonable amount of time for that to get uploaded and posted online or whatever the case may be. But I guess the point is, shouldn't those reports to the minister be published really

quickly and shouldn't they be public documents?

Would they be accessible under ATIPP? If so, shouldn't there be a requirement in this act for proactive disclosure of those reports? If the Chief Procurement Officer finds an issue that ought to be brought to the minister's attention, shouldn't it also be brought to the public's attention?

Why not add a requirement that all such reports should be published virtually immediately, like within a short time frame? But proactive disclosure of these reports at the very least, it seems like it would make sense given the significance. I'm sure that's been considered and I'd welcome the minister's thoughts on that.

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

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

They will be published online as soon as possible. That is the commitment we made.

Here's the other thing, Madam Chair, that has been brought up here today, we're going to set up a database for any business in Newfoundland and Labrador who wants to look at what's available in Newfoundland and Labrador to bid on. We're going to have one central database so they can come instead of waiting to look in the newspaper to see what public tendering is out.

We're setting up a system where we're going to put all potential RFPs for tenders online so any company in Newfoundland and Labrador can come in and look and see what's available, to ensure that everybody in the Province of Newfoundland and Labrador who wants to look and see what's available – can be available so they can bid. Not if you have to look at your newspaper – I remember years ago we used to look in the newspaper to see what tenders are coming up. Now, our process, that's one part of it that's not available now that we're going to set up. This is a part of this.

The other thing is that all tenders that were awarded will be put online as quick as possible. We're working with OCIO now, Madam Chair, and we're working with the Privacy Commissioner. That's another one we were

working with, the Privacy Commissioner, to ensure that what we're allowed to put online we will put online as quick as possible.

But the big part – and I've had all the businesses in Newfoundland and Labrador and have it in *Hansard* – is that we will be setting up a system whereby they come in here. We're pro-business. We want people to have – every person in Newfoundland and Labrador – the opportunity to see what's available, that they can bid on anywhere in Newfoundland and Labrador so no one can say I never saw that or I wasn't sure about that. We're going to make it user-friendly for the businesses of Newfoundland and Labrador.

In actual fact, when I met with some of the businesses they were very pleased with that. They were very pleased that every contractor in Newfoundland and Labrador can go and punch in one little thing, they can be on it and they can look at everything that's being offered. That's going to increase competitiveness. It's going to download and hopefully save the province money because everybody in the Province of Newfoundland and Labrador will have the same opportunity.

So to end your answer very, very quickly; yes, it will be put online as soon as possible. That will be in the regulations. That will be part of the process we set up.

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

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

On to clause 20; in a similar fashion, I'd say to the minister, should there be an immediate public disclosure of the decisions that are made under section 20? The exceptions we're talking about here would be made in the interest of efficiency. So shouldn't there be an obligation for public bodies to minimize the number of instances where compliance with the purposes of the act is inefficient?

Could a public body drag its heels in an attempt to trigger an exemption on the basis of efficiency? Shouldn't a public body be held to account publicly if its own inefficiency has created the need for an exception? If the minister

has any thoughts on that, I'd certainly welcome them.

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

**MR. JOYCE:** I know it's late.

**CHAIR:** Sorry, Minister, it's getting late.

**MR. JOYCE:** I know it's late, but there are only a few of us young ones who can keep going.

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

**MR. JOYCE:** Myself and the Member for Mount Pearl North are the only two ones here.

What it does here is give flexibility to the Chief Procurement Officer if some emergency arises. That's no different now with the exemption in the *Public Tender Act* if there is an emergency. It gives a bit of flexibility.

But there's one thing happening now and it happened here before I say to the Member. Every time the Legislature is open we get a list – drop down as the exemptions. What's going to happen now is these exemptions are going to be posted online as soon as possible.

So we won't be waiting for the House of Assembly to open. The people in the House of Assembly will get these here and any exemptions will be put online. Then, as soon as possible, as soon as the exemptions are done, I think within 30 days, they will be put online. So they are going to be put online.

