



Province of Newfoundland and Labrador

FORTY-EIGHTH GENERAL ASSEMBLY
OF
NEWFOUNDLAND AND LABRADOR

Volume XLVIII

SECOND SESSION

Number 28A

HANSARD

Speaker: Honourable Perry Trimper, MHA

Thursday

October 19, 2017
(Night Sitting)

The House resumed at 6:30 p.m.

MR. SPEAKER (Trimper): Order, please!

Are the House Leaders ready?

The hon. the Government House Leader.

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

I'm happy to stand here now. My understanding is –

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

The hon. the Government House Leader.

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

Yes, the clock is now running. As I stand here now, I'm ready to close debate on second reading of Bill 14, which is the amendments to the *Elections Act, 1991*.

I'd first like to begin by thanking my colleagues on both sides of the House for their contributions to this debate. There were a lot of people who had an opportunity to contribute to this and I appreciate that. I've certainly been listening and had an opportunity to count the points of view that were expressed by both sides, so I appreciate that.

What I would say is that – I guess there are two parts to this, Mr. Speaker. Often there's the back and forth, the cut and thrust of Question Period, which is both necessary and good, and at the same time can be a little more entertaining than perhaps the actual debate which is a bit longer. Obviously, not done in 45 second sound bites we'll say.

Also, the debate is a great opportunity for people to take a bit longer to be able to explain what their position is, why their position is that way, and their rationale behind that.

I think during my first hour I explained the position of government as it relates to the amendments that we're suggesting to this bill here. I put them out there, and the Opposition has had an opportunity to stand up and they've made clear that while there are sections of that

piece of legislation that they don't have any issue with, because in many cases they are – I hate the term inconsequential – less minor. They have expressed their concerns with certain provisions as it relates to nomination dates, as it relates to campaign times, caps and so on.

One of the things I promised during this debate was that I would listen, that I would have an open mind, that I would go in here, and I like to think I carry that into every debate. In this case, certainly something that's as important as this bill, where – just so people know, normally during a session you have multiple pieces of legislation, but in this case we are here for the express provision of dealing with this particular piece of legislation.

One of the things I wanted to talk about – I have just a few minutes here before I conclude. One of the points that has been brought up is, there have been arguments made about favouring incumbents, about the length of time for nomination times and not having a cap allows possible, theoretical ways for an incumbent government to take an advantage.

While I think in some cases – I can certainly guarantee that this bill was not drafted with many of those thoughts in mind. The fact is that's the job of an Opposition to bring those up. Being over there, I've done that, and I appreciate that. This is a situation, as I've explained, where this was done because we have a piece of legislation that had important sections ruled unconstitutional, invalid, and they expressly provide for a by-election to possibly be unconstitutional.

We all agree, there is no disagreement here amongst anybody, that there is a need for special ballots. We need to amend this to ensure that every voter has the right to cast that vote. We all know about section 3 of the Charter, which guarantees us the right to vote in an election, but this decision by Justice Butler – which many of us have taken an opportunity to read – talks about special ballots.

The fact is just putting your vote in the box is not sufficient. We must have an informed electorate who have an opportunity to know who they are casting that vote for. In some cases it's been proposed that the way the previous rule

was set up, voting on a special ballot may be less than a vote cast on polling day, because you could have cast it when you may not have known who the people running were. You haven't had an opportunity to inform yourself of their positions. Just having the right to vote is one thing, but it's having the right to have an informed vote.

There are a lot of great analyses. Justice Butler refers to the case law that's been done elsewhere. We've all recognized that. What it comes down to, I think, is that we know we have to have a special ballot provision. We also know – again, one of the issues here was the special ballots prior to nomination. Now, what I will say is in just about every other jurisdiction they still allow post-writ, pre-nomination special ballots, which there is a fear in a lot of other provinces that their legislation could be challenged. We're trying to say no to that. I don't think there's an issue amongst Members on that: getting rid of the pre-nomination period. Because once you hit nomination, you know who is running, you know who's not running and you cast the informed vote.

Other provinces still have the pre-nomination special ballot. So one of the things we haven't done, while we've done a jurisdictional scan, we not mirroring other legislation in other provinces because theirs could fall prey to a constitutional challenge. The legislation that we've put out is constitutionally sound. I think that part has been settled.

One of the things we talked about too, the issue is that special ballot period where that takes time. We must allow for sufficient time of the special ballot to be applied for, to be received, for the voter to be informed, send it back and the vote is cast.

Finally, we know that you can't take one of these time periods in isolation without affecting the other time periods. Everything comes together to form the entire campaign. All the parts must work together to make it functional.

It comes down to numbers, really. What we suggested is a five-day nomination, what we suggested was a minimum of 26-days, and then there was no cap. What I would say is everything we've suggested is happening in

some other province or jurisdiction; the federal government: no cap. Provincial governments, they have a cap. In fact, if you go through the range here, the range is as low as 4 days for nomination and as high as 19 days for nomination, so there's a certain range there.

I would also note that if you do a jurisdictional scan, nomination day – again, I've already said it ranges, but for instance Alberta has the 10th day after the writ, and 28th day after the writ is the polling period. So there are 18 days in there. We look at BC, their nomination is seven days. New Brunswick, it's actually 20 days, but then they have 32 days after the writ. So it's these time periods in between.

Now, in some cases, it doesn't matter to them because they're casting the special ballot before the nomination, but we don't want to go there. We are choosing to avoid that, to avoid any possibility of an uninformed electorate – the reason that we are here in the first place.

So you can see the wide range here and you can see that some of these pieces of legislation, some of these provisions in other governments, may have their challenges. They may have them. We think that we have something that will withstand that in this province. If you go across the board, it's completely different.

The other thing to keep in mind is that one of the issues that has been brought up is the possibility it's the favouring of an incumbent government because a lot of the talk has not been about the electorate; it's been talking about an incumbent government favouring itself.

One of the things that I wanted to point out, I just go back to history. So what I've done is looked back to all of the by-elections that have been held going back to 2006. The Opposition, and I appreciate the fact that they're not just saying we don't like it, they're saying this is what we think is right, and I appreciate it. It's one thing to complain. I've always said that and I said it when I was in Opposition. There's no sense just complaining. If you don't like it, what do you suggest and why do you suggest it?

To that, I say thank you to the Opposition for putting forward your suggestions. I think what they've suggested is a longer nomination period,

a longer election and they would like a cap. But there is one thing I want to note, I think it's important, I think one of the things – again, I may get it wrong and they'll have an opportunity during Committee to discuss this – is that they discuss having an election campaign period of being 30 days, or 34 days or maybe up as high as 40 days.

What I would note that in every by-election between 2006 and 2014, which is when the previous administration was in, the longest campaign – which happened once – was 25 days. The vast majority were 22 days and there were 17 by-elections – not one was over 25 days. Now, I think that's important.

In some of those cases – again, I get the incumbent government part. But the fact is in many of those cases – the last by-election, for instance, in Humber East, November 3, 2014, was when the resignation date happened. In fact, the government at that time dropped the writ the same day. The by-election was held 22 days later, but in that case the person elected did not get elected to the incumbent government. So, in some cases, it can go both ways, but it's certainly not always favourable to incumbent governments and certainly not always favourable to Opposition. I think that it depends on so many variables, so many factors.

What I would say is this is why I have some issue with some of the propositions put forward, but going back to what I said earlier and what I said during the Question Period and during the debate is that I would listen to the suggestions put forward.

I think I'm going to show that we are willing to do that as a government with the fact that when we get to Committee stage, I have three amendments that I'm ready to put forward for consideration by this House and they are as follows: The nomination date we are proposing – and I'll put this forward in an amendment – will go from five days to eight days. Eight days certainly puts you in the range of Ontario, BC, Manitoba, Nunavut and the Northwest Territories. That's the amendment that we are willing to put forward. We listened to the concern, the concern had some merit and we are willing to listen.

The second amendment that we'll put forward is we have said the minimum campaign, a minimum of 26 days. The fact is you could – even some other provinces have this – keep it at 26 days and possibly still meet that constitutional scrutiny. Remember the issue here is the time between nomination end and the writ. So before, we had five and 26 which gives you a significant period of time in between to do that.

What we've done here is we've gone from five days to eight days, and what we're suggesting is that the campaign be a minimum of 28 days. Again, that is three days longer than every single by-election held in the last decade. At no point has it ever gone higher than 25, and I think that's noteworthy. I think we have to look back at history and see what actually happened.

The fact is what we're putting forward is two extra days than what was there. The reason for that is because if you increase the nomination period, we have to increase it on the back end to make sure that we ensure that constitutionally in there. Again, I think this will pass muster and I think it will withstand scrutiny.

Now, one of the other issues that was brought up by the Opposition was that they didn't like the idea of no cap. Some will say, well, it favours an incumbent government. My favourite example of how that's not true in all cases is the previous Conservative government in Ottawa where former Prime Minister Harper had a very long campaign and it didn't work.