The reason for the exemption and what exemption was given will be posted online for everybody in Newfoundland. Because we know, we get them here in the House when the House of Assembly is open. If the House of Assembly is not open, we have to wait until the House opens. Under our regulations that we're going to put in, they will be posted online as soon as possible, after the exemption, the reason why and who got the exemption.

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

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

The 30-day time frame, I think, is a reasonable goal. Some could argue it could be 14 days, but I think it's important to acknowledge that 30 days is far better than quarterly. It's three times better, I think.

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

**MR. KENT:** Is it? Is that good math? Okay, thanks, because it's 11:36 p.m. I barely know where I am let alone whether the math is accurate at this point. I'll give Ross a call when we get out of here.

**AN HON. MEMBER:** He's probably up watching anyway.

**MR. KENT:** He probably is up watching, yes. So if you are Ross: Hello. It would be interesting to know if anybody is actually watching.

A quick comment on section 21 – I know we're doing clauses 14 to 21, Madam Chair.

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

**CHAIR:** Order, please!

**MR. KENT:** This will be my last question related to that group of clauses. Minister, I'm going to ask you about subsections (1) and (4). Under subsection (1) does the minister know of anybody that this section might be applied to? Under subsection (4) shouldn't this information be disclosed fairly quickly to the public?

Subsection (1): Does the minister know of anybody that this section might be applied to? Under subsection (4): We feel this information should be disclosed relatively quickly, if not immediately. I'm just curious if the minister wishes to comment on either of those items.

Thanks.

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

**MR. JOYCE:** I can tell you one thing: I'm not saying good night to Ross Wiseman. You can be rest assured of that.

Once again: "... is satisfied that it is in the interest of efficiency to do so, the agency shall acquire, by purchase or otherwise, all commodities that are required by a public body that is not a department of the government and to which public body the Lieutenant-Governor in Council directs that this section shall apply." We put that in there just in case there is some emergency that arises or something pops up within it.

It wasn't put in for any specific reason that this would happen or I have any knowledge that it would happen, just let the minister know. Then, this is the other thing: when there's an exemption made, they have it done within 30 days. It may be done sooner but within 30 days.

**CHAIR:** All those in favour?

**SOME HON. MEMBERS:** Aye.

**CHAIR:** All those against?

Carried.

On motion, clause 21 carried.

**CLERK:** Clauses 22 through 29 inclusive.

**CHAIR:** Shall clauses 22 to 29 inclusive carry?

The hon. the Member for Mount Pearl – Southlands.

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

The first one I have is section 27, just a question. It says: "The minister may set fees and establish forms for the purpose and administration of this Act and the regulations." I was going to say I'm wondering if the minister could tell me what the fees are for. Maybe when he gets an opportunity he can explain section 27 and exactly what those fees are for because it doesn't specify here.

The other sections are 28 and 29. These are really two big sections that I have an awful lot of concern about and I think most Members would have concern about. I'm not going to get into any big, long debate on it. We can see they're listed here from section 28, (a) to (q), and that covers off the Lieutenant Governor in Council. Basically, that means the Cabinet.

It's saying basically that the Cabinet may make regulations and then it lists regulations from (a) to (q). All of these regulations that are listed here are really the heart and soul of what this legislation is all about. The problem we have and the problem I have is that you are being asked to vote in favour of a piece of legislation when so many sections and critical elements to the legislation are all going to be contained in the regulations.

Therefore there are all kinds of things now, regulations that are going to be made that are going to cover things such as – I'm not going to read them all but it talks about supplier performance, it talks about the manner in which bids are to be evaluated. So, again, I think the minister has indicated that it's going to be some kind of a point system. Now I'm not sure exactly how that point system is going to work. Will the price be a big portion of it? What portion of it would be related to price? Is there anything in that section that talk about local suppliers?

There are a lot of companies, I would suggest, that would think that, as opposed to just low bid when we talk about best value, there should be some consideration for local suppliers. We know when we talk best value, which we've talked about in general terms, if a local company receives the work, yes, they maybe a little bit more expensive, but in terms of the overall value, you're employing Newfoundlanders and Labradorians.