But that being said, some of the suggestions that the Members put forward about you could possibly, theoretically, do this, or possibly theoretically do that – do you know what? If it's theoretically possible, in some cases it's certainly possible. So what we are suggesting, the third thing we want to change is in the second amendment, that the date of proclamation be no more than 35 clear days. I think that is also a very noteworthy change. There is now a cap, which should completely alleviate the concern felt by the Opposition that an incumbent government could drop the writ very early, with an extended campaign, being well financed with all their candidates ready.

I still think it was a very, very unlikely hypothetical, but the concern was put out and in

this case I think that concern is completely alleviated with this suggestion. There are multiple reasons why I don't think anybody wants an extended campaign of the nature that has been put out there. They're very expensive, they take a long time and they're very grueling. Anybody in this House who has been through a campaign knows it's extremely tough. I think that this alleviates the concern. We're certainly happy with that and we'll be putting it forward.

The last concern – and I apologize, but I'm going to give credit to the Member for St. John's East – Quidi Vidi, who I think specifically mentioned this issue to me. If the Official Opposition mentioned, it I apologize, but I know we had this – in fact, I know this is something that she discussed, she brought forward and she would likely have made her own amendment on it. So what we're saying now, we're going to propose an amendment during Committee where we would change clause 86.4(1) where would say: Where a special ballot does not the list the name and particulars of each candidate, the special ballot kit shall include a document with the name and particulars of each candidate.

The concern put forward was a valid one. We don't want blank sheets. In fact, when you read the decision you could talk about how somebody voted, put their vote in and said PC, but what if the candidate was named Paul Clarke and he was running for the NDP. That leaves the fact that there's a less-than-informed voter; that is not going to work.

In this case I still think it would have been fine, but the concern was still there: What could go wrong? The concern was brought forward and I agree. So what we've done here, I think, is put forward an amendment, a suggestion that we're going to put forward during Committee that we think alleviates that, so that every voter will be informed. And if they don't get the actual special ballot that you see in normal election, the information will be in the same package ensuring that they have access to the nominated candidates that will be running.

I think, Mr. Speaker, and my understanding is that with the amendments that are going to be proposed, that there's nothing else that needs to be changed to ensure that one change causes another. I think that will be fine.

What I would suggest again, as anybody who watches this House knows, as we go through the Committee stage all Members have an opportunity to stand and ask questions, to put their point forward, to question to see if there's anything else. We've done it. It can take some time, and certainly we'll be here as long as we need to be. All Members know that.

I think what we've indicated here, because there was some concern that government doesn't listen, and that's fine. I get that. I felt that way in the past, but what I'm saying is in this case I do think we are listening. I do think we had a bill that would have worked and would have been better than what we had and would have been constituently compliant. I think it would have met everything, but you know what. With the suggestions that have been put forward I do agree. I think it can be better, and we're happy to do that because at the end of the day every single legislator in this House wants the best piece of legislation possible.

When legislation is found to be unconstitutional it reflects on all of us, and we don't want that because at the end of the day, regardless of Party stripe, we are all legislators. We all share this burden and this duty and this responsibility. I know every single one of us feel that way.

At this time, Mr. Speaker, before I stop, there was a lot of work that went into this bill from a lot of people who are not in this House. They are legislative drafters, they are policy advisors, they are lawyers, they are solicitors. Everybody in this House has dealt with them and worked with them. In fact, they're working this afternoon. So I want to thank them. They're unseen and they're unnamed, but the fact is they do a lot of good work. Often we forget to appreciate it, but we all certainly appreciate the fact that the legislation we debate is put together by a lot of people who are great public servants of this province.

On that note, Mr. Speaker, I'd like to thank my colleagues for their support and their words to this bill. I'd like to thank the Opposition for their attention to this debate and the fact that they've taken the time to do the briefings, to do the work, to ask the questions and I appreciate that.

On that note, Mr. Speaker, I'll take my seat and we'll move forward to Committee.

Thank you.

SOME HON. MEMBERS: Hear, hear!

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

The motion is that Bill 14 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 (Barnes): A bill, An Act To Amend The Elections Act, 1991. (Bill 14)

MR. SPEAKER: This bill has now been read a second time. When shall the bill be referred to a Committee of the Whole House?

Now? Tomorrow?

MR. A. PARSONS: Now.

MR. SPEAKER: Now.

On motion, a bill, "An Act To Amend The Elections Act, 1991," read a second, ordered referred to a Committee of the Whole House presently, by leave. (Bill 14)

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 14.

MR. SPEAKER: It is moved and seconded that I do now leave the Chair for the House to

resolve itself into a Committee of the Whole to consider the said bill.

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

All those in favour, 'aye.'

SOME HON. MEMBERS: Aye.

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

Motion carried.

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

Committee of the Whole

CHAIR (Warr): Order, please!

We are now considering Bill 14, An Act To Amend The Elections Act, 1991.

A bill, "An Act To Amend The Elections Act, 1991." (Bill 14)

CLERK: Clause 1.

CHAIR: Shall clause 1 carry?

The Chair recognizes the hon. the Minister of Justice and Public Safety.

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

At this point, again, no need to belabour it. I've made clear in my closing remarks to the end of second reading that we believe an amendment would work with this clause 1. At this point we're moving an amendment that clause 1 of the bill be deleted and the following substituted:

Subsection 58(1) of the *Elections Act, 1991* is repealed and the following substituted: 58(1) the day of polling to be fixed by the proclamation required under section 57 shall be a day not less than 28 clear days from the date of the proclamation nor more than 35 clear days.

CHAIR: Order, please!

The Committee will recess to consider the said amendment.

Recess

CHAIR: Order, please!

The amendment to subsection 58(1), we've seen that amendment as okay.

It has been moved by the hon. the Government House Leader that clause 58(1) be amended.

Is it the pleasure of the Committee to adopt the amendment?

All those in favour, 'aye.'

The Chair recognizes the hon. the Member for Conception Bay South.

MR. PETTEN: Thank you, Mr. Chair.

Mr. Chair, it's good to get up again and speak. I spoke this afternoon in second reading of this bill. As I stated then, I'll say it again now, this is an important piece of our legislation; it's part of our democracy. I know we as a caucus – I know personally and all of us here on this side of the House in the Official Opposition felt very strongly about that.

As we the week has progressed, I guess from Monday on – from really Friday when we had our briefing, we felt there was a fundamental problem with this bill. We have presented it, and the Opposition House Leader mentioned as well that we have done a decent job. We've done our job as an Opposition for bringing that to the floor of the House of Assembly and to debate it in this nature that we've debated.

I guess feeling strongly about anything, no matter what it is, whether it's inside or outside this Legislature, you have to stand by your beliefs. I believe as a group we did. I'd like to be on record to say that's something that we really did fight for. It was something that was important to us on this clause: the election writ period.

I made a few notes as the Opposition House Leader was speaking there, and explaining it very well, but I guess what always jumped out at

me during the last week, since last Friday I guess, was an element of: You may be overreacting; or trust us, this is not going to happen; it's highly unlikely – some of these quotes.

I take anyone at their word and I can agree to go along with whatever commentary like that. I trust what the Opposition House Leader had to say personally, but technically we're not talking about this Parliament; we're talking about future parliaments down the road. So to have this changed and have it in place now, it's important, 20 years down the road when – 10 years down the road probably not many of us will be around here. It's an elections bill, it's about our democracy and it's about doing it right.

I've always been a believer, if you're going to do it, you should do it right. In this regard, you can make mistakes, but we have been criticized earlier for the mistakes made in 2007 and I feel that we lobbied hard to have this done right this time.

On this first amendment, by having a period from 28 to 35 days, we would have liked longer. We've argued we wanted longer to give Elections Newfoundland and Labrador more time to do the special ballots, but we're still happy to know that we do have a set writ period now and end date. Before we had a minimum of 26, with an unlimited date, unlimited election period.

We wanted longer; 34 to 40, I believe, was our motion to have a 10-day nomination period which would give candidates time to get everything set up, for parties to run their nomination races, to have them in place, then to give Elections Newfoundland and Labrador enough time to carry out the special balloting.

Realistically, that's what we're here for. I said this afternoon the special ballots, that's what we can back for. At first it was like, okay, Justice Butler ruled, we come back. I really came in thinking, I think most of us technically thought we were just doing an adjustment for special balloting, until we came and realized there were other triggers. If one clause changed, you had to change another and I got all that and the time periods.

We argued on a fixed writ period; 28 to 35, we figured longer to give more time for nominations, as I just said, but we're satisfied with having a definite period in time because this government may not do a snap election. This government may not do an extended campaign as the Opposition House Leader referred to the federal Conservatives did two years ago. We don't know; we can't look into the future. There's no crystal ball here to tell us what's going to happen down the road.