So you're creating jobs. You're putting that money back into the economy through taxes and so on. The more people that are working and paying taxes, then more businesses open and more people go to work and so on. There's obviously a value when Newfoundlanders and Labradorians and Newfoundland and Labrador companies receive the work as opposed to Mainland outfits where basically all the money is going out of the province. We're not getting any benefit, or we're getting limited benefit, from those contracts than we would if it was done locally.

Certainly, over the years I've talked to a number of – even my days on council – local companies who felt there should be something in the regulations, if you will, or in the act that would give some sort of advantage to a local company

as opposed to – and we all know there would have to be limitations because if not, if we said it was just local got it every time, then they could bid double the price of everybody else and say, well, you have to give it to me. That's not a good value either, but maybe some sort of a variance to say if a local company is within 10 per cent of the out-of-province bids, well then the local company should have some preference to get to work or to sell the products and so on. That's something that, when we talk about the manner in which this is done under the regulations, it doesn't give any details as to what that matrix might look like.

So, again, not to belabour the point, we've talked about it before, section 28 gives the Cabinet the total discretion to put in all of these regulations which are going to cover a lot of the important parts of the legislation.

Section 29 speaks to the actual Procurement Advisory Council, their terms of reference, the composition and the duties of the Procurement Advisory Council. That's left up to the minister in the regulations to determine what that is.

I don't understand, to some degree, in the act itself it outlines all the duties, responsibilities and stuff for the Chief Procurement Officer, but when it comes to the actual committee it says it will be under the regulations. So I don't know why one would be under the act and the other would be under the regulations. You'd think they would both be under the act. I can't understand why that would be.

Obviously, without belabouring the point, these are the concerns that I have under 28 and 29, the fact that there are so many unanswered questions and really we're being asked to vote on something that is left wide open.

For the record, I understand that anytime we vote for a bill in the House, we're not voting on the regulations. I know we're not voting on the regulations. That's common practice. We know that. I acknowledge that. I'm not saying that all the regulations should be here. I guess the concern I have is there are things that are being left to the regulations that could be, and should be, included in the act.

If a number of these things that are in these regulations are put into the act and we have the main points and the most important points, the salient points in the act, then we could vote for it and say okay, well, we understand there are going to be some fine details to be worked out in the regulations. We're okay with that, but that's not the case. Everything is left to the regulations and we don't know, in a sense, what we're voting for.

That's the concern I have with 28 and 29.

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

**MR. KENT:** Thank you.

Some of the concerns the Member has expressed around clauses 28 and 29 I would share, so I'll try not to repeat them.

**MR. HUTCHINGS:** Hear, hear!

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

**MR. KENT:** This microphone is live and it can hear you.

**MR. HUTCHINGS:** It's efficiency.

**MR. KENT:** A quick comment on 22, I don't have a question. The information there is going to be defined in regulations. We have some concerns because we ought to be told what information will be disclosed.

On clause 23, I'd ask the minister: What current agreements and what pending agreements might this apply to? I was wondering if he could describe any impacts in terms of this bill. If there is any government analysis that's been done on this part, any examples, ways this clause or provision could be used as it relates to the *Intergovernmental Affairs Act*, I'd be interested. So, again, what current agreements and what pending agreements might this apply to in relation to the *Intergovernmental Affairs Act*?

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

**MR. JOYCE:** Thank you.

The *Intergovernmental Affairs Act* is with other entities and bodies in other provinces, so the minister may enter into agreements respecting procurement of commodities. As we said earlier, this would include the other provinces that may partake in it. That was asked earlier. These are just some agreements that may be in place or we may put in place.

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

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

Clause 24; this section says the government is bound, but the scope of authority of the Public Procurement Agency and the Chief Procurement Officer is somewhat limited in places and it may be limited further by regulations. Cabinet does have broad discretionary powers that the Chief Procurement Officer can't overrule. If you look at sections 7, 9 or 16 in particular in Clause 24, that issue becomes apparent. I guess this section makes it appear that government is more tightly bound than it actually is.