This is where I come back to my piece on democracy; you have to build on your election. This is for future parliaments. So this is, again, I'll say, doing it right. I'll go back to another comment I said during second reading and I think is worth mentioning again. The whole reason we brought in fixed election dates, the opponents were out there saying the governing parties controlled elections. They tried to put the Opposition at a disadvantage. For the most part, they did and that's the power of being in government sometimes that you could do that. People ran up to five years, the government was on its last legs – people would be waiting for the election call to come.

By having this fixed period and having set election dates, for the most part, we're going to close in on that set period. Once again – I won't take much longer – I just want to be on record to say that was something that we really fought hard for, we believed in, and we're glad to see there was movement on it. Ideally, like I said, we would have liked it to have been longer but, in any event, it's something that we support.

Thank you very much, Mr. Chair.

SOME HON. MEMBERS: Hear, hear!

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

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

I'm not opposed to this amendment, obviously, but I want to make a point about the amendment that we're making and the discussion that has gone on around it because I think part of the problem is that we have the conundrum of trying

to set a rule that fits both general election and by-election. That's problematic.

I think when the Official Opposition was raising the 10 days, for example, between the writ and the nomination deadline – I know that's later, but the two things are so connected that I sort of have to mention it – that the issues they are raising, I agreed when we were talking about a by-election. But when we're talking about a general election, it's different.

So this whole thing of setting the days, whether it's the length of the campaign or not, or the time between the writ and the deadline for nominations I think we really need to have a serious discussion. I hope the democratic reform that the minister has been talking about, we're going to really sit down and work all this stuff out, because I do think there are two different things. We need to talk about that and we need to work it out. I don't know if other legislatures have legislation that has different rules for a by-election, a general election, and I don't care. I think that it really is an issue and it's something that we need to talk about.

Having said that, given the context we're in I will support this amendment, but I do think we have to have a bigger, a larger discussion about our whole *Elections Act*, and particularly, the difference between by-elections and general elections.

In part of the work that I did over the last few days, while we were working on this bill outside of the House, because there was research that had to be done in my discussion with the Chief Electoral Officer, he recognized and brought up the issue of the difference between by-elections and general elections. So I think it is something that we are going to have to deal with.

Thank you very much.

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

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

I won't belabour this at all. I just say I appreciate the comments from the Members opposite. In response to the comments from the Member for St. John's East – Quidi Vidi, what I would say is

that part of the mandate given to me by the Premier is to bring a resolution to this House for democratic reform from Members for this entire House.

It's an issue that's had some attention in the media. I can guarantee you that I will be fulfilling that mandate at some juncture, sooner rather than later. That will be a great opportunity for parliamentarians, for academics, for media, for the general public, for civil servants to have an opportunity to contribute to further changes to the *Elections Act* or any legislation to make our democracy better.

Again, I appreciate the fact that, you know what, I think we have good changes here. I think we can all get together and possibly figure out ways to enhance accountability, to increase participation and to make our elections better and make our democracy better.

On that note, I'll sit and thank the Members opposite.

CHAIR: Is it the pleasure of the Committee to adopt the amendment?

All those in favour?

SOME HON. MEMBERS: Aye.

CHAIR: Those against?

Carried.

On motion, amendment carried.

CHAIR: Shall clause 1, with amendment, carry?

All those in favour?

SOME HON. MEMBERS: Aye.

CHAIR: Those against?

Carried.

On motion, clause 1, as amended, carried.

CLERK: Clause 2.

CHAIR: Clause 2.

The Chair recognizes the hon. the Minister of Justice and Public Safety.

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

No need to belabour the point. I said during second reading I would do this and now I'll be moving an amendment to clause 2 of this bill that says: Clause 2 of the bill is amended by deleting the word "fifth" in the proposed section 59 and substituting the word "eighth."

There's a copy here for the Table.

CHAIR: Okay, we'll recess the Committee again.

Recess

MR. CHAIR: Order, please!

It is ruled that the amendment is in order.

The Chair recognizes the hon. the Member for Ferryland.

MR. HUTCHINGS: Thank you, Mr. Chair.

I would like to propose a sub-amendment to the amendment as presented by the Government House Leader.

The proposed amendment to clause 2 of the bill is sub-amended by deleting the word "eighth" in the proposed section 59 and substituting the word "tenth."

CHAIR: The Committee will recess to have a look at the sub-amendment.

Recess

CHAIR: It is deemed that the sub-amendment is in order.

The hon. the Leader of the Opposition.

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

Thank you for finding the sub-amendment in order. What's happened here so far is the bill before the House, Bill 14, was requiring that nominations for candidates shall close on the fifth day after date of proclamation. We've said

in second reading and we've said outside the House this week that five days was unacceptable. We felt, under current rules, under our current legislation, which has been in place for decades, there are actually 11 days allowed for nominations and that's worked very well for our province for a very, very long time.

Government proposed only five days, which I talked at length this afternoon in second reading – I was up on my feet for a full hour and much of what I talked about was the five days being unacceptable and how the report that was done by Justice Butler, as a result of the application filed before them resulting from a 2011 election, said that special ballots were unconstitutional. Special ballots were about making election rules and processes more constitutional and more co-operative and beneficial to people who want to participate, not less constitutional. It's about more democracy in our system, not about less.

When we change the rules to change the bill, because Justice Butler said the current legislation is unconstitutional about special ballots, we have to make them more constitutional. We have to make them more democratic. We shouldn't compromise other aspects of the election rules. We shouldn't make other aspects of the election rules less democratic. That, Mr. Chair, was the crux of our issue with the five days. The bill before the House was making it less democratic.

Currently, I've heard a lot of people – we've been using the nomination period as 10 days. It's actually 11 days under current rules. We've said 10 days is necessary. I gave all the reasons for it today. A person needs time to decide if they're going to run, if they're going to be a candidate or not. A person needs to have an opportunity to get their affairs in order. If they decide to compete or participate in a party's nomination race, the party needs several days for that nomination race to take place. Once completed, and a candidate has been chosen, it needs some time, then, to finalize the documentation to file their nomination.

The Government House Leader, in his discussion earlier, referenced other provinces and the periods of time they have. He talked about all of them. Some of them have seven days, eight days and so on. I went through them,

because there's actually a Schedule B attached to the Supreme Court report of Justice Butler. When I looked at them, if we adopt the recommendation of eight days, the amendment brought down or proposed by the government to move from five days to eight days, we'll still have less democracy than any of the other five Eastern Canadian provinces. Quebec has 24 days; New Brunswick, 12; Nova Scotia, 10 to 16; PEI, nine to 15. So to have eight, Mr. Chair, I would argue is less democracy than all of those other provinces.

Every province east of Canada, Newfoundland and Labrador would have the narrowest window for nominations. I say to all Members of the House that should not be the case. We don't have to be the least in Canada; we can be within the range. We don't have to be the least in Eastern Canada. We don't have to be the least from Quebec and we don't have to be the least of the Atlantic provinces. We can be at least what they are, or in their ballpark.

That's one of the reasons why we felt that 10 was an appropriate number of days, Mr. Chair. That's why we felt that 10 was an appropriate number of days to carry out a nomination process, knowing that you could have to face 40 nominations during an election campaign.

AN HON. MEMBER: (Inaudible.)

MR. P. DAVIS: Quebec, 24 days; New Brunswick, 12 days; Nova Scotia, 10 to 16; and PEI, nine to 15.

I confess, I haven't done the analysis on PEI to see if there have been elections where they only had nine days, or if they've been within the window, but we currently have 11. For us to go from 11 to eight is providing Newfoundlanders and Labradorians with a lesser democratic process.

The whole crux of Supreme Court Justice Butler's decision was about making sure we abide by the laws of Canada, the Constitution of Canada. The Constitution protects people's right to vote and to participate in the democratic process.

As I said in second reading, our process should not be an obstruction to democracy. Our process

should not be more restrictive to democracy, rather than less restrictive. I appreciate the fact that government has been faced with the fact and the position that they had to amend the special ballot provisions; I respect that. They were faced with a problem, an issue here that came up because there's a by-election coming and they have to fix the special ballot provisions.

In doing so, in making the special ballot provisions more in line with what the Constitution requires, we shouldn't make other provisions less democratic, and that's what's happening here. That's why, Mr. Chair, we have proposed the sub-amendment.

So instead of moving it from five days to eight days, why not make it 10 days? Why not give those 10 days to parties and individuals to be able to decide if they want to enter public office or run for public office. Do they want to run for a nomination race for a party? Do they need time to get their affairs in order? Do they need time to make arrangements for child care and other arrangements with their families, their business, their employer, as the case may be?

Maybe they have obligations within the community because I would suggest virtually everyone here in the House of Assembly has a long track record of community involvement and community engagement and having commitments and responsibilities that they've generated themselves to their community and to their fellow citizens in the towns and regions of the province where each Member of the House here comes from. Sometimes there are times where you have to get those commitments in order and anticipate what impacts they may have on your running.

Mr. Chair, to sum up for this period of time, eight days is three less than 11; it's two less than 10. It is the least amount in Eastern Canada. Of the five Eastern provinces it will be the least democratic of all provinces in Canada and we shouldn't be that – we shouldn't be that.