That's really all I have to say on that. I'll comment on clause 25 as well. The minister will appoint the members of the PAC other than the Chief Procurement Officer which Cabinet may appoint. So we have some concern about the objectivity and the independence of that group. Ideally, that council would be a council of independent people with proven expertise. Perhaps it could even have representatives of certain independent bodies and professional associations, business and trade groups for instance.

Under subsection (4) in clause 25, most things about the Procurement Advisory Council will be defined by regulations again. For that reason, we raise those issues. I don't have a particular question but I did want to make those observations.

Clause 26; it's not uncommon to have a no-liability clause, but what if one of these individuals behaves unethically while claiming to be acting in good faith. There is a reference to a duty imposed by regulations that we've not seen in draft form. That's my comment on the no-liability clause. I don't know if that's something the minister wishes to speak to.

In clause 27 we have a reference to things not yet seen; fees, forms, regulations. I think the Member for Mount Pearl – Southlands addressed that in his remarks so I won't belabour that point.

Before I go on to 28 and 29, if there's anything the minister wishes to respond to in what I've said, I'm happy to allow him. I'll take my seat and allow the minister to comment.

**CHAIR:** The hon. the Minister of Service NL.

**MR. JOYCE:** I'll just speak on clause 26. It says: "An action does not lie against the minister, the chief procurement officer, the agency, an employee of the agency, a public body, an employee of a public body or other person acting in good faith in the execution of a duty imposed or a decision made under the authority of this Act or the regulations."

What that's saying is that this is protection. You cannot be sued if you're acting in good faith. This is part of the protection that if you're acting in good faith, you're not liable for it. But if there's malice there, of course you know you can be sued.

This is protection for anybody who acts in good faith – and things down the road, someone comes back and says you didn't carry out your duties. But if it was shown that they did it in good faith and everything was followed by the regulations, then it's protection for everybody in the agency with this.

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

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

Just for clarity, before I wrap up in this part of the act that we're debating, we're currently debating clauses 22 to 29. Is that correct?

**CHAIR:** Yes it is.

**MR. KENT:** Yes. Thank you.

I'll speak to 28 and 29 again, not at length because my former colleague, now – I don't really know how to describe the Member for Mount Pearl – Southlands; your former

colleague, my former colleague, everybody's colleague.

**MS. MICHAEL:** Not ours yet.

**CHAIR:** Order, please!

**MR. KENT:** The House Leader for the New Democratic Party says not yet her colleague, so you never know what –

**MS. MICHAEL:** Might as well.

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

**CHAIR:** Order, please!

**MR. KENT:** I have to honestly say, Mr. Chair, I don't usually find the Member – and I say this with the utmost respect – for St. John's East – Quidi Vidi funny, but tonight she's been somewhat funny.

**MS. MICHAEL:** You don't know her.

**MR. KENT:** Oh, I do. Let's move on, we're getting way too friendly now.

Sections 28 and 29; the Member for Mount Pearl – Southlands did a good job of outlining some of the concerns. I'm going to voice mine again. Then I don't have any further questions on clauses 28 or 29.

The issue is that these are parts of the law that are not yet defined. We feel that we're giving Cabinet a blank cheque to define these at their discretion and Cabinet has the ability to change them at will. I'm going to read them right now. They're exceptionally broad so that's a concern.

This is probably the biggest source of disagreement because, overall, I believe this is good legislation. I do.

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

**MR. KENT:** I've said that. I've said that in second reading and I'll say it again tonight on record in this House. I believe there are lots of things about this legislation that are good, but the bulk of our concern lies right here in section 28 and 29.

The regulations that Cabinet may make include: “(a) respecting the manner in which public bodies procure commodities; (b) respecting when an open call for bids is not required respecting the procurement of commodities; (c) respecting alternative procurement approaches for the procurement of commodities; (d) respecting the manner in which public bodies shall maintain records respecting procurement of commodities; (e) respecting when annual procurement plans shall be required from public bodies, and the form and content of those plans; (f) respecting the manner in which bids are to be evaluated; (g) respecting the manner in which contracts are to be awarded; (h) establishing the processes to be followed for the submitting and treatment of supplier complaints; (i) respecting supplier performance; (j) establishing monetary amounts at which an open call for bids is required; (k) establishing monetary amounts below which there is no requirement to issue an open call for bids; (l) governing the form and content of the electronic notification system; (m) defining the scope, content and limits of policies respecting the procurement of commodities that may be established by the chief procurement officer; (n) defining the information about procurement activities that shall be published; (o) establishing time periods for the required publication of information; (p) defining a word or phrase not defined in this Act; and (q) generally, to give effect to this Act.”