We shouldn't be the least; we should strive to be the best, especially when we're bringing in the most recent legislation. The intent of legislation is to improve what existed before amendments take place. It's about making amendments to processes and laws that govern the province and

making them better than they were before. I submit and suggest, Mr. Chair, that instead of 11 days, making that eight is less.

Someone may say it's only two days or three days. Eight and 10 – it's only two days, what's the difference? Well, it's two days. That's the difference: It is two days. When you only have 10, 11 days to start with, two days is a lot. It is a big difference to have less.

Justice Butler, in her decision, talked about fairness. I believe the Government House Leader referenced earlier today about any part of the bill being beneficial to the governing party or the incumbent. That's really what the Supreme Court justice decision revolved around as well is the notion and idea that the process in place for special ballots benefited an incumbent, and that you should be careful to make sure election processes do not benefit an incumbent. We should make sure that election processes do not benefit an incumbent.

Having a longer nomination period as every other of the five – four, plus Newfoundland and Labrador; Eastern Canadian provinces have longer periods of time, up to 24 days in the case of Quebec, up to 15 in PEI, up to 16 in Nova Scotia, 12 in New Brunswick and we're going to have eight – I submit, Mr. Chair, is less democracy, less than what the other provinces have. It will provide less to Newfoundlanders and Labradorians. There's no reason why it should be less. There's no reason why it can't be 10.

Thank you, Mr. Chair.

SOME HON. MEMBERS: Hear, hear!

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

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

I'm going to just take an opportunity to speak to the comments made by the Opposition Leader, the sub-amendment as well as the amendment. I'm going to apologize in advance because I'm going to speak about my understanding of the Butler decision as it is. It may contradict what the Member opposite just said again but, again, this is my interpretation.

AN HON. MEMBER: That's a lawyer.

MR. A. PARSONS: No, well, some days.

The issue Justice Butler had was not about nominations. Now, I fully understand the concern that's put forward about individuals having every opportunity to determine whether they want to run, the nomination period, all the stuff that goes into making a decision. Everything that we had to do when we all decided to do that, it can take some time. Some people can do it very quickly; some people, it takes some time. There are a number of Members in here who I think may have been first elected in by-elections. So they didn't have the opportunity – such as myself when I first ran, I knew I was running in a fixed election, I had some time.

So I get the concern and that's why I think we moved it from five to eight, but Justice Butler's decision was not concerned about nomination periods, as it was about special ballots and the amount of time you need to have to cast an informed vote.

Now, we just voted on an amendment that put a fixed period of a minimum of 28 and a maximum of 35 days on the election. That's been voted by all Members. We are suggesting eight days for nomination. I'm going to try my best to get this out because sometimes it can be confusing, and it's confusing to all of us.

Before, we had pre-writ and pre-nomination special ballots, you could vote in an election without knowing who was running. Justice Butler and other jurists have said that is less than an informed vote. That's not the same as a vote that is cast on polling day when you know who is running.

What we've done is we've eliminated pre-writ special ballots completely because more than that, that was voting in an election that wasn't technically called. What we've also eliminated here for the sake of protecting the constitutionality, protecting the very thing that Justice Butler talks about. She says: It's not just having the vote; the vote is not just the important thing. It's knowing what you're voting for; knowing what you're voting about. Just putting your vote in the ballot box doesn't mean it was

informed. There's more value to it than that. That's reflected in numerous decisions. In fact, Chief Justice McLachlin, who at this very moment is down at Memorial University speaking, has a decision back from the early 2000s, talking about section 3 of the Charter – the same thing we're here about.

So we're getting rid of pre-nomination special ballots. You cannot cast a special ballot pre-nomination. You can only cast a ballot from nomination day up to a period that's determined by the CEO. Right now as it stands, we couldn't increase the period from five to eight days without increasing the back end: the minimum date.

Originally, it was five and 26, which gives you that period in between, turnaround, to get it done. What was suggested is eight and 28, which I've been assured by lawyers – and I have no issues that have been expressed to me by the Chief Electoral Officer – that this is enough time to get it out.

We've put the protection in. I'm going to put an amendment in to put the protection in; everybody gets the informed ballot with the information so it's not a blank sheet. You'll get it out. The person has time to consider it. They can send it back. They've done their duty; they've had the informed vote.

The Member opposite talks about the other Atlantic provinces and how we have less democracy. Every other Atlantic province still has pre-writ special ballot. That's the same thing Justice Butler said you shouldn't do. That's why all of them are concerned that with the decision by Justice Butler, all of their legislation is constitutionally suspect. It can be challenged the same way ours was and it was lost.

Every one of those provinces has pre-writ special ballot. So you can have a 20-day nomination period because that special ballot has 20 days there. Writ, nomination 20 days – you have all 20 days, you're casting that.

I go down through these: PEI, now there's – and every province is written differently. It can be almost convoluted, the wording is different, but PEI has pre-writ special ballot. As I look through my chart the only one that doesn't is the

Northwest Territories. Every other province, right now, their legislation faces the possibility of challenge and it's very real. That's why they're calling our Chief Electoral Officer.

We don't want that. I'm not putting a law in this House that will be voted on that's going to put us back in the same situation we are in now. PEI has pre-nomination special ballot. Their nomination date is 17 days before polling, and polling day is not more than 32 and not less than 26 after the writ. So you think about it, they can call a 26-day election and you go back 17 days before polling day. Not a wide gap there.

Let's go to New Brunswick who I think – again, PEI's is written almost a little different. New Brunswick pre-writ special ballots; their nomination day is 20 days before polling day and 32 days after the writ. That's when their polling day is. The fact is these provinces wouldn't be calling our Chief Electoral Officer if they didn't have concerns. They have concerns.

I understand what the Member is saying. In fact, we have agreed by virtue of the fact that we have agreed to put the nomination to eight days, but the fact remains that the argument that we are less democratic than other Atlantic provinces is simply not the case. That is simply not the case. That is not what Justice Butler said in her decision.

She said you need to have an adequate period of time to know who you're voting for; to get the ballot, wherever you are; to think about it; to cast your ballot and send it back to go in the box. The shorter that window, the less informed and the more likely you're going to be challenged and the more likely you're going to lose.

The fact is we have already voted to support 28 days. We have already voted to support the 28-day minimum or 35. So government can put in a 28 day and we, by voting for 10, are shortening the special ballot period. To do that would increase the risk that we're going to be challenged again and that's why we recognize the eight, but I don't agree with the 10.

Again, Mr. Chair, that's the logic behind what I'm suggesting. Obviously, by virtue of the fact

that I'm standing here, I won't be supporting the sub-amendment. I understand the concern put forward by the Member. Do you know what? I have no problem, as I've said, doing more democratic reform initiatives down the road, in which we should all play a role in that, but as it stands, the legislation we have before was good. I'm going to support the amendment that we put forward, but I cannot support the amendment put forward by the Opposition in this case, for the reasons I've just laid out here.

Thank you so much.

SOME HON. MEMBERS: Hear, hear!

CHAIR: The Chair recognizes the hon. the Member for Topsail – Paradise.

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

I appreciate the comments by the Government House Leader and the Minister of Justice and Public Safety. I'm quite aware of what Justice Butler was dealing with and she wasn't dealing with nomination period. She was dealing with special ballots. As the minister said, he said Justice Butler said – and I'm using his words – it's less than an informed vote; therefore, it's less democracy or less in line with the Constitution. It's less democratic.

My point is, though, we have an 11-day window now for nominations. To shorten that because we have – I was quite clear, I respect that fact that the government has an issue about special ballots that they have to correct, but my point is we shouldn't sacrifice another aspect of voting so that special ballots can take place, when we don't have to sacrifice that other aspect of voting. We don't have to sacrifice the nomination period. So it is less about less opportunity for people to step up, for people to decide to run, for people to run as a candidate.

Mr. Chair, it's not just about getting candidates but it's about getting several candidates, getting the right candidate, getting the best candidate. It's about all of that. You can have people say: Well, I'd like to run but there's no way I can do this in five days. There's no way I can do this in eight days. I need more time to do it. Three days is a big difference. Going from 11 to eight is a big, big difference.

I'd be very surprised to think that any Supreme Court justice had envisioned doing something less with another aspect of the election process when, during debate a little bit earlier on the first amendment – and I know they referenced it. I know we're not there right now, but the minister referenced it without interruption and I reference it now – the 28 to 35 clear days. My colleague, the MHA for Conception Bay South, during debate his comment was if the government believes 28 to 35 days is clearly enough to have a 10-day nomination period and to process special ballots as need be, then we're okay with it. That was his comment. I'm sure *Hansard* will reflect that. He said that would be okay. That was the message.