Then, regulations by the minister – so not Cabinet, but regulations that the minister himself or herself can make: “(a) the terms of reference for the Procurement Advisory Council; (b) the composition of the Procurement Advisory Council; and (c) the duties of the Procurement Advisory Council.” Therein lies our concern.

I acknowledge that for some of these issues the minister's answers during debate have been helpful and they've shed a little more light on where government intends to go with this. Even in the initial briefing and also in the news conference, some of these issues were touched on in the presentation as well.

Our concern really lies in the fact that there's still a lot left to be defined in regulations. That may be a point that we just respectfully agree to disagree on. I understand the process, I respect the process, but that really is our fundamental –



well, probably our most significant concern with the legislation. So I'd say to the minister I appreciate all his answers this evening so far. I don't have a lot of questions left and I don't know if he wishes to respond to anything I've just said, but I just want to be on record once again as outlining why we do have some concern.

For clauses 22 to 29 I'll leave it there, Mr. Chair.

Thank you.

**CHAIR:** The hon. the Minister of Service NL.

**MR. JOYCE:** I'll only be brief. I understand, and as we all know, that when the legislation is brought in the regulations do follow. I understand the Member saying that there's a lot of authority in the hands of the minister, the Lieutenant Governor in Council, for this. I understand that.

But I also have to make it quite clear: We're bringing this bill in for the best value for the people of Newfoundland and Labrador. We were asked to bring this in – I can list off the people we met with who asked us to bring this bill in. I understand a bit of skepticism about the regulations, but in our discussions we gave parameters of what we were bringing into the bill.

Mr. Chair, we're very confident that when we bring in the regulations, which will be public, which will be made known to everybody, we feel very confident that people will embrace this bill. And I thank the Member for asking so many questions tonight, and I thank everybody who participated in the debate tonight and for the last couple of days – thank you because it's very valuable. I hope that the Member can look back next year when we're here – all these regulations can be debated in the House of Assembly or questions asked once they're put in place.

So it's not that you can say we're going to put regulations in and never going to hear from them again. I'm hoping and I feel very confident that when we as a government bring in these regulations and pass this act and get this up and running, as we've been asked to by the Province of Newfoundland and Labrador, that the Member can come back and say yes, most of

these regulations we agree with, and yes, they're there for the betterment.

Because I can assure you one thing, Mr. Chair, everything that we do with the regulations will be in the best interest of the people of Newfoundland and Labrador to take out the old *Public Tender Act* and bring in this, which we'll get the best value and there's a lot of benefit in there for a lot of people of Newfoundland and Labrador, and we're just glad we can bring it in.

I thank you for the questions. I thank you for the debate. This is the way democracy should work and have a debate.

Thank you, Mr. Chair.

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

**CHAIR:** Clauses 22 to 29 inclusive.

All those in favour, 'aye.'

**SOME HON. MEMBERS:** Aye.

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

Carried.

On motion, clauses 22 through 29 carried.

**CLERK:** Part IV, clauses 30 to 36 inclusive.

**CHAIR:** Part IV, clauses 30 to 36 inclusive.

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

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

I just have one question. It relates to two sections though, section 30 and section 33. In section 30, which talks about the *Energy Corporation Act* and talks about the *Public Procurement Act* and the corporation being exempt, what my question is about for the minister is about the report. In number 30, the corporation or a subsidiary, when they act under the exemption, are responsible for sending a report and the copy of the report which is to the Chief Procurement Officer appointed under the

*Public Procurement Act* who shall post a copy of it on the electronic notification system.

Section 33 refers to the report which deals with the *Research and Development Council Act*. We know that the Research and Development Council will also be exempted from the *Public Procurement Act* under certain circumstances which he has spoken to already. The Research and Development Council will also have to send in a report to the Chief Procurement Officer and that too will be posted.

The problem I have that I'd like the minister to speak to is the fact there is no direction about what the report should contain. Again, I don't think that's a regulatory thing. I think that's something that should be in the act. What are the expectations of those reports? What is the information that should be in the report?

Either one of those bodies could say we had so many projects that we did seek through RFPs for, maybe not in a public way, and we talked to three different companies and we hired one. Well, that report wouldn't give them very much detail.

So it bothers me that you have this open-ended thing, this open-ended clause in both cases saying that the minister responsible receives the report and sends it on; yet no details, no guidelines whatsoever, what should be in those reports.

I'd like to know: Does the minister have an expectation that's not written in the legislation? I don't see it as being something that would be a regulation; maybe he sees it that way. But to me, it's another place which is a glaring example of where there needs to be more detail.

Thank you, Mr. Chair.

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

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

Mr. Chair, this is probably going to be my last time speaking to this now in Committee and I just want to reiterate some points I made earlier in second reading.

Section 30 says: "Section 17.1 of the *Energy Corporation Act* is repealed and the following substituted ..." – of course, the *Energy Corporation Act* refers to Nalcor. Section 17(1) says: "The corporation or a subsidiary is exempt from the *Public Procurement Act* with respect to the procurement in the following areas: (a) energy and energy products; (b) where the corporation or a subsidiary is acting in a strategic partnership, joint venture, or equity investment with other public bodies or private sector entities; or (c) for the purpose of meeting the requirements of a benefit arrangement."

Again, Mr. Chair, the concern I have with this is the number of exemptions that we have here. Now, there's no doubt – and again I'm going to say it for the record because I want to make sure that I'm quite crystal clear when I say this; including Nalcor under the procurement act is a good thing. I support it. I'm glad it's being done; I support it 100 per cent.

I'm also glad to hear the Minister of Natural Resources, earlier today, when she said that Newfoundland Hydro is already covered and it won't be just the office supplies and stuff like that but if they're going to do some kind of retrofit in Holyrood, or substation or any of that kind of stuff, any work and all that stuff, that is going to be done through the procurement act. If that's the case, good; I'm glad to hear it, support it, good job. I have no issue there.

The only issue I'm going to raise is the fact that we all know that we have an ongoing issue at Muskrat Falls. And I'm going to be the first one – before anyone else says over there – yes, I voted for Muskrat Falls. Never denied it, not once did I deny that I did because I did. I did so in good faith based on the information that I was provided with at the time. Now, were there people who said there would be overruns? Sure there were, but at the end of the day, I don't know if anyone expected the number of overruns and contract delays and everything that happened.

Now, some people will say I told you so. Maybe so, I didn't see it and it certainly wasn't what I was told. There's no doubt that we've seen numerous delays and cost overruns at the Muskrat Falls Project. We hear from people who talk about the fact that things weren't awarded

properly. There were cost-plus contracts as opposed to performance-based contracts on issues like the pouring of the cement.

We know we had a doom that was half built and then they tore it down again. There was a question as to the company that got it, really was that the best value? We should have went with the other company that had experience and all those things.

All of those issues and concerns in theory would have and could have and should be addressed under procurement legislation to hopefully stop that type of thing. If we had it in place, maybe, I don't know, I can't say but maybe some of these things wouldn't have happened.

We need to learn from what's happened. That's why I have the concern, when we look at all the exemptions – and I did ask the question earlier. I know the minister said he wasn't going to answer hypothetical. That's fair enough, but I do throw it out there that based on the way this is written and so on, if we were to, at some point in the future, decide we were going to develop the Lower Churchill, the real Lower Churchill, the name escapes me now for a second. What's that one called?

**AN HON. MEMBER:** Gull Island.

**MR. LANE:** Gull Island, the big one. If we were to decide that was going to be developed and we did enter into, hypothetically, a partnership with Quebec or whatever, then the way I read this is that project, for example, would be exempted from the *Public Procurement Act*.