The government clearly knew that our intention was a 10-day nomination period and having to do special ballots, then 28 to 35 clear days is enough. In fact, Mr. Chair, 35 days, which is outside the range that has now been amended in the bill, is more than the minimum we were seeking. We had talked about, during second reading debate and we've spoken outside the House, that a window of 34 to 40 days seemed reasonable. So having 28 to 35 days can still make a 10-day nomination period and a special ballot provision take place.

For Members of the House to do less than that is reducing the amount of opportunity, it's reducing the amount of democracy. As some of the political scientists have commented publicly, and to us who have looked at this, they say: It's not enough. Less is not better, less is worse.

I respect his comment, too, about other provinces. They may be in a position to have to improve their legislation. It's a good point, because amending the *Elections Act* is about improving the legislation. Not about making any particular aspect or section of it less or worse, it's about making it better. That's my concern.

Creating a new window, changing provisions on the ballot, which is going to happen in another amendment, as we understand, from second reading, they're all moving and trying to make things better. But to make a shorter nomination period, Mr. Chair, I simply can't support.

I don't know how Members of this House would be able to support saying less than the current

amount of nomination period is okay, because as many people have commented, it only benefits the governing party. That's not fair in a democratic process, and the Supreme Court has certainly made lots of comments about fairness in democratic processes.

So to make it fairer, to make it more democratic, to make it more in line with the Constitution, we submit that 10 days is fair; eight is significantly less than what we had before and not acceptable.

Thank you, Mr. Chair.

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

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

I do want to speak to this because I do think it's extremely important. It's been said that this clause is not about the special ballot, the deadline of nomination is not about the special ballot but in actual fact it is. That's the only reason why it's in here, because of the ruling of Justice Butler. The fact that she said it is unconstitutional to have a pre-nomination special ballot, it has to be post-nomination, is what created the discussion around the distance in time between the writ and the nomination deadline.

Now, I'm going to be voting for the bill because we need this bill, but I do not agree with this section. I want to put that out there. I need that on record, because I have not heard a reasonable explanation as to why the government didn't do 10 days in the beginning and 31 – I don't say 34, I say 31 – as the minimum. If we had done that then we would have had the time to allow for the adequate time between the writ and the nomination deadline. By extending to 31 as the minimum, we would have had adequate time for the rest of the campaign and for getting the information out that the CEO has to get out, et cetera, after the nomination deadline.

So I do support saying 10. I know we voted initially – it's backwards the way we voted really, but that's the way the clauses are in the act. It's sort of backwards because having voted 28 to 35, I know the situation the minister is

referring to, but I still think we could do the 10 days here.

I'm coming back to the point now that I made when we looked at clause 1. This is not an issue with our fixed election and general election time. This would not be an issue, because any district right now could name its nominee for 2019. There's nothing to stop a party from having a nominee in place in a district whenever they want to. You don't have to wait until, oh, all of a sudden it's a month before we know the writ might be dropped and we better get our nominee in place. We can name nominees any time, so that's not the issue when you're dealing with a fixed election.

Remember, a lot of the provinces aren't dealing with fixed elections, but it is an issue when we're talking about a by-election. We have three different issues there: the special ballot itself and having that constitutionally correct in both ways, both post-writ and post-nomination deadline. That's one issue.

The issue of how much time – did you need the same amount of time between a general election and a by-election? They are two different things. I wish it were. I don't think government gave us a really adequate answer as to why we couldn't have done it that way, 10 days and extend more. They've gone to a maximum 35 and it's quite – right now, a government could extend, for a by-election in particular, the time and go longer than the 28 minimum that we voted on, but still having not enough time for nominations. I don't know if, when I spoke in second reading, I mentioned this or not – I think I did – the whole concept of what we could do with regard to the time for dropping a writ when there is a by-election.

Right now, our legislation says within 60 days government has to call the election, and then within 30 days after that it has to happen. There are places in Canada where they have a rider where, yes, you would have to do it within 60 days, but not actually drop it until the 30-day mark. Then, within those 30 days, you drop the writ. I did talk about it in second reading but not everybody heard that, so I've said it again.

There are other things that need to be done, but right now the one thing we could have done,

which would have helped by-elections in particular, is to do 10 days and then extend to 31. I do support this amendment because I wish that's the way it were.

Thank you very much, Mr. Chair.

CHAIR: The Chair recognizes the hon. the Member for Cape St. Francis.

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

Just a couple of quick comments that I just want to put in on this debate. I'm pleased, as the House and all of us here, that we've come to some compromises today and we've worked together to make sure that we're getting the best possible bill out here. But I, too, agree that we need the 10-day period. My logic is going to be just the numbers and what it adds up to.

We've agreed to go to a maximum of 35 days. When we first looked at elections it was between 21 and 30. So we moved it out to 26 and then didn't have a duration period. That gave us five days; we wanted 21 days so the chief electoral office could get all of their work done and make sure that the special ballots were in and the nominees were on the special ballots.

If you went now with 35 days or 34 days, you could still do 10 days for the nomination. You could have your 21 days for the election, for everything to be done. Three days would give you 34 days to be able to let the Chief Electoral Officer do the count on the special ballots. So I think the 10-day period, if you add it all up, would make sense. That would give us a 34-day period so we could run the election.

I just feel that – as I spoke earlier today and I know the Government House Leader also spoke today and everybody here in the House – basically, this is not about candidates. I'm not saying it's about candidates; it's about giving people the right to do special ballots.

It's also about democracy. It's about having the best possible people in place. It's making sure that all parties have candidates and that people who do need to make the decision to run, have adequate time to be able to step up to the plate and say I'm going to be a candidate.

That may mean that somebody is away on a holiday. There were all kinds of different scenarios that were put here today. The amount of time that we do give a person to be able to put their name on that ballot sheet – I'm not saying it has to be any longer than – 10 seems adequate to me. Ten seems like it gives a person lots of time to be able to do it. It's a huge decision to make. If you add up the numbers, like I just did that time, it can fit in the time frame we just agreed to on the first clause.

Thank you very much, Mr. Chair.

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

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

I'm happy to stand up and address the points brought forward by my colleagues because they're making their point. Sometimes – this is just sort of a general aside – people can be very critical of the Legislature and what gets done. The fact is, this, right now, is the epitome of debate where legislators from both sides can get in, have differences of opinion, of view, and be able to express that and to debate why they think that back and forth.

That's why at this juncture I'm actually going to stand up and respond to some of the points that were made by the Members opposite because I tend to disagree. It's one thing, as I've said, to disagree and it's another thing to explain why you disagree.

I say to the Member for St. John's East – Quidi Vidi who, I appreciate her comment saying we should go to 10 and 31. I get the merit of why she's saying it, because she likes the idea of a 10-day nomination which in and of itself makes sense, knows we need to go longer in order to meet that criteria in there that Justice Butler has laid out.

The reason I don't think it is necessary is simply we have not had an election in this province, general or by-election, over the last decade that was any longer than, by my count, 25 days. To add six, seven, eight, nine days on top of that would be different than every election that's been held.

I have not heard anybody talking about the length of elections being an issue. In fact, the point brought up earlier was that too long an election could be an advantage to the incumbent. That being said, that's my logic. That's why I think what we've proposed is good. I'm not saying there's no merit to what the Members opposite are saying; I just believe that what we have fits the balance that's necessary. It meets the needs that are out there. It meets the constitutional criteria.

To the point brought forward by the Leader of the Official Opposition talking about Justice Butler's decision and how – again, this comes down to judicial interpretation, interpreting the law. What I can say is that judges, courts, are hesitant – and we talked about I can't imagine she would insinuate to do less, but that's the thing. Judges and courts are hesitant to impose the legislation on us and tell us what to do, because that's the purview of a Legislature. We have the three branches of government; we have the independence. That's why in this case the justice said the Charter challenge was made, I've examined it and there is a breach of that section 3 right, the right to vote.

Now that I've determined it, the party alleging the breach is saying there's a breach. The onus is on them to say my rights have been breached, here's why. Once that's agreed, then it's up to the party that has done so to say here's why that breach is justified under section 1.

Further, in this case, that was not done. Justice Butler said: No, there is no justification for that. Justice Butler did not, in this case – and many judges don't do this. They don't say well you should have X number of days and X number of days, because that's our job. The same way we don't criticize the judiciary for their decisions, because there's that independence. We need these three pillars to be independent. That's how this system works. That is how democracy works. The judges aren't imposing the law; the judges can interpret it. In this case, they're saying: Go back and figure it out. What you have there does not meet up.

Now, that being said, there's an appeal on that too. Who knows where that's going to go? So what I would say is that's our job, as a Legislature, to come back and figure it out. As I

said earlier, I think the term I used was silver bullet. I wish, in some cases, they would say, well, you know what, this is what you need to do. This will make it so easy; this is what you need to do. This will pass muster.

Do you know what, Mr. Chair? As easy as that might be – it might save a lot of debate – the fact is that takes away my right. It is our right as legislators to stand here in this House and determine the legislation that affects every person in this province.