Now, I could be wrong but that's how I read it. It would be exempted and therefore we could potentially be in the exact same situation in the future as we are with this project today in terms of not having to follow a *Public Procurement Act*. Not knowing what contracts are being awarded. How they're being awarded. If they're being done best value like we're asking for under this legislation and so on. I see, potentially, a lost opportunity here. With all of these exemptions, I see a potential lost opportunity to do it right in the future. That's my concern about this particular section and about these particular exemptions.

Now, does it say – yes, it does. It does say that if they make these exemptions they do have to report to the minister within six months of contracts that were awarded and the minister then reports that to the Chief Procurement Officer who will post it online or whatever he'll do. He'll make it public or she'll make it public.

But what is being made public? That's the question. What is being made public? Is it simply going to be a list saying this company was awarded this contract six months ago and here's the cost. It didn't address any of the details as to why that was awarded or why someone else wasn't awarded or what process was followed or was there any process followed. Did it go out for bids or did they just simply award it to whoever they wanted to award it to? There's nothing written in this legislation that says – all it says is that they have to put it out there that this company was awarded the contract. There's nothing in here that says there has to be any further details other than that.

I think that's what the Member for Quidi Vidi was saying, something similar to that anyway, similar type of concerns. So those are the concerns I have about that.

With that said, I'm pretty much finished now speaking in Committee, to the Committee of the Whole, to this bill. I will say that from an overall perspective, as the Member for Mount Pearl North said, I think its good legislation. From an overall perspective I think its good legislation. The spirit of what's here I think is good. I really think that there's an attempt to move this forward, something that is long needed, should have been done long ago, and I support that concept.

I will say that I continue to have the concerns I just raised about this section and certainly 28 and 29. So when it comes to third reading and the final vote, I'm going to be honest, I'm still torn. I'm not sure if I'm going to support it or I'm not because I want to support it. I honestly really want to support this legislation but I still have those concerns. I'm not sure how you weigh that out when there's a lot of things that you'd be voting for that you really don't have all the details on.

With that said, I'll take my seat.

Thank you, Mr. Chair.

**CHAIR:** The hon. the Minister of Business, Tourism, Culture and Rural Development.

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

I'd like to respond to the question posed by the Member for St. John's East – Quidi Vidi about the *Research and Development Council Act*, section 33.

This act is operationalized by RDC, the Research & Development Corporation. It basically takes aspects of research and development from pre-commercial to commercial space. So the nature of the work for items – there are some items that will be proprietary or commercial, but previously in the procurement act, RDC was wholly exempt. So pens, pencils, staplers, furnishings, anything they would purchase for their day-to-day operations, now all of those purchases, computer, all of those types of things, will be included in the act.

When you talk about the reporting mechanism that's here to make sure there is proactive and public disclosure, this is a good process. It's about accountability, transparency and that these mechanisms will be reported. The same would go as well for section 30 when it comes to the reporting mechanism. This is about good public governance and proactive disclosure.

Thank you.

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

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

I'm almost done. I don't have many questions left.

**MR. BROWNE:** Hear, hear!

**MR. KENT:** I'm glad the Member for Placentia West – Bellevue is excited by that. Most days he has a spirited hear, hear at some point. I appreciate that. It's music to our ears.

On section 30, I think we've covered that previously early in the debate, so I won't repeat that. Section 31 we still have concerns as they relate to the process for the Independent Appointments Commission. Section 33 we've addressed earlier tonight in terms of the exceptions for the Research and Development Council.

I'm going to jump to the final clause, clause 36, just related to proclamation. It will be at the discretion of Cabinet. The minister has said quite clearly that the act will be implemented in 2017. So I guess I have just two final questions, hopefully, for the minister.

One, I was wondering if you could comment on how things are going in terms of developing the regulations? Are they in fact drafted at this point? From my recollection of the work we were doing in the Government Purchasing Agency last year, there was a lot of work done. So my suspicion is that the regulations are near done. I was just wondering if the minister could comment on that.

Just while we're actually in debate in the House I'd like him to just comment on his intention for proclamation of the act. I know that's a Cabinet decision but I sense from the minister's comments that it's government's intention to see this act fully proclaimed at some point in 2017. I'd appreciate the minister's comments on that. I'll let him respond to that, first of all, and then I'll clue up.

**CHAIR:** The hon. the Minister of Service NL.

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

Thank you for the questions.

All the regulations aren't developed yet. What we have are parameters that we're setting up of where we'd like to go. We gave a lot of indications to the ceilings of what we're going to do with services, with goods. We already explained about the Atlantic procurement act. We already explained about CETA. We have a parameter of where we'd like to go but the regulations aren't set yet.

As for the proclamation and this is very important; I know the Member for Signal Hill –

Quidi Vidi mentioned the other day what's going to fill in for this act. I was going to bring it up the other day but I was just going to wait. What's going to happen is the act that's currently in place will stay there until this is proclaimed. The act that's there now is going to stay, just because this gets passed now and the other is not (inaudible) until it's proclaimed.

The other thing for the Member for Mount Pearl North, our intent is to develop the regulations to have the education of the process in place for suppliers and bidders, to have a template done up. Then, we're looking at proclaiming the act.

My intent is to have it done in 2017. I said that earlier, I'll still stick to that. But I will make a commitment, Mr. Chair. I will make a commitment that if, for some reason, it can't be done – I'll say to the Member for Mount Pearl North, if for some reason it can't be done, I'll walk in my place here and explain why it can't be done.

My intention right now, and the government's intention, is to have this done by 2017, but there's a lot of work to it. By the time you get the Chief Procurement Officer in place, by the time you set up the template, by the time you have the education process for suppliers and buyers, by the time you get OCIO to get the system up and running online for anybody who wants to go online, for the suppliers to see what's available and also to put the winning bids online – so there's going to be a lot of work to do it.

My intent is to bring it in, in 2017. If not, I'll make a commitment and come back and I'll stand personally and explain why it's not done. But that's the intent with the co-operation of everybody.

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

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

Just in closing, I want to thank the minister for answering all of my questions throughout this debate. This is an important piece of legislation. I believe it will be good for government and good for the province. Based on the answers I've received, while I have some concerns – and

they're on record – I do intend to vote for the legislation and I'm glad that procurement reform is moving forward.

I wish government well with implementation, and I appreciate the minister answering my questions during Committee.

Thank you.

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

All those in favour, 'aye.'

**SOME HON. MEMBERS:** Aye.

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

On motion, clauses 30 through 36 carried.

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

**CHAIR:** Shall the enacting clause carry?

All those in favour, 'aye.'

**SOME HON. MEMBERS:** Aye.

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

Carried.

On motion, enacting clause carried.

**CLERK:** An Act Respecting Procurement By Public Bodies.

**CHAIR:** Shall the title carry?

All those in favour, 'aye.'

**SOME HON. MEMBERS:** Aye.

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

Carried.

On motion, title carried.

**CHAIR:** Shall I report the bill without amendment?

All those in favour, 'aye.'

**SOME HON. MEMBERS:** Aye.

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

Carried.

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

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

**MR. A. PARSONS:** I move, Mr. Chair, that the Committee rise and report Bill 46.

**CHAIR:** The motion is that the Committee rise and report Bill 46.

Shall the motion carry?

All those in favour, 'aye.'

**SOME HON. MEMBERS:** Aye.

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

Carried.

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

**MR. SPEAKER (Osborne):** The hon. the Deputy Chair of Committees.

**MR. WARR:** Mr. Speaker, the Committee of the Whole have considered the matters to them referred and have directed me to report Bill 46 carried 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 46 carried 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, I call from the Order Paper – I'm just kidding.

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

**MR. A. PARSONS:** Mr. Speaker, I move, seconded by the Member for Fogo Island – Cape Freels, that the House do now adjourn.

**MR. SPEAKER:** The motion is that the House do now adjourn.

All those in favour, 'aye.'

**SOME HON. MEMBERS:** Aye.

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

Carried.

This House stands adjourned until tomorrow at 1:30 in the afternoon.

On motion, the House at its rising adjourned until tomorrow, Tuesday, at 1:30 p.m.