That is our right. That is our duty. That's why we are here. So that's why I say right now I think what we have here meets the needs. It fits the constitutional criteria. We could be back here someday; we will be back here someday debating *Elections Act* reform, there's no doubt. We could be back debating this act and this section depending on where this appeal goes.

That being said, that's why – again, I just want to reiterate and I don't need to belabour it, but the Members opposite have said I have to put my thoughts on the record. As they should, we need to do that. That's why I wanted to put it out here.

I appreciate the fact that we're having this debate. I think the Member for St. John's East – Quidi Vidi is going to have a further point to that. I look forward to that.

At this point, those are just my comments to this particular section.

Thank you.

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

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

I'd like to say to the minister that the issue isn't the length of the campaign. I agree with him. We know the figures with regard to the longest periods of campaigns that we've had. They're not overly long.

The issue is – and I want to reiterate – it has to do with by-elections. We have had writs dropped on the same day a seat became vacant.

We've had that happen and the minister knows that has happened. That's the concern that I'm raising.

If you have a writ dropped on the same day of a seat becoming vacant – somebody resigning and effective on the same day – and their party knew about it, they've had an advantage. They've had a big advantage. With five days, eight days, in that situation, every minute counts, not just every day, if a writ is dropped on the same day a seat becomes vacant.

That's why I've pointed out number one: it's very hard to be talking about this having the same rules for a general election and by-election. If we had a rule that covered both and took care of the issues for both, that's the way to go. The only way to do that is to have it long enough so that it's effective both for by-elections, as well as for the general election.

I remind the minister that he knows that because he, himself, made that point to me, how many times we have had writs dropped on the same day that a seat has become vacant. So that's my concern and I've made it three or four times now in these debates. In dealing with a by-election we have a major problem; therefore, we should have a rule, if it has to cover both, which it does, that takes into consideration both situations, a fixed general election as well as the potential for a by-election where a party would, without any warning, all of a sudden in five days, have to have candidates in place.

That's the issue that I see that still stands, Mr. Chair.

Thank you.

CHAIR: The Chair recognizes the hon. the Member for Topsail – Paradise.

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

Just a couple of brief comments in response to the Government House Leader who referenced that there hadn't been an election longer than 25 days in, I forget how long, but a fairly lengthy period of time. I understand that and I get that, but at the same time, we're having a 25-day – and that's a provincial election by the way

because some of the municipal elections were just longer.

In Conception Bay South where I live, they were two days short of four weeks. It was a 26-day election period for a municipal election just last month, which is longer than the 25 days that the minister referenced for provincial elections.

The 25 days for provincial elections were done while the special ballots could begin before the election was even called. Even before the election was called, special ballots were done.

That can't happen anymore. That's not allowed to happen anymore. So it's not unreasonable to expect in order for special ballots to happen it may require a writ period that is slightly longer. It's not unreasonable to accept.

AN HON. MEMBER: (Inaudible.)

MR. P. DAVIS: Pardon me?

AN HON. MEMBER: (Inaudible.)

MR. P. DAVIS: Yes, but you want a smaller nomination period. While you want to make a larger writ period, you want to make a smaller nomination period. That doesn't benefit voters. That doesn't benefit potential candidates. That doesn't benefit people who are thinking about running to represent the people in their district where they live. That's less.

AN HON. MEMBER: Tell us why.

MR. P. DAVIS: Why is it less? Is that what you're saying, Minister? You don't understand why it's less?

AN HON. MEMBER: (Inaudible.)

CHAIR: Order, please!

MR. P. DAVIS: The minister who's talking to me over there; the one (inaudible) over there.

AN HON. MEMBER: (Inaudible) the minister, because I understand –

MR. P. DAVIS: Well, then I will. I was going to sit down but I'll use my time to explain it to the Minister of – I have to get his portfolio right,

Mr. Chair. He's the Minister of Tourism, Culture, Industry and Innovation. There you go.

SOME HON. MEMBERS: Hear, hear!

MR. P. DAVIS: He's on the record now, Mr. Chair, because he hasn't spoken to the bill yet, but he's over there and he wants to heckle me. So I will use my time – I wasn't going to make a few comments but I'll use my time to explain to the minister, who doesn't understand why a shorter nomination period is less not more. The bill is supposed to be about making things better, about making more, but it's less.

Minister, I'll give you an example now, because you've over there listening. I talked about this today but maybe you weren't paying attention at the time. If you take a person, for example, Minister, who's a –

AN HON. MEMBER: (Inaudible.)

MR. P. DAVIS: No, I don't mind. I'll do it for you because I want to make sure you understand exactly what it is you're doing, because Justice Butler talked about that. That it's important for legislators to fully understand the implications of the changes they are making.

SOME HON. MEMBERS: Oh, oh!

CHAIR: Order, please!

MR. P. DAVIS: Yes, that's relevant. We're hearing from the gallery over there now, Mr. Chair.

Mr. Chair, people need time to make a decision if they want to run for office, especially if an election is coming and it's unexpected, and sometimes that happens. I think 16, 17 times some of the Members opposite referenced by-elections since 2006 or 2007. People need time to say: I think I want to do this. I've thought about this.

I explained today in second reading, I had that very experience myself, that unexpectedly all of a sudden a seat was vacant. I had to make some very critical life decisions that not only impacted me but my family and the people around me. I had a very serious decision to make because unlike many professions, the profession I was in

in policing, once I left to go into politics, I couldn't go back. Once I went in, I couldn't go back, and that was it. So I was making a life-altering decision that I had not anticipated I was going to face in the near future. People need time to make those critical, life-changing decisions.

I argued in second reading that five days was not enough to make that decision – I say to the minister, I know he's listening intently over there – but then go through a nomination process, because it's not just making the decision. Then there's a party nomination process, in most case it's a party nomination process, and in some cases some people run as an independent.

So there's still a nomination process where you have to go out to your district, you have to get constituents to sign your nomination forms, you have to get them submitted and so on. There's still a process to go through, but the most critical one is making that life-changing decision.

Coming here to the House of Assembly – and I've said early in debate and many Members have said it here, it's your right to run. The law should not be an impediment to that right; it should support and assist you in that right. It should support you and assist you, but it's a privilege to get elected and serve here in the House. It's a big decision to say: I'm going to take on a role and run to offer to represent thousands of people in my district and come here and do work in the best interests of the province. It is a significant issue.

Having less time to make that decision and to proceed with that decision is less democratic. It's not beneficial to the process because we're likely to get fewer candidates or not the right candidates we want. That's what the process, I say to the Minister of Tourism, Culture and business and so on over there – sorry, Tourism, Culture, Industry and Innovation, there you go. I apologize to the minister. That's what I say to him over there. It's about getting the best candidates.

I'm sure all of them over there want the best candidates; all of us over here want the best candidates. I assure you, Mr. Chair, that people around the province want the best choices

available to them. Giving them more time to do that is better, Minister, and to give them less time to do it is not as good, it's less. It's as simple as that, Minister.

Even in your 28- to 35-day period, which the amendment has already passed, in that 28 to 35 days, it's still more time than what's required to have a 10-day nomination period and to have the special ballots processed within the writ period and know who the nominees are after nominations close. Ten days is still enough time.

I'd ask the Members opposite once again, to any of them – and maybe the minister would like to get up and say why 10 days is too much and eight days is right, because I don't believe that's right. I think 10 days is a reasonable answer.

So, Minister, go ahead and tell us why eight days is enough and 10 is not.

CHAIR: Is it the pleasure of the Committee to adopt the sub-amendment?

All those in favour?

SOME HON. MEMBERS: Aye.

CHAIR: Those against?

SOME HON. MEMBERS: Nay.

CHAIR: Defeated.

AN HON. MEMBER: Division.

CHAIR: Division has been called.

Division

CHAIR: Order, please!

All those in favour of the sub-amendment, please stand.

CLERK: Mr. Paul Davis, Mr. Hutchings, Mr. Brazil, Ms. Perry, Mr. Kevin Parsons, Mr. Petten, Ms. Michael.

CHAIR: All those against the sub-amendment, please stand.

CLERK: Mr. Andrew Parsons, Mr. Joyce, Mr. Byrne, Mr. Haggie, Mr. Hawkins, Mr. Crocker, Mr. Osborne, Mr. Kirby, Mr. Mitchelmore, Mr. Bernard Davis, Ms. Gambin-Walsh, Mr. Letto, Mr. Bragg, Mr. Finn, Mr. Reid, Ms. Parsley, Mr. King, Mr. Dean, Ms. Pam Parsons, Mr. Holloway.

Mr. Chair, the ayes: 7; the nays: 20.

CHAIR: The sub-amendment has been defeated.

On motion, sub-amendment defeated.

CHAIR: Is it the pleasure of the Committee to adopt the amendment?

All those in favour, 'aye.'

SOME HON. MEMBERS: Aye.

CHAIR: All those against, 'nay.'

Carried.

AN HON. MEMBER: Division.

CHAIR: Division has been called.

Division

CHAIR: Are the Whips ready?

All those in favour, please stand.

CLERK: Mr. Andrew Parsons, Mr. Joyce, Mr. Byrne, Mr. Haggie, Mr. Hawkins, Mr. Crocker, Mr. Osborne, Mr. Kirby, Mr. Mitchelmore, Mr. Bernard Davis, Ms. Gambin-Walsh, Mr. Edmunds, Mr. Letto, Mr. Bragg, Mr. Finn, Mr. Reid, Ms. Parsley, Mr. King, Mr. Dean, Ms. Pam Parsons, Mr. Holloway, Ms. Michael.

SOME HON. MEMBERS: Hear, hear!

CHAIR: All those against, please stand.

CLERK: Mr. Paul Davis, Mr. Hutchings, Mr. Brazil, Ms. Perry, Mr. Kevin Parsons, Mr. Petten.

Mr. Chair, the ayes: 22; the nays: six.

CHAIR: The amendment has carried.

On motion, amendment carried.

CHAIR: Shall clause 2 carry with amendment?

All those in favour?

SOME HON. MEMBERS: Aye.

CHAIR: Those against?

Carried.

On motion, clause 2, as amended, carried.

CLERK: Clause 3.

CHAIR: Clause 3.

All those in favour?

SOME HON. MEMBERS: Aye.

CHAIR: Those against?

Carried.

CLERK: Clause 4.

CHAIR: Clause 4.

All those in favour?

SOME HON. MEMBERS: Aye.

CHAIR: Those against?

The Chair recognizes the hon. the Minister of Justice and Public Safety.

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

My apology; what I would ask at this point, I had said earlier in debate that I would have an amendment to clause 3. As is the case with this House, I overlooked putting that amendment in during the last clause.

With leave of my colleagues from across the way, I would ask that we re-examine clause 3 of this legislation.

AN HON. MEMBER: Leave.

CHAIR: Leave granted.

MR. A. PARSONS: I thank the Members opposite.

At this point, as I had stated during second reading, I have an amendment to clause 3 of this bill. The amendment goes:

Clause 3 of the bill is amended by adding immediately after the proposed subsection 86.4(1) the following: (1.1) Where a special ballot does not list the name and particulars of each candidate, the special ballot kit shall include a document with the name and particulars of each candidate.

I have a copy here for the Table.

CHAIR: The Committee will rise and recess to discuss the said amendment.

Recess

CHAIR: Are the Whips ready?

Order, please!

The amendment is said to be in order.

The Chair recognizes the hon. the Member for Ferryland.

MR. HUTCHINGS: Thank you, Mr. Chair.

It's certainly a pleasure to stand to speak to Bill 14. One of the three amendments that have been brought forward to deal with the discussions and debate that's gone on the past number of days in regard to this piece of legislation.

This one in particular, back in the briefing that we had last Friday, at that point in time there were discussions in regard to this clause and the issue regarding the understanding of someone who's voting, particularly in a special ballot and the provisions that were proposed at that time. That was that during the special ballot or the special ballot kit, there would be an option for the chief electoral office to send out an actual ballot with the actual names.

Because as we know now with the proposed amendments, there's a requirement, obviously, for a time period for the nomination after the writ is dropped, as opposed to, as we know, what currently exists, it's pre-writ period. As was in a decision of Justice Butler, there was a requirement to bring it in to meet constitutionality of the legislation. That required the nominations would begin after the writ period.

Subsequent to nominations closing, then the process starts for special ballots to go out to those that have applied. Now you could apply before the writ period, but you couldn't receive that ballot until the nominations closed, as the issue was that people in a special ballot would need to know and understand who actually was running and who the candidates would be.

There were two provisions in the proposed legislation. One of the shortfalls was that, again, a ballot would go out with not a candidate's name on it, but they would have to identify the party and the individual. The concern was at that point in time, if it wasn't on the ballot, while the nominees would be in the public domain because nominations would have closed, there would have been an issue with maybe somebody not knowing who the candidates were in a particular district when they received the special ballot.

What this amendment does is in the provision where a ballot went out in the special ballot kit and the nominees were not on the ballot, there would be a list of names and particulars of each candidate that would go out with that ballot in the special ballot kit. That would resolve the issue of somebody getting a ballot.

While the nominations may have closed, the names could be, certainly under the *Elections Act*, approved as certified candidates, an individual out there still may not know or would not have those names in front of them at a particular time when they mark their ballot. Some of the discussion we had was that someone marking that ballot should have the same information that someone on polling day would have. That would be consistent.

This amendment certainly answers that concern. We support this amendment as that brings into

agreement many of the things we've discussed on both sides of the House, and especially with the Leader of the Third Party, in terms of making sure that an individual that gets a special ballot kit, gets that ballot, has a clear understanding of who the candidates are, the official candidates as nominated under the Chief Electoral Officer. It's fair, open and transparent. Everybody has the opportunity to know who the candidates are.

We certainly recognize the work done on the amendment. We'll be supporting it.

Thank you, Mr. Chair.

SOME HON. MEMBERS: Hear, hear!

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

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

Yes, I'm delighted to see that we were able to come to an agreement that an amendment like this one should come forward. It was something I picked up really quickly when I read through the bill when we first got it.

As the Member for Ferryland just said, what it does is it makes sure that people who are voting on a special ballot that is a blank ballot they have to write on, have the same information in front of them as if they had gone into a polling station and voted in a polling station. So the same information in terms of who the candidates are.

I think it really does make very clear to honour the judgement of Justice Butler. I had actually spoken to a lawyer about this who said to me: As it stands, the clause is not unconstitutional. I said: Well, you know what, it may not be, but I have a real problem with it so I'm going to keep pushing it.

Who knows, it could have been unconstitutional, actually, from the perspective that I put forward, that the people voting with a blank special ballot would not have the same information in front of them as somebody in a polling station. I think there's actually an argument there that they did not have equal information.

This ensures that is not the case. This ensures that if a blank special ballot has to be used – and I hope that's going to be a rare thing from here on in – that people using it have in front of them all the information they need to make an informed decision.

Thank you very much, Mr. Chair.

CHAIR: Is it the pleasure of the Committee to adopt the amendment.

All those in favour?

SOME HON. MEMBERS: Aye.

CHAIR: Those against?

Carried.

On motion, amendment carried.

CHAIR: Is it the pleasure of the Committee to adopt clause 3, as amended?

All those in favour?

SOME HON. MEMBERS: Aye.

CHAIR: Those against?

Carried.

On motion, clause 3, as amended, carried.

CLERK: Clause 4.

CHAIR: Clause 4.

Shall clause 4 carry?

All those in favour?

SOME HON. MEMBERS: Aye.

CHAIR: Those against?

Carried.

On motion, clause 4 carried.

CLERK: Clause 5.

CHAIR: Clause 5.

Shall clause 5 carry?

All those in favour?

SOME HON. MEMBERS: Aye.

CHAIR: Those against?

Carried.

On motion, clause 5 carried.

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

CHAIR: Shall the enacting clause carry?

All those in favour?

SOME HON. MEMBERS: Aye.

CHAIR: Those against?

Carried.

On motion, enacting clause carried.

CLERK: An Act To Amend The Elections Act, 1991.

CHAIR: Shall the title carry?

All those in favour?

SOME HON. MEMBERS: Aye.

CHAIR: Those against?

Carried.

On motion, title carried.

CHAIR: Shall I report Bill 14 carried with amendments?

All those in favour?

SOME HON. MEMBERS: Aye.

CHAIR: Those against?

Carried.

Motion, that the Committee report having passed the bill with amendments, carried.

CHAIR: The hon. the Government House Leader.

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

I would move that the Committee rise and report Bill 14.

CHAIR: The motion is that the Committee rise and report Bill 14.

Shall the motion carry?

All those in favour?

SOME HON. MEMBERS: Aye.

CHAIR: Those against?

Carried.

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

MR. SPEAKER (Trimper): The hon. the Member for Baie Verte – Green Bay, Chair of the Committee of the Whole.

MR. WARR: Thank you, Mr. Speaker.

The Committee of the Whole have considered the matters to them referred and have carried Bill 14, with amendments.

MR. SPEAKER: The Chair of the Committee of the Whole reports that the Committee have considered the matters to them referred and have carried Bill 14 with amendments.

When shall the report be received?

Now?

MR. A. PARSONS: Now.

MR. SPEAKER: Now.

When shall the said bill be read a third time?

MR. A. PARSONS: Now.

MR. SPEAKER: Now.

On motion, report received and adopted. Bill ordered read a third time presently, by leave.

MR. A. PARSONS: Mr. Speaker, at this point, as the Standing Orders permit, I would ask my colleagues if there's leave to continue with third reading this evening. For the purposes of putting this on the record, doing so would be an indication that we would not have to reopen the House next week, saving the taxpayers considerable dollars. That's the reason we are putting this forward, as third reading is generally a pro forma reading.

At this point, I would ask my colleagues for that leave.

AN HON. MEMBER: Leave.

MR. SPEAKER: Leave has been granted.

SOME HON. MEMBERS: Hear, hear!

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

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

I would call Order 5 – sorry, I'm getting new instructions.

Thank you, Mr. Speaker. I appreciate the guidance from the Clerk.

I would move, seconded by the hon. Minister of Municipal Affairs, that the amendments be now read a first time.

MR. SPEAKER: It is moved and seconded that the amendments be now read a first time.

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

CLERK: (Inaudible.)

MR. SPEAKER: All three?

CLERK: Yes, it's all done in one (inaudible).

MR. SPEAKER: Yes, all three amendments.

Is it moved and seconded that the amendments be now read a first time?

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

All those in favour, 'aye.'

SOME HON. MEMBERS: Aye.

MR. SPEAKER: Against?

Carried.

CLERK: First reading of the amendments.

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

MR. A. PARSONS: Mr. Speaker, I move, seconded by the Minister of Municipal Affairs, that the amendments be now read a second time.

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

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

All those in favour, 'aye.'

SOME HON. MEMBERS: Aye.

MR. SPEAKER: Against?

Carried.

CLERK: Second reading of the amendments.

On motion, amendments read a first and second time. Bill ordered read a third time presently, by leave.

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

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

I would call Order 5, and with leave, third reading of Bill 14.

MR. SPEAKER: Does the –

MR. A. PARSONS: Mr. Speaker, I move, seconded by the Minister of Municipal Affairs, that Bill 14, An Act To Amend The Elections Act, 1991, be now read a third time.

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

The hon. the Leader of the Official Opposition.

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

I know normally there's not a lot of commentary or debate in Third Reading, but I just want to take a couple of minutes.

We started a week ago, just over a week ago, with the government signalling an amendment to the *Elections Act*. Last Thursday we received an embargoed copy of the *Elections Act*, and on Friday, Bill 14, An Act to Amend the Elections Act. On Friday we had a briefing. We worked through the weekend, and on Monday we started the process of signalling that we had some issues with the bill and some concerns about what was contained in the bill. Primarily on three levels: one was the not having a minimum, a maximum period of time for elections which existed in previous legislation; moving the nomination time period from currently 10 or 11 days down to five days; and thirdly, still allowing for special ballots to be processed without having a name attached. Or without requiring a list of names attached to the special ballot process whereby someone can use it as a guide to write in a name or a party, as was the previous case with special ballots where people could actually vote without knowing who, or having knowledge that they actually knew who the nominees were.

Mr. Speaker, it's been a long week here in the House. For some, it was an unexpected week. We appreciate and respect the fact that in order for a by-election to take place, the government requires this amendment to the *Elections Act*. I know we've all worked hard.

I want to thank my caucus who has worked hard. We've worked hard; very tightly as a team this week in order to try and facilitate changes to the bill which we felt was significantly flawed. I'm glad that, today being Thursday, the last sitting day of the week, the government has reached out

for compromise to find on some of these issues that we've raised publicly and also during second reading debate yesterday and today and into Committee tonight.

The government brought in three amendments; one was to have a writ period of 28 to 35 days. It's currently now 21 to 30; they moved it to 28 to 35. We were looking for a little more than that, 34 to 40, but believe that a 10-day nomination period, as well as a special ballot process could be allotted under the 28 to 35 days. We thank them for bringing forward that amendment and we support it.

The second amendment brought forward by the government was by not pursuing having a very short comprised five-day nomination period. They submitted an amendment to move that to eight days. Still less than any other Eastern Canadian province, much less than what Newfoundland and Labrador has traditionally had for decades.

As a result of that, we submitted a sub-amendment to change eight days to 10 days. The government voted it down. We asked for them to support it. We asked them to debate here tonight on it. The government voted it down and returned to their eight-day proposal which was passed by the House. We didn't support that but it was passed by the House.

Then, the third amendment brought forward by the government changes their previous position of allowing for blank ballots and not enshrining in legislation the requirement to have a list of candidates. They've changed that and added now that where a special ballot does not have a list of names of particular candidates, that the special ballot kit shall include documents with the names and particulars of the candidates. We're thankful they've done that as well.

Mr. Speaker, my point of rising this evening is to acknowledge the changes by the government, to acknowledge the work that we've done as a caucus to see these changes. Again, as I've said earlier in my comments, we respect the fact that this legislation, this amendment to the *Elections Act*, is required in order to carry out the by-election in Mount Pearl North which is pending at any time.

Right now, I'd suggest there is only one person in the room who knows when that's going to be, and that being the Premier. He has the right to call a by-election within the parameters of legislation. He has a right to call that by-election at his discretion. We respect that and respect the rules that are in place with that. Mr. Speaker, while we're not completely happy and accepting of eight days instead of 10 days we feel that it's necessary for this legislation to pass in order for the by-election to take place.

We listened earlier to the Minister of Justice and Public Safety, the Government House Leader, who talked earlier about the mandate he was given by the Premier to have all parties, Members of the House, engaged in a process for democratic reform. I can assure you, Mr. Speaker, that when that process gets underway, we will strongly advocate once again for a longer nomination period so that Newfoundlanders and Labradorians have an ample opportunity to consider running for public office, to consider running to be a Member of this hon. House to ensure that their rights are protected and all opportunities are given to them to run for public office.

We will be seeking those at a future time. As the minister said, he intends on doing it.

Mr. Speaker, even though the changes, the amendments tonight, don't fully meet the requests and the suggestions that we made, in order for the by-election to go ahead, we'll support the legislation tonight, the amendments to the bill.

Thank you very much.

SOME HON. MEMBERS: Hear, hear!

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

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

I wanted to use the opportunity of third reading to make a final point that maybe did not fit within the context of the whole discussion, but I think is one that I would like to make. I think it's been good what we've done.

I agree with the Leader of the Official Opposition. I think there are things from tonight and other things that I raised during debate that we do need to look at when we do sit down and look at the democratic review. I think it's going to be quite essential.

I think what happened during the week is a sign to us that we – and probably this is a Standing Orders issue – really do need to look at the process of debate in the House. I think we need to look at a process which I actually think our current Standing Orders allow for: the identification of the House before we get into second reading, the identification of the House that a bill should go to Committee for Committee to look at and work out the bill. Then, that way, you get an amended bill coming back for discussion.

I think there are other ways to do it than we've done here in this House historically. I think this week of finally coming up with a bill with amendments, some of which are compromises, et cetera, it's a sign to us that we have to learn to work together, find a process for working together so that it can happen.

The reason the Committee of the Whole worked was because we had done the work of working together, but that should have happened prior. That's sort of the kind of thing that needs to happen. We work through it and get the amendments so that, then, we come to the House and all that work has been done, but it's been done publicly and in Committee.

So I put that out to my colleagues and to the other House Leaders. As I said, I think it's maybe a Standing Orders thing that we need to look at, but I actually think there is some allowance in our Standing Orders for that kind of thing. Having said that, I do thank the Government House Leader and the Leader of the Official Opposition for the work we've done here this week.

Thank you very much, Mr. Speaker.

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

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

I just want to, as well, make a couple of closing points that I think are relevant to the debate that we've had. The first point being there was some skepticism earlier in the week by Members of the Opposition as it related to how this House works and democracy and debate.

I think the record will now show that we're certainly willing to listen and willing to make sure we do the right thing in the best interests of the people. I think we showed that here tonight by the fact that we've had a debate, we've had a chance to hear constructive criticism that we've listened to and we've put into legislation.

It's not always going to happen but in certain cases it can happen and should happen. I'd like to think that with the co-operation of all of us, that can happen. But let it show that nobody can say that this government does not listen. I think we've shown that. That's the first thing.

SOME HON. MEMBERS: Hear, hear!

MR. A. PARSONS: The second thing I'd like to say is that now with this act changed, we all know the act brought in by the previous administration in 2007 was unconstitutional in part. So I look forward to this next by-election being the first theoretically constitutional election this province has seen in a decade.

SOME HON. MEMBERS: Hear, hear!

MR. A. PARSONS: On that note, Mr. Speaker, I'd like to close third reading.

Thank you.

SOME HON. MEMBERS: Hear, hear!

MR. SPEAKER: Is it the pleasure of the House to adopt the motion?

All those in favour?

SOME HON. MEMBERS: Aye.

MR. SPEAKER: All those against?

The motion is carried.

CLERK: A bill, An Act To Amend The Elections Act, 1991. (Bill 14)

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

On motion, a bill, "An Act To Amend The Elections Act, 1991," read a third time, ordered passed and its title be as on the Order Paper. (Bill 14)

MR. SPEAKER: The hon. Government House Leader.

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

At this time, seconded by the Minister of Finance and President of Treasury Board, I would adjourn to the call of the Chair.

MR. SPEAKER: It is moved and seconded that this House do now adjourn to the call of the Chair.

On motion, the House adjourned to the call of the Chair